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true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 20 JULY 2017

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MINUTES

MINUTES OF A MEETING OF THE POLICY AND LEGISLATION COMMITTEE HELD IN THE COUNCIL COMMITTEE ROOM, ON 20 JULY 2017 AT 11.30AM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 11.30am.

2. ATTENDANCE

Presiding Member:

Cr Coralie Tarbotton

Deputy Mayor

Members:

Cr Grant Henley Mayor

Cr Ross Paine

Cr Rob Bennett

Cr Robert Reekie

Cr Terry Best Observer

Officers:

Mr Cliff Frewing, Director, Finance and Corporate Services

Ms Sarah Pierson, Manager Corporate Services (Entered at 11.34am)

Miss Kate Dudley, Administration Officer, Governance

Apologies

Nil

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 15 June 2017

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1707/136

Moved Councillor G Henley, seconded Councillor R Reekie

That the Minutes of the Policy and Legislation Committee Meeting held 15 June 2017 be confirmed as a true and correct record.

CARRIED 5/0

6. REPORTS

6.1 STATUTORY REVIEW OF DELEGATIONS

SUBJECT INDEX:	Authorised Delegation of Power/Authority
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Executive Assistant - Christine Garratt
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Revised Delegation LG3J Inviting and Awarding Tenders showing proposed tracking changes⇒
	Attachment B Revised Delegation LG3J Inviting and Awarding Tenders⇒
	Attachment C Revised Delegation LG6A Payments from Municipal Fund or Trust Fund showing proposed tracking changes⇒
	Attachment D Revised Delegation LG6A Payments from Municipal Fund or Trust Fund⇒
	Attachment E Revised Delegation LG6C Rates and Service Charges showing proposed tracking changes⇒
	Attachment F Revised Delegation LG6C Rates and Service Charges⇒
	Attachment G Revised Delegation DA1 Appointment of Authorised Persons and Registration Officers showing proposed tracking changes⇒
	Attachment H Revised Delegation DA1 Appointment of Authorised Persons and Registration Officers⇒
	Attachment I Existing Delegation LG6E Payments from Sponsorship and Donations Fund⇒

PRÉCIS

The *Local Government 1995* requires delegations made under that Act to be reviewed by the delegator at least once every financial year. Additionally, delegations made under the *Cat Act 2011* and the *Dog Act 1976* are required to be reviewed once every financial year. This review is to fulfil this requirement.

BACKGROUND

Council has the ability to delegate the exercise of powers and discharge of duties to its Chief Executive Officer. These delegations are required to be reviewed by the delegator (in this case the Council) at least once in every financial year.

STATUTORY ENVIRONMENT

Section 5.42 of the *Local Government Act 1995* provides the Council with the ability to delegate powers and duties to its CEO. Some powers and duties cannot be delegated in accordance with Section 5.43 of the Act, such as matters that require an Absolute Majority decision of the Council.

The delegations must be contained in a Register. Wherever a decision has been made under delegated authority, records of the decision must be kept in accordance with the *Local Government (Administration) Regulations 1996*.

Section 44 of the *Cat Act 2011* provides the power for Council to delegate the exercise of its functions and discharge of its duties to the CEO. Section 47(2) of that Act requires the delegator to review delegations at least once every financial year.

Section 10AA of the *Dog Act 1976* provides Council with the ability to delegate powers and duties to its CEO. In accordance with Section 10AB(2) of that Act, the delegations must be reviewed at least once every financial year.

RELEVANT PLANS AND POLICIES

The Department of Local Government and Communities Operational Guidelines Number 17 - 'Delegations'

Local Government (Administration) Regulations 1996

FINANCIAL IMPLICATIONS

There are no financial implications involved in reviewing Delegations, however, utilisation of delegated authority creates organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would need to be referred to Council as agenda reports. Having an effective delegated authority system in place reduces the turnaround time for some matters which allows for the Council to use its time to undertake its more strategic role.

Long-term Financial Plan Implications

There are no direct Long Term Financial Plan implications associated with this review.

STRATEGIC COMMUNITY OBJECTIVES

This statutory delegation review aligns with and supports the **Council's Key Goal Area 6** – 'Leadership' and more specifically **Community Objective 6.2** – 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

Not required for a review undertaken in accordance with statutory requirements.

CONSULTATION

The current delegations were developed with reference to the Department of Local Government and Communities Operational Guidelines Number 17 – 'Delegations'.

OFFICER COMMENT

There are a range of powers and duties delegated to the CEO in accordance with the powers provided by Sections 5.42(1)(a) and (b) of the *Local Government Act 1995*. These are largely recommended to continue unchanged, with the exception of proposed updates as identified in the table below. The table provides an overview of the current delegations and an explanation of the powers exercised by the CEO. Minor amendments are proposed to delegations LG3J, LG6A, LG6C, and DA1. Officers are also recommending revocation of delegation LG6E.

Delegations to the CEO

Description		Purpose
LG3A	Legislative Function To determine applications received by the City in accordance with a Local Law made by the City in accordance with Subdivision 2 of Division 2 of Part 3 of the <i>Local Government Act 1995</i> and to enforce the provisions of those local laws and to otherwise exercise the powers and discharge the duties of the local government under those local laws.	Enables the CEO to determine applications in accordance with the relevant provisions of the Local Law and the ability to enforce the provisions of those local laws. <i>No change proposed.</i>
LG3D	Notices Requiring Things to be Done To exercise the powers and discharge the duties of the local government under Section 3.25(1), 3.26(2) and 3.26(3).	This provides for the ability to require actions from an owner or occupier relating to unsightly land, overgrown vegetation, rubbish etc. <i>No change proposed.</i>
LG3E	General Procedure for Entering Property To authorise persons on behalf of the local government for the purposes of discharging the duties under Section 3.31(2).	A person requires authorisation in order to enter property. This enables the CEO to authorise others instead of requiring Council approval. <i>No change proposed.</i>
LG3F	Power to Remove and Impound To authorise employees on behalf of the local government for the purposes of discharging the duties under Section 3.39 and 3.40A(1).	A person requires authorisation in order to impound vehicles etc. This enables the CEO to authorise others instead of requiring Council approval. <i>No change proposed.</i>
LG3G	Disposing of Uncollected Goods To exercise the powers and discharge the duties of the local government under Section 3.47(2) and 3.47(2a).	Enables the CEO to dispose of impounded goods when not collected in a specified time, including vehicles. <i>No change proposed.</i>
LG3H	Thoroughfare Closure To exercise the powers and discharge the duties of the local government under Section 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A.	Enables the CEO to require the closure of roads. <i>No change proposed.</i>

LG3J	<p>Inviting and Awarding Tenders</p> <p>To exercise the powers and discharge the duties of the Local Government under Regulations 11, 14 and 18 to publicly invite tenders by determining the written criteria for deciding which tender should be accepted.</p> <p>(Attachment A)</p> <p>These delegations are currently subject to the following conditions:</p> <ul style="list-style-type: none"> (a) Utilising the standard selection criteria as per Policy 031; (b) Following the City's operational practice utilising tender evaluation processes and documentation developed by WALGA; (c) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; and (d) Acceptance of a tender is not to exceed a contract value of \$500,000. 	<p>Enables the CEO to invite and evaluate tenders prior to entering into a contract of a prescribed kind under which another person is to supply goods or services to the Council. Also provides the CEO with the ability to award tenders not exceeding a contract value of \$500,000.</p> <p><u>Summary of proposed updates:</u></p> <p>Inclusion of specific reference to various other administrative functions associated with the tender process by way of including reference to Regulations 20 and 21A. Regulation 20 enables the CEO to vary requirements prior to entering into a contract with the chosen tenderer, Regulation 21A enables the CEO to vary a contract for the supply of goods and services.</p> <p>It is also proposed that condition (b) is reworded to require from the CEO to follow the City's internal operational processes and procedures for the purposes of tender evaluation, this condition as it stands now requires the CEO to use documentation developed by WALGA. It is further proposed that conditions (b) and (c) are reversed in order to reference the City's Purchasing Policy as the initial reference document, followed by operational processes and procedures.</p> <p>(Attachment B)</p>
LG 3K	<p>Acquiring and Disposing of Property</p> <p>To exercise the powers and discharge the duties of the local government under Sections 3.58(2) and 3.58(3) and acquire property on the local government's behalf. The value of the property shall not exceed \$100,000.</p>	<p>This delegation has been excluded from this report as it was listed under separate cover on Council Agenda of 28 June 2017 with the Officer Recommendation subsequently adopted (C1706/151).</p> <p>No change proposed.</p>
LG3L	<p>Airport Redevelopment Project - Inviting Tenders and Awarding Tenders</p> <p>To publicly invite tenders by determining the written criteria for deciding which tender should be accepted and to award tenders with a contract value up to \$1,000,000 subject to agreement from the CEO of the South West Development Commission (SWDC).</p>	<p>Due to the nature and scope of the Airport Redevelopment Project a specific tender delegation has been put in place which is required to be exercised in accordance with agreement from the CEO of the South West Development Commission (SWDC).</p> <p>No change proposed.</p>

LG3M	<p>Establishment of Panels of Pre-Qualified Suppliers</p> <p>To exercise the powers and discharge the duties of the local government under Part 4 Division 3 of the <i>Local Government (Functions and General) Regulations 1996</i> pursuant to Regulation 24AC(1)(b) to determine whether there is, or will be, a continuing need for the particular goods or services to be supplied by pre-qualified suppliers and in accordance with Regulations 24AD – 24AI establish panels of pre-qualified suppliers for provision of particular goods or services and in accordance with Regulation 24AJ enter into a contract, or contracts, for the supply of goods or services with a pre-qualified supplier who is part of a panel of pre-qualified suppliers for the supply of those particular goods or services.</p>	<p>Enables the CEO to establish panels of pre-qualified suppliers in accordance with the relevant provisions of the Tender Regulations and the Council's "Purchasing" Policy which in turn assists in streamlining Council operations and improving efficiency without compromising statutory or policy compliance or Council's existing powers in relation to choice of tenderer.</p> <p>No change proposed.</p>
LG5A	<p>Provision of Urgent Legal Services</p> <p>To provide authorisation in accordance with Clause 3.10 of Council Policy 085 "Legal Representation for Council Members and Employees" for urgent legal services to a maximum value of \$10,000.</p>	<p>Enables the CEO to exercise, on behalf of the Council, the powers of the Council under Clause 3.8 of Council Policy "Legal Representation for Council Members and Employees" to a maximum of \$10,000 in respect of each application when delays in the approval of an application are considered to be detrimental to the legal rights of the applicant.</p> <p>CEO approved applications are required to be submitted to the next Ordinary Meeting of Council.</p> <p>No change proposed.</p>
LG5B	<p>Directions Regarding Unauthorised Development</p> <p>To give directions in relation to unauthorised development and to authorise any action available to the responsible authority under the Planning and Development Act 2005 incidental to such written direction.</p>	<p>Provides for the ability to give a written direction to an owner or any other person having undertaken a development to remove, pull down, take up, or alter the development and restore the land as nearly as practicable to its condition immediately before the development commenced, to the satisfaction of the responsible authority.</p> <p>No change proposed.</p>

LG6A	<p>Payments from Municipal Fund and Trust Fund</p> <p>To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the <i>Local Government (Financial Management) Regulations 1996 (Attachment C)</i></p>	<p>Enables the payment of creditors without specific Council approval. All payments made must be reported to Council which is undertaken by way of a monthly report via the Finance Committee.</p> <p><u>Summary of proposed updates:</u></p> <p>It is proposed to add a condition to this delegation that places a limit on the authorisation of individual payments from the fund to a maximum of \$1000 unless consultation with the Finance Committee has taken place prior to the authorisation of such a payment.</p> <p><i>See LG6E Payments from Sponsorship and Donations Fund (Attachment D)</i></p>
LG6B	<p>Power to Defer, Grant Discounts, Waive or Write Off Debts</p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.12(1)(b), 6.12(1)(c) and 6.12(3) of the <i>Local Government Act 1995</i>.</p>	<p>Enables the CEO to deal with minor fee waivers, concessions and debt write-off requirements.</p> <p><i>No change proposed.</i></p>

LG6C	<p>Rates and Service Charges</p> <p>To exercise the powers and discharge the duties of the local government under Sections 6.49, 6.50(1), 6.60(2), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4) and 6.76(5). <i>(Attachment E)</i></p>	<p>Enables the CEO to determine due dates for rates and to take recovery action for unpaid rates.</p> <p><u>Summary of proposed updates:</u></p> <p>Removal of explanatory notes at Sections 6.50(2), 6.50(3), 6.47 and 6.75(1) as these are operational by nature and therefore it is considered not necessary to include.</p> <p>Removal of Section 6.50(2) as this is done as part of the Budget Adoption process.</p> <p>Removal of Sections 6.56(1), 6.60(3) and 6.64(4) as these are operational by nature and do not require a delegation.</p> <p>Removal of Schedule 6.2, Clause 1(1) as any proposal to “Form a Lease” would be put before Council for determination.</p> <p>Removal of Schedule 6.3, Clause 1(4) as any proposal for “Sale of Land” would be put before Council for determination.</p> <p>Removal of Schedule 6.3, Clause 4(1) as any proposal to “Convey or Transfer” would be put before Council for determination. <i>(Attachment F)</i></p>
LG6D	<p>Investment</p> <p>To invest surplus funds in accordance with the Direct Investments section of the Council's Policy 218 “Investment”.</p>	<p>Enables funds to be invested by the CEO as set out in Council Policy 218 “Investment”.</p> <p><i>No change proposed.</i></p>

LG6E	Payments from Sponsorship and Donations Fund To determine the allocation of donations and sponsorships from the fund established for this purpose. <i>(Attachment I)</i>	<p>This delegation currently requires that individual payments do not generally exceed \$1,000.</p> <p><i>Proposed for revocation:</i></p> <p>This delegation is proposed for revocation as the CEO already has this delegated power under section 6.10 Financial Management Regulations of the <i>Local Government Act 1995</i> in existing Delegation LG6A Payments from Municipal Fund and Trust Fund.</p> <p>It is also proposed that a condition be added to Delegation 6A that sets a limit on what amount the CEO can authorise via the payments from sponsorship and donations fund.</p>
LG9A	Appointment of Authorised Persons To authorise persons, or classes of persons, on behalf of the local government for the purposes of performing particular functions in accordance with Section 9.10(1) and 9.10(2) of the <i>Local Government Act 1995</i> .	<p>A person requires authorisation in order to take enforcement action. This enables the CEO to authorise others instead of requiring Council approval.</p> <p><i>No change proposed.</i></p>
LG9B	Authorising Common Seal To authorise the affixing of the Common Seal of the City to a document that needs the City's Common Seal to be legally effective.	<p>While the CEO can authorise the affixing of the Common Seal to a document as classified which in turn allows for no specific Council approval of individual documents being required, it is noted that it is also necessary for individual documents to be signed by both the Mayor and the CEO (or a senior employee authorised by the CEO and in accordance with Section 5.37 of the <i>Local Government Act 1995</i>).</p> <p><i>No change proposed.</i></p>
LG10A	Claims Against the Local Government To consider claims against the local government for damage to property and either accept or deny liability.	<p>This is intended only for minor claims within the City's insurance premium excess with a \$500 limit on claims made under this delegation.</p> <p><i>No change proposed.</i></p>

Delegations from the Council to the CEO made in accordance with Section 5.42 of the *Local Government Act* have been utilised to enable the CEO to carry out powers and duties of the local government.

The reasons for the proposed changes for the 3 delegations have been documented in the 'Purpose' column for each delegation.

It should also be noted that Delegation LG3K Acquiring and Disposing of Property has been excluded from this report as it was part of a standalone report to Council on 28 June 2017 in which Officers proposed revocation of Delegation LG3K Acquiring and Disposing of Property to be superseded by two new replacement delegations being LG3B Acquiring of Property and LG3C Disposal of Property. The Officer Recommendation was subsequently adopted (C1706/151).

All other delegations are recommended to continue unchanged.

Cat Act

Description		Purpose
CA1	Administration of the Cat Act Authority to exercise the functions in relation to the administration of the <i>Cat Act 2011</i> .	To provide Council with measures in place that control the number of cats that can be kept and places where cats can be kept, encourage responsible cat ownership and provide for better management of the impacts of cats on the community and environment. <i>No change proposed.</i>

The delegation to the CEO under the *Cat Act 2011* is recommended to continue unchanged.

Dog Act

Description		Purpose
DA1	Appointment of Authorised Persons and Registration Officers To appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by that Act and to authorise persons to effect the registration of dogs. <i>(Attachment G)</i>	To provide Council with controls and regulatory measures in relation to impounding of dogs, the number of dogs that can be kept, establishment of approved kennels and the manner in which dogs are to be confined by the occupier of a premises. <u>Summary of proposed updates</u> It is proposed that the current power/duty within this delegation include a specific reference to the local government in order to strengthen the delegation. <i>(Attachment H)</i>

Officers are proposing a minor amendment to the delegation to the CEO under the *Dog Act 1976* as documented in the 'Purpose' column for Delegation DA1 Appointment of Authorised Persons and Registration Officers.

Having conducted the statutory annual review of delegations made under the *Local Government Act 1995, Cat Act 2011 and Dog Act 1976*, Officers are recommending changes to those delegations as listed in Attachments A through to H and in addition are proposing revocation of Delegation 6E Payments from Sponsorship and Donations Fund for the reasons outlined in the table above.

CONCLUSION

The existing delegations have served the organisation well and provide a sufficient level of authority to enable timely consideration of day-to-day local government matters as well as specific authority whereby the Council has recognised circumstances such as the nature of the airport redevelopment project.

OPTIONS

The Council may decide that it requires changes to the powers and discharge of duties to the Chief Executive Officer or choose to place conditions on any of the delegations.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Any determinations on the delegations will be effective immediately the Council's decision is made.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1707/137 Moved Councillor G Henley, seconded Councillor R Bennett

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council having conducted the statutory annual review of delegations made under the *Local Government Act 1995, Cat Act 2011 and Dog Act 1976*:

1. Adopts the revised Delegation LG3J Inviting and Awarding Tenders as shown at Attachment B;
2. Adopts the revised Delegation LG6A Payments from Municipal Fund and Trust Fund as shown at Attachment D;
3. Adopts the revised Delegation LG6C Rates and Service Charges as shown at Attachment F;
4. Adopts the revised Delegation DA1 Appointment of Authorised Persons and Registration Officers as shown at Attachment H; and
5. Revokes Delegation LG6E Payments from Sponsorship and Donations Fund as shown in Attachment I.
6. Notes that all other Delegations remain unchanged.

CARRIED 5/0

6.2 REVIEW OF POLICY 023 - COMMUNITY ENGAGEMENT

SUBJECT INDEX:	Plans, Policies and Procedures
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Finance and Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Revised Policy 023 - Community Engagement ➡ Attachment B Revised Policy 023 - Community Engagement - Tracked Changes ➡

PRÉCIS

The purpose of this report is to review Policy 023 – Community Engagement.

BACKGROUND

Council has previously adopted a policy relating to Community Engagement being:

Policy 023 adopted on 12 March 2014 - Community Engagement C1403/049.

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

Policy 023 – Community Engagement.

FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

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

RISK ASSESSMENT

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

CONSULTATION

As the revised Policy is based on the City's existing policy there is no change in focus this policy is not considered to require any public consultation.

OFFICER COMMENT

During the ordinary course of reviewing the policy, the contents have been modified by making minor changes as shown in attachment B.

CONCLUSION

As part of the regular practice of reviewing Council policies, a review was carried out on Policy 023 - Community Engagement. Following this review officers are recommending that the revised policy be adopted.

OPTIONS

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The existing policy would be cancelled effective immediately upon adoption of Council and the new Codes would become effective.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1707/138 Moved Councillor G Henley, seconded Councillor R Reekie

That the Council adopted the revised Policy 023 - Community Engagement as shown in attachment A.

CARRIED 5/0

Attachment A

Last updated 19 May 2017

023	Community Engagement and Consultation	V2 Current
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STATEMENT

Council places high priority on engaging with the community and encouraging community participation in decision-making processes.

The purpose of this policy is to outline the framework Council and the City will use to engage with the community and key stakeholders.

PURPOSE / RATIONALE

This policy guides the Council and City Officers on community engagement and consultation objectives. The policy takes into account key factors impacting community consultation and engagement activities such as statutory obligations, stakeholder expectations, risk management issues, budget and time constraints and appropriate consultation and engagement mechanisms (or tools).

SCOPE

The Policy will inform the engagement and consultation activities undertaken by Busselton City Councillors, City Officers, and Contractors of the City of Busselton. Its application is suitable for large and small-scale projects and policy decision-making processes across all areas of City business. It should be noted that different levels of consultation will be appropriate depending on the issue to be addressed; stakeholder objectives and characteristics; and the sort of information needed to be relayed or obtained.

DEFINITIONS

Engagement means connecting with community groups, organisations and individuals for the purpose of:

- communicating information to stakeholders;
- ensuring transparency in the decision-making process; and
- building permanent relationships.

Consultation involves two-way information exchange and its primary purpose is to obtain public feedback to inform decision-making on a particular issue(s).

Stakeholders – Groups or individuals that have an interest in the business of the Council and its governance of the City. These include residents and business operators (rate paying and non-rate paying); people who work in the district, visitors and tourists; statutory and government agencies; service providers (profit and non-profit); sporting and cultural groups; associations and organisations based in the City of Busselton.

Last updated 19 May 2017

POLICY CONTENT

The City of Busselton Community Engagement and Consultation Policy outlines the organisation's commitment to:

- the principles of open and accountable decision-making;
- identifying engagement and consultation opportunities;
- formalising engagement and consultation mechanisms; and
- outlining community engagement and consultation responsibilities across the organisation.

The Policy is supported by procedural documents including media guidelines and social media policy..

Principles of openness and accountability in decision-making processes

Council will be guided by the following principles:

-);
- informing the community of decisions made and actions taken in relation to Council activity;
- being open and transparent about the purpose of consultation activity;
- listening to and acknowledging community concerns;
- providing feedback on how public input has influenced decision making;
- allowing sufficient consultation time;
- striving to develop new and enhanced engagement opportunities and consultation methods, and
- meeting the statutory requirements for community engagement and consultation outlined in the Local Government Act (1995).

Identifying engagement and consultation opportunities

Particular areas of routine or established consultation include (but are not limited to) issues such as development of or amendment to:

- strategic planning documents;
- sports, recreation and cultural plans;
- town plans;
- development applications;
- specific works and services;
- master plans and conceptual designs for areas designated to community use.

Consultation and Engagement mechanisms include but are not limited to:

- the Your Say Busselton online engagement portal via the City's website which offers discussion forums, surveys, quick polls, Q&A, guest books
 - social media including Facebook, Instagram and Twitter;
 - access to Council meetings and briefings for presentations;
 - planned stakeholder information sessions;
 - school /community group visits;
 - electors meetings;
 - informal meet and greet sessions with elected members;
 - expos, public displays, open days and community events;
 - formal advertising in print, broadcast and TV;
 - public meetings or community forums held to address specific issues;
 - market research projects carried out using proven sampling processes and market analysis;
- Any combination of the above mechanisms may be used.

Responsibilities

Elected Members: Will ensure principles outlined in this Policy are included in the decision-making processes of Council.

Last updated 19 May 2017

- **City Officers:** Will ensure principles outlined in this Policy are included in project planning. This requires Officers to: identify consultation opportunities;
- recommend appropriate mechanism(s) and budget requirements;
- ensure that the community has adequate opportunity to make its view known to the Council; and
- report to Council on the Engagement/consultation outcomes (if required).

Policy Background

Policy Reference No. - 020

Owner Unit – Public Relations

Policy approved by – Council on 22 September 2010

Review Frequency – As Required

History

Council Resolution	Date	Information
C		General Update
C1009/318	22 September, 2010	Date of implementation
	29 May 2017	Date of Implementation Version 3

6.3 REVIEW OF PROSECUTION POLICY

SUBJECT INDEX:	Legal
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Manager Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Current Prosecution Policy ↗ Attachment B Proposed Enforcement and Prosecution Policy ↗

PRÉCIS

This report presents a revised Enforcement and Prosecution Policy (Attachment B) for Council approval, currently titled Prosecution Policy. The policy has been simplified and more operational aspects removed, with a view to include the latter in an Operational Practice and Procedure or guideline developed for the purpose of providing general guidance to City officers. More detailed guidance has and will also be developed relating to specific areas of operation including separate policies relating to rangers enforcement, development compliance and environmental health compliance.

BACKGROUND

The current Prosecutions Policy (Attachment A) was adopted in May 2010. The policy was designed to provide general information in relation to the City's approach to enforcement action, as well to guide and assist officers in the performance of their functions. However, it is considered that the current policy is unnecessarily detailed. A review of the current policy and the City's compliance and enforcement operations indicated that much of the detail is of an operational nature and would be best contained within internal guidance documents or operational practice and procedures and / or policies relating to specific operational areas, with this policy to instead provide an overarching higher level of guidance and information.

STATUTORY ENVIRONMENT

In terms of Sections 2.5 and 2.6 of the *Local Government Act 1995* (Act) the City of Busselton, as a local government, is a body corporate with perpetual succession, the legal capacity of a natural person and with its elected council as the governing body. Section 3.1(1) of the Act specifies that the general function of a local government is to provide for the good government of persons in its district and, in accordance with Section 2.7, Council is to determine the City's policies for that purpose.

The proposed Enforcement and Prosecution Policy and Council's ability to make the policy are consistent with abovementioned legislative provisions.

RELEVANT PLANS AND POLICIES

Nil

FINANCIAL IMPLICATIONS

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

STRATEGIC COMMUNITY OBJECTIVES

The Officers recommendation aligns with and supports the Council's Strategic Community Plan 2017, specifically Key Goal Area 6 – 'Leadership' and Community Objective 6.2 – 'Governance systems, process and practices are responsible, ethical and transparent'.

RISK ASSESSMENT

The proposed policy does not materially change the City's position in relation to enforcements and prosecutions and hence poses no risk.

CONSULTATION

Nil

OFFICER COMMENT

The proposed Enforcement and Prosecution Policy does not materially change the City's position in relation to prosecutions. The policy is simply being streamlined with more operational aspects removed, for inclusion in an operational practice or guidance document. Additionally more detailed guidance has and will be developed relating to specific areas of operation, including separate policies relating to rangers enforcement, development compliance and environmental health compliance.

The proposed policy continues to provide information in relation to the reporting and characterising of transgressions and outlines the enforcement options available where it is determined that action is warranted. In comparison to the current policy, the proposed policy provides a higher level overview of the City's approach as opposed to outlining in detail the decision making criteria to be utilised when considering and actioning a prosecution. It is felt that a two tiered approach, whereby the proposed policy provides high level guidance and direction in relation to enforcement and prosecution action and operational practice and procedures deals more with day-to-day operational matters is an appropriate way of administering these matters.

CONCLUSION

It is recommended that Council adopt the proposed Enforcement and Prosecution Policy as per Attachment B.

OPTIONS

The Council may not agree with the revisions to the policy and may seek for the policy to be re-endorsed in its current format or for alternative changes to be made.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

OFFICER RECOMMENDATION

That the Council:

1. Adopts the proposed Enforcement and Prosecution Policy as per Attachment B, to replace the current Prosecution Policy contained in Attachment A.

COMMITTEE RECOMMENDATION**PL1707/139** Moved Councillor G Henley, seconded Councillor R Paine

That the Council:

1. Adopts the proposed Enforcement and Prosecution Policy as per Attachment B, to replace the current Prosecution Policy contained in Attachment A with the below amendment to paragraphe 3.3:

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

CARRIED 5/0

Attachment B

Last updated

015	Enforcement and Prosecutions	V2
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1. PURPOSE

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

2. SCOPE

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

3. POLICY CONTENT**3.1 Reporting Transgressions under City Laws**

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

3.2 Characterising Transgressions

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

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

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

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

Last updated

3.3 Enforcement/compliance action

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

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

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

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

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

3.4 Recovery of legal costs

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

3.5 Publication of convictions

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

4. APPLICATION OF THE POLICY

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

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

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

Policy Background

Policy Reference No. - 015

Owner Unit – Legal Services

Last updated

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

History

Council Resolution	Date	Information
C1005/149	12 May, 2010	Date of implementation Version

6.4 REVIEW OF PRESENTATIONS ON TERMINATION POLICY

SUBJECT INDEX:	Employee Relations
STRATEGIC OBJECTIVE:	Accountable leadership that is supported by a skilled and professional workforce.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Human Resources
REPORTING OFFICER:	Manager Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Cliff Frewing
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Presentations on Termination Policy track changes⇒ Attachment B Proposed Presentations on Termination Policy⇒

PRÉCIS

This report presents a revised Presentations on Termination Policy (Attachment B) for Council approval. The policy has been simplified and the values adjusted with respect to Council's contribution towards a departing gift. Proposed changes are shown in Attachment A. It is considered that the revised policy continues to reflect an appropriate level of recognition for employee's who are leaving the City's service.

BACKGROUND

The Presentations on Termination Policy has been utilised to recognise employee contributions for a long period of time. The current Presentations on Termination Policy was adopted in August 2012, with the policy being updated to provide a flat maximum amount that may be spent on recognising the departing member of staff. This was as opposed to a variable amount dependant on years of service.

This revision of the policy is presented as part of the ongoing review of Council policies to ensure their ongoing applicability and suitability.

In accordance with Section 5.50 of the Act, requiring a local government to prepare a policy in relation to payments upon termination, the revised Policy will require advertising once adopted.

STATUTORY ENVIRONMENT

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

Section 5.50 of the Act requires a local government to prepare a policy in relation to employees whose employment with the local government is finishing setting out the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or relevant award. A reference to a payment to a person under this section includes a reference to the conferral of any financial benefit on the person, and as such includes the provision of a contribution towards a gift. Once adopted local public notice of the policy will be required.

RELEVANT PLANS AND POLICIES

This report proposes the update of an existing policy of the Council. It is considered relevant to maintain a policy in this regard to ensure there are ceiling limits applied to any proposed departure gift or function. The proposed policy, while setting upper limits on the Council's contribution, enables the CEO to determine the appropriate recognition within these parameters and, in doing so, to take into account other factors, such as the employee's full-time or part-time status, and the specific contribution of the employee with regard to the service provided to the City.

FINANCIAL IMPLICATIONS

There is a budget item provided for Council recognition of the contribution of employees which is utilised for the purposes of this policy. It is not expected that the revised policy will result in additional costs.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Presentations on Termination Policy is well regarded by employees as a form of recognising their contribution to the City. While it recognises employee contributions upon departure, it is considered to contribute to a level of goodwill and motivation for existing employees, in that their contributions are valued. To this end it supports Key Goal Area 6 of the Council's Strategic Community Plan 2017 – Leadership – and specifically Community Objective 6.3 – 'Accountable leadership that is supported by a skilled and professional workforce'.

RISK ASSESSMENT

The revised policy reduces the overall amount of money provided for gifts for departing employees, however, the adjusted amounts are considered appropriate and reasonable and therefore it is not considered that the revisions proposed pose any significant risk.

CONSULTATION

Nil

OFFICER COMMENT

The Presentations on Termination Policy has been utilised to recognise employee contributions upon departure for a long period of time. The current review process is intended to simplify the method of determining the maximum value for Council's contribution to a gift on leaving the City's employment.

It is considered that the revised Presentations on Termination Policy provides an adequate contribution to a gift and to a gathering for the purposes of recognising an employee who has voluntarily decided to leave the City of Busselton. The opportunity for colleagues to gather for this purpose, and for Council to provide the employee with a token of appreciation, creates a positive experience and should therefore be maintained.

CONCLUSION

It is recommended that Council adopt the proposed Presentations on Termination Policy as per Attachment B for the reasons outlined in this report.

OPTIONS

The Council may not agree with the revisions to the policy and may seek for the policy to be re-endorsed in its current format or for alternative changes to be made.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

OFFICER RECOMMENDATION

That the Council adopts the proposed Presentations on Termination Policy as per Attachment B.

COMMITTEE RECOMMENDATION

PL1707/140 Moved Councillor R Bennett, seconded Councillor G Henley

That the Council adopts the proposed Presentations on Termination Policy with the below update included.

Years of Service	Council Contribution
>2, ≤5 Years	\$50
>5, ≤15 Years	\$100
>15, ≤20 Years	\$200
>20, ≤25 Years	\$350
>25 Years	\$500

CARRIED 5/0

Attachment B

Last updated 22 August 2012

171	Presentations on Termination	V2 Current
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1. PURPOSE

This policy is to provide a framework for recognising the contribution of employees of the City of Busselton when they voluntarily leave the employ of the City. The Council values the contribution made by employees during their service, and views a gift and minor function to enable colleagues to farewell the departing employee as appropriate recognition.

2. SCOPE

The policy may be applied for employees voluntarily leaving the City of Busselton with a minimum of two years employment.

3. POLICY CONTENT

It is appropriate that employees are recognised for the contribution that they have made to the City of Busselton during their service.

Employees who have provided more than 2 years' service will be provided with a certificate of service. Additionally the Chief Executive Officer, on behalf of the Council, is authorised to make a contribution towards a gift up to the value outlined in the table below.

Years of Service	Council Contribution
>2, ≤5 Years	\$50
>5, ≤15 Years	\$100
>15, ≤20 Years	\$200
>20, ≤25 Years	\$350
>25 Years	\$500

Gifts enabled under this policy will generally be presented to the employee at a minor function authorised by the CEO for this purpose, to which other employees of the City of Busselton shall be invited. The Council contribution to an employee's function for this purpose is not to exceed \$200, except where special circumstances apply. Where special circumstances apply the CEO may approve up to an additional \$200 for this purpose.

If two or more employees depart the employ of the City at a similar time, one function shall wherever possible be held to achieve cost efficiencies.

4. APPLICATION OF THE POLICY

The policy shall be applied by Human Resources, at the discretion of the Chief Executive Officer taking into consideration employment history of the employee..

Policy Background

Policy Reference No. - 171

Last updated 22 August 2012

Owner Unit – Human Resources
Originator – Historical
Policy approved by – Council
Date Approved – For consideration
Review Frequency – As required
Related Documents – N/A

History

Council Resolution	Date	Information
C1208/234	22 August, 2012	Reconsideration of function requirements Version 2
		Version 1

7. GENERAL DISCUSSION ITEMS

The Director of Finance and Corporate Services provided the Committee with a copy of the current Policy 049 – Regional Price Preference, Part 4A – Regional Price Preference section of the Functions and General Regulations relating to the Local Government Act 1995 and a proposed revised Policy 049 – Regional Price Preference.

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

The committee has shown support for the Director of Finance and Corporate Services to meet with the Chamber to discuss the Local Government guidelines around this item. The Committee suggested that it may be appropriate to review the City's OPP for purchasing.

The Director of Finance and Corporate Services suggested that a report based on the above and the Committees recommendation could be presented to Council for consideration.

The Committee recommended that the revised Policy be presented to Council.

COMMITTEE RECOMMENDATION

PL1707/141 Moved Councillor G Henley, seconded Councillor C Tarbotton

That the Council:

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

CARRIED 5/0

Attachment B

Last updated 08/04/2015

049	Regional Price Preference	V3 Current
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1. PURPOSE

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

2. SCOPE

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

3. POLICY CONTENT

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

Part 1 Goods and Services

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

Part 2 Construction (building) Services

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

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

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

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

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

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

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

Last updated 08/04/2015

Policy Background

Policy Reference No. - 049

Owner Unit – Contracts and Tendering

Originator – Director, Finance and Corporate Services

Policy approved by – Council

Date Approved – 8 December 2010

Review Frequency – As required

Related Documents –

Local Government (Functions and General) Regulations 1996

History

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

8. NEXT MEETING DATE

Thursday, 17 August 2017

9. CLOSURE

The meeting closed at 12.22pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 32 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON THURSDAY, 17 AUGUST 2017.

DATE: _____

PRESIDING MEMBER: _____