



## **Policy and Legislation Committee Agenda**

***21 September 2017***

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

[city@busselton.wa.gov.au](mailto:city@busselton.wa.gov.au)

**CITY OF BUSSELTON**

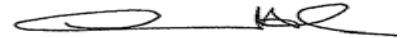
**MEETING NOTICE AND AGENDA – 21 SEPTEMBER 2017**

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**TO: THE MAYOR AND COUNCILLORS**

**NOTICE** is given that a meeting of the Policy and Legislation Committee will be held in the Council Committee Room on Thursday, 21 September 2017, commencing at 9.30am.

The attendance of Committee Members is respectfully requested.



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**MIKE ARCHER**

**CHIEF EXECUTIVE OFFICER**

15 September 2017

**CITY OF BUSSELTON**

**AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 21 SEPTEMBER 2017**

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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 OF MINUTES**

5.1 Minutes of the Policy and Legislation Committee Meeting held 17 August 2017

**RECOMMENDATION**

That the Minutes of the Policy and Legislation Committee Meeting held 17 August 2017 be confirmed as a true and correct record.



## 6. REPORTS

### 6.1 NEW COUNCIL POLICY - PORTABLE ADVERTISING SIGNS IN PUBLIC PLACES

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

#### 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).

#### 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 (eg. 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 0.5m<sup>2</sup> 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

### **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 be a three step process that would begin immediately. In the first instance 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.

Following this first step, should the business proprietor choose to display a sign or signs contrary to the policy for a second time, the Ranger will issue a caution and direct them to remove the signs within 48 hours. The only penalty at this stage will be a caution unless the business proprietor refuses to comply at which time an infringement will be issued and the signs impounded.

For each subsequent offence the business proprietor will be issued with an infringement and the sign or signs will be impounded.

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 using the same three step process as detailed above.

## **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. 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.
2. If endorsed by Council, consultation on the draft policy would commence in late January 2018 for a period of 28 days.
3. Officers will consider the results of the consultation and present a report to Council seeking adoption of the new policy in April/May 2018
4. If the new policy is adopted, business owners would 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.

## **OFFICER RECOMMENDATION**

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. Rescinds Council Policy 146/4 – Signs Placed on Council Land (Attachment A).

6.1 Attachment A Council Policy 146/4 Signs Placed on Council Controlled Land

146/4	Signs Placed on Council Controlled Land	Current
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Definition. For the purposes of this Policy a sign is deemed to include any board, structure, or item that has been positioned primarily for the purpose of advertising a business or the availability of goods, services or facilities.

Policy Statement. It is Council Policy that signs placed without Council approval on land under the control of Council are to be removed as soon as practicable. The removal of signs is intended to reduce visual impact caused by a proliferation of signs and reduce the danger of injury and potential liability.

Council authorises the Chief Executive Officer to take action in accordance with this Policy to remove signs that are found to be placed without Council approval. This action is to be taken as early as practicable. Sign control is to be co-ordinated through Council's Building Services Department.

Council expects that Councillors and staff will participate in a watching brief so that unlawfully placed signs are reported to Council's Building Services Department for action.

Existing Signs. This Policy applies to all signs on land under the control of the Shire of Busselton. There is no presumption that any existing sign has an approval. All signs on Council controlled land will be treated according to this Policy unless the owner of the sign is able to demonstrate that Council has previously issued approval for that sign.

Portable Signs. When a sign is easily moveable and the sign is in close proximity to the property of the business or person responsible for the sign, the following action is to be taken.

- The sign is to be moved within the boundary of that property and the business or person notified verbally (if possible) and in writing that the sign has been moved.
- A record is to be kept of signs that are moved and of notifications given to businesses or persons. The record is to be co-ordinated by the Building Services Department.

When a moveable sign is not in close proximity to the associated property, the person responsible cannot be easily identified, or a sign that has been previously moved is again unlawfully displayed, the following action is to be taken.

- The sign is to be removed and impounded at the Shire of Busselton Depot.
- The sign may be retrieved by the person responsible for its placement after an impoundment fee of \$50 is paid at Council's Cashier and the receipt presented at the Depot office together with:
- a written undertaking that they will not again unlawfully display the sign.

Fixed Signs. If a sign is not easily moved, the following steps are to be taken.

- The business or person responsible for the sign is to be given notification in writing that the sign is to be removed within fourteen (14) days.
- A record is to be kept that notification has been issued to the business or person responsible.
- An inspection is to be carried out at the expiry of the specified time.
- If the sign has not been removed, Council officers are to arrange removal and impoundment of the sign (a truck and small crew may be required for some fixed signs.)
- The sign may be retrieved by the person responsible for its placement after an impoundment fee has been paid at Council's Cashier and the receipt presented at the Depot office together with a written undertaking that they will not again unlawfully display the sign. The impoundment fee is a minimum of \$100 with total fee set by the Chief Executive Officer based on Council's normal rates for plant and labour.

Disposal of Signs. If a sign has not been collected from Council's Depot within 2 months of impoundment, the Chief Executive Officer may arrange disposal of the sign in such manner as he thinks fit, including sale of materials in the sign to offset Council's costs.

Recurring Offences. If a sign retrieved from Council's Depot is again unlawfully displayed, the Chief Executive Officer will authorise disposal of the sign and consideration will be given to prosecution of the offender.

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 0.5m<sup>2</sup> 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.

6.1 Attachment B Draft Council Policy - Portable Advertising Signs in Public Places

- 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 or fabric) and have professional sign writing and/or graphics;
- 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 0.9m<sup>2</sup> 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 0.5m<sup>2</sup> 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 REPEAL OF POLICIES: COMMERCIAL HIRE SITES (#008) AND TRADING IN PUBLIC PLACES (#020)

<b>SUBJECT INDEX:</b>	Commercial opportunities
<b>STRATEGIC OBJECTIVE:</b>	Attractive parks and open spaces that create opportunities for people to come together, socialise and enjoy a range of activities.
<b>BUSINESS UNIT:</b>	Commercial Services
<b>ACTIVITY UNIT:</b>	Property and Business Development
<b>REPORTING OFFICER:</b>	Economic and Business Development Coordinator - Jon Berry
<b>AUTHORISING OFFICER:</b>	Director, Community and Commercial Services - Naomi Searle
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Commercial Hire Sites (Policy #008) - (For repeal) <a href="#">↓</a> Attachment B Trading in Public Places Standard Conditions of Approval (Policy #20) - (For repeal) <a href="#">↓</a> Attachment C Non-Exclusive Use of Commercial Land (Policy #249) <a href="#">↓</a>

## PRÉCIS

In November 2016, Council adopted a new policy 'Non-exclusive Use of Commercial Land' (#249). This report recommends Council repeals two related policies that have guided non-exclusive commercial use of City owned and/or controlled land on a seasonal basis, namely, the Commercial Hire Sites Policy (#008) and the Trading in Public Places Policy (#020).

## BACKGROUND

Council has previously administered commercial use of public land through a permit system guided by two separate Council policies and in accordance with the City's Property Local Law and the Activities in Thoroughfares and Public Places and Trading Local Law. The two policies are:

1. Commercial Hire Sites (Policy #008). This policy deals with recreational activities aimed at activating public land by issuing permits to tourist orientated seasonal businesses (e.g. climbing walls, water sports, bike hire etc.) (see Attachment A); and,
2. Trading in Public Places Standard Conditions of Approval (Policy #20). This policy dealt principally with the administration of mobile food and beverage vendors using public land. (see Attachment B).

On 9 November 2016, Council resolved (C1611/123) to adopt a new policy titled Non-Exclusive Commercial Use of City Land (Policy #249), which is in Attachment C. The objective of the policy was to provide a more uniform framework for commercial activities being undertaken or proposed to be undertaken on public land on a non-exclusive use basis. Council also supported Officers developing guidelines and procedures for certain types of seasonal commercial activities that align with the broad principles embodied in the new umbrella policy.

The new policy does not deal with exclusive use of public land such as leasehold tenure; events or markets; or with the short-term hiring of City property for functions or similar, which are the subject of other policies and guidelines. Rather, the policy relates to the following kinds of activities using City owned or controlled land:

- Mobile food/beverage traders;
- Itinerant food/beverage traders;
- Al fresco dining (other than where this is facilitated via a lease);
- Recreational activities of some kinds (i.e. 'exercise permits'), but not general sporting use of ovals or similar;
- Tours or similar;

- Traders engaged in the short-term hiring of recreational equipment; and
- Some trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or low cost structure.

The need for the development of a new umbrella policy reflected increasing interest from businesses in commercial use of public land and a need to develop a coherent, fair and workable approach to managing current and future activities. It aimed to apply consistent principles to different kinds of activities and situations; be administratively simple and comprehensible; and achieve positive outcomes for the wider community.

## **STATUTORY ENVIRONMENT**

The following legislation provides legal parameters for commercial use of public land:

- Land Administration Act 1997 and associated regulations
- Local Government Act 1995 and associated regulations
- Planning and Development Act 2005 and associated regulations
- Building Act 2012 and associated regulations
- Health Act 1911 and associated regulations
- Public Health Act 2016
- Food Act 2008 and associated regulations
- Local Planning Scheme 21 and associated structure plans and policies
- Activities in Thoroughfares and Public Places and Trading Local Law
- Property Local Law
- Jetties Local Law
- Airport Local Law

## **RELEVANT PLANS AND POLICIES**

The following plans and policies reference commercial use of public land:

- Busselton Foreshore Master Plan
- Busselton City Centre Conceptual Plan
- Dunsborough Town Centre Conceptual Plan
- Mobile Vendors on the Busselton Jetty Policy – Reference No. 006
- Community Facilities Bookings Policy – Reference No. 027
- Markets Policy – Reference No. 074
- Events Policy – Reference No. 231
- Leases of City Land and Buildings Policy – Reference No. 248
- *Commercial Hire Site Policy – Reference No. 008\**
- *Trading in Public Places Policy – Reference No. 020\**
- Non-Exclusive Use of Commercial Land (Policy #249)

*\* the Officer recommendation in this report recommends these two policies be repealed and replaced with the single policy 'Non-Exclusive Use of Commercial Land (Policy #249)'.*

## **FINANCIAL IMPLICATIONS**

There are no financial implications arising from the Officer recommendation. Relevant elements of the schedule of fees and charges have been updated in the preparation of the City's 2017/18 budget to reflect a more uniform approach to the striking of fees of charges for mobile vendors and commercial hire sites.

### **Long-term Financial Plan Implications**

There is no impact on the Long Term Financial Plan arising from the Officer recommendation.

## **STRATEGIC COMMUNITY OBJECTIVES**

This report aligns with the following City of Busselton Key Goal Areas identified in the City's 2017 Strategic Community Plan:

### **Key Goal Area 4: Economy**

- 4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.
- 4.2 A community where local business is supported and in turn drives our economy.
- 4.3 Events and unique tourism experiences that attract visitors and investment.

## **RISK ASSESSMENT**

There are no risks rated medium or high associated with the Officer recommendation.

## **CONSULTATION**

In the lead up to preparation of an Agenda report to Council on 9 November 2016, recommending a new policy framework for non-exclusive commercial use of City land, consultation was undertaken with mobile vendors and commercial hire site operators. Feedback from the consultation was considered in the development of the umbrella policy subsequently adopted by Council (C1611/123) and is in Attachment C.

No further consultation has been required relating to the Officer recommendation outlined in this report.

## **OFFICER COMMENT**

As a result of Council adopting a new policy relating to non-exclusive use of city controlled land in November 2016, there is no longer a need for separate policies to facilitate trading in public places.

This report recommends Council repeals two existing policies that were used to facilitate specific commercial activities being mobile vendors and seasonal recreation hire sites.

Since the introduction of the new single policy, the City has administered mobile vendors and recreational hire sites using a uniform process. This process designates specific sites for these activities and seeks expressions of interest, with evaluation criteria being used to rate submissions, with the CEO issuing permits under delegated authority.

Uniform permit fees were set in the 2017/18 budget and each location is also subject to a licence fee based on the area of the land being used by the commercial business. These principles were embodied in the new policy Non-Exclusive Use of Commercial Land (#249), which is in Attachment C.

Specific governance to deal with nuances relating to food/beverage vendors and commercial hire sites are outlined in the permits recently issued.



**CONCLUSION**

On 9 November 2016 Council resolved to adopt an umbrella policy to guide processes related to non-exclusive use of City land for seasonal and/or temporary businesses providing goods and services on public land. The policy was prepared with the aim of providing a more uniform approach to issuing permits and licenses which historically were inconsistent, inequitable with regard to fees and charges, used different business recruitment processes and had inconsistent frameworks for control.

Officers recommend Council repeals two existing policies that have previously been used to facilitate non-exclusive commercial use of City land. These are the Commercial Hire Sites Policy (#008) in Attachment A and the Trading in Public Places Policy (#020) in Attachment B.

The new policy entitled Non-Exclusive Commercial Use of City Land (Policy #249) is in Attachment C and has been used by Officers as a framework to guide recruitment and selection of mobile food/beverage and seasonal recreational businesses seeking to trade on City land from 2017/18. Separate guidelines and control mechanisms are integrated into permits that have since been issued.

**OPTIONS**

Council may elect not to repeal the policies as recommended by Officers and request a further review of the policy framework for non-exclusive use of City land.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

Should Council adopt the Officer recommendation, the two policies will be repealed immediately.

**OFFICER RECOMMENDATION**

That the Council, with respect to the non-exclusive commercial use of City land:

1. Repeals the 'Commercial Hire Sites Policy (#008)', which deals with recreational activities aimed at activating public land by issuing permits to tourist orientated seasonal businesses (see Attachment A);
2. Repeals the 'Trading in Public Places Standard Conditions of Approval Policy (#20)' which deals principally with the administration of mobile food and beverage vendors (see Attachment B); and,
3. Notes that the 'Non-Exclusive Use of Commercial Land Policy (#249)' (see Attachment C), supersedes the above policies and is the principal framework for administering permits and licenses relating to mobile food/beverage and tourist orientated seasonal businesses on City land.

008	Commercial Hire Sites	Version 3
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## 1. PURPOSE

Temporary Businesses in recreational or tourist locations add further dimensions of character and vibrancy to a location. Furthermore, the prosperity achieved by the operators contributes to the overall economic success of the region and provides a source of income for the City.

This policy facilitates the promotion, approval and striking of fees of Commercial Hire Sites to accommodate Temporary Businesses within the City of Busselton. It aims to encourage and facilitate commercial operators to establish non-permanent businesses that enhance the tourism potential and recreational use of strategic locations throughout the region, and in doing so provide the City with a financial return. The Commercial Hire Sites policy applies to all trading at an approved 'Commercial Hire Site' regardless of the trading activity.

This policy is not intended to guide the operation of trading activities conducted at approved temporary activities such as a fair, function, or public event, or the operation of Mobile Food Premises that do not require a stationary designated location from which to trade, such as an ice-cream street vendor that drives the streets only stopping to serve customers.

## 2. DEFINITIONS

For the purposes of this policy, the following definitions apply;

'CEO' means the Chief Executive Officer or delegated Officer of the City of Busselton;

'City' means the City of Busselton;

'Commercial Hire Site' means a location in a public place, approved by the City of Busselton, where a business of a non-permanent nature is permitted to operate;

'Core Trading Period' means mid-December to mid-February;

'Extended Trading Period' means 15 October to mid-December, mid-February to 30 April, gazetted school holidays, public holidays and public holiday weekends AND regional events and special events, where approved by the City of Busselton;

'Mobile Food Premises' means a business operated from a vehicle, van, stand, cart or similar device that complies with ANZFA Food Safety Standards;

'Permit' means a permit issued under the Shire of Busselton Property Local Law 2010;

'Public Place' means any street, way or place which the public are allowed to use, whether the street way or place is or is not on private land;

'Tender' means an informal tender process including advertising, selection and recommendations;

'Temporary Business' means a business, which has non-permanent facilities and is operated from a site designated and approved by the City.

### **3. SCOPE**

The policy covers the;

- a) promotion and selection of suitable Commercial Hire Sites in Public Places;
- b) criteria by which City officers will assess applications for the commercial hiring of those sites; and
- c) methods by which the City will establish an appropriate fee for the opportunity.

### **4. POLICY CONTENT**

The City of Busselton recognises the social, cultural and economic value of commercial hire sites. It is committed to facilitating entrepreneurial opportunities on the sites that contribute to the wellbeing and prosperity of residents and to the overall experience of visitors to the region.

Upon termination or expiry, existing Recreational Hire Site Agreements to be replaced by new Commercial Hire Site Permits.

Allow existing permit holders to apply to extend the length of time of their current permit, up to a maximum period of three years to reflect an anticipated substantial investment in their commercial hire site business.

#### **Promotion of Commercial Hire Site Opportunities**

The City will publically advertise the availability of Commercial Hire Site opportunities twice per year (once in March and once in August) for a period of up to four weeks, where sites are available. If a tender is called for the letting of hire site opportunities, tender selection criteria will be set prior to advertising.

#### **4.1 Site Locations**

The City of Busselton can approve an application for a Permit in accordance with the Shire of Busselton Property Local Law 2010.

Commercial Hire Sites may be selected by the City due to their strategic location with the anticipation of attracting a particular activity to an area, or may be approved by the City as the result of an application from a commercial operator. When assessing suitability of locations for hire sites, consideration will be given to:

6.2                      Attachment A                      Commercial Hire Sites (Policy #008) - (For repeal)

- a) the type and regularity of business that could operate from the nominated location/s;
- b) the impact the business will have on the surrounding amenity, and
- c) the strategic implications and impact the location may have on the local economy.

Consideration will also be given to the nature of adjoining Commercial Hire Site businesses, specifically; preference will be given to businesses that are not of an identical nature to an adjoining operator.

Where a proponent seeks a permit for a hire site that has not been previously designated, nor advertised, the site may be authorised by the CEO.

#### **4.2      Term**

The length of term of a permit for a Commercial Hire Site may be seasonal, for several weeks or up to three years depending on the nature of the business. Prior to expiry of an existing Commercial Hire Site permit, the site will be readvertised.

#### **4.3      Assessment and Selection Process**

Applications for Commercial Hire Site permits may be approved by the CEO or an authorised person and will be considered, in part, according to the appropriateness of the proposed activity in relation to the area and the social, cultural and economic benefits the business may bring to the City, residents and visitors.

Applications will be assessed using the evaluation criteria at Schedule 1 (Evaluation Criteria for Assessing Commercial Hire Site Permit Applications)

Applications for permits to sell food and / or beverages must also comply with conditions imposed either regulatory or discretionary, by the City's Environmental Health section.

Businesses requiring a structure to be placed on the land for storage or other operational purposes for in excess of 72 hours will most likely require Planning Approval and /or a Building Permit for that structure and this may also invoke other processes under the Local Government Act 1995.

The City may refuse an application on any one or more of the following grounds:

- i.        the applicant is an undischarged bankrupt or is in liquidation;
- ii.       the applicant has entered into any composition or arrangement with creditors; or
- iii.      a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property;

- iv. such other grounds the City may consider to be relevant in the circumstances of the case.

#### **4.4 Trading Period**

A permit allows the operator to trade within the Core and Extended Trading Periods as defined in Section 2 (Definitions). The City of Busselton CEO may revoke a permit should the operator not substantially trade within the Core Period.

#### **4.5 Establishment of Fees**

The permit fee will be set annually in consideration of market demand and as part of the City's review of the Fees and Charges schedule. The revenue will be received into a general revenue account and then transferred to the 'Jetty Maintenance Reserve'.

Commercial Hire Site permit holders requiring regular access to beaches/reserves are to be levied a beach / reserve vehicle access permit fee which is set annually as part of the City's review of the Fees and Charges schedule.

#### **Policy Background**

Policy Reference No. - 008

Owner Unit – Commercial Services

Originator – Property and Business Development Officer

Policy approved by – Council

Date Approved – Under Consideration

Review Frequency – Every two years, or as required.

Related Documents – Shire of Busselton Property Local Law 2010, Shire of Busselton Local Law Relating to Trading in Public Places 1992.

#### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1111/359	23 November 2011	Commercial Hire Sites Policy to replace previous Recreational Hire Sites Policy
C1312/332	11 December 2013	Commercial Hire Sites Policy reviewed and updated.

### **Schedule 1**

#### **Evaluation Criteria for Assessing Commercial Hire Site Permit Applications**

City officers will use the following evaluation criteria to assess the merits of each application.

- i. Does the business add something new to the foreshore? Score 1 to 10
- ii. Does the business have appeal to the general public? Score 1 to 10
- iii. Does the business target a specific audience that is seeking a recreational experience of the foreshore? Score 1 to 10
- iv. Intended period of trading. Score 1 to 10 (1= occasional weekend / weekday, 5= summer months Dec-March, 10=summer months and gazetted school holidays and public holiday weekend)
- v. Is the business weather dependent? Score 1 to 10 (1=totally dry / calm weather dependent, 10= not dependent on dry / calm weather)
- vi. Is it an existing business operating a successful commercial hire site? Weighted Score 1 to 20 (1=new business, to be established, 10=new business, set up, 20= established and well run seasonal commercial business)
- vii. Does the business compete or complement existing established permanent businesses in the locality? Score 1 to 10 (1 being direct competition, 10 being a totally complementary fit)
- viii. Does the business compete or complement existing established seasonal hire site businesses in the locality? Score 1 to 10 (1 being direct competition, 10 being a totally complementary fit)
- ix. Does the business require connections to existing utilities / infrastructure? Score 1 to 10 (1=complicated, new and expensive connection 10= no connections required)
- x. Does the business equipment need to be stored on the foreshore? Score 1 to 10 (1= storage required, e.g. sea container, 10=no storage, i.e. removed each day)
- xi. Does the business create vehicular congestion in the local vicinity? score 1 to 10 (1 = significant congestion anticipated, 5 = moderate congestion anticipated, 10 = no congestion anticipated)
- xii. Environmental considerations. Score 1 to 10 (1= potential significant adverse impact, 5= some potential adverse concerns, 10= no adverse impact.)

*(It is to be noted in paragraph vi) above that a weighting is attached to existing seasonal hire site businesses that are successfully trading, and intend to re-apply for a permit.)*

Additionally, the following checklist will be used:

1. Does the application include a Risk and Safety Management Plans?
2. Is there a requirement for a Development Application? If yes, refer to Planning Directorate.
3. Does the application need to be referred to other State Agencies? E.g. DPaW, DoT, Dept. of Lands
4. Does the applicant have a valid National Police Clearance certificate?
5. Does the applicant have a valid Working With Children certificate?
6. Has a valid Public Liability certificate of currency been submitted?
7. If applicable, has a valid Workers Compensation certificate of currency been submitted?
8. Is a beach / Reserve vehicle access permit required? If yes, applicant is to apply to Rangers Dept. for permit.
9. Does the business proposal include the retail of food and/or drink? – If yes, refer to Health and recommend TiPPs application.
10. Two Character references.
11. Bond Requirement Assessment. (\$ amount)



## 020 Trading in Public Places – Standard Conditions of Approval Version 2

### 1. PURPOSE

This policy will be used to set standard conditions of approval for licences issued in accordance with the “City of Busselton Local Law Relating to Trading in Public Places”.

### 2. SCOPE

This policy applies to all applications for Trading in Public Place licences in the City of Busselton.

### 3. POLICY CONTENT

#### 3.1 Objective

The purpose of this policy is to provide the Council with a consistent framework to encourage, control and regulate the location of mobile food vehicles and placement of goods and articles in public places across the City of Busselton.

This policy further aims to encourage a high standard of service delivery to our local community and visitors whilst supporting local economic development and commercial viability.

#### 3.2 Definitions

*Community Association* means an institution, association, club, society or body, whether incorporated or not, the objects which are charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and the members of which are not entitled or permitted to receive any pecuniary profit from the transactions thereof.

*Council* means the Council of the Municipality of the City of Busselton. *Event* means an occurrence approved 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 or community purposes. *Facility or Reserve* means any property owned by the City of Busselton and includes buildings, recreation centres, community centres, halls, reserves (passive and active).

*Public Place* means any street, way or place which the public are allowed to use, whether street, way or place is or is not on private land.

*Trading* means selling or hiring of goods, wares, merchandise or services, or offering of goods, wares merchandise or services for sale or hire in a street or other public place and includes displaying goods, wares or merchandise for the purpose of offering them for sale or hire, inviting offers for sale or hire, soliciting orders or carrying out of any other transaction therein, it includes the setting up of a stall, or the conducting of business at a stall.



6.2                      Attachment B                      Trading in Public Places Standard Conditions of Approval (Policy #20) - (For repeal)

3.3 Standard Conditions of Approval for Location of Mobile Food Vehicles/Stalls/ Goods

- a) Mobile food vehicles/vendors are not permitted to operate in the business district of Busselton or Dunsborough as defined by the 'business' zoning in the current Town Planning Scheme except where approved at events.
- b) Mobile food vehicles/vendors are only permitted to operate in locations preapproved by the City.
- c) Mobile food vehicles/vendors are not be permitted to operate within 300m of any retail premises or permanent place of business that has for sale any goods or services of the kind being offered for sale by the mobile trader;
  - 1) without prior approval to operate in such locations being sought,
  - 2) submitting a written letter of support from the proprietor(s) of such retail premises or permanent place(s) of business.
- d) Mobile food vehicles/vendors are not approved to park in a public area, reserve, facility or space unless it can be demonstrated to the satisfaction of the City that the location of the vehicle will not pose a traffic impediment or danger to the safety of the general public.
- e) Trading is permitted for a maximum of 4 hours per day in any approved location.
- f) Displayed goods on footpaths must be at least 2 metres away from a truncation, crossover or street corner.
- g) Goods will not be permitted on footpaths where access to a loading zone or disabled parking bay may be impeded.
- h) The licensee must not deposit or store any container, vehicle or structure containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles.

3.4 Special Conditions of Approval for Location of mobile Food Vehicles/Stalls/Goods at Yallingup

- a) Trading will only be permitted for a maximum of 2 hours per day between 1 May and 30 November in any year with condition 3.3e) above applying at other times.
- b) Trading will not be permitted in the Torpedo Rocks car park illustrated in Appendix A.

3.5 General Standard Conditions

- a) The licensee is responsible for compliance with the Environment Protection (Noise) Regulations 1997.
- b) Food vehicles and food operations must comply with the Food Act 2008, Food Regulations 2009 and the Food Safety Standards.
- c) Food vehicles are not permitted to set up or provide external tables or chairs for customers.
- d) The licensee must maintain a minimum of \$10 million Public Liability insurance. The policy must be able to meet any possible claim which may be sustained against the licensee or the City in relation to the death or injury to any person or property arising out of anything authorised by the licence.
- e) Solicitation of customers by touting or the use of public address systems is prohibited.
- f) The licensee must ensure that the area is kept clean and tidy at all times. The permit holder is responsible for the disposal of litter and cleaning of footpaths.

6.2 Attachment B Trading in Public Places Standard Conditions of Approval (Policy #20) - (For repeal)

- g) The licensee must ensure that no debris or litter is swept into the street gutter and/or subsequently washed down the storm water drainage system. No detergents and cleaning agents shall be washed into the street, gutter or drainage system.
- h) The licensee is responsible for the maintenance of the permit area and shall maintain all display stands/equipment to a high standard.
- i) The licensee must not display or allow to be displayed any advertisement, placard, poster, streamer, sign or signboard other than attached to and forming part of the vendor's vehicle or display stand.
- j) A trading in public places licence is not transferable.

3.6 Policy Provisions for Events

- a) Traders may be approved to operate for the duration of an event/festival during the hours it is open to the public.
- b) Food vehicles garaged or located within the City of Busselton seeking approval to operate at events will be required to demonstrate registration under the Food Act 2008 prior to being approved. An application for temporary food stalls/vans will not be required for those businesses registered by the City of Busselton.
- c) Food businesses registered by a municipality other than the City of Busselton seeking approval to operate at events will be required to provide a copy of their Food Act 2008 registration and complete and submit a complete application for temporary Food Stalls/Vans associated with events and tender the appropriate fee prior to being approved.

3.7 Policy Provisions for Community Associations

- a) Community associations are entitled to a fifty percent fee reduction for trading in public place applications.

3.8 Enforcement

In the event that the licence conditions are breached, and in accordance with the Local Law provisions;

- a) a licence may be revoked, or
- b) compliance action taken.

3.9 Administration of this Policy

The Chief Executive Officer (CEO) has the authority to administer the requirements of the Trading in Public Places Policy on behalf of Council.

Policy Background

Policy Reference No. – 020

Owner Unit – Environmental Health

Originator – Coordinator Environmental Health

Policy approved by – Council

Review Frequency – As required

Related Documents – Local Law relating to Trading in Public Places

Implemented 09/11/2016

249	NON-EXCLUSIVE COMMERCIAL USE OF CITY LAND	V1 Current
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#### PURPOSE

This Policy provides a consistent framework and methodology to facilitate, control and regulate the non-exclusive commercial use of City owned and managed land across the District.

#### BACKGROUND

Prior to development of this Policy, the City had been managing a significant amount of non-exclusive of commercial land, but without an overarching or integrated policy framework. Because of the level of interest in the subject, the potential implications of such activity, both positive and negative, and the need to provide for administrative fairness, consistency, efficiency and robust decision-making, this policy was developed. Further background to the development of this Policy can be found in the report to the Council that supported the Policy's consideration and adoption by the Council.

#### SCOPE

The Policy relates to the following kinds of non-exclusive commercial use of City land -

- Mobile traders (i.e. traders that operate from particular locations for certain periods of time);
- Itinerant traders (i.e. traders that offer goods and services by travelling around the District, stopping only for as long as it takes to serve customers in a particular location);
- *Al fresco* dining on footpaths or other City land adjacent or close to a permanent, fixed business (other than where this is facilitated via a lease);
- Recreational activities of various kinds (including fitness classes or similar - i.e. 'exercise permits' - and things like mobile climbing walls or water playgrounds);
- The running of tours or similar, which wholly or partly take place on City land and/or using City infrastructure;
- Businesses involved in the short-term hiring of recreational equipment, such as bikes, kayaks or jet skis; and
- Trading that operates from more or less temporary premises and/or from fixed premises, but on the basis of relatively short-term arrangements, such as trading from a converted/adapted sea container, or from some other relocatable and/or relatively low cost structure (although note that once there is a significant degree of 'permanence' associated with a business and/or structure in this kind of example, it becomes indistinguishable from a more conventional leasehold situation, and is therefore not subject of this policy).

Implemented 09/11/2016

The Policy does not relate to the following kinds of activities –

- Events, and the trading activity associated with events;
- Markets;
- Buskers/street entertainers;
- Activities associated with the short-term hiring of City property;
- General sporting use of ovals or similar; or
- Leasehold use/development of City land.

#### STATUTORY/POLICY ENVIRONMENT

- *Land Administration Act 1997* and associated regulations
- *Local Government Act 1995* and associated regulations
- *Planning and Development Act 2005* and associated regulations
- *Building Act 2012* and associated regulations
- *Health Act 1911* and associated regulations
- *Public Health Act 2016*
- *Food Act 2008* and associated regulations
- *Local Planning Scheme 21* and associated structure plans and policies
- *Activities in Thoroughfares and Public Places and Trading Local Law*
- *Property Local Law*
- *Jetties Local Law*
- *Airport Local Law*
- *Busselton Foreshore Master Plan*
- *Busselton City Centre Conceptual Plan*
- *Dunsborough Town Centre Conceptual Plan*
- *Commercial Hire Site Policy* – Reference No. 008\*
- *Trading in Public Places Policy* – Reference No. 020\*
- *Mobile Vendors on the Busselton Jetty Policy* – Reference No. 006\*
- *Community Facilities Bookings Policy* – Reference No. 027
- *Markets Policy* – Reference No. 074
- *Events Policy* – Reference No. 231
- *Leases of City Land and Buildings Policy* – Reference No. 248

Implemented 09/11/2016

#### OBJECTIVES

1. Achieving fair outcomes, in both procedural and outcome terms, in relation to the treatment of different businesses, business models and activities;
2. Preserving and enhancing the vibrancy and attractiveness of City, Town and other activity centres, and other important public spaces, such as the Busselton and Dunsborough Foreshores;
3. Providing convenient and attractive services to residents and visitors;
4. Encouraging innovation, new business development, and economic and employment growth;
5. Generating financial return to ratepayers associated with use of City land and infrastructure;
6. Supporting the delivery of other City strategies and objectives; and
7. Ensuring legal robustness, simplicity and comprehensibility, and administrative efficiency and workability.

#### GUIDING PRINCIPLES FOR IMPLEMENTATION

1. Where there is competition for space/sites (including with other kinds of uses, such as general public recreation or public car parking requirements) and/or concerns that activity should be managed carefully and/or not be supported in certain locations, applications will only be considered as part of an expression-of-interest process and not as a result of *ad hoc* applications;
2. Expression-of-interest sites and assessment criteria will be periodically reviewed and updated, including through appropriate Council consultation/consideration and industry/community consultation;
3. Novel proposals or *ad hoc* proposals may, however, be considered where it is clear they are supportable, given the broader policy direction, and/or to trial a new kind of activity and/or location;
4. Where there is more than one regulatory option, once it is clear that a particular activity or proposal is broadly supported, the most administratively simple option, or combination of options, will be used; and
5. Where there is identified to be a need to ensure a return on the value of City land and/or infrastructure, there will be a requirement for an 'agreement' and/or 'licence', in addition to a 'permit', with a 'licence' only being required where there is a need for a registerable interest in land.

#### ADMINISTRATION OF THIS POLICY

The Chief Executive Officer (CEO) has the authority (including through necessary delegations and/or authorisations) to administer the requirements of the Non-Exclusive Commercial Use of City Owned or Vested Land Policy on behalf of Council.

6.2 Attachment C Non-Exclusive Use of Commercial Land (Policy #249)

Implemented 09/11/2016

**Policy Background**

Policy Reference No – 249

Owner Unit – Environmental Health

Originator – Manager Environmental Services

Policy considered by Policy and Legislation Committee and approved by – Council

Date Approved – 9 November 2016

Review Frequency – As required

Related Documents –

- Activities in Thoroughfares and Public Places and Trading Local Law 2015
- Properties Local Law
- Jetties Local Law
- Busselton Foreshore Master Plan
- *Busselton City Centre Conceptual Plan*
- *Dunsborough Town Centre Conceptual Plan*
- *Commercial Hire Site Policy* – Reference No. 008
- *Trading in Public Places Policy* – Reference No. 020
- *Mobile Vendors on the Busselton Jetty Policy* – Reference No. 006
- *Community Facilities Bookings Policy* – Reference No. 027
- *Markets Policy* – Reference No. 074
- *Events Policy* – Reference No. 231
- *Leases of City Land and Buildings Policy* – Reference No. 248

Background/History –

Implementation of new policy to facilitate, control and regulate the non-exclusive commercial use of City owned and managed land across the District.

**History**

Council Resolution	Date	Information
C1611/123	9 November 2016	Date of Implementation Version 1

### 6.3 STANDING ORDERS LOCAL LAW

<b>SUBJECT INDEX:</b>	Local Laws
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Corporate Services
<b>ACTIVITY UNIT:</b>	Legal Services
<b>REPORTING OFFICER:</b>	Legal Officer - Briony McGinty
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Proposed Local Law <a href="#">↓</a> Attachment B Current Local Law with Changed Marked-Up <a href="#">↓</a>

#### PRÉCIS

Under the *Local Government Act 1995* (**the Act**) local governments are required to carry out periodic reviews of their local laws to determine whether they should be repealed or amended. As part of the City's ongoing review of its local laws, the City's current *Standing Orders Local Law 2010* (**current local law**) has been identified as in need of review.

The City's current local law has been compared against the WALGA model Local Government (Council Meetings) Local Law (**WALGA model**) and other Standing Orders/Meeting Procedures Local Laws recently adopted by various other Councils.

A new *Standing Orders Local Law 2017* (**proposed local law**) has been prepared for consideration by the Council. Various changes, ranging from grammatical to substantive, have been made. It is recommended that Council initiate the law-making process and authorise the CEO to commence advertising the proposed local law.

#### BACKGROUND

The Western Australian Local Government Association (**WALGA**) provides assistance to local governments in the implementation of local laws by creating "model" local laws. These model local laws provide a starting point in which to develop local laws suitable to the locality of the local government whilst ensuring that local laws across the State are generally similar when dealing with a particular subject matter.

The current local law is based on an old WALGA model, which has since been amended. Given the current local law has not been reviewed for 7 years (with the Act requiring a review every 8 years) it is considered appropriate to determine if recent revisions to the WALGA model are appropriate for the City to adopt, as well as considering other avenues for improvement.

#### STATUTORY ENVIRONMENT

Section 3.5 of the Act provides the head of power for the Council to make the proposed local law.

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

- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
- (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

The purpose and effect of the proposed local law is as follows:

Purpose: The purpose of the proposed local law is to provide for the orderly conduct of the proceedings and business of the Council.

Effect: The effect of the proposed local law is that all Council meetings, committee meetings, and other meetings as described in the Act, shall be governed by the proposed local law unless otherwise provided in the Act, regulations or other written law.

As part of the statutory consultation process, the proposed local law is advertised in accordance with section 3.12(3) of the Act, by giving state wide public notice of the local law and allowing at least six weeks for the public to make submissions. A copy of the local law is also provided to the Minister for Local Government.

Following this process, the proposed local law will then be referred back to the Council for consideration of any submissions received in relation to the local law and for the Council to resolve whether or not to make the local law by absolute majority decision.

The *Local Government Act 1995*, *Local Government (Rules of Conduct) Regulations 2007*, *Local Government (Administration) Regulations 1996* all interact with and complement the standing orders of the City.

## **RELEVANT PLANS AND POLICIES**

The City has adopted a Code of Conduct to be observed by Council members in accordance with Section 5.103(1) of the *Local Government Act 1995*.

The policy '005 - Meetings, Information Sessions and Decision-making Processes' sets out the guidelines for provision of information to Councillors and the Council and other matters relating to the various forums utilised.

## **FINANCIAL IMPLICATIONS**

Costs associated with the advertising and gazettal of the local law 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**

There are no implications for long-term financial planning.

## **STRATEGIC COMMUNITY OBJECTIVES**

The proposal aligns with the City of Busselton Strategic Community Plan 2013 as follows:

6.1 Governance systems that deliver responsible, ethical and accountable decision making.

## **RISK ASSESSMENT**

The proposed local law does not involve major departures from current practices and is therefore considered low risk.



## CONSULTATION

If the Council resolves to initiate the local law-making procedure, the City is required by the Act to place notices in *The West Australian* newspaper, locally circulating newspapers and on City notice boards, containing details of the proposed local law and an invitation to the public to make submissions in relation to it.

The submission period must run for a minimum period of six weeks after which, the Council having considered any submissions received, may resolve to adopt the proposed local law or a law which is not significantly different.

## OFFICER COMMENT

Various grammatical and minor stylistic changes have been made to the current local law. In addition, more substantive changes have been made, as outlined further below.

Attachment A shows a “clean version” of the proposed local law, in the correct formatting for the State Law Publisher, but with boxed notes referring to the Act and various regulations, to assist in interpretation of the local law. Boxed notes are generally not permissible by the Joint Standing Committee on Delegated Legislation (JSC) and would need to be removed prior to adoption. The JSC is a committee of State parliamentarians from both houses of the WA Parliament, and has delegation from Parliament to scrutinise and recommend the disallowance of local laws to the Parliament of Western Australia. Attachment B shows the current local law, in its current formatting, with no boxed notes, and with proposed changes “marked-up” to enable comparison of the two.

### Order of Business (clause 5.2)

The Order of Business has been amended to reflect the WALGA model, with the exception that the Prayer has been retained. This has resulted in a slight rearrangement of certain business as well as the introduction of new business. For example, “Disclosure of interests” has been brought forward. “Items brought forward for the convenience of those in the public gallery” and “Urgent business” have been introduced. An ‘Acknowledgement of Country’ has also been included in the proposed local law.

An Acknowledgement of Country is an opportunity to show respect for Traditional Owners and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. It can be given by both non-Indigenous people and Aboriginal and Torres Strait Islander people. It may take the following terms, for example: *I’d like to begin by acknowledging the Traditional Owners of the land on which we meet today. I would also like to pay my respects to Elders past and present.*

### Leave of Absence (clause 5.5)

A new clause has been inserted regarding the procedures for seeking a leave of absence. Proposed clause 5.5 requires members seeking leave to give written notice to the CEO prior to the commencement of the meeting. The notice must include the period of leave and the reasons for seeking the leave. The intent is to ensure members do not fall foul of section 2.25(4) of the Act under which members have been disqualified for failing to obtain a resolution of the Council to grant the leave of absence.

### Questions by members (clauses 5.6 and 7.1)

Clause 7.1 of the current local law deals concurrently with both questions during debate, and general questions regarding good governance of the district. The proposed local law separate these concepts into new clauses 5.6 and 7.1.

New clause 5.6, taken from the WALGA model, requires questions relating to matters not on the agenda, to be provided in writing to the CEO 3 days prior to the Council meeting. This allows the CEO or his delegate to conduct research and provide a meaningful response on the matter at the meeting.

New clause 7.1 deals with questions by members during debate on a motion. In this case, a question may be asked at any point prior to the right of reply commencing and no notice is required.

Motions of which previous notice has been given (clause 5.8)

A notice of motion requires 21 days' notice under the current local law. It is proposed to change this requirement to 7 days in line with the WALGA model.

Lapsed Notices of Motion (clause 5.8(6))

Where a notice of motion is lost, a notice in the same terms or to the same effect, must not be given again for 3 months, unless with the support of an absolute majority.

Urgent Business (clause 5.9)

This clause of the proposed local law reflects a similar clause taken from the City of Canning's standing orders. Currently, items not on the agenda, can be introduced with the consent of the Presiding Member (old clause 5.1.(1)). The proposed local law requires:

1. the consent of the Presiding Member;
2. the matter cannot await consideration at the following meeting or the delay may have adverse legal, reputational or financial consequences for the City; and
3. the item is in the form of an employee report, provided to members prior to the commencement of the meeting (unless it is a motion to revoke a decision).

This may appear to be a difficult hurdle to overcome in some circumstances. However, it may be overcome by an appropriate motion to suspend the standing orders.

This clause would not apply to "late items". Late items can still be included on the agenda with 72 hours' notice (as per s 5.5(1) of the Act and Reg 14 of the *Administration Regulations*).

En Bloc Resolutions (clause 5.10)

This clause has been amended to allow decisions requiring an absolute majority to be included in the "adoption by exception resolution" of the Council.

Participation at Committee Meetings (clause 6.12(2))

The ability of members to attend (but not participate) in committee meetings of which he or she is not a member is clarified in this clause.

Foreshadowing alternative motions (clause 10.18)

This clause deals with how alternative motions are to be dealt with at Council meetings. Further, those items excluded from the adoption by exception resolution, with a motion different to the employee recommendation, shall be the motion that is first considered by the Council. Where the alternative motion is different to a recommendation by a committee, the members are first to be given the option to debate the Committee recommendation.

Member be no longer heard (clause 11.8)

From the WALGA model, this clause prevents a speaker from speaking further on the substantive motion or any amendment to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

## CONCLUSION

The proposed local law incorporates improvements to the current local law, which are based on the new WALGA model, other local governments which have recently updated their standing orders, and other changes deemed suitable specifically for the locality of the City of Busselton. For these reasons it is recommended that the Council authorise the CEO to advertise the proposed local law for comment.

## OPTIONS

In addition to the Officer's recommendations (as per Officer Recommendations 1, 2 and 3 below), the Council has the following alternative options regarding standing orders:

### Option 1

Not to proceed with the local law-making process and rely on the current local law to regulate meeting procedures. However, certain provisions have been identified as in need of change, for example in relation to "en Bloc" resolutions, and it is recommended to update and improve the current local law for the reasons stated in the report.

### Option 2

Council could choose to vary the provisions of the proposed 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 proposed 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 amended proposed local law would need to be re-advertised.

## OFFICER RECOMMENDATION

- (1) That the Council commences the law-making process, for the *City of Busselton Standing Orders Local Law 2017*, the purpose and effect of the local law being as follows:

Purpose: The purpose of the proposed local law is to provide for the orderly conduct of the proceedings and business of the Council.

Effect: The effect of the proposed local law is that all Council meetings, committee meetings, and other meetings as described in the Act, shall be governed by the proposed local law unless otherwise provided in the Act, regulations or other written law.

- (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 proposed local law; and
  - (ii) giving a copy of the proposed 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 proposed local law to enable the Council to consider the submissions made and to determine whether to make the local law in accordance with section 3.12(4) of the Act.

# **City of Busselton**

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## **STANDING ORDERS LOCAL LAW 2017**

**V9 31/08/17**

*Local Government Act 1995*

**City of Busselton**

**Standing Orders Local Law 2017**

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**ARRANGEMENT**

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***Local Government Act 1995***

**City of Busselton**

**STANDING ORDERS LOCAL LAW 2017**

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 **[add date]** to make this local law.

**Part 1 - Preliminary**

**1.1 Short title**

This local law is the *City of Busselton Standing Orders Local Law 2017*.

**1.2 Commencement**

This local law will come into operation on the 14th day 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 – <ul style="list-style-type: none"><li>(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;</li><li>(b) the person resigns from membership of the committee;</li><li>(c) the committee is disbanded; or</li><li>(d) the next ordinary elections day,</li></ul> 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 – <ul style="list-style-type: none"><li>(a) the term of the person's appointment as a committee member expires;</li><li>(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;</li><li>(c) the committee is disbanded; or</li><li>(d) the next ordinary elections day,</li></ul> 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.<br><br>*Absolute majority required.   |
| (2) | A person who is appointed as a deputy of a member of a committee is to be – <ul style="list-style-type: none"><li>(a) if the member of the committee is a council member – a council member; or</li><li>(b) if the member of the committee is an employee – an employee; or</li><li>(c) if the member of the committee is not a council member or an</li></ul> |



	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

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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 –
- (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.

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- (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 visitors/ Disclaimer
  - 2. Attendance
    - 2.1 Apologies
    - 2.2 Approved leave of absence
  - 3. Prayer/Acknowledgment of country
  - 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. Confirmation of minutes
  - 8. Receiving of petitions, presentations and deputations
    - 8.1 Petitions
    - 8.2 Presentations
    - 8.3 Deputations
  - 9. Applications for leave of absence
  - 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

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- (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 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]

### 5.4 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.

### 5.5 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 3 clear working days before the meeting of the Council.

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- (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 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 7 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.

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- (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.

**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 must give notice of the motion that –

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- (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.

**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"><li>(a) a council to answer a question that does not relate to a matter affecting the local government;</li><li>(b) a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or</li><li>(c) a committee to answer a question that does not relate to a function of the committee.</li></ul>
(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"><li>(a) declare that he or she has an interest in the matter; and</li><li>(b) allow another person to respond to the question.</li></ul>
[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.

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- (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;

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- (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

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- (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

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- (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.

**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.



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**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 2 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.

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- (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 5 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 10 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 16).

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**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 objectionable 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—

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- (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 objectionable,
- 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 objectionable 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.

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- (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;

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- (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.



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- (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.

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- (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,

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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.

[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.

- |     |  |
|-----|--|
| (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 — <ul style="list-style-type: none"><li>(a) by a council of the local government's mayor or president under section 2.11;</li><li>(b) by a council of the local government's deputy mayor or president under section 2.15; or</li><li>(c) by a committee of the committee's presiding member or deputy presiding member under section 5.12.</li></ul> |

[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 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.

- (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.

- (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 11.7.

## **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.



[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 –
  - (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 major 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]

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Dated: [add date] 2017.

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.

MICHAEL S. L. ARCHER,  
Chief Executive Officer.

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LOCAL GOVERNMENT ACT 1995

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**SHIRECITY OF BUSSELTON**

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**STANDING ORDERS LOCAL  
LAW 2017**

**V9 31/08/17**

LOCAL GOVERNMENT ACT 1995

SHIRECITY OF BUSSELTON

**STANDING ORDERS LOCAL LAW 2017**

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## LOCAL GOVERNMENT ACT 1995

### SHIRECITY OF BUSSELTON

## STANDING ORDERS LOCAL LAW 2017

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

### PART 1 - PRELIMINARY

#### 1.1 Short title

This local law is the City of Busselton Standing Orders Local Law 2017.

#### 1.2 Commencement

This local law comes into operation on the 14th day 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;

**“absolute majority”** has the meaning given to it in 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;

**“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

- (c) 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;

**“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).*

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**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.
- (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.

**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.

**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.

**2.5 Appointment of committee members**

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

**2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in 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.

**2.8 Resignation of committee members**

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

**2.9 Register of delegations to committees**

The register of delegations to committees is dealt with in 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.
- (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.

**3.3 Convening Council meetings**

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

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**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.

**4.2 When the deputy Mayor can act**

When the deputy Mayor can act is dealt with in 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.

**4.4 Election of presiding members of committees**

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

**4.5 Election of deputy presiding members of committees**

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

**4.6 Functions of deputy presiding members**

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

*Division 2—Quorum*

**4.7 Who acts if no presiding member**

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

**4.8 Quorum for meetings**

The quorum for meetings is dealt with in 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.

**4.10 Reduction of quorum for committee meetings**

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

**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**

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

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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 visitors/ Disclaimer
  2. Attendance
    - 2.1 Apologies
    - 2.2 Approved leave of absence
  3. Prayer/Acknowledgment of country
  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. Confirmation of minutes
  8. Receiving of petitions, presentations and deputations
    - 8.1 Petitions
    - 8.2 Presentations
    - 8.3 Deputations
  9. Applications for leave of absence
  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 Grant of leave of absence**

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

**5.4 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.

**5.5 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 3 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

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of the order of business as outlined in clause 5.2 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 7 clear days before the meeting at which the motion is moved.
- (3) A notice of motion is to be accompanied by supporting reasons and must relate to the good government of the district and must be within the lawful responsibilities of the Council.
- (4) The CEO—

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 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.

**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

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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 must 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.

**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.

**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 members of the public return 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.

**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.

**6.5 Minimum question time for the public**

Minimum question time for the public is dealt with in 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.

**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;
- 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

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- (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;



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- (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.

**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.

**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.

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**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) .
- (3) 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.
- (4) 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.
- (5) 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 2 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.

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- (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 5 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 10 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 16).

**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 objectionable 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.

**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 objectionable, 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 8.7, but to preserve order.

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**9.2 Point of order**

- (1) A member may object, by way of a point of order, only 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 objectionable 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 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

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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

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- (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) 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.
- (4) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (5) The mover of an amendment to a substantive motion has the right of reply in relation to that amendment.
- (6) The right of reply under subclause (3) may be exercised only at the conclusion of the discussion on that amendment.
- (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 prior to 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.

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**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) This 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.

6.3 Attachment B Current Local Law with Changed Marked-Up

*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.

**13.3 Majorities required for decisions**

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

**PART 14 - MINUTES OF MEETINGS**

**14.1 Keeping of minutes**

- (1) The CEO is 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.The keeping and confirmation of minutes are dealt with in the Act.

**14.2 Content of minutes**

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

**14.3 Public inspection of unconfirmed minutes**

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

**14.4 Confirmation of minutes**

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.

**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 11.7.



6.3 Attachment B Current Local Law with Changed Marked-Up

**PART 17 - MEETINGS OF ELECTORS**

**17.1 Electors' general meetings**

Electors' general meetings are dealt with in 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.

**17.3 Electors' special meetings**

Electors' special meetings are dealt with in the Act.

**17.4 Requests for electors' special meetings**

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

**17.5 Convening electors' meetings**

Convening electors' meetings is dealt with in the Act.

**17.6 Who presides at electors' meetings**

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

**17.7 Procedure for electors' meetings**

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

**17.10 Minutes of electors' meetings**

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

**17.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in 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.

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Dated: **[add date]** 2017.

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.

MICHAEL S. L. ARCHER,  
Chief Executive Officer.

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#### 6.4 COUNCIL POLICY 016 RANGER & EMERGENCY SERVICES APPROACH TO REGULATORY FUNCTIONS

<b>SUBJECT INDEX:</b>	Policy, Procedures and Manuals
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger & Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A CP016 Ranger & Emergency Services Approach to Regulatory Functions Version 1 (with track changes) <a href="#">↓</a> Attachment B CP016 Ranger & Emergency Services Approach to Regulatory Functions Version 2 <a href="#">↓</a>

### PRÉCIS

A review of Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions has been completed. Recommended changes to the policy are minor in nature and do not alter the intent of the original policy. The purpose of this report is to seek the Council's adoption of the revised policy.

### BACKGROUND

Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions was adopted by Council on 26 June 2013. As the name suggests the policy sets out the City's approach to regulatory functions exercised by Ranger and Emergency Services.

The Policy and Legislation Committee has endorsed an ongoing policy review process, whereby individual policies are reviewed with a view to determining their ongoing applicability along with standardisation and reduction. This report presents the review of Council Policy 016.

### STATUTORY ENVIRONMENT

In accordance with section 27(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, the Policy and Legislation Committee, in accordance with section 5.8 of the Act.

### RELEVANT PLANS AND POLICIES

This policy supplements and supports Council's *Enforcement and Prosecutions* Policy (015) as adopted by Council on 9 August 2017.

### FINANCIAL IMPLICATIONS

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

**Long-term Financial Plan Implications**

There are no Long Term Financial Plan implications associated with the adoption of this policy.

**STRATEGIC COMMUNITY OBJECTIVES**

Key Goal Area

6 Leadership: visionary, collaborative and accountable.

Community Objective

6.1: governance systems, processes and practices are responsible, ethical and transparent.

**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**

The review of the policy is a routine administrative process to ensure it remains applicable and relevant which it does. Changes to the original policy are minor in nature and do not alter the intent of the original policy. A copy of the version 1 of the policy showing track changes for version 2 is attached (Attachment A).

**OFFICER COMMENT**

It is seen as appropriate that the Council adopts and maintains a policy that sets out the City's objectives and intent with respect to its regulatory functions. These are important functions for the City, our residents and visitors to the District. If these functions were not undertaken in a professional manner, or at all, there may be negative consequences.

It is important that the City sets out how and why these functions are being exercised, and communicates that to the community as a whole, as well as individual members of the public. Adoption of the policy would play a significant part in doing that.

**CONCLUSION**

The policy would provide for the continuation of a transparent, consistent, accountable and respectful approach to the exercising of regulatory functions by Rangers and Emergency Services, and it is recommended that the Council formally adopts the policy as attached to this report (Attachment B).

**OPTIONS**

Council may amend or reject the new draft policy.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If adopted by the Council, version 2 of Council Policy 016 Rangers and Emergency Services Approach to Regulatory Functions would come into immediate effect.

**OFFICER RECOMMENDATION**

That the Council adopts version 2 of Council Policy 016 Ranger and Emergency Services Approach to Regulatory Functions as attached (Attachment B).

~~Implemented 26/06/13~~

016	Ranger & Emergency Services Approach to Regulatory Functions	<del>V1 Current</del> V2 Draft
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~~(Including Parking, Dogs/Cats/Animals, Fire Management, Litter, Unauthorised Camping and related matters)~~

#### 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* and relevant Acts, Regulations, Local Laws and/or other relevant documents;~~and~~.
- 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 ~~in everything we do~~' is one of the City's values ~~of the City of Busselton~~. 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 –

Implemented 26/06/13

- 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, ~~throughout any given year and across any given week,~~ but available staffing resources and workload demands ~~at any given time~~ may affect the City's capacity to enforce parking controls from time-to-time. Notwithstanding ~~that 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, ~~throughout any given year and across any given week,~~ but available staffing resources and workload demands ~~at any given time~~ 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.

Implemented 26/06/13

- 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 Environment and 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 at any given time may affect the City's capacity to enforce fire management controls from time-to-time. Notwithstanding that 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.



~~Implemented 26/06/13~~

- 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, ~~at all times,~~ but available staffing resources and workloads ~~at any given time~~ may affect the City's capacity to enforce controls from time-to-time. Notwithstanding ~~that 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, ~~at all times,~~ but available staffing resources and workloads ~~at any given time~~ may affect the City's capacity to enforce controls from time-to-time. Notwithstanding ~~that 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
<del>CXXX/XXX</del>	<del>TBA</del>	<del>Scheduled review</del> <del>Version 2</del>
C1306/160	26 June 2013	Date if Implementation Version 1

016	Ranger & Emergency Services Approach to Regulatory Functions	V2 Draft
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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* 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
CXXX/XXX	TBA	Scheduled review Version 2
C1306/160	26 June 2013	Date of Implementation Version 1

6.5 REVIEW OF TERMS OF REFERENCE FOR THE LOCAL EMERGENCY MANAGEMENT COMMITTEE, AND THE BUSH FIRE ADVISORY COMMITTEE

<b>SUBJECT INDEX:</b>	Council and Committee Meetings
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Environmental Services
<b>ACTIVITY UNIT:</b>	Ranger & Emergency Services
<b>REPORTING OFFICER:</b>	Ranger & Emergency Services Coordinator - Ian McDowell
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Proposed Terms of Reference for the Local Emergency Management Committee <a href="#">↓</a> Attachment B Revised Proposed Terms of Reference for the Local Emergency Management Committee (showing track changes) <a href="#">↓</a> Attachment C Revised Proposed Terms of Reference for the Bush Fire Advisory Committee <a href="#">↓</a> Attachment D Revised Proposed Terms of Reference for the Bush Fire Advisory Committee (showing track changes) <a href="#">↓</a>

## PRÉCIS

The purpose of this report is to request the Council to adopt the revised proposed Terms of Reference for the Local Emergency Management Committee (LEMC), and the Bush Fire Advisory Committee (BFAC).

## BACKGROUND

The Terms of Reference of the LEMC and the BFAC have been reviewed and where necessary revised.

The Terms of Reference for these committees are now in the standard Council format consistent with other Committees of Council.

## STATUTORY ENVIRONMENT

### Local Emergency Management Committee

Pursuant to section 38 of the *Emergency Management Act 2005* (the EM Act) a local government is to establish one or more local emergency management committees for the local government's district. The City has established one LEMC for its District: the City of Busselton Local Emergency Management Committee.

The establishment of the LEMC is a statutory requirement of the EM Act.

Section 39 of the EM Act sets out the following functions of the LEMC, in relation to the district for which it is established:

- a. to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;
- b. to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
- c. to carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC) or prescribed by the regulations.

### Bush Fire Advisory Committee

Pursuant to section 67 of the *Bush Fires Act 1954* (the BF Act), a local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of the BF Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of cooperation and coordination of bush fires brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.

A committee established under this section of the BF Act shall include a member of the council of the local government nominated by it for that purpose.

In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings and may:

- a. make rules for the guidance of the committee;
- b. accept the resignation in writing, or remove, any member of the committee; and
- c. where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.

It is the decision of the local government as to whether or not it establishes a BFAC.

### **RELEVANT PLANS AND POLICIES**

Appointing members of the Council to committees is subject to the requirements of Council Policy 014 – Convening the Council Following an Election. Both the LEMC and BFAC contain members of the Council in their committee membership.

A Special Meeting of the Council shall be convened for this purpose and whenever possible it shall occur on the Monday evening immediately following the ordinary Election Day. The proceedings shall commence with the “Swearing In” ceremony for new Councillors to be followed by the Special Meeting for the election of the Mayor and Deputy Mayor and consideration of membership of the Council’s Committee’s and the appointment of Council delegates to other various groups.

### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with the adoption of the Terms of Reference of the LEMC or BFAC.

### Long-term Financial Plan Implications

There are no Long Term Financial Plan implications associated with the adoption of the Terms of Reference of the LEMC or BFAC.

### **STRATEGIC COMMUNITY OBJECTIVES**

Key Goal Area

6 Leadership: visionary, collaborative and accountable.

Community Objective

6.1: governance systems, processes and practices are responsible, ethical and transparent.

**RISK ASSESSMENT**

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

<i>Risk</i>	<i>Controls</i>	<i>Consequence</i>	<i>Likelihood</i>	<i>Risk Level</i>
Committees consider matters outside of their scope or committee members fail to recognise interests	Provision of advice and officer attendance at LEMC and BFAC meetings	Minor	Possible	Medium

**CONSULTATION**

It is standard governance for committees to have terms of reference to establish their areas of responsibility and powers. The Terms of Reference for the LEMC and BFAC seek to define those matters in a manner consistent with the functions of those committees as established by the City under the appropriate Acts.

The Terms of Reference for the LEMC (Attachment A) were presented to, and endorsed by the LEMC at its meeting on 5 September 2017.

The Terms of Reference for the BFAC (Attachment C) were presented to, and endorsed by the BFAC at its meeting on 12 September 2017

**OFFICER COMMENT**Local Emergency Management Committee

The Terms of Reference for the LEMC have been reviewed and reformatted to the City's current standard format for terms of reference.

The LEMC is a mandatory committee established under the EM Act, and is likely to be ongoing in nature for the foreseeable future. In line with the recent review of Committees of Council in June 2017, reference to the LEMC having a termination date have been removed from the terms of reference. This will avoid the practice of re-establishing the LEMC every two years. It is noted there is no statutory requirement for the life of the LEMC to be contained in the terms of reference. The termination relates to membership of the LEMC, not the LEMC itself.

Other changes are shown in the "tracked changed" copy of the LEMC Terms of Reference as attached (Attachment B). These include:

- Inclusion of the Local Emergency Coordinator (as appointed by the State Emergency Coordinator (the Commissioner of Police) as a member of the committee as required by section 37 of the EM Act; and
- Revision of the membership list including specifying recent name changes for some State Government Departments.

### Bush Fire Advisory Committee

The Terms of Reference for the BFAC have been reviewed and reformatted to the City's current standard format for terms of reference.

The BFAC is likely to be ongoing in nature for the foreseeable future and reference to the BFAC having a termination date has been removed. This will avoid the practice of re-establishing the BFAC every two years. It is noted there is no statutory requirement for the life of the BFAC to be contained in the terms of reference. The termination relates to membership of the BFAC, not the BFAC itself.

Other changes are shown in the "tracked changed" copy of the LEMC Terms of Reference as attached (Attachment D). These include:

- Nominating representatives of the Department of Fire and Emergency Services (DFES) and the Department of Biodiversity, Conservation and Attractions (DBCA) as 'advisory members' with no voting rights, rather than members of the committee with voting rights. This change was suggested by DFES and had the full support of DBCA and the BFAC Committee. Both DFES and DBCA see their role as one of only providing professional advice and guidance to the Committee.
- Specifying the process and timeframe for election of the presiding member;
- Appointment of the City's Community Emergency Services Manager (CESM) as the executive officer for the BFAC.
- Changing the quorum for the Committee from 50% of members to 40% in line with the Local Emergency Management Committee (LEMC).

### **CONCLUSION**

Consistent with best practice, it is beneficial to review the operation of the LEMC and BFAC in order to maximise efficiencies and ensure best outcomes. A periodic review of the Terms of Reference for these committees will ensure this is achieved and maintained.

### **OPTIONS**

The Council may amend the Terms of Reference for the LEMC (Attachment A).

The Council may determine it does not require the BFAC, or may amend the Terms of Reference for the BFAC (Attachment C).

### **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

If adopted by the Council the Terms of Reference for the LEMC and BFAC will come into immediate effect.

### **OFFICER RECOMMENDATION**

#### **ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council adopts the revised proposed Terms of Reference for:

1. The Local Emergency Management Committee (LEMC) as shown in Attachment A; and
2. The Bush Fire Advisory Committee (BFAC) as shown in Attachment C.

## LOCAL EMERGENCY MANAGEMENT COMMITTEE

### Terms of Reference

#### 1.0 Introduction

The Council of the City of Busselton establishes a Local Emergency Management Committee (LEMC) under the powers given in Section 38 of the *Emergency Management Act 2005* (the Act).

The Council appoints to the Committee those persons whose names (*shall*) appear in Section 4.0 below.

The Committee shall act for and on behalf of the Council in accordance with all relevant provisions of the Act, local laws and policies of the City of Busselton and this document.

#### 2.0 Objectives

Pursuant to Section 39 of the Act the functions of a local emergency management committee are, in relation to its district or the area for which it is established:

- a. to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;
- b. to liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements; and
- c. to carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC) or prescribed by the regulations.

Pursuant to Section 40 of the Act after the end of each financial year the Committee is to prepare and submit to the District Emergency Management Committee (DEMC) for the district and annual report on activities undertaken by it during the financial year. The annual report is to be prepared within such a reasonable time, and in the manner, as is directed in writing by the SEMC.

#### 3.0 Membership

Two elected members shall be appointed to the Committee by the Council.

One deputy elected member shall be appointed to the Committee by the Council.

As recommended by *State Emergency Management Preparedness Procedure 7.0* (the EM Procedure) membership of the Committee shall comprise:

- The Local Emergency Coordinator (as appointed by the State Emergency Coordinator (the Commissioner of Police) pursuant to Section 37 of the Act)
- The Local Recovery Coordinator (as appointed by the local government)
- The following officers of the City of Busselton:
  - Manager Environmental Services
  - Environmental Health Coordinator
  - Airport Operations Coordinator



- Community Emergency Services Manager (CESM)
- Chief Bush Fire Control Officer
- Representatives from the following Emergency Management Agencies, welfare support agencies or non-government organisations, and other industry agencies and organisations:
  - Department of Fire and Emergency Services (DFES) – Fire and Rescue Service
  - DFES – State Emergency Service
  - DFES – Volunteer Marine Rescue Service
  - St John Ambulance
  - Department of Agriculture and Food
  - Department of Community Services
  - Department of Transport
  - Department of Biodiversity, Conservation and Attractions
  - WA Country Health Service – South West
  - Surf Life Saving Western Australia
  - ATCO Gas
  - Busselton Water
  - NBN Co
  - Telstra
  - Water Corporation
  - Western Power

4.0 Advisory Members

In addition to the voting members above, staff from the City of Busselton and from other external state government and non-government organisations may attend meetings regularly or on an ad-hoc basis in an advisory and networking role only. Advisory members shall not have voting rights.

5.0 Presiding Member

The Presiding Member shall be an elected member of Council as per the recommendation of the EM Procedure. The election of the Presiding Member shall occur every two years immediately following the Council election.

The Committee shall appoint a Presiding Member to conduct its business. The Presiding Member shall ensure that minutes of the proceedings are kept and that business is conducted in accordance with the *City of Busselton Standing Orders Local Law 2010*.

The Deputy Presiding Member shall be the Local Emergency Coordinator as recommended by the EM Procedure.

6.0 Executive Officer

The Committee shall be supported by an Executive Officer. The Executive Officer as appointed by the Chief Executive Officer of the City of Busselton shall be the Ranger and Emergency Services Coordinator.

7.0 Meetings

Committee meetings shall be held at three monthly intervals normally in March, June, September and December. If a scheduled meeting is cancelled, the reason for cancelling the meeting shall be noted in the Minutes of the next meeting.

Notice of meetings shall be given to members at least 3 days prior to each meeting.

All members of the Committee shall have one vote. If the vote of the members present is equally divided, the person presiding shall cast a second vote.

8.0 Quorum

Quorum for a meeting shall be at least 50% of the number of offices, whether vacant or not. A decision of the Committee does not have effect unless it has been made by the required majority.

9.0 Delegated Powers

The Local Emergency Management Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to the Council.

<u>History</u>	
TBA	CXXXX/XXX Review and revision
28 September 2016	C1609/261 Establishment

LOCAL EMERGENCY MANAGEMENT COMMITTEE

Terms of Reference

**1. TITLE OF COMMITTEE**

The Committee shall be known as the City of Busselton Local Emergency Management Committee.

**1.0 Introduction**

The Council of the City of Busselton establishes a Local Emergency Management Committee (LEMC) under the powers given in Section 38 of the *Emergency Management Act 2005* (the Act).

The Council appoints to the Committee those persons whose name *(shall)* appear in Section 4.0 below.

The Committee shall act for and on behalf of Council in accordance with all relevant provisions of the Act, local laws and policies of the City of Busselton and this document.

**2. HEAD OF POWER**

The Committee is established pursuant to Section 39 of the *Emergency Management Act 2005*.

**3. PURPOSE**

The purpose of the Committee is to provide the network of skills, knowledge, and advice to assist the City of Busselton in ensuring that local emergency management arrangements are established for the district.

**4. OBJECTIVES**

**2.0 Objectives**

Pursuant to Section 39 of the Act the functions of a local emergency management committee are, in relation to its district of the area for which it is established:

- a. to advise and assist the local government in ensuring that local emergency management arrangements are established for its district;
- b. to liaise with public authorities and other persons in the development, review and testing of the local emergency management arrangements; and
- c. to carry out other emergency management activities as directed by the State Emergency Management Committee (SEMC) or prescribed by the regulations.

Pursuant to Section 40 of the Act after the end of each financial year the Committee is to prepare and submit to the District Emergency Management Committee (DEMC) for the district an annual report on activities undertaken by it during the financial year. The annual report shall be prepared within such a reasonable time, and in the manner as is directed in writing by the SEMC.

The objectives (Emergency Management Act (2005) s.39) of the Local Emergency Management Committee (LEMC) are to:

- Develop for adoption by the City of Busselton an Annual Business Plan consistent with the objectives of the State Emergency Management Committee

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- Advise and assist the City of Busselton in ensuring that local emergency management arrangements are established for its district
- Liaise with public authorities and other persons in the development, review and testing of local emergency management arrangements
- Carry out other emergency management activities as directed by the State Emergency Management Committee
- Prepare and submit to the district emergency management committee an annual report on activities undertaken by the LEMC during the financial year (EM Act s.40).

#### 5. COMMITTEE STRUCTURE

The voting membership of the Committee shall be as determined by resolution of the Council from time to time.

##### 3.0 Membership

Two elected members shall be appointed to the Committee by the Council.

One deputy elected member shall be appointed to the Committee by the Council.

As recommended by the State Emergency Management Preparedness Procedure 7.0 (the EM procedure) membership of the Committee shall comprise:

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- The Local Emergency Coordinator (as appointed by the State Emergency Coordinator (the Commissioner of Police) pursuant to section 37 of the Act)
- The Local Recovery Coordinator (as appointed by the City)
- The following officers of the City:
  - Manager Environmental Services
  - Environmental Health Coordinator
  - Airport Operations Coordinator
  - Community Emergency Services Manager (CESM)
  - Chief Bushfire Control Officer (CBFCO)

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Representatives from the following Emergency Management Agencies, welfare support agencies or non-government organisations, and other industry agencies and organisations:

- Department of Fire and Emergency Services (DFES) – Fire and Rescue Service
- DFES – State Emergency Service
- DFES – Volunteer Marine Rescue Service
- St John Ambulance
- Agriculture and Food – Department of Primary Industries and Regional Development
- Child Protection and Family Support – Department of Communities
- Department of Transport
- Parks and Wildlife Services – Department of Biodiversity, Conservation and Attractions
- WA Country Health Service – South West
- Surf Life Saving Western Australia
- ATCO Gas
- Busselton Water
- Water Corporation
- Western Power

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#### 5.2 Advisory Staff

##### 4.0 Advisory Members

In addition to the ~~above~~ voting members, ~~above~~, the CEO shall direct such staff as are considered necessary to assist the Committee in their duties. Staff from the City and from other external state government and non-government organisations may attend meetings regularly or on an ad-hoc basis in an advisory and networking role only, and shall not vote on any matter before the Committee.

### **5.3 Term of membership of Committee**

Persons shall be appointed as members of the City of Busselton for a term not exceeding 2 years but ceasing on the day before the ordinary biennial election of the Council.

#### 5.0 Presiding Member

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The Presiding Members shall be an elected member of the Council as per the recommendation of the EM Procedure. The election of the Presiding Member shall occur every two years immediately following the Council election.

The Committee shall appoint a Presiding Member to conduct its business. The Presiding Member shall ensure that minutes of the proceedings are kept and that business is conducted in accordance with the City of Busselton Standing Orders Local Law 2010.

The Deputy Presiding Member shall be the Local Emergency Coordinator as recommended by the EM Procedure.

#### 6.0 Executive Officer

The Committee shall be supported by an Executive Officer. The Executive Officer as appointed by the Chief Executive Officer of the City shall be the Ranger and Emergency Services Coordinator.

#### 7.0 Meetings

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Committee meetings shall be held at three monthly intervals normally in March, June, September and December. If a scheduled meeting is cancelled, the reason for cancelling the meeting shall be noted in the Minutes of the next meeting.

Notice of meetings shall be given to members at least 3 days prior to each meeting.

All members of the Committee shall have one vote. If the vote of members present is equally divided, the person presiding shall cast a second vote.

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#### **6. PROXIES**

~~If a Committee member is unable to attend a meeting, a proxy may be sought from the area represented to act and vote on behalf of the representative.~~

#### **7. EXECUTIVE OFFICER**

~~The Committee shall be supported by an Executive Officer. The Executive Officer shall be a member of the staff of the City of Busselton appointed by the Chief Executive Officer of the City.~~

~~The Executive Officer for the LEMC shall:~~

- ~~• Arrange meeting times and venue~~
- ~~• Record meeting minutes~~
- ~~• Ensure minutes are distributed within one week of the last meeting~~
- ~~• Redistribute minutes with proposed changes, as necessary~~
- ~~• Prepare agenda items for any matters requiring consideration by the Committee~~
- ~~• Report on status of recommendations and ongoing action items~~
- ~~• Distribution of reports~~
- ~~• Develop Annual Business Plan~~
- ~~• Prepare Annual Report~~

#### **8. RESIGNATION**

~~Committee members who wish to resign must do so in writing to the Executive Officer.~~

#### **9. VISITORS**

~~Persons may be invited to attend the meetings at the request of Committee members. Visitors may provide advice or assistance during meetings upon the request of the Chairperson. Visitors have no voting rights and may be requested to leave the meeting at any time by the Chairperson.~~

#### **10. MEETING FORMAT**

##### **10.1 Quorum**

##### **8.0 Quorum**

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~~The minimum number of voting Committee members or proxies required to be present prior to a meeting taking place is 40%.~~

~~Quorum for a meeting shall be at least 40% of the number of offices, whether vacant or not. A decision of the Committee does not have effect unless it has been made by the required majority.~~

##### **10.2 Frequency of Meetings**

~~Committee meetings will be held at three monthly intervals. If any Committee meeting is cancelled or rescheduled, the details as to why the meeting did not take place or was changed will be noted in the minutes of the next meeting.~~

~~Any Committee member may request that the Executive Officer call an extraordinary meeting in order to discuss an issue requiring urgent attention.~~

##### **10.3 Order of Meetings**

~~Discussion at the regular Committee meetings shall be controlled through an agenda. Any individual wishing a specific item to be included in the agenda shall advise the Executive Officer at least 10 working days before the meeting to enable the matter to be fully reported upon. Matters of urgency, which for reasons of late occurrence, or urgency may require immediate consideration by the Committee may be discussed under Matters of Urgency~~

~~The Order of Business for the agenda for the meeting shall be:~~

- ~~1. Opening of Meeting~~
- ~~2. Confirmation of Minutes of Previous Meeting~~
- ~~3. Business Arising from the minutes of the previous meeting~~
- ~~4. Matters as listed in the Agenda~~
- ~~5. Matters of Urgency~~

~~At the conclusion of the order of Business, the Committee shall also give consideration to matters relevant to emergency management, similar to the following matters; reports on which will be tabled by the Executive Officer:~~

- ~~• Confirmation of local emergency management arrangements contact details~~
- ~~• Exercises that test the LEMA~~
- ~~• Review of any post incident reports and post exercise reports generated since last meeting~~
- ~~• Progress of emergency risk management process~~
- ~~• Progress of treatment strategies arising from emergency risk management process~~
- ~~• Progress of development or review of local emergency management arrangements.~~

#### **10.4 Recording of Minutes**

~~Accurate and concise minutes shall be recorded at each meeting and all agreed actions shall include the responsible person's name and an action date.~~

~~Draft minutes shall be distributed to each Committee member within one week of the last meeting. Proposed minute amendments shall be forwarded to the Executive Officer within one week of receiving the minutes. If there are no discrepancies, it is to be noted that "the minutes are accepted as a true and accurate record" at the next meeting. If there are discrepancies they should be resolved prior to the commencement of the next meeting.~~

~~As the Committee does not have delegated authority (pursuant to the Local Government Act 1995), Minutes of the meeting of the LEMC shall be submitted direct to the next available meeting of the Council for consideration and adoption as appropriate of recommendations of the Committee.~~

#### **10.5 Decision Making**

~~The Committee shall, wherever possible, reach any decision by consensus. Where this is not possible, the Chairperson shall call for a vote, a minimum of 60% of members present shall be required to carry any motion. Reasons for dissent shall be recorded in the minutes.~~

### **11. RESPONSIBILITIES**

#### **11.1 Chairperson**

- ~~• Direct and guide discussion at meetings~~
- ~~• Ensure all agenda items are discussed with appropriate actions noted~~
- ~~• Ensure all Committee members have an opportunity to contribute~~
- ~~• Ensure the meeting adheres to the terms of reference~~

#### **11.2 Committee Members**

- ~~• Attend meetings~~



- Actively participate in meetings
- Make presentations as requested by the Committee
- Assist in maintaining the local emergency management arrangements by submitting plans relevant to their agency for consideration by the LEMC.

**12. EVALUATION OF COMMITTEE'S EFFECTIVENESS**

At the meeting of the LEMC prior to the ordinary biennial Council elections, the Committee shall undertake a review to evaluate its effectiveness, and as a guide the following should be determined:

- Are the LEMC's purpose and objectives being met?
- Should the purpose and objectives be amended?
- Is the LEMC making decisions and completing action items?
- Are the LEMC members regularly attending meetings?
- Review the Terms of Reference, including membership.

**13. STANDING ORDERS**

In the event that there are circumstances regarding meeting procedure or protocol, the Chairperson shall have regard for the City of Busselton Standing Orders Local Law 2010 and the Local Government Act 1995.

9.0 Delegated Powers

The Local Emergency Management Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to Council.

<b>History</b>	
TBA	CXXXX/XXX Review and Revision
28 September 2016	C1609/261 Establishment

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## BUSH FIRE ADVISORY COMMITTEE

### Terms of Reference

#### 1.0 Introduction

The Council of the City of Busselton establishes a Bush Fire Advisory Committee (BFAC) under the powers given in Section 67 of the *Bush Fires Act 1954*.

The Council appoints to the Committee those persons whose names (*shall*) appear in Section 4.0 below.

The Committee shall act for and on behalf of the Council in accordance with all relevant provisions of the *Bush Fire Act 1954*, local laws and policies of the City of Busselton and this document.

#### 2.0 Objectives

- To provide advice to Council in regard to all matters relating to bush fire control, prevention and management, including recommendation on the annual firebreak requirements, capital equipment purchase, review of firefighting/prevention practices and firefighting training.
- To develop a bush fire strategic plan incorporating plant, firebreak order development process and strategic firebreak development, to be endorsed by Council.
- To care for, control and manage the bush fire risk within the district of the City of Busselton.

#### 3.0 Membership

One elected member shall be appointed to the Committee.

One deputy elected member shall be appointed to the Committee.

The Fire Control Officers from each of the City's Bush Fire Brigades shall be, by virtue of the office held, appointed to the Committee.

Representatives of the Department of Fire and Emergency Services (DFES) and Parks and Wildlife Services (Department of Biodiversity, Conservation and Attraction (DBCA)) will be advisory members of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

Other persons, or representatives of organisations, may participate in meetings of the Committee (or any sub-committees the Committee may establish) as determined by a majority of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

#### 4.0 Presiding Member

The Committee shall appoint a Presiding Member and Deputy Presiding Member to conduct its business. The election of the Presiding Member and Deputy Presiding Member shall be held every two years at the first meeting of the Committee immediately following the Council election.

The Presiding Member shall ensure that Minutes of the proceedings are kept.

5.0 Executive Officer

The Committee shall be supported by an Executive Officer. The Executive Officer as appointed by the Chief Executive Officer of the City of Busselton shall be the Community Emergency Services Manager (CESM).

6.0 Meetings

The Committee may meet from time to time as the Committee thinks fit but, shall meet as a minimum twice annually, once at the beginning and once at the end of the bush fire season.

7.1 Notice of meetings shall be given to members at least 3 days prior to each meeting.

7.2 All members of the Committee shall have one vote. If the vote of the members present is equally divided, the person presiding shall cast a second vote.

7.0 Quorum

Quorum for a meeting shall be at least 40% of the number of offices. A decision of the Committee does not have effect unless it has been made by the required majority.

8.0 Delegated Powers

The Bush Fire Advisory Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to the Council.

<u>History</u>	
TBA	CXXXX/XXX Review and revision
14 October 2016	C1510/294 Establishment of New Members
21 October 2013	SC1310/186 Membership
9 October 2013	C1310/267 Establishment
12 October 2011	C1110/315

BUSH FIRE ADVISORY COMMITTEE

Terms of Reference

1.0 Introduction

The Council of the City of Busselton establishes a Bush Fire Advisory Committee (BFAC) under the powers given in Section 67 of the *Bush Fires Act 1954*.

The Council appoints to the Committee those persons whose names (*shall*) appear in Section ~~43.0~~ below.

The Committee shall act for and on behalf of the Council in accordance with all relevant provisions of the *Bush Fire Act 1954*, local laws and policies of the City of Busselton and this document.

~~2.0 Name~~

~~The name of the Committee shall be the Bush Fires Advisory Committee.~~

3.02.0 Objectives

- To provide advice to Council in regard to all matters relating to bush fire control, prevention and management, including recommendation on the annual firebreak requirements, capital equipment purchase, review of firefighting/prevention practices and firefighting training.
- To develop a bush fire strategic plan incorporating plant, firebreak order development process and strategic firebreak development, to be endorsed by Council.
- To care for, control and manage the bush fire risk within the district of the City of Busselton.

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~~4.03.0~~ Membership

One elected member shall be appointed to the Committee.

~~Councillor~~

One deputy elected member shall be appointed to the Committee.

The Fire Control Officers from each of the City's Bush Fire Brigades shall be, ~~(by virtue of the office held,)~~ appointed to the Committee. ~~Other members of the Committee will be a representative from each of FESA and CALM (to nominate representatives).~~

Representatives of the Department of Fire and Emergency Services (DFES) and Parks and Wildlife Services (Department of Biodiversity, Conservation and Attractions (DBCA)) will be advisory members of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

Other persons, ~~(or representatives of organisations),~~ may participate in meetings of the Committee ~~(or any sub-committees the Committee may establish),~~ as determined by an ~~an~~ ~~ordinary~~ majority of the Committee. Such persons will not be entitled to vote on any matter brought before the Committee.

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#### 5.04.0 Presiding Member

The Committee shall appoint a ~~Chairman-Presiding Member~~ and Deputy ~~Chairman-Presiding Member~~ to conduct its business. ~~The election of the Presiding Member and Deputy Presiding Member shall be held every two years at the first meeting of the Committee immediately following the Council election.~~

The Chairman shall ensure that Minutes of the proceedings are kept.

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#### 5.0 Executive Officer

~~The Committee shall be supported by an Executive Officer. The Executive Officer as pointed by the Chief Executive Officer of the City of Busselton shall be the Community Emergency Services Manager (CESM).~~

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#### 6.0 Meetings

The Committee may meet from time to time as the Committee thinks fit but, shall meet as a minimum at least twice annually, once at the beginning and once at the end of the bush fire season, ~~as a minimum~~.

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- Notice of meetings shall be given to members at least 3 days prior to each meeting.
- All members of the Committee shall have one vote. If the vote of the members present is equally divided, the person presiding shall cast a second vote.

#### 7.0 Quorum

Quorum for a meeting shall be at least ~~50~~40% of the number of offices. A decision of the Committee does not have effect unless it has been made by the required majority.

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#### 8.0 Delegated Powers

~~The Bush Fire Advisory Committee has been established as an advisory committee only and does not have any delegated powers. Committee recommendations shall be referred to the Council.~~

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History	
TBA	CXXXX/XXX Review and revision
14 October 2016	C1510/294 Establishment of New Members
21 October 2013	SC1310/186 Membership
9 October 2013	C1310/267 Establishment
12 October 2011	C1110/315

## 6.6 REVIEW OF LOCAL PLANNING POLICY 6B PERCENT FOR ART

<b>SUBJECT INDEX:</b>	Percent for Art - contributions
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Development Services and Policy
<b>ACTIVITY UNIT:</b>	Development Services and Policy
<b>REPORTING OFFICER:</b>	Manager, Development Services and Policy - Anthony Rowe
<b>AUTHORISING OFFICER:</b>	Director, Planning and Development Services - Paul Needham
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Advertised: Percent for Art with marked changes <a href="#">↓</a> Attachment B Summary of Submissions <a href="#">↓</a> Attachment C Final draft: with post advertising changes highlighted <a href="#">↓</a>

### PRÉCIS

Council at its meeting 10 May 2017 resolved:

1. Pursuant to clause 5 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, proceeds with the amendment to Local Planning Policy 6B Percent for Art Provisions as outlined in Attachment B of this report, further modified through the removal of clause 8.4 and the renumbering of subsequent clauses accordingly;
2. Pursuant to clause 4 of Part 2 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, advertises the amendment to Local Planning Policy 6B Percent for Art Provisions; and
3. In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.

The Local Planning Policy 6B *Percent for Art Provisions* (LPP6B), has been circulated for community consultation. Two community responses were received and are addressed in the report. No change is recommended as a consequence of the submissions.

The Local Planning Policy 6B *Percent for Art Provisions* (LPP6B) has been modified to provide a framework for consultation, to maintain the purpose of item 3. The basis for the change is addressed in the report.

Council's approval is sought to adopt the City of Busselton Local Planning Policy 6B Percent for Art Provisions (LPP6B) as modified.

### BACKGROUND

The City of Busselton Local Planning Policy 6B Provisions Provisions (LPP6B) originated in 2008 to enhance the amenity and identity of key public places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks.

The current policy identifies two precincts, the Busselton Precinct and the Dunsborough Precinct, and these are the only project destinations that contributions earned for public art can be directed to.

Since then it has become apparent and desirable to also include the destinations of Yallingup and Vasse. Yallingup Foreshore is an important public place/area and the Vasse Village Centre is now developing into the third town centre in the District.

It was also recognised that given the funds derived in the Busselton Precinct were to be directed to the Settlement Art Project, now nearing completion, it is timely to now enable funds to be directed towards other projects, as identified in item 3 of Council's resolution 10 May 2017.

Further to the above considerations, an inconsistency in process was identified, principally the way the contribution is currently derived. Under the current Policy, proposals with a value greater than \$1M are required to make a public art contribution of 1% on the value/cost (which can be delivered either as cash or, more commonly, as on-site works). This includes multiple dwellings, grouped dwellings, mixed use developments, as forms of dwellings, and in addition to these, contributions are required from commercial, civic, institutional, and educational projects. Single houses, as one dwelling type, are exempt from making the contribution regardless of value.

This presents an unfairness across dwelling 'types' rather than on the nature of the land use. Even affordable housing units as a combined development, may often exceed a value of \$1M, and as such require the contribution. This is, in turn, passed onto the costs to purchaser.

The inconsistency also manifested itself in the structure of a development. This is highlighted when comparing a built residential complex (retirement village), with a park home concept (retirement village).

In the case of the park home development, the project value only includes creating the site, notwithstanding the resident may choose from a limited number of the developer's building types. Technically the new resident brings their own single house, and as such the value of the house is exempt from the public art contribution. Alternatively a retirement village complex, which constructed the dwelling that was then purchased, has to pass on the public art contribution into the value/purchase price of the dwelling.

## **STATUTORY ENVIRONMENT**

Part 2 - Local Planning Framework of Schedule 2 - Deemed provisions for local planning schemes of the *Planning and Development (Local Planning Schemes) Regulations 2015* enables the City to make, amend and/or repeal a local planning policy.

The procedure of amending a local planning policy requires, if the amendment is not considered minor, advertising in accordance with the procedure described in clause 4 of Part 2. It requires advertising of the proposed policy (or amendment) for a period of not less than 21 days via notice in a newspaper circulating within the Scheme area.

At the conclusion of the advertising period the Council may resolve to -

- (i) proceed with the policy without modification; or
- (ii) proceed with the policy with modification; or
- (iii) not to proceed with the policy.

The amendment to the City of Busselton Local Planning Policy 6B Percent for Art Provision is not considered to be a minor amendment as it affects new locations and changes the eligibility requirements for certain development.

## **RELEVANT PLANS AND POLICIES**

### City of Busselton Local Cultural Planning Strategy 2011

The City of Busselton adopted a Local Cultural Planning Strategy (LCPS) on 24 August 2011, which was then noted by the Western Australian Planning Commission on 25 May 2012. The aim of the strategy is to conserve the key cultural elements of the City's towns and rural areas and to maintain these elements over time.

The LCPS forms a component of the City's local planning framework and is a strategic tool informing the development and interpretation of the Local Planning Strategy. Due regard to the Strategy's recommendations is to be given in making planning decisions as well as policy formulation and review.

The City of Busselton Local Planning Policy 6B Percent for Art Provisions is a practical mechanism that delivers, at the determination of a development application, the intent of the City of Busselton Local Cultural Planning Strategy 2011. The proposed amendment is consistent with the intent of the Strategy.

### State Planning Policy 3.6 Development Contributions for Infrastructure

The policy provides that local governments should have the capacity to recoup infrastructure costs by way of provisions in local planning schemes. It provides that local government must have a methodical approach based on determined catchments and allocation of costs to meet the needs of the catchment.

The City of Busselton Local Planning Policy 6B Percent for Art Provisions is not encompassed in the scope of the State Planning Policy; but it does reflect a consistent approach with its methodology, particularly, to identify catchments and return expenditure to those catchments, and in providing certainty for the purpose of the contribution. It should also be noted that the Percent for Art Provisions Policy provides the option of providing art on site or making a financial contribution to a project within the locality/catchment.

An important consideration about any local planning policy, and it is required to be acknowledged (cl. 4(1)(b)), is that it must not be in conflict or contravene a State planning policy. The City of Busselton Local Planning Policy 6B Percent for Art Provisions is not inconsistent with a State planning policy.

## **FINANCIAL IMPLICATIONS**

The proposed amendments to the Policy will result in changes to the manner in which the Percent for Art Provisions contributions are collected and distributed. It is considered that the changes to the eligible development are in keeping with previous decisions made by the Council in relation to similar applications and, therefore, the amount of contributions collected will not alter; however, the provisions within the Policy will provide clarity for developers.

### Long-term Financial Plan Implications

No significant implications.

## **STRATEGIC COMMUNITY OBJECTIVES**

The recommendation in this report reflects Community Objective 2.2 of the City's Strategic Community Plan 2013 – 'A City of shared, vibrant and well planned places that provide for diverse activity and strengthen our social connections'.

## **RISK ASSESSMENT**

An assessment of the potential implications of implementing the officer recommendation has been undertaken using the City's risk assessment framework, and no risks were identified where the residual risk, once controls are considered, is medium or greater level. No such risks have been identified.

## **CONSULTATION**

The amendment to Local Planning Policy 6B Percent for Art Provisions was advertised from 24 May 2017 to 15 June 2017.

Advertisement was placed in a newspaper circulating the City of Busselton's Scheme area, which is the same as the City of Busselton municipal area.

Two submissions were received during this time, they have been summarised in Attachment B.

1. Yallingup Art Group - support
2. Toby's Inlet Estate Pty Ltd – in the situation of a retirement village, it is opposed to the calculation of the liability based upon the commercial component and associated works, but supports changes to not apply percent for art requirements to the residential component.

## **OFFICER COMMENT**

The key features of the amendment to the Local Planning Policy 6B *Percent for Art Provisions* are:

1. Changing the precinct boundary to include an area corresponding with the townships of Vasse and Yallingup – displayed on a map;

It is considered appropriate in allowing funds collected in Vasse to be spent on projects within the Village Centre. It is anticipated that would be done in partnership with the Vasse Joint Venture developers, and if a clear strategy were articulated, it may assist in encouraging the developers of individual sites to meet their Percent for Art Provisions obligations via the cash-in-lieu option, and deliver an integrated and high quality approach to public art in the Village Centre.

2. Clarifying the requirement for public arts contribution; and

All development greater than \$1M is subject to contribution except for, permanently occupied residential development extractive industry, and agriculture production. Commercial activities/service, associated with an exempted item will be required to make a contribution. The purpose is to treat all dwelling types equally.

3. Clarifying the requirement for retirement villages.

The Public Art Contribution Rate is now to be based on the overall development value excluding the cost of the dwellings as a building. All costs attributed to providing the lot or site for the dwelling to be placed or constructed upon is included

A concern was expressed by Toby's Inlet Estate Pty Ltd on this aspect and in particular that the associated works and infrastructure, was complicated to calculate and would deter the provision of high standard works that may contribute to the overall amenity. It has requested that the provision be narrowed to remove the reference to the calculation being based on supporting infrastructure works.



The intent of this provision is to treat, equally, a park home type retirement village with that of a constructed retirement village. With a park home retirement village, the capital cost is the communal facilities and the infrastructure to create the lots for the park home to be located upon. A constructed retirement village instead has the communal facilities, infrastructure to create the sites plus the construction cost of the dwellings. The policy response, in this amendment, is to discount the value of the dwelling and the infrastructure that supports its placement; to place all dwellings on the same obligation.

Whilst it is agreed that the policy will be difficult to calculate, this difficulty nonetheless does not outweigh the merit of treating all retirement villages, and all dwellings, evenly.

4. A framework for identifying future projects for contributions to be allocated.

The Council resolution 10 May 2017 identified at item 3

*“In parallel with point 2 above, undertakes community consultation to assist in developing new themes/ideas/locations for projects which contributions collected under the Policy in the Busselton and Dunsborough Precincts shall be allocated towards in the future.”*

A concurrent identification of specific themes through community consultation has not been undertaken at this time.

The process of determining the themes and canvassing the community will be iterative and take time. The Local Planning Policy 6B Percent for Art Provisions has been separated to proceed, ahead of nominating specific themes and projects, because of the immediate need to provide clarification to the development industry on the requirement for contribution.

To maintain the purpose of Council’s resolution, 10 May 2017, the provisions addressing the allocation of contributions has been clarified. It now includes the ability for the City to nominate specific themes and projects from time to time following consultation with the community. Attachment C, Final draft, includes the changes made post Advertising, in highlighted text. The changes maintain the Council’s intent for the policy.

## **CONCLUSION**

The proposed changes will improve consistency and fairness in the manner in which the contributions are applied.

It establishes an arrangement for community involvement prioritising public artwork and it recognises the value of placing art in the City’s town centres, to include Vasse and Yallingup.

## **OPTIONS**

The Council may choose to:

1. Proceed with the policy without modification; or
2. Proceed with the policy with modification; or
3. Not proceed with the policy.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

A notice of the amendment will be published within four weeks of Council’s decision to proceed with the amendment. No further notifications are required.

The amendment will be made available the day following Councils resolution and will be published on the website within two weeks of the resolution.

**OFFICER RECOMMENDATION**

That the Council –

1. Pursuant to clause 4(1)(b) is of the opinion that the amendment to Local Planning Policy 6B Percent for Art Provisions is not inconsistent with a State planning policy.
2. Pursuant to clause 4(3) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, having considered the submissions received, (Attachment B) resolves to proceed with the amendment to Local Planning Policy 6B Percent for Art Provisions, as provided in Attachment C of this report;
3. Pursuant to clause 4(4) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to publish a notice of the amendment to Local Planning Policy 6B Percent for Art Provisions, in a newspaper circulating in City of Busselton Scheme area; and
4. Pursuant to 4(6) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves to make a copy available for public inspection during business hours, and publish it on its website.

## **6B PERCENT FOR ART PROVISIONS**

### **1.0 Preliminary**

#### **1.1 Purpose**

The City of Busselton Cultural Plan 2005 identified the need to develop a Percent for Art Policy. The City of Busselton Local Cultural Planning Strategy 2011 (LCPS) builds on the relevant recommendations of the Cultural Plan and states the following objectives for the Percent for Art Provisions:

- a) promotion of civic, community and cultural identity by introducing public art which makes streets, open spaces and buildings more locally distinctive;
- b) enhancing a sense of place by encouraging public art forms which reinforce and highlight European and indigenous history, cultural heritage and contemporary traditions;
- c) promotion of community reflection, inspiration, celebration and wellbeing;
- d) improving visual amenity by use of public art to screen unattractive views and improve the appearance of places; and
- e) improving the functionality of the public domain through the use of public art to provide appropriate street furniture functions.

These Percent for Art Provisions were originally adopted in 2008 and respond to the City's desire to protect and enhance the utility, amenity and identity of the public domain of places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks within its municipality.

### **2.0 Definitions**

#### **2.1 Public Art**

For the purposes of these provisions 'Public Art' is defined as being site-related and place-responsive art in the public domain. It includes the process of engaging artists' ideas, enhances the built and natural environments and adds value to character and cultural identity through the use of a diverse range of art forms and design applications.

##### **2.1.1 Exclusions to Public Art**

Art projects ineligible for consideration include:

- commercial promotions in any form;
- directional elements such as supergraphics, signage or colour coding;
- 'art objects' which are mass produced such as fountains, statuary or playground equipment;
- most art reproductions;
- landscaping or generic hardscaping elements which would normally be associated with the project; and
- services or utilities necessary to operate or maintain artworks.



## 2.2 Professional Artist

Only professional artists will be eligible to carry out public art commissions. As the term 'artist' is self-referencing, for the purposes of these provisions a professional visual artist can be defined as a person who fits into at least two of the following categories:

- a person who has a university degree or minimum 3 year full time TAFE Diploma in visual arts, or when the brief calls for it, other art forms such as multimedia;
- a person who has a track record of exhibiting their artwork at reputable art galleries that sell the work of professional artists;
- a person who has had work purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia, any of the university collections or Artbank;
- a person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions;
- an artist who is a member of Artsource and / or holds public liability and professional indemnity insurance.

Sometimes it will be appropriate to be more flexible and seek people other than professional artists to carry out artwork commissions. In addition to the above, the City supports art teachers and students from recognised educational institutions taking on and fulfilling the obligations, subject to meeting general criteria.

## 3.0 Application

### 3.1 Public Art to be Required

The City of Busselton shall require eligible proposals to provide public art in accordance with the described method for determining Public Art contributions described hereunder.

### 3.2 Proposals Eligible for Public Art Contributions

#### 3.2.1 Proposals Eligible

All development proposals with a value greater than \$1,000,000 excluding:

- Permanently occupied (i.e. lawfully able to be permanently occupied) residential development, including single house, grouped dwellings, aged persons dwellings and multiple dwellings;
- Extractive Industry; and
- Agricultural development, excluding wineries, cellar doors, restaurants or similar development on rural land that is not directly associated with agricultural pursuits (i.e. the actual growing of crops or rearing of livestock).

for multiple dwellings, grouped dwellings, mixed use commercial, civic, institutional, educational projects or public works of a value greater than \$1,000,000 (one million dollars) shall be regarded as eligible proposals under these provisions.



#### 3.2.2 Prescribed Zones

These provisions apply to those development proposals listed in 3.2.1 above where they are situated within the municipality of the City of Busselton.

#### 3.2.3 Proponents

These provisions shall apply to all proponents, except those exempt from obtaining local authority planning approval under other legislation. Those proponents so exempted should utilise these provisions as a guide for the implementation of their respective percent for art obligations where applicable.

### 4.0 Method of Determining Public Art Contribution

#### 4.1 Public Art Contribution Rate

The cost of any Public Art provided under these provisions shall be no less than one percent of the value of the eligible proposal.

For any eligible proposals comprising a permanently occupied residential component, including but not limited to, mixed use development, aged persons dwellings and/or retirement villages, the Public Art Contribution Rate is to be based only on the value of the non-residential component, central/communal facilities, and the proportionate value of supporting infrastructure works, such as the costs of fill, drainage, wastewater, water, electricity, telecommunications, pedestrian and vehicular accessways, parking and landscaping.

#### 4.2 Form of Public Art Contribution

Public Art required pursuant to these provisions shall be provided on site by the proponent. Alternatively, the proponent may choose to satisfy the contribution through a cash in lieu payment towards precinct public artwork.

In cases where the proponent chooses a cash in lieu payment as their preferred method of satisfying their obligation, the funds collected from their contribution shall be expended by the City on public artwork in the Precinct in which the funds were collected. Cash-in-lieu contributions in the Busselton (east) Precinct may be paid directly into the charitable trust established for the Settlement Artwork Project.

#### 4.3 Precincts

There are ~~two~~four Percent for Art Precincts, Busselton (east), Yallingup, Vasse and Dunsborough (west). The precinct map is attached as Appendix A. Funds collected within the Busselton Precinct will be expended on the Settlement Artwork project. ~~Funds collected within the Dunsborough, Yallingup and Vasse Precincts will be expended on an artwork within their respective precinct.~~ Dunsborough Town Centre and / or Foreshore.

Unless otherwise determined by the City, cash in lieu contributions for public artwork shall be collected and expended in the manner and on the artwork set out above.

### 5.0 Implementation of Percent for Art Policy Provisions



#### 5.1 Location of Public Art

Public Art provided pursuant to these provisions shall be provided on site, or on crown land immediately adjacent to the site, in a location approved by the City.

#### 5.2 Separate approval generally not required for Public Art

Public Art provided under these provisions, in fulfilment of a condition of Planning Approval, shall not require a further Development Application.

#### 5.3 Cash In Lieu

Although it is desirable that the proponent fulfil their Percent for Art obligations through on-site artwork, their obligation may be satisfied by a cash-in-lieu contribution based on the rate described in these provisions. Such cash-in-lieu payments are to be paid to the City of Busselton Public Arts Fund (Percent for Public Art) and expended in accordance with sections 4.2 and 4.3 above.

##### 5.3.1 Eligible Costs

Costs associated with the production of an art project may include:

- professional artist's budget, including artist fees, Request for Proposal, material, assistants' labour costs, insurance, permits, taxes, business and legal expenses, operating costs, and art consultant's fees if these are necessary and reasonable;
- fabrication and installation of artwork;
- site preparation;
- structures enabling the artist to display the artwork;
- documentation of the artwork; and
- acknowledgment plaque identifying the artist, artwork and development(s) from which funding was obtained.

#### 5.4 Equity, Safety and Universal Access

Public art should be made accessible to all members of the community, irrespective of their age and abilities. While art in public spaces might be considered primarily a visual experience, it can provide a range of sensory experiences for people with disabilities – artwork can be tactile, aural and give off pleasant smells as well as being visual. Artwork need not be monumental, but can be at heights suitable for people in wheelchairs to touch, move through and explore. Artwork can be interactive play objects for family groups and children. Interpretive signage in an easy to read format, including Braille, will ensure that artworks are inclusive of all members of the community. Where feasible and appropriate to the site and community, the City of Busselton will commission artworks that can be enjoyed as an interactive experience, irrespective of age, mobility or ability. Issues of public safety will be considered and addressed during design and installation of the artworks.

#### 5.5 Design Documentation

The artist will be required to prepare detailed documentation of the artwork at various stages of the commission, design, fabrication and implementation processes. Such documentation shall



demonstrate the structural viability and suitability of the materials and fabrication processes for the proposed location. Depending upon the project, the documentation may include concept drawings, maquettes, structural and other engineering drawings, photographic images of works in progress, photographic images of completed and installed work and a maintenance schedule.

#### 5.6 Clearance Process

The approval of the City shall be required prior to the creation and installation of the Public Art. For this purpose, the Council may delegate authority to grant approval to the Public Art to an appropriate Officer, or duly appointed panel.

Details of works shall be submitted to and approved by the City of Busselton prior to issue of a building permit. The detail submitted shall be assessed against the requirements of these provisions and associated *Step by Step Guide for Developers*. The public artwork must be completed and installed prior to occupation of the development and/or issue of a Permit to Use, and maintained thereafter by the owner(s). It is recommended that the artist be contracted early in the design process to avoid any delays to final clearance. Alternatively, the City may accept a suitable agreement, prepared at the applicant's expense, binding the proponent to complete the works within a specified time frame and indicating that the works will be maintained by the owner for the life of the artwork.

Where agreement has been reached for the contribution to be met by way of a cash in lieu payment, this shall be satisfied prior to issue of a building permit.

### 6.0 Following Completion of Artwork

#### 6.1 Maintenance Schedule

Artworks that are low maintenance, robust, durable and resistant to vandalism will be encouraged and this will form part of the assessment of all proposals. Proponents will be required to present the City with a maintenance schedule at the completion of the commission.

#### 6.2 Decommissioning

In the case of artworks located on Crown Land, the City may decide to remove an artwork because it is in an advanced state of disrepair or damage, because the artwork is no longer considered suitable for the location or for other reasons such as safety risk. In such cases, the City will consult with the artist, where possible, prior to making a decision to remove and prepare a documented archival record of the artwork prior to its removal.

In the case of artworks located on private property, the developer must contact the City and the artist at least 28 days ahead of any relocation, sale, alteration or removal of an artwork. In the case that an artist has moved and the developer cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

### 7.0 Creative Development Process

#### 7.1 Creative Design Process

The proponent (or City where the public art is situated on City managed land) will consult with the City's Cultural Development Officer to identify appropriate locations, themes and materials from





which the proponent will develop an Artists' Brief. This document will be used to select and commission a professional artist to design, fabricate and install the artwork. The proponent may, at their discretion, coordinate and manage the process by which the artist works as part of the design team, alongside architects, landscape architects, planners and engineers. Alternatively, they may engage the services of a specialist art consultant whose fees may be considered as part of the public art contribution within the general intent of these provisions and on application by the proponent

#### 7.2 Consultation with the Community

Where appropriate, an invitation should be extended to community members to participate in the artwork process. This can be facilitated through, but not limited to, drawing sessions, cultural mapping processes to identify themes, or representation on a selection panel.

Some groups in the community are not comfortable with the expression of interest and tender processes, and will not enter into them without assistance. While artists from these groups will be encouraged to apply for all publicly advertised commissions, there may be opportunities for designating specific commissions for them. In such cases, the selection processes outlined above may be modified and more assistance given to the artists submitting Expressions of Interest or Requests for Proposals.

#### 7.3 Collaboration

There is an expectation that commissioned artists will work in collaboration with other consultants engaged by the proponent (most commonly, but not exclusively, landscape architects, urban planners and engineers) and that the conceptual and technical requirements of these professionals will be duly regarded by the artist when designing and installing the artwork.

There is an equal expectation that the artists' aesthetic judgement will be respected by other consultants engaged by the proponent. Changes to an artwork, even at concept stage, can only be made with the full knowledge and approval of the artist.

### 8.0 Artists Rights

#### 8.1 Artist Contract

The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact details to the City at the commencement of the project. In the case where the proponent is the City, it shall satisfy itself that these requisites have been met.

The artist's contract or letter of agreement should, in general, follow the provisions of the ArtsLaw Centre of Australia pro forma Design and Commission Agreement or other similar contractual document such as the WA State Government Percent for Art Agreement.

#### 8.2 Moral Rights

Since 2000, moral rights legislation has protected artists. In brief, an artist's moral rights are infringed if:

- their work is not attributed or credited;





- their work is falsely attributed to someone else; or
- their work is treated in a derogatory way by distorting, modifying or removing it without their knowledge or consent.

In practical terms this means that all artworks should have the artist's name on or attached it, that the City cannot change an artwork in any way without seeking the artist's permission; likewise, cannot remove or re-locate the artwork without seeking the artist's permission. In the case that an artist has moved and the City cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

The City will take special care to ensure that acts of restoration or preservation (of artworks) will be conducted in a sensitive manner with prior consultation with the artists. Wherever possible, preservation or restorative works should be carried out by professional conservators. Special care will also be taken with the moral rights associated with works created by more than one artist, in that it is acknowledged that collaborators on artistic creations can take different views on issues such as relocation and restoration.

### 8.3 Acknowledgement of Artwork

In line with moral rights legislation, the proponent (or City where the artwork is situated on Crown Land) will install a plaque or plate near each artwork, acknowledging the name of the artist, and the name of the person, agency or company who funded the artwork.

### 8.4 ~~Copyright of Artwork~~

~~Once an artwork has been completed and accepted by the City, copyright will be held jointly by the City and the artist. In practical terms this means that the City has the right to reproduce extracts from the design documentation and photographic images of the artwork for non-commercial purposes, such as annual reports, information brochures about the City and information brochures about the artwork. The artist will have the right to reproduce extracts from the design documentation or photographic images of the artwork in books or other publications associated with the artist or artwork.~~

### 8.5 Fees to Artists

A fee may be paid to artists invited to submit a Request for Proposal (RFP) and this may be credited to the value of the Public Art required under the Policy. The amount will be at the discretion of the proponent and in proportion to the overall artwork budget. The fee will be paid after the proposal had been submitted, deemed to comply with the requirements and the artist has attended their interview.

### 9.0 Reference Documentation

Relevant documents to be referenced by these provisions include but are not limited to:

- City of Busselton Local Cultural Planning Strategy 2012
- Busselton Town Centre Guide Plan 2004
- City of Busselton Cultural Plan 2005
- Dunsborough Townscape Plan 2002



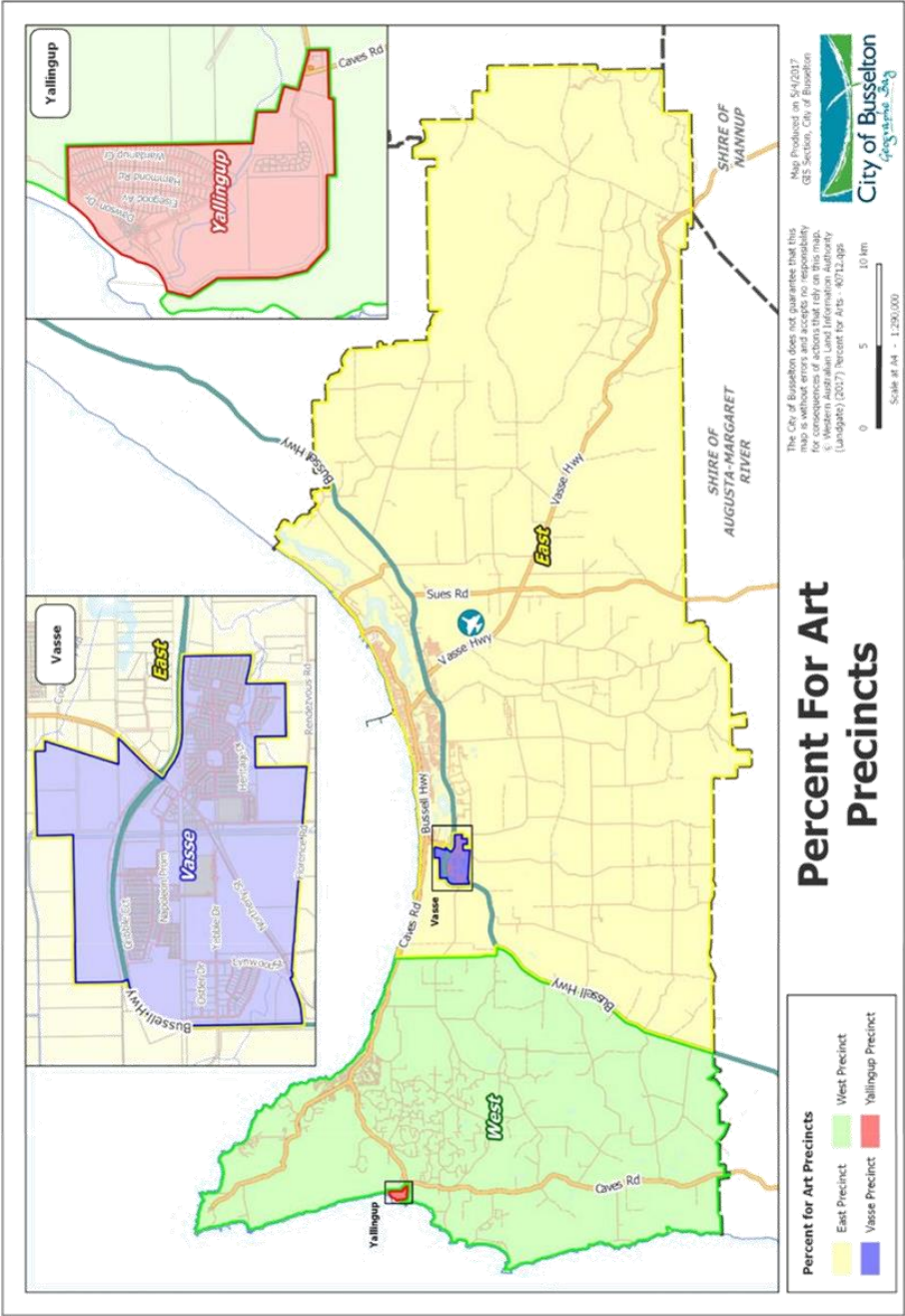
- Liveable Neighbourhoods WAPC 2009

#### **10.0 Review**

A five yearly review of these provisions will be undertaken to allow evaluation of processes and procedures and identify any required amendments. If such amendments are deemed to be necessary, a report will be referred to Council for consideration.



FIGURE 1 - PRECINCTS



**SUMMARY OF SUBMISSIONS – FILE No. PO17/01**  
**PROPOSAL: Revised Percent for Art Policy Provisions**  
**SUBMISSIONS CLOSE: 15<sup>th</sup> June 2017**  
**OFFICER: Anthony Rowe**

No	NAME & ADDRESS	Nature of Submission	Comment	Action	Acknowledged
1	Yallingup Art Project Group sloots52@westnet.com.au	Support	Noted	No change	07/07/2017
2.	RPS on behalf of Toby's Inlet Estate Pty Ltd PO Box 749 Busselton WA 6280	1. Agrees that the charge based on the building component of the communal facilities within an aged care or retirement facility is a reasonable methodology for calculating a contribution based on the scale of the facility and is an amount which is relatively easy to determine.	Noted	No change	07/07/2017
		2. Construction often occurs in stages making the determination of a proportionate construction value at any one time difficult to determine and it may change over the course of the project, if plans change.	Application can be made at the time of determination to require contributions to be made proportionate to the stage value.	No change	
		3. In regard to a retirement village, clause 4.1, it objects to the calculation including the value of associated works and infrastructure.  The calculation of contributions associated with aged care/retirement facilities based on engineering and infrastructure works is not a reasonable or relevant methodology for determining appropriate levels of contributions towards public art.	The intention is to capture all costs with the development of the communal and commercial parts of a retirement village, excluding the individual dwellings. This is intended to create the same expectation and liability that applies to all dwellings, and even the approach between park home type villages and constructed unit retirement village. The later having a higher value because it includes the building when compared	No change	

**SUMMARY OF SUBMISSIONS – FILE No. PO17/01**  
**PROPOSAL: Revised Percent for Art Policy Provisions**  
**SUBMISSIONS CLOSE: 15<sup>th</sup> June 2017**  
**OFFICER: Anthony Rowe**

		<p>It is requested the reference to the calculation being based on supporting infrastructure works, be removed.</p>	<p>to the park home arrangement where only the cost of creating the site attracts the contribution.</p> <p>Common to both are communal facilities.</p> <p>It is acknowledged that the calculation will be difficult to determine, but the intended purpose is to achieve a fair approach between park home arrangements and constructed dwellings in a retirement village.</p> <p>Due to variations in the scale and arrangement of park homes and retirement villages a clearer/simpler formula or method has not been found, other than to consider each on its merits, particular features and proportions.</p>		
		<p>4. The Percent for Art Policy costs are not fairly shared between all retirement or aged care facilities, as those with a not for profit status such as churches and charitable organisations, are generally exempt from development contributions. This situation impacts on the ability of private developers to provide</p>	<p>The assertion that churches and charities are exempt from developer contributions is incorrect. This however is not unique to the requirement to contribute a Percent to Art. There is again no necessity to make a payment for the purpose of contributing to external artwork. The artwork can be provided on site to the benefit of the amenity for the</p>	No change	

**SUMMARY OF SUBMISSIONS – FILE No. PO17/01**  
**PROPOSAL: Revised Percent for Art Policy Provisions**  
**SUBMISSIONS CLOSE: 15<sup>th</sup> June 2017**  
**OFFICER: Anthony Rowe**

		competitive pricing on their projects that reflects the extreme price sensitivity of the aged/care retirement living market.	residents. In a commercial sense it can also be used to contribute to the perceived value that translates in to sales - demand/price.		
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## Local Planning Scheme No. 21

### Local Planning Policy

# 6 - Development Contributions Policy

Adopted Date:  
Operative Date:

## **6B PERCENT FOR ART PROVISIONS**

### **1.0 Preliminary**

#### **1.1 Purpose**

The City of Busselton Cultural Plan 2005 identified the need to develop a Percent for Art Policy. The City of Busselton Local Cultural Planning Strategy 2011 (LCPS) builds on the relevant recommendations of the Cultural Plan and states the following objectives for the Percent for Art Provisions:

- a) promotion of civic, community and cultural identity by introducing public art which makes streets, open spaces and buildings more locally distinctive;
- b) enhancing a sense of place by encouraging public art forms which reinforce and highlight European and indigenous history, cultural heritage and contemporary traditions;
- c) promotion of community reflection, inspiration, celebration and wellbeing;
- d) improving visual amenity by use of public art to screen unattractive views and improve the appearance of places; and
- e) improving the functionality of the public domain through the use of public art to provide appropriate street furniture functions.

These Percent for Art Provisions were originally adopted in 2008 and respond to the City's desire to protect and enhance the utility, amenity and identity of the public domain of places such as town/village centres, commercial nodes, main streets, entry points, squares, foreshores and parks within its municipality.

### **2.0 Definitions**

#### **2.1 Public Art**

For the purposes of these provisions 'Public Art' is defined as being site-related and place-responsive art in the public domain. It includes the process of engaging artists' ideas, enhances the built and natural environments and adds value to character and cultural identity through the use of a diverse range of art forms and design applications.

##### **2.1.1 Exclusions to Public Art**

Art projects ineligible for consideration include:

- commercial promotions in any form;
- directional elements such as supergraphics, signage or colour coding;
- 'art objects' which are mass produced such as fountains, statuary or playground equipment;
- most art reproductions;



- landscaping or generic hardscaping elements which would normally be associated with the project; and
- services or utilities necessary to operate or maintain artworks.

## 2.2 Professional Artist

Only professional artists will be eligible to carry out public art commissions. As the term 'artist' is self-referencing, for the purposes of these provisions a professional visual artist can be defined as a person who fits into at least two of the following categories:

- a person who has a university degree or minimum 3 year full time TAFE Diploma in visual arts, or when the brief calls for it, other art forms such as multimedia;
- a person who has a track record of exhibiting their artwork at reputable art galleries that sell the work of professional artists;
- a person who has had work purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia, any of the university collections or Artbank;
- a person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions;
- an artist who is a member of Artsource and / or holds public liability and professional indemnity insurance.

Sometimes it will be appropriate to be more flexible and seek people other than professional artists to carry out artwork commissions. In addition to the above, the City supports art teachers and students from recognised educational institutions taking on and fulfilling the obligations, subject to meeting general criteria.

## 3.0 Application

### 3.1 Public Art to be Required

The City of Busselton shall require eligible proposals to provide public art in accordance with the described method for determining Public Art contributions described hereunder.

### 3.2 Proposals Eligible for Public Art Contributions

#### 3.2.1 Proposals Eligible

All development proposals with a value greater than \$1,000,000 excluding:

- Permanently occupied (i.e. lawfully able to be permanently occupied) residential development, including single house, grouped dwellings, aged persons dwellings and multiple dwellings;
- Extractive Industry; and

- Agricultural development, excluding wineries, cellar doors, restaurants or similar development on rural land that is not directly associated with agricultural pursuits (i.e. the actual growing of crops or rearing of livestock).

### 3.2.2 Prescribed Zones

These provisions apply to those development proposals listed in 3.2.1 above where they are situated within the municipality of the City of Busselton.

### 3.2.3 Proponents

These provisions shall apply to all proponents, except those exempt from obtaining local authority planning approval under other legislation. Those proponents so exempted should utilise these provisions as a guide for the implementation of their respective percent for art obligations where applicable.

## 4.0 Method of Determining Public Art Contribution

### 4.1 Public Art Contribution Rate

The cost of any Public Art provided under these provisions shall be no less than one percent of the value of the eligible proposal.

For any eligible proposals comprising a permanently occupied residential component, including but not limited to, mixed use development, aged persons dwellings and/or retirement villages, the Public Art Contribution Rate is to be based only on the value of the non-residential component, central/communal facilities, and the proportionate value of supporting infrastructure works, such as the costs of fill, drainage, wastewater, water, electricity, telecommunications, pedestrian and vehicular access ways, parking and landscaping.

### 4.2 Form of Public Art Contribution

Public Art required pursuant to these provisions shall be provided on site by the proponent. Alternatively, the proponent may choose to satisfy the contribution through a cash in lieu payment towards precinct public artwork.

In cases where the proponent chooses a cash in lieu payment as their preferred method of satisfying their obligation, the funds collected from their contribution shall be expended by the City on public artwork in the Precinct in which the funds were collected. Cash-in-lieu contributions in the Busselton (east) Precinct may be paid directly into the charitable trust established for the Settlement Artwork Project.

### 4.3 Precincts

There are four Percent for Art Precincts; Busselton (east), Yallingup, Vasse and Dunsborough (west). The precinct map is attached as Appendix A.

Funds collected within the Busselton Precinct will be expended on the Settlement Artwork project **until completion and then after within the Town Centre and / or Foreshore.**

Funds collected within the Dunsborough, Yallingup and Vasse Precincts will be expended on an artwork within their respective precinct Town Centre and / or Foreshore.

**The City may from time to time, in consultation with the community, determine a specific theme or project, towards which the cash in lieu contributions for public artwork is directed, or otherwise the cash in lieu contributions for public artwork shall be collected and expended in the manner set out above.**

## **5.0 Implementation of Percent for Art Policy Provisions**

### **5.1 Location of Public Art**

Public Art provided pursuant to these provisions shall be provided on site, or on crown land immediately adjacent to the site, in a location approved by the City.

### **5.2 Separate approval generally not required for Public Art**

Public Art provided under these provisions, in fulfilment of a condition of Planning Approval, shall not require a further Development Application.

### **5.3 Cash In Lieu**

Although it is desirable that the proponent fulfil their Percent for Art obligations through on-site artwork, their obligation may be satisfied by a cash-in-lieu contribution based on the rate described in these provisions. Such cash-in-lieu payments are to be paid to the City of Busselton Public Arts Fund (Percent for Public Art) and expended in accordance with sections 4.2 and 4.3 above.

#### **5.3.1 Eligible Costs**

Costs associated with the production of an art project may include:

- professional artist's budget, including artist fees, Request for Proposal, material, assistants' labour costs, insurance, permits, taxes, business and legal expenses, operating costs, and art consultant's fees if these are necessary and reasonable;
- fabrication and installation of artwork;
- site preparation;
- structures enabling the artist to display the artwork;
- documentation of the artwork; and
- acknowledgment plaque identifying the artist, artwork and development(s) from which funding was obtained.

### **5.4 Equity, Safety and Universal Access**

Public art should be made accessible to all members of the community, irrespective of their age and abilities. While art in public spaces might be considered primarily a visual experience, it can provide a range of sensory experiences for people with disabilities – artwork can be tactile, aural and give off pleasant smells as well as being visual. Artwork need not be monumental, but can be at heights suitable for people in wheelchairs to touch, move through and explore. Artwork can be interactive play objects for family groups and children. Interpretive signage in an easy to read format, including Braille, will ensure that artworks are inclusive of all members of the community. Where feasible and appropriate to the site and community, the City of Busselton will commission artworks that can be enjoyed as an interactive experience, irrespective of age, mobility or ability. Issues of public safety will be considered and addressed during design and installation of the artworks.

## 5.5 Design Documentation

The artist will be required to prepare detailed documentation of the artwork at various stages of the commission, design, fabrication and implementation processes. Such documentation shall demonstrate the structural viability and suitability of the materials and fabrication processes for the proposed location. Depending upon the project, the documentation may include concept drawings, maquettes, structural and other engineering drawings, photographic images of works in progress, photographic images of completed and installed work and a maintenance schedule.

## 5.6 Clearance Process

The approval of the City shall be required prior to the creation and installation of the Public Art. For this purpose, the Council may delegate authority to grant approval to the Public Art to an appropriate Officer, or duly appointed panel.

Details of works shall be submitted to and approved by the City of Busselton prior to issue of a building permit. The detail submitted shall be assessed against the requirements of these provisions and associated *Step by Step Guide for Developers*. The public artwork must be completed and installed prior to occupation of the development and/or issue of a Permit to Use, and maintained thereafter by the owner(s). It is recommended that the artist be contracted early in the design process to avoid any delays to final clearance. Alternatively, the City may accept a suitable agreement, prepared at the applicant's expense, binding the proponent to complete the works within a specified time frame and indicating that the works will be maintained by the owner for the life of the artwork.

Where agreement has been reached for the contribution to be met by way of a cash in lieu payment, this shall be satisfied prior to issue of a building permit.

## 6.0 Following Completion of Artwork

### 6.1 Maintenance Schedule

Artworks that are low maintenance, robust, durable and resistant to vandalism will be encouraged and this will form part of the assessment of all proposals. Proponents will be required to present the City with a maintenance schedule at the completion of the commission.

## 6.2 Decommissioning

In the case of artworks located on Crown Land, the City may decide to remove an artwork because it is in an advanced state of disrepair or damage, because the artwork is no longer considered suitable for the location or for other reasons such as safety risk. In such cases, the City will consult with the artist, where possible, prior to making a decision to remove and prepare a documented archival record of the artwork prior to its removal.

In the case of artworks located on private property, the developer must contact the City and the artist at least 28 days ahead of any relocation, sale, alteration or removal of an artwork. In the case that an artist has moved and the developer cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

## 7.0 Creative Development Process

### 7.1 Creative Design Process

The proponent (or City where the public art is situated on City managed land) will consult with the City's Cultural Development Officer to identify appropriate locations, themes and materials from which the proponent will develop an Artists' Brief. This document will be used to select and commission a professional artist to design, fabricate and install the artwork. The proponent may, at their discretion, coordinate and manage the process by which the artist works as part of the design team, alongside architects, landscape architects, planners and engineers. Alternatively, they may engage the services of a specialist art consultant whose fees may be considered as part of the public art contribution within the general intent of these provisions and on application by the proponent

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Where appropriate, an invitation should be extended to community members to participate in the artwork process. This can be facilitated through, but not limited to, drawing sessions, cultural mapping processes to identify themes, or representation on a selection panel.

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There is an equal expectation that the artists' aesthetic judgement will be respected by other consultants engaged by the proponent. Changes to an artwork, even at concept stage, can only be made with the full knowledge and approval of the artist.

## **8.0 Artists Rights**

### **8.1 Artist Contract**

The proponent will be required to forward copies of the artist's contract, maintenance schedule and artist contact details to the City at the commencement of the project. In the case where the proponent is the City, it shall satisfy itself that these requisites have been met.

The artist's contract or letter of agreement should, in general, follow the provisions of the ArtsLaw Centre of Australia pro forma Design and Commission Agreement or other similar contractual document such as the WA State Government Percent for Art Agreement.

### **8.2 Moral Rights**

Since 2000, moral rights legislation has protected artists. In brief, an artist's moral rights are infringed if:

- their work is not attributed or credited;
- their work is falsely attributed to someone else; or
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In practical terms this means that all artworks should have the artist's name on or attached it, that the City cannot change an artwork in any way without seeking the artist's permission; likewise, cannot remove or re-locate the artwork without seeking the artist's permission. In the case that an artist has moved and the City cannot find them, evidence that a reasonable attempt to find the artist must be provided on request.

The City will take special care to ensure that acts of restoration or preservation (of artworks) will be conducted in a sensitive manner with prior consultation with the artists. Wherever possible, preservation or restorative works should be carried out by professional conservators. Special care will also be taken with the moral rights associated with works created by more than one artist, in that it is acknowledged that collaborators on artistic creations can take different views on issues such as relocation and restoration.

### **8.3 Acknowledgement of Artwork**

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#### 8.4 Fees to Artists

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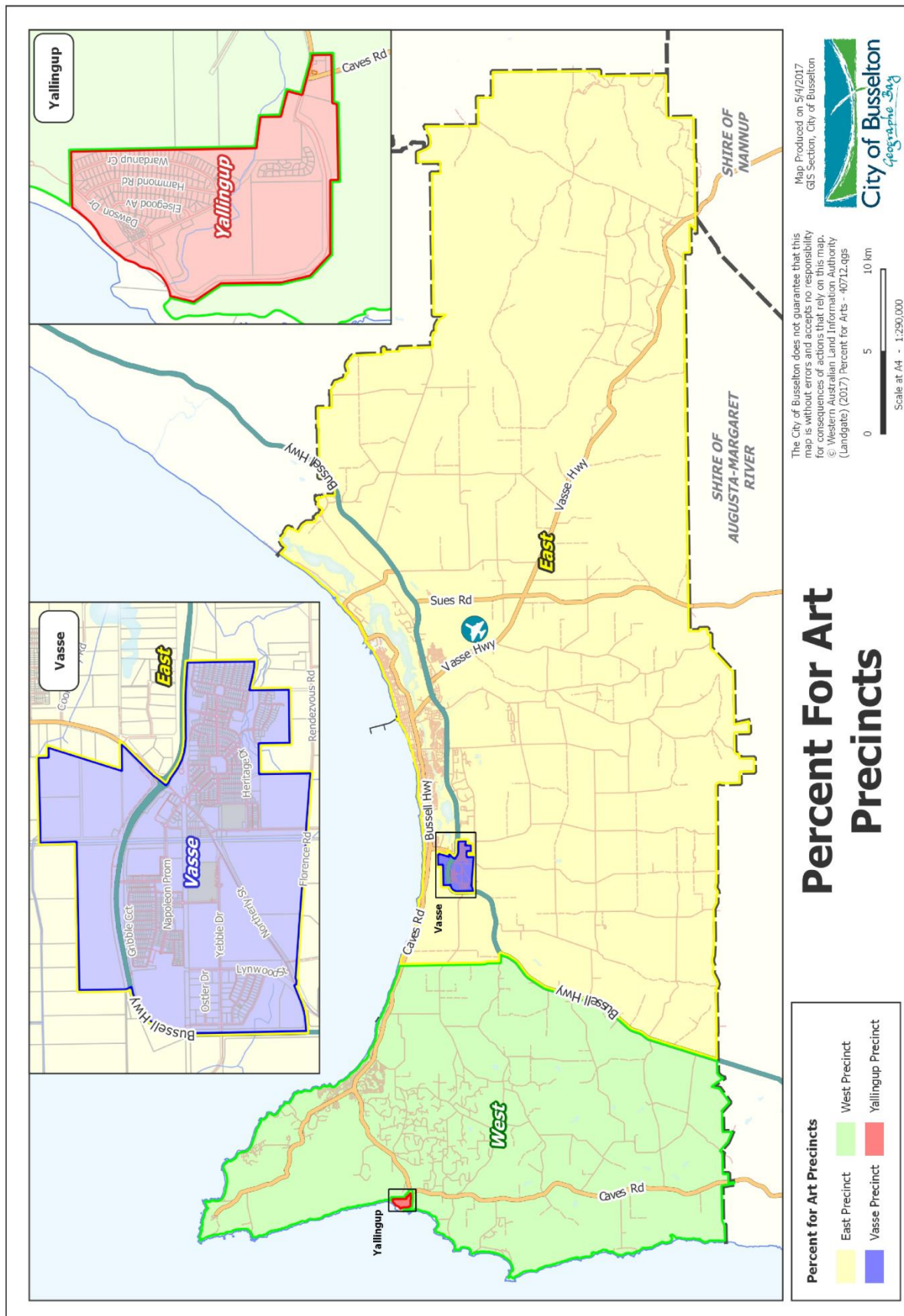
### 9.0 Reference Documentation

Relevant documents to be referenced by these provisions include but are not limited to:

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- Dunsborough Townscape Plan 2002
- Liveable Neighbourhoods WAPC 2009

### 10.0 Review

A five yearly review of these provisions will be undertaken to allow evaluation of processes and procedures and identify any required amendments. If such amendments are deemed to be necessary, a report will be referred to Council for consideration.





**6.7      REVIEW OF POLICY 024 VOLUNTARY CONTRIBUTIONS, DONATIONS AND SPONSORSHIP**

<b>SUBJECT INDEX:</b>	Policy Budget Administration
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Financial Services
<b>REPORTING OFFICER:</b>	Manager Financial Services - Kim Dolzadelli
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Simple Majority
<b>ATTACHMENTS:</b>	Attachment A Policy 024 Voluntary Contributions, Donations and Sponsorship <a href="#">↓</a>

**PRÉCIS**

As part of the ongoing policy review process a review of the existing Voluntary Contributions, Donations and Sponsorship Policy 024 has been conducted. The current policy was originally adopted in 2010 and reviewed in July 2012 with minor amendments made.

**BACKGROUND**

The existing Policy deals with offers of voluntary contributions, donations or sponsorship proposals made by external parties in favour of the City of Busselton.

**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**

This report proposes to cancel the existing Voluntary Contributions, Donations and Sponsorship Policy as the policy currently duplicates the requirement for any amendments to the City's Annual Budget to be considered by Council.

**FINANCIAL IMPLICATIONS**

There are no financial implications with respect to the Officers recommendation.

**Long-term Financial Plan Implications**

There are no financial implications with respect to the Officers recommendation.

**STRATEGIC COMMUNITY OBJECTIVES**

Cancellation of 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 is no associated risk with the cancellation of the Voluntary Contributions, Donations and Sponsorship Policy.

**CONSULTATION**

Consultation has occurred with relevant City Officers.

**OFFICER COMMENT**

The existing Voluntary Contributions, Donations and Sponsorship Policy duplicates the requirement for any amendments to the City's Annual Budget to be considered by Council.

**CONCLUSION**

The author believes that the existing Policy should be cancelled and that any offers of voluntary contributions, donations or sponsorship proposals made by external parties in favour of the City of Busselton be the subject of the required Budget Amendment process.

**OPTIONS**

The Council could:

1. Choose not to cancel the existing Voluntary Contributions, Donations and Sponsorship Policy and allow the policy to remain in place, or
2. Choose to seek further review and/or amendment to the existing Voluntary Contributions, Donations and Sponsorship Policy for presentation to Council at a later date.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The cancellation of the existing Voluntary Contributions, Donations and Sponsorship Policy would be effective immediately upon the adoption of the Officer's recommendation.

**OFFICER RECOMMENDATION**

That the Council cancels Policy 024 Voluntary Contributions, Donations and Sponsorship Policy and remove it from the City's Policy Manual.

Last updated 25 July 2012

024	Voluntary Contributions, Donations and Sponsorship	V2 Current
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#### PURPOSE

This policy provides a guideline for Council members and employees of the City of Busselton in respect of the process required for addressing and reporting on offers of voluntary contributions, donations or sponsorship proposals made by external parties in favour of the City of Busselton.

Whilst this policy does not warrant that offers of voluntary contributions or donations be declined irrefutably, or sponsorship proposals not be supported, it does however require that a necessary process be undertaken prior to any such offer being accepted or declined on behalf of the City.

#### SCOPE

The Council's Code of Conduct Policy details the obligations that Council members and employees of the City of Busselton are to espouse. More specifically, any person acting in the aforementioned capacities shall observe, amongst others, the following obligations:

- To act with reasonable care and diligence;
- To act with honesty and integrity;
- To avoid damage to the reputation of the City of Busselton;
- To be open and accountable;
- To base decisions on relevant and factually correct information;
- To treat others with respect and fairness.

Analogous with the above, this policy reaffirms the manner in which offers of voluntary contributions, donations and sponsorship proposals are to be addressed.

Notwithstanding the above, this Policy does not include contributions offered to the City by developers in respect of funding direct costs associated with the expedition of planning, subdivision or associated engineering matters. All such arrangements are to continue to be formalised by way of a specific legal agreement that clearly details the terms and conditions of the agreement and the associated obligations applicable to each party to the agreement.

#### DEFINITIONS

**"Council member"** - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor.

**"Employee"** - Any person who is employed by the City of Busselton. For the purposes of this policy, this shall include a person who, under a contract for services with the City of Busselton, will provide advice or report on a matter.

**"Voluntary contribution, donation or sponsorship proposal"** - Any offer, solicited or unsolicited, towards the operations of the City, in circumstances where there is not a legal obligation to pay the money or provide the service, or it is not part of a statutory process or it is not a government grant, contribution or donation.

#### STATEMENT

In acting in the capacity of a Council member or employee of the City of Busselton, all persons shall espouse the principles outlined in Regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007*, and the Council's associated Code of Conduct Policy.

Last updated 25 July 2012

Furthermore, the Council has committed to be a responsible, accountable local government.

In recognition of the above, this policy reaffirms the requirement for Council members and employees of the City to observe their respective obligations when offers of voluntary contributions, donations or sponsorship proposals are made in favour of the City of Busselton.

#### **POLICY CONTENT**

The Council has committed to be a responsible, accountable local government. Furthermore, Council members and employees are required, as part of the Council's Code of Conduct Policy, to act with reasonable care and diligence, honesty and integrity, avoid damage to the reputation of the City and to be open and accountable.

It is acknowledged that in certain circumstances, offers of voluntary contributions or donations, or sponsorship proposals may be construed (legitimately or otherwise) as conflicting with the Council's Strategic Priorities and associated Code of Conduct obligations.

Whilst this policy does not advocate that offers of voluntary contributions or donations be declined, or sponsorship proposals not supported, it does require that an appropriate process is followed to ensure that any such offer can be fully considered and, if applicable, reported to the Council, prior to any formal determination being made whether to accept or decline the offer.

This process is as follows:

##### **1. Advice received of offer of voluntary contribution, donation or sponsorship proposal**

Should an offer of a voluntary contribution, donation or sponsorship proposal for the City be made to a Council member or employee, the offering party is to be advised that the offer cannot be accepted nor declined, without it being considered in line with the processes as detailed below.

##### **2. Matter to be referred to the Chief Executive Officer**

Any offer of a voluntary contribution, donation or sponsorship proposal for the City is to be reported to the Chief Executive Officer without delay. This advice is to include the following:

- The entity offering the contribution, donation or making the sponsorship proposal;
- The amount of the contribution, donation or sponsorship proposal;
- The specific reasons as to why the contribution or donation is being offered or the sponsorship proposal made;
- Any known associated dealings (past, current or imminent) between the City and the entity offering the contribution or donation or making the sponsorship proposal;
- Any other information that may be considered relevant.

Should the matter be of a minor 'non-cash' nature, the Chief Executive Officer is authorised to accept or decline the offer on behalf of the City. The Finance Committee is to be informed of any decision by the Chief Executive Officer, via an Information Only item, to be included as part of the next Finance Committee agenda.

Last updated 25 July 2012

### **3. Matter to be referred to the Mayor**

Should any offer of a voluntary contribution or donation or sponsorship proposal for the City be either of a financial nature (i.e. cash), or not considered minor (non-cash), the Chief Executive Officer will advise the Mayor of the offer or proposal. The Mayor and Chief Executive Officer will jointly consider the offer, cognisant of their individual obligations pursuant to the Code of Conduct (both Regulations and Policy) and also the Council's associated Strategic Priority.

The Chief Executive Officer, in consultation with the Mayor, is authorised to jointly approve any offer (cash or non-cash), should it be considered minor in nature. The Chief Executive Officer, in consultation with the Mayor, is also authorised to decline any offer, should it be determined appropriate to do so.

The Finance Committee is to be informed of any decision by the Chief Executive Officer, in consultation with the Mayor, via an Information Only item, to be included as part of the next Finance Committee agenda.

Where an offer is believed to be worthy of further consideration, and is not considered minor in nature, the matter is to be referred to the Council for further consideration.

### **4. Matter to be referred to the Council**

An offer of a voluntary contribution or donation, or sponsorship proposal for the City will be referred to the Council (via an appropriate Council Agenda item) in instances where the Mayor and Chief Executive Officer warrant the matter to be worthy of further consideration and final determination by the Council.

It is considered that the above process, whilst not overly onerous, will clearly demonstrate the Council's commitment to the community as being a responsible and accountable local government, whilst also advocating the principles of openness, honesty, integrity and diligence.

#### **Policy Background**

Policy Reference No. - 024  
Owner Unit – Finance  
Originator – Manager, Finance and IT  
Policy approved by – Council  
Date Approved – 22 September, 2010  
Review Frequency – As required

#### **History**

<b>Council Resolution</b>	<b>Date</b>	<b>Information</b>
C1207/205	25 July, 2012	Version 2 – draft to include reference also to sponsorship proposals and update to City terminology
C1009/329	22 September, 2010	Date of implementation Version 1

## 6.8 MEELUP REGIONAL MANAGEMENT COMMITTEE GOVERNANCE ARRANGEMENTS

<b>SUBJECT INDEX:</b>	Council and Committee Meetings
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Meelup Regional Park Management Committee Governance arrangements and terms of reference - Tracked Changes <a href="#">↓</a> Attachment B Meelup Regional Park Management Committee Governance arrangements and terms of reference <a href="#">↓</a>

### PRÉCIS

The purpose of this report is to further review the Governance Arrangements of the Meelup Regional Park Management Committee that were last reviewed by Council on 28 June 2107. At this time, the Council reviewed the Terms of Reference of the Committee as well as the Governance Arrangements in place for this Committee.

The Governance Arrangements need to be further reviewed as it has been established that the Council cannot delegate the function of appointing a Committee member as it conflicts with the Local Government Act 1995 - Delegations cannot be made where a decision is required to be made by Council by an Absolute Majority which is the case for appointing members of a Committee. The opportunity has also been taken to further review the level of staff involvement in the selection process.

### BACKGROUND

The purpose of the Meelup Regional Park Management Committee is to :

- 2.1 Purpose
- 2.2 To assist the Council in managing and promoting Meelup Regional Park.
- 2.3 To ensure that the full range of issues relevant to the making of decisions about the management and promotion of the Park are considered, including environmental, amenity, recreational, community, social, economic and financial considerations.
- 2.4 To build and maintain productive working relationships between the Council, City officers, volunteers and users of the Park, as well as other stakeholders.

The Policy & Legislation Committee at its meeting on 17 August 2017 considered revised Governance Arrangements for the Meelup Regional Park Management Committee but felt that further changes were necessary and as a consequence deferred the matter for further consideration.

In accordance with normal practice, Council recently reviewed the Terms of Reference of Council's Standing Committees established under the Local Government Act 1995. In addition, Council also reviewed the Governance Arrangements for the Meelup Regional Park Management Committee.

At the Council meeting held on 28 June 2107, Council resolved (in part) as follows:

Resolution: C1706/152

That the Council:

Adopts the revised Governance Arrangements for the Meelup Regional Park Management Committee as shown in Attachment K;

The contents of the Governance Arrangements were reviewed with a view to making the contents more streamlined. One particular change made at the June 2017 meeting relating to appointment of members of the community to the committee and stated at paragraph 5 & 6:

5. The Mayor, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee shall meet again to assess the expressions-of- interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time and are authorised to make the appointment to the Committee.
6. If there are still vacant positions following the completion of the process set out above, the Mayor, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee are authorised to identify suitable members of the community with relevant qualifications and / or interest and invite them to submit an expression of interest and if acceptable, make the appointment to the Committee.  
It was subsequently ascertained that as a Standing Committee of Council, Council was required to make the appointment - hence the need to change the Governance Arrangements back to the way they previously were worded.

Attachment K referred to above in the Council resolution is now provided as Attachment B to this report and which is subject to tracked changes.

The August report proposed to modify the Governance Arrangements (to revert back to the original position regarding member appointments and staff involvement in the process) noting that the Council must make the appointment of members to this committee as this action cannot be delegated. Other changes to the Governance Arrangements are consistent with the Act.

In acknowledging the above, the Committee at it August meeting also thought that the Mayor should not be involved in the early part of the selection process as the Mayor would by necessity, be involved in the final decision making process as part of a Council decision.

## **STATUTORY ENVIRONMENT**

Under Section 5.8 of the Local Government Act 1995 (LG Act), a local government, by absolute majority, may establish Committees of three 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.

Separately, Section 5.10 and 5.11A of the LG Act relates to the appointment of Committee members and Deputy Committee members.

Part 2 of the Standing Orders Local Law relates to the establishment and membership of Committees. Specifically, 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 –
  - the names or titles of the members, employees and any other persons to be appointed to the committee; or
  - 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.

The Terms of Reference of the Meelup Regional Park Management Committee were modified at the June 2017 Council meeting and no further changes are proposed.

### **RELEVANT PLANS AND POLICIES**

Appointing members of the Council to Committees is subject to the provisions of the Local Government Act as detailed above.

### **FINANCIAL IMPLICATIONS**

Nil

### **Long-term Financial Plan Implications**

### **STRATEGIC COMMUNITY OBJECTIVES**

Strategic Plan Key Goal Area 6

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

### **RISK ASSESSMENT**

No risks have been identified with the contents this report.

### **CONSULTATION**

No consultation is required as the Council needs to comply with the requirements of the Local Government Act.

### **OFFICER COMMENT**

A review of the Terms of Reference of the Meelup Regional Park Management Committee was conducted in June 2107. At the same time, changes were proposed to be made to the Governance Arrangements of the Management Committee.

One of the changes made to the Governance Arrangements was the way in which community members are appointed to the Committee. On further review the change was found not to be consistent with the Act and needed to be reversed to be compliant with the requirements of the Act.



The need for the change was accepted by the Committee but the Committee agreed that further changes were necessary to reduce the involvement of the Mayor in the early part of the selection process as the Mayor would by necessity, be involved in the final decision making process as part of a Council decision.

Proposed changes to the Governance Arrangements have reflected in the “tracked changes” version of the document – see Attachment B.

## **CONCLUSION**

Consistent with best practice, it is beneficial to review the operation of the City’s main Committees in order to maximise efficiencies and ensure best outcomes. A further review of the Governance Arrangements of the Meelup Regional Park Management Committee has been conducted and proposed changes are presented to Council for consideration.

## **OPTIONS**

The Committee may resolve to not accept the proposed changes to the Governance Arrangements or make other changes.

## **TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The decision will become effective immediately after it has been adopted by Council.

## **OFFICER RECOMMENDATION**

## **ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Adopts the revised Governance Arrangements for the Meelup Regional Park Management Committee as shown in Attachment A

Meelup Regional Park Management Committee

Governance arrangements and terms of reference

**Process associated with appointing community members to the Committee**

The process associated with appointing community members to the Committee shall be generally as follows -

1. The ~~Mayor~~, Presiding Member of the Committee and Chief Executive Officer or Chief Executive Officer's nominee shall meet to discuss and agree the aims/objectives in terms of the skills, background or interests, or mix of skills, background and interests, of the person(s) that it would be most appropriate and desirable to include on the Committee at that time, and the agreed direction in that regard shall be reflected in the process associated with the attraction and assessment of potential community members;

2. City officers shall arrange to publicly advertise community member vacancies, seeking expressions-of-interest from suitable members of the community;

—Interested members of the community shall be required to submit an expression-of-interest (1-2 pages long only) setting out what value they believe they would bring to the Committee and why they are interested in becoming a member;

3.

4. If the vacancy is not for a deputy community member, in addition to considering those persons that have submitted expressions-of-interest, shall identify whether any existing deputy community member is interested in becoming a community member, and shall generally give priority to filling a community member vacancy with an existing deputy community member.

5—The ~~Mayor, the~~ Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee shall meet again to assess the expressions-of-interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time following which City officers will present a report to the Council reflecting the assessment and the preferred candidates, and are authorised to make the appointment to the Committee.

5

6. If there are still vacant positions following the completion of the process set out above, ~~the Mayor,~~ the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee are authorised to identify suitable members of the community with relevant qualifications and / or interest and invite them to submit an expression of interest and if acceptable, City officers will present a report to the Council reflecting the assessment and the preferred candidates, make the appointment to the Committee.

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Meelup Regional Park Management Committee

Governance arrangements and terms of reference

**Process associated with appointing community members to the Committee**

The process associated with appointing community members to the Committee shall be generally as follows -

1. The Presiding Member of the Committee and Chief Executive Officer or Chief Executive Officer's nominee shall meet to discuss and agree the aims/objectives in terms of the skills, background or interests, or mix of skills, background and interests, of the person(s) that it would be most appropriate and desirable to include on the Committee at that time, and the agreed direction in that regard shall be reflected in the process associated with the attraction and assessment of potential community members;
2. City officers shall arrange to publicly advertise community member vacancies, seeking expressions-of-interest from suitable members of the community;
3. Interested members of the community shall be required to submit an expression-of-interest (1-2 pages long only) setting out what value they believe they would bring to the Committee and why they are interested in becoming a member;
4. If the vacancy is not for a deputy community member, in addition to considering those persons that have submitted expressions-of-interest, shall identify whether any existing deputy community member is interested in becoming a community member, and shall generally give priority to filling a community member vacancy with an existing deputy community member.
5. The Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee shall meet again to assess the expressions-of-interest that have been received, identify and agree the preferred candidates to fill one or more of the positions that are vacant at that time following which City officers will present a report to the Council reflecting the assessment and the preferred candidates.
6. If there are still vacant positions following the completion of the process set out above, the Presiding Member of the Committee and the Chief Executive Officer or Chief Executive Officer's nominee are authorised to identify suitable members of the community with relevant qualifications and / or interest and invite them to submit an expression of interest and if acceptable, City officers will present a report to the Council reflecting the assessment and the preferred candidates.

## 6.9 REVIEW OF POLICY 001 - FEES, ALLOWANCES AND EXPENSES FOR ELECTED MEMBERS

<b>SUBJECT INDEX:</b>	Clothing/Corporate Attire
<b>STRATEGIC OBJECTIVE:</b>	Governance systems, process and practices are responsible, ethical and transparent.
<b>BUSINESS UNIT:</b>	Finance and Corporate Services
<b>ACTIVITY UNIT:</b>	Governance Services
<b>REPORTING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>AUTHORISING OFFICER:</b>	Director, Finance and Corporate Services - Cliff Frewing
<b>VOTING REQUIREMENT:</b>	Absolute Majority
<b>ATTACHMENTS:</b>	Attachment A Revised Policy 001 Fees, Allowances and Expenses for Elected Members <a href="#">↓</a>

### PRÉCIS

The purpose of this report is to consider options in relation to clause 3.1.7.2 relating to Corporate Attire which is part of Policy 001 – Fees, Allowances and Expenses for Elected Members.

### BACKGROUND

At the Policy and Legislation Committee held on 17 August, 2017 Council considered a revised Policy 001 - Fees, Allowances and Expenses for Elected Members. The Policy was adopted other than clause 3.1.7.2 of the policy relating to Corporate Attire.

At the Council meeting held on 13<sup>th</sup> September 2017, it was resolved (in part):

*That Council:*

1. ....
2. Consider a further report relating to clause 3.1.7.2 Corporate Attire at a future meeting.

Further to this resolution, officers have proposed changes to clause 3.1.7.2 of the Policy to reflect the discussions around the topic from the Committee meeting for consideration by the Policy and Legislation Committee.

### 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.

### RELEVANT PLANS AND POLICIES

This report recommends that Policy 001 - Fees, Allowances and Expenses for Elected Members be updated to take into account informal discussions held at recent Meetings and changes to reflect the appropriate actions.

### FINANCIAL IMPLICATIONS

A budget provision is made in each budget adopted in relation to payment of elected member allowances including provision of equipment and clothing. There are only minor financial implications associated with the changes proposed to the Policy.

**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'.

The Strategic Community Plan includes the community objective of having an effectively managed organisation that achieves positive outcomes for the community. One of the key ways for this to occur is to provide financial recognition of the extensive responsibilities performed by Elected Members.

**RISK ASSESSMENT**

Not required for this policy review.

**CONSULTATION**

External consultation is not considered necessary.

**OFFICER COMMENT**

Clause 3.1.7.2 of the policy relating to Corporate Attire currently reads as follows:

*Each elected member is eligible to claim up to \$1,000 reimbursement for the purchase of Corporate Attire, which may include a brief case or travel case. Payment will be made on the production of receipts for clothing, shoes or a case, but will be limited to \$500 for the period November to April and a further \$500 for the period May to October.*

At the Policy and Legislation Committee held on 17 August, 2017, the Committee considered a proposal which sought to modify this clause to read as follows:

**3.1.7.2 Corporate Attire allowance**

*Each elected member is eligible to be provided Corporate Attire with City logo up to the value of the amount provided in the annual budget (currently \$750pa), which may include:*

- *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*
- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Corporate Attire*

*All of the above clothing attire acquisitions (other than shoes) should be acquired through the City's approved uniform suppliers.*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

At the August Committee meeting, Councillors requested further options of this clause be presented for further consideration.

The differences between the existing and proposed clauses above are as follows:

- The amount was reduced as (a) the briefcase or travel case was moved to another section of the policy and (b) other than in the first year of being elected, it was thought that \$1,000pa for clothing was not required;
- The proposed policy provided greater flexibility as to how the allowance could be spent;
- The proposed policy provided clarity as to what the Corporate uniform consists of; and
- Clarified that the Corporate suit and shirts would need to be acquired from the City's Corporate uniform supplier.

There are obviously many options that Council could consider when reviewing a policy on this subject. The first issue is whether or not a Corporate Uniform is required. If it is thought appropriate that a Corporate uniform is required the main options are as follows:

1. Make no change to the existing Policy clause as shown above;
2. Re-consider the clause submitted to the August Policy & Legislation Committee also shown above;
3. Assuming that option 2 above was generally acceptable, variations could include:
  - Increasing the amount in the first year of a term to \$1,000 with the allowance for the following 3 years being set at \$750; and
  - Having acquired a Corporate suit (usually in the first term), any balance of funds from the allowance could be used to purchase a Business suit of the Councillors preference;
  - Consider, if a Corporate suit is selected, whether or not it should be returned on expiry of office.

One option is to base a new clause on the previously proposed clause (considered at the August Policy and Legislation Committee meeting) and further modified taking into account the features described in point 3 above:

#### 3.1.7.2 Corporate Attire allowance

*Each elected member is eligible to be provided Corporate Attire with City logo up to an amount of \$1,000 in the first year of being elected and an amount of \$750 for each successive year.*

*In the first year, the allowance must be used to purchase a Corporate suit with City logo and other attire which may include:*

- *Corporate suit (male – Trousers and Jacket)*
- *Corporate suit (female – Skirt, Dress, Pants and Jacket)*
- *Corporate shirts/blouses etc*

*The City would issue the following items of clothing with City logo (at cost and charged against the allowance):*

- *Casual/Light weight Fleecy Jacket*
- *Polo top*
- *City tie/scarf*

*Other (and charged against the allowance):*

- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Corporate Attire*

*All of the above clothing attire acquisitions (other than shoes) should be acquired through the City's approved uniform supplier.*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

*Any balance of funds may be used to purchase Business suits that are not "Corporate suits".*

*On expiry of office the Corporate Attire be returned to the City.*

*Alternatively, If Council decides that the use of "Corporate Attire" is no longer appropriate; the clause could be reworded as follows:*

### **3.1.7.2 Clothing allowance**

*Each elected member is eligible to be provided a Clothing allowance up to an amount of \$1,000 in the first year of being elected and an amount of \$750 for each successive year and may be used to purchase:*

- *Business suit (male – Trousers and Jacket)*
- *Business suit (female – Skirt, Dress, Pants and Jacket)*
- *Business shirts/blouses etc*

*The City would issue the following items of clothing (at cost and charged against the allowance) with City logo:*

- *Casual/Light weight Fleecy Jacket*
- *Polo top*
- *City tie/scarf*

*Other (and charged against the allowance):*

- *Shoes (up to the value of \$150)*
- *Dry cleaning and maintenance of Clothing*

*As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.*

Both avenues allow for Elected Members to have access to the clothing allowance to assist in the performance of the various functions as required by the role. The first option where Elected Members can acquire a City Logo branded formal business attire allows the opportunity for members to be highly recognisable at formal functions and portray a uniform look during events. There would be some benefit to this approach as Elected Members would be easily recognisable by other attendees of events and the opportunity would exist for Elected Members to engage with a large variety of people as the formal representative of the Council. A Corporate uniform is also a strong visual aid to demonstrate a 'team' approach to business.

The second option would allow for Elected Members to still have access to appropriate formal attire, but to express their own individual style. If Council selects to move away from a 'Corporate Attire' towards the 'Clothing allowance' the need to remove any City branded attire when an Elected Member ceases to act in the position of Councillor would be reduced to the City issued clothing only.

## **CONCLUSION**

As shown above benefits exist for both approaches to the Corporate Attire. It should be noted the biggest change in the proposed options is around the formal business attire only, the informal issued attire, shoes and dry-cleaning and maintenance of clothing remains consistent across all the proposed outcomes. The proposed fee structure changes are also consistent across both options, therefore the proposed point of consideration comes down to the Council's desire to have City branded formal wear or not.

The policy is presented for updating, noting that an Absolute Majority is required as this Policy as it includes reference to the annual allowance paid to the Mayor and the percentage of the Mayor's allowance to which the Deputy Mayor will be entitled. However no changes are proposed to be made to these particular Policy provisions.

The proposed changes have been discussed with elected members on a number of occasions in recent months.

## **OPTIONS**

Various options exist for consideration of Clause 3.1.7.2 of the policy relating to Corporate Attire. Through the discussion process it has been noted the following options have shown the most relevant and Council can select to:

1. Make no changes to the original Policy and reconsider adopting the proposed amendments as submitted to Council at the meeting held 13 September 2017;
2. Keep the principle of "Corporate Attire" and implement the proposed changes to the fee structure and uniform issue to comply with a consistent City branded approach;



3. Select to change from a “Corporate Attire” approach to a “Clothing allowance” approach, which will have the same fee structure as option 2 but allow Elected Members to acquire non City branded attire;
4. Make any other change to the Clause as required.

**TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION**

The new policy adopted will be effective immediately.

**OFFICER RECOMMENDATION****ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council:

1. Adopt the revised Council Policy 001 - Fees, Allowances and Expenses for Elected Members as shown in Attachment A noting the changes to clause 3.1.7.2 Corporate Attire.

Last updated 13/09/2017

001	Fees, Allowances and Expenses for Elected Members	V9 Current
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## 1. PURPOSE

In accordance with Division 8 of Part 5 of the *Local Government Act 1995* 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. The Fees, Allowances and Expenses for Elected Members policy provides the approval framework under which all fees, allowances and reimbursements to elected members will be made.

## 2. SCOPE

**"Elected member"** - Any person who holds the office of Councillor on the Council of the City of Busselton, including the Mayor and Deputy Mayor;

**"Schedule"** – Information describing the current Local Government Band Allocation and fees and allowances established within that Band in accordance with any *Local Government Elected Council Members Determination* under the *Salaries and Allowances Act 1975*.

The Fees, Allowances and Expenses for Elected Members policy is to apply 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.

This policy provides the approval framework to enable the provision of equipment and certain payments to be made to elected members to enable them to carry out their role as an elected member effectively. All matters approved in this policy are in accordance with the relevant legislation and determinations, being the *Local Government Act 1995* and *Local Government Elected Council Members Determinations* in accordance with the *Salaries and Allowances Act 1975*.

All allowances in relation to elected members are reviewed annually by the City and become effective following adoption of the annual budget.

## 3. POLICY CONTENT

### 3.1 Elected members

#### 3.1.1 Provision of equipment

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. In accordance with Section 3.1 of the *Local Government Act 1995*, 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 brief case up to the value of \$150;
- A standard-issue mobile telephone;
- 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.

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.

6.9 Attachment A Revised Policy 001 Fees, Allowances and Expenses for Elected Members

Last updated 13/09/2017

**3.1.2 Meeting attendance fees**

An elected member is entitled to receive an annual fee for attending Council and Committee meetings in accordance with the *Local Government Act 1995*. This payment is in lieu of any entitlement established for a fee per meeting under that Act.

The annual fee will be established during the annual budget process within the Band established in the relevant *Local Government Elected Council Members Determination*.

The annual meeting attendance fee is full and final satisfaction of an elected member's meeting entitlements and no other claims can be made for attendance at meetings, with the exception that an elected member's expenses incurred for travelling to and from the meeting can be reimbursed in accordance with clause 3.1.5 of this policy or childcare expenses incurred can be reimbursed in accordance with clause 3.1.4 of this policy.

Meeting attendance fees will be paid monthly or quarterly in arrears. The fee 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 meeting attendance fees and their preferred payment method. Nothing in the relevant legislation or this policy prevents an elected member from changing their intention at any time.

**3.1.3 Information and Communications Technology allowance**

In accordance with the relevant *Local Government Elected Council Members 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.

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 a kind of expense prescribed by regulation 32(1) of the *Local Government (Administration) Regulations 1996*.

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.

**3.1.4 Reimbursement of childcare expenses**

In accordance with the *Local Government Act 1995* 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. The extent to which the childcare expenses incurred will be reimbursed will be in accordance with the relevant *Local Government Elected Council Members 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.

Last updated 13/09/2017

### **3.1.5 Reimbursement of travel expenses**

In accordance with the *Local Government Act 1995* 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 *Local Government (Administration) Regulations 1996*. The extent to which travel expenses can be reimbursed is in accordance with the State Salaries and Allowances Tribunal. 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 State Salaries and Allowances Tribunal for incurring travel expenses.

- Council meetings - ordinary and special;
- Committee meetings of a formally constituted Council committee of which they are a member or a deputy member acting in the capacity of a member;
- Electors' meetings - annual and special;
- Civic receptions hosted by the City of Busselton;
- Visits by Ministers of the Crown or other distinguished visitors of similar status;
- City organised inspection tours of matters arising before the Council or as a JDAP member;
- Any City-convened meeting by the Mayor or CEO requiring elected member attendance, including briefing sessions, workshops and other forums;
- Elected member training courses;
- City organised meetings with ratepayers;
- 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\*;
- Where the Mayor is unable to attend a function or event and has requested another elected member to attend on his behalf;
- 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";
- 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 eg 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.

Where large distances are involved and when practicable a City-owned motor vehicle should be used in the first instance.

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 State Salaries and Allowances Tribunal. Elected members are encouraged to use a City-owned motor vehicle (subject to availability) for the types of travel approved under this section

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

### **3.1.6 Reimbursement of expenses while away from home on sanctioned activities**

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.

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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.

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:

Expenses and Restrictions	Elected Member	Spouse
Laundry > 2 nights	Y	Y
Taxi fares or other public transport - only where these directly relate to the activity and no other transport is provided	Y	Y when with Member
Daily sustenance per day allowance in accordance with the <i>Public Service Award 1992</i>	Y	N
Specific conference related dinners/meals	Y	Y

### 3.1.7 Reimbursement of other expenses

#### 3.1.7.1 Reimbursement of hospitality expenses

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.

#### 3.1.7.2 Corporate attire allowance

Each elected member is eligible to be provided Corporate attire with City logo up to an amount of \$1,000 in the first year of being elected and an amount of \$750 for each successive year.

In the first year, the allowance must be used to purchase a Corporate suit with City logo and other attire which may include:

- Corporate suit (male – Trousers and Jacket)
- Corporate suit (female – Skirt, Dress, Pants and Jacket)
- Corporate shirts/blouses etc

The City would issue the following items of clothing with City logo (at cost and charged against the allowance):

- Casual/Light weight Fleecy Jacket
- Polo top
- City tie/scarf

Other (and charged against the allowance):

- Shoes (up to the value of \$150)
- Dry cleaning and maintenance of Corporate attire

All of the above clothing attire acquisitions (other than shoes) should be acquired through the City's approved uniform supplier.

As it is likely that on election as an elected member, a full suite of attire will be required soon after being sworn in, the entire allowance is available in the first year (commencing October). In relation to the second and subsequent years following election, the use of the allowance will be limited to two thirds of the allowance for the period October to April and one third of the allowance for the period May to October.

Any balance of funds may be used to purchase Business suits that are not "Corporate suits".

All items of corporate clothing which are branded with the City of Busselton should be returned of expiry of office.

Last updated 13/09/2017

### **3.2 Mayor**

#### **3.2.1 Mayoral allowance**

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 *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members 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.

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.

#### **3.2.2 Provision of a Mayoral vehicle**

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.

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.

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:

- By deduction from the quarterly members allowance payment ; or
- An invoice be given to the Mayor for reimbursement.

The mileage rate would be calculated at the rate determined by the State Salaries and Allowances Tribunal for Local Government Elected Council Members.

Unless Council approves otherwise, the mayoral vehicle may only be used for private purposes for travel within the State of WA.

### **3.3 Deputy Mayor**

#### **3.3.1 Deputy Mayor's allowance**

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 *Local Government Act 1995*. In accordance with the relevant *Local Government Elected Council Members 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.

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.

Last updated 13/09/2017

#### 4. APPLICATION OF THE POLICY

Any request for reimbursement in accordance with the relevant clauses of this policy must be accompanied by an original supplier receipt or other relevant documentation.

##### Policy Background

Policy Reference No. - 001

Owner Unit – Governance

Originator – Director of Finance and Corporate Services

Policy approved by – Council

Date Approved – 27 August 2008

Review Frequency – As required

Related Documents –

*Local Government Act 1995*

*Local Government Department Circular 9-2011*

*Local Government (Administration) Regulations 1996*

*Local Government Elected Council Members Determinations*

Background/History - Initiated June 2008 to replace former policies:

054/1 - Councillors' Travelling Expenses;

055/1 - Attendance at Conferences, Training and Seminars;

193 - Communications Allowances - Councillors;

212/1 - Vehicle for Use by Shire President and Councillors;

226 - Laptop Computers - Councillors and Officers;

227 - Printer Consumables.

##### Last Policy Change

Council Resolution	Date	Information
C1612/156	14 December 2016	Adjustments of the Policy to reflect current practice and to allow the Mayor private use of vehicle. Version 9
C1608/200	10 August, 2016	Adjustments to state that fees and allowances to be determined in accordance with the relevant <i>Local Government Elected Council Members Determination</i> . Version 8

**7. GENERAL DISCUSSION ITEMS**

**8. NEXT MEETING DATE**

Thursday, 19 October 2017

**9. CLOSURE**