

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 26 MAY 2016

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MINUTES

MINUTES OF A MEETING OF THE POLICY AND LEGISLATION COMMITTEE HELD IN MEETING ROOM A, CITY ADMINISTRATION SITE, HARRIS ROAD, BUSSELTON, ON 26 MAY 2016 AT 2.00PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 2.08pm.

2. ATTENDANCE

Presiding Member:

Cr Coralie Tarbotton

Members:

Cr Grant Henley
Cr Ross Paine
Cr Rob Bennett (from 2.08pm)
Cr Robert Reekie

Officers:

Mr Matthew Smith, Director, Finance and Corporate Services (until 3.05pm)
Mr Paul Needham, Director, Planning and Development Services (from 3.06pm)
Mr Owen Anderton, Senior Prosecutions and Policy Officer (from 3.06pm)
Miss Lynley Rich, Manager, Governance Services

Apologies

Nil

Approved Leave of Absence

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 24 March 2016

Committee Decision

PL1605/069 Moved Councillor G Henley, seconded Councillor R Reekie

That the Minutes of the Policy and Legislation Committee Meeting held 24 March 2016 be confirmed as a true and correct record.

CARRIED 4/0

2.08pm At this time Councillor Bennett entered the meeting.

6. REPORTS

6.1 TENDER PRE-SELECTION CRITERIA POLICY AND CEO DELEGATION

SUBJECT INDEX:	Authorised Delegation of Power / Authority
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Legal Services Coordinator - Cobus Botha
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

Under the *Local Government (Functions and General) Regulations 1996 (Tender Regulations)* a local government has the ability to make a preliminary selection from amongst prospective tenderers prior to inviting tenders for the supply of goods or services. This process enables a local government to limit the number of prospective tenders if and when considered to be advantageous to do so.

This report recommends to Council to delegate to the Chief Executive Officer (**CEO**) the power to make a preliminary selection in accordance with the Tender Regulations and to adopt the proposed Tender Pre Selection Criteria Policy (see OFFICER RECOMMENDATION for draft policy) that sets out the evaluation methodology and criteria to be applied by the CEO when making a decision under this delegation.

BACKGROUND

The City of Busselton is experiencing above average growth resulting in various major projects being approved and implemented by Council. These projects include major projects like redevelopment of the Busselton Foreshore, construction of a new civic and administration building and redevelopment of Busselton Regional Airport, which are in addition to the City's ongoing normal capital and maintenance works. The value of goods and services required for delivering these projects and the City's day-to-day functioning regularly exceeds the tender threshold under the Tender Regulations (\$150,000) which requires from Council to publicly invite tenders before entering into a contract for the supply of goods or services if the consideration is, or is expected to be, more than this threshold. Under certain circumstances (discussed under the OFFICER COMMENT section of this report) it may be advantageous to the City to implement a preliminary selection process in relation to a specific project for purposes of limiting the number of tenderers.

The preliminary selection process under the Tender Regulations involves to a large extent a relatively straight forward administrative process of assessing submissions in accordance with the evaluation methodology and selection criteria determined by Council, with limited scope for the exercise of discretion. Delegation of Council's power under the Tender Regulations to implement a preliminary selection process to the CEO will significantly improve the City's functionality without compromising statutory compliance or impacting on achieving best value for money. Therefore it is recommended that Council adopts the proposed Tender Pre Selection Criteria Policy and delegate to the CEO the power to implement, in accordance with the Tender Regulations and Tender Pre Selection Criteria Policy, a preliminary selection process if and when deemed appropriate or advantageous to the City.

STATUTORY ENVIRONMENT

Subject to certain exceptions, regulation 11(1) of the Tender Regulations requires for tenders to be publicly invited before a local government enters into a contract for the supply of goods or services of which the consideration is or is expected to be more than \$150,000. However in terms of regulation 21 of the Tender Regulations a local government may, prior to inviting tenders, follow a formal expression of interest process for the purpose of making a preliminary selection from amongst prospective tenderers in order to limit who can tender. Regulation 21 specifies as follows:

21. Limiting who can tender, procedure for

- (1) *If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services.*
- [(2) *deleted*]
- (3) *If a local government decides to seek expressions of interest before inviting tenders, Statewide public notice that expressions of interest are sought is to be given.*
 - (4) *The notice is required to include —*
 - (a) *a brief description of the goods or services required; and*
 - (b) *particulars identifying a person from whom more detailed information may be obtained; and*
 - (c) *information as to where and how expressions of interest may be submitted; and*
 - (d) *the date and time after which expressions of interest cannot be submitted.*

In terms of regulation 23(3) a local government is to decide which of the prospective tenderers who submitted expression of interest pursuant to a preliminary selection process, are considered to be capable of satisfactorily supplying the goods or services for purposes of preparing a shortlist of acceptable tenderers:

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

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

Regulation 14(2) provides further that, if the CEO prepared a shortlist of acceptable tenderers pursuant to regulation 23, instead of inviting tenders by giving Statewide public notice, invitations to tender may be limited to only those prospective tenderers who have been shortlisted.

To make a preliminary selection under these provisions formal Council resolutions are required (a) to resolve to make a preliminary selection from amongst prospective tenderers and (b) to decide which of the prospective tenderers would be capable of satisfactorily supplying the goods or services. Pursuant to sections 5.42 and 5.43 of the *Local Government Act 1995* Council have the power to delegate abovementioned powers to the CEO.

Adoption of the proposed Tender Pre Selection Criteria Policy will be consistent with section 2.7(2)(b) of the *Local Government Act 1995* which stipulates that it is the role of Council to determine the City's policies.

RELEVANT PLANS AND POLICIES

This report recommends a new Council policy.

FINANCIAL IMPLICATIONS

The Officer Recommendation does not limit Council's function or ability to approve the allocation of resources through the annual budget process in respect of all tenders that may be awarded by the City. Therefore adoption of the proposed Tender Pre Selection Criteria Policy will not have any direct financial implications.

Long-term Financial Plan Implications

The proposed policy and delegations to the CEO do not have any long term financial implications.

STRATEGIC COMMUNITY OBJECTIVES

The proposed Tender Pre Selection Criteria Policy and delegations to the CEO align with Strategic Community Objective 6.2 which requires for the City's governance systems to deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

Authorising the CEO to make a preliminary selection of prospective tenderers pursuant to regulations 21 and 23 of the Tender Regulations and adopting the Tender Pre Selection Criteria Policy for that purpose will allow for implementation of a relatively straight forward administrative process with limited scope for the exercise of discretion and is therefore considered low risk with no risks identified as "low" or greater.

CONSULTATION

Not applicable as the proposed delegations and policy relate to internal administrative processes only.

OFFICER COMMENT

In terms of the Tender Regulations Council may decide to seek expressions of interest from prospective tenderers before inviting tenders for the supply of specific goods or services. The aim of this preliminary selection process is to improve purchasing and tendering practices and procedures of local governments as it may, under certain circumstances, be advantageous to a local government if tenders were invited only from persons it considers to be capable of satisfactorily supplying the goods or services. These circumstances include instances where making a preliminary selection could result in significant cost savings for the City by not having to incur unnecessary costs and resources in relation to preparing and providing plans, specifications and other information to and/or assessing tender submissions from a large number of prospective tenderers who may not have the experience or capacity to satisfactorily deliver the goods or services required.

It is recommended that Council delegate its power to make a preliminary selection pursuant regulation 21 and Council's function to decide in accordance with regulation 23 which of the prospective tenderers to shortlist as acceptable tenderers, to the CEO. It is considered that such delegations will improve the City's administration and functionality and optimise staff resources. The proposed delegations will provide the CEO with limited scope for the exercise of discretion as the preliminary selection process is only a precursor to the tender process and involves to a large extent

a relatively straight forward administrative process of assessing submissions in accordance with the Tender Regulations and the proposed Tender Pre Selection Criteria Policy.

It is also recommended that Council adopt the Tender Pre Selection Criteria Policy to determine the acceptable evaluation methodology and criteria to be applied by the Chief Executive Officer when making a preliminary selection from among prospective tenderers under delegated authority. It is proposed that the Tender Pre Selection Criteria Policy should, for purposes of assessing expressions of interest pursuant to regulation 23 of the Tender Regulations, provide for:

- An evaluation methodology in terms of which:
 - Prospective tenderers' expressions of interest will be evaluated using information provided in the prescribed response form and attachments thereto. The evaluation methodology will include:
 - An evaluation panel will be appointed for the purpose of assessing and evaluating expressions of interest and making a recommendation to the CEO.
 - Expressions of interest will be checked for completeness and compliance.
 - Prospective tenderers may be required to clarify their expressions of interest, make a presentation, demonstrate the product/solution offered and/or open premises for inspection. Referees may also be contacted prior to shortlisting acceptable tenderers.
 - Prospective tenderers whose expressions of interest have not been rejected and are considered to be capable of satisfactorily supplying the goods or services may be short listed as acceptable tenderers.
- Compliance criteria which confirm the following statutory requirements:
 - An expression of interest is required to be rejected unless it is submitted at a place, and within the time, specified in the notice.
 - An expression of interest that is submitted at a place, and within the time, specified in the notice but that fails to comply with any other requirement specified in the notice may be rejected without considering its merits.
- The following qualitative criteria for assessing expression of interest in order to determine which, if any, of the respondents are to be considered acceptable tenderers:
 - Relevant experience in successfully undertaking and completing projects similar to the relevant project;
 - Employment/engagement of personnel with relevant experience and skills to undertake and successfully complete the relevant project;
 - Capacity and resources to successfully undertake and complete the relevant project; and
 - Demonstrate a required level of understanding of what is required to successfully deliver the relevant project.

CONCLUSION

To make a preliminary selection from among prospective tenderers and to decide which of the prospective tenderers are considered to be able successfully deliver the relevant project will streamline City operations and improve efficiency without compromising statutory compliance or impacting on achieving best value for money.

OPTIONS

Council may resolve not delegate to the CEO Council's powers/functions under regulations 21 and 23 of the Tender Regulations. For the reasons mentioned in this report this option is not recommended.

Council may consider a range of possible changes to the proposed Tender Pre Selection Criteria Policy. Note however that the proposed policy is based on an evaluation methodology and selection criteria which have successfully been used by the City for other major projects.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Tender Pre Selection Criteria Policy and recommended delegations will be effective immediately upon adoption by Council.

Committee Recommendation and Officer Recommendation

PL1605/070

Moved Councillor G Henley, seconded Councillor R Paine

ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED

That the Council:

- Adopts the Tender Pre Selection Criteria Policy:

[insert policy no]	Tender Pre Selection Criteria Policy	V1 Current
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1. PURPOSE

If a local government decides to make a preliminary selection from amongst prospective tenderers, it may seek expressions of interest with respect to the supply of the goods or services. Expressions of interest that have not been rejected under the Local Government (Functions and General) Regulations 1996 (Tender Regulations) are to be considered by the local government and it is to decide which, if any, of those expressions of interest are from persons who it thinks would be capable of satisfactorily supplying the goods or services.

This policy sets out the City of Busselton's acceptable evaluation methodology and criteria to be applied by the Chief Executive Officer when making a decision under delegated authority to decide which, if any, of those expressions of interest that are received, are from persons who he thinks to be capable of satisfactorily supplying the goods and services required for this purpose.

2. SCOPE

This policy applies to all decisions to be made by the Chief Executive Officer under delegated authority to decide whether expressions of interest received from prospective tenderers pursuant to a preliminary selection process under the Tender Regulations, are considered to be from a person capable of satisfactorily supplying the goods or services.

3. POLICY CONTENT

The evaluation methodology and standard selection criteria established for the purposes of regulation 23 of the Tender Regulations are as follows:

Evaluation Methodology

Respondents' expressions of interest (**EOI**) will be evaluated using information provided in the prescribed Response Form and attachments thereto and on the Respondents' response to the Selection Criteria. Such other information as is necessary in order to determine whether Respondents are acceptable tenderers may also be requested and taken into account.

The following evaluation methodology will be used:

- (a) An Evaluation Panel for the purpose of assessing and evaluating EOIs and making a recommendation to the Chief Executive Officer will be appointed.
- (b) EOIs will be checked for completeness and compliance.
- (c) EOIs that are not submitted at the place, or by the delivery method and within the time specified in the public notice inviting expressions of interest, will be rejected.
- (d) EOIs that are submitted at a place and within the time specified in the public notice, but fail to satisfy the Compliance Criteria, may be rejected by the without considering its merits.
- (e) EOIs which have not been rejected under paragraphs (c) and (d) will be assessed against the Selection Criteria.
- (f) Respondents may be required to clarify their EOI, make a presentation, demonstrate the product/solution offered and/or open premises for inspection. Referees may also be contacted prior to the shortlisting of Respondents.
- (g) Respondents whose EOI's have not been rejected and are considered to be capable of satisfactorily supplying the goods or services may be short listed as acceptable tenderers.

Compliance Criteria

- (a) An expression of interest is required to be rejected unless it is submitted at a place, and within the time, specified in the notice.
- (b) An expression of interest that is submitted at a place, and within the time, specified in the notice but that fails to comply with any other requirement specified in the notice may be rejected without considering its merits.

Qualitative Criteria

Subject to the Conditions of Responding, EOI'S will be assessed by the City against some or all of the following Qualitative Criteria:

A. Relevant Experience

The Respondent to describe:

1. The Respondent's experience, competency and proven track record in undertaking and

successfully completing projects similar to the Project, with the CEO to specify the details of such similar projects [which may include the scope, number, value and location of such similar projects and any other requirements/detail relevant to the Project] (**Relevant Projects**);

2. The Respondent's role in relation to the Relevant Projects; and
3. How the Respondent exercised sound judgment and discretion in identifying and resolving issues that arose during Relevant Projects and demonstrating how these were managed by the Respondent.

Supply details and provide this information in an attachment labelled "**Relevant Experience**".

B. Key Personnel skills and experience

Respondents to provide information regarding their employment/engagement of personnel with relevant experience and skills to undertake and successfully complete the Project, such as:

1. The personnel engaged and their curriculum vitae;
2. Their proposed role in the performance of the Project;
3. Their membership to any professional or business associations;
4. Their qualifications and experience, with particular emphasis on their experience with projects similar to the Project; and
5. Any additional information which may be relevant to the Project.

Supply details and provide this information in an attachment labelled "**Key Personnel Skills and Experience**".

C. Respondents' Capacity and Resources

Respondents to provide:

1. Information to demonstrate their ability to supply, manage and sustain:
 - (a) plant and equipment required for undertaking and completing the Project within the proposed timeframe;
 - (b) contingency measures or back up of resources (including personnel) which may be required in event of an emergency/special circumstances; and
 - (c) financial resources to successfully manage the cash flow requirements of the Project or such other cash flow requirements as specified.
2. A current commitment schedule and plant/equipment schedule.

Supply details and provide this information in an attachment labelled "**Respondent's Capacity and Resources**".

D. Demonstrated Understanding

Respondents to demonstrate their understanding of what is required to complete the Project. Areas which should be covered include (if applicable):

1. Demonstrated understanding of the scope of work;
2. The process/methodology which the Respondent proposes/intends to use to successfully

deliver the Project;

3. A project schedule/timeline;
4. Suppliers/manufacturers from whom/where goods/materials/products will be sourced; and
5. Contract management, training and quality assurance processes.

Supply details and provide an outline in an attachment labelled “**Demonstrated Understanding**”.

Policy Background

Policy Reference No. [insert no]

Owner Unit – Contracts and Tendering

Originator – Director, Finance and Corporate Services

Policy approved by – Council

Date Approved – [insert date]

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Delegation to CEO to :

- *decide to make a preliminary selection from amongst prospective tenderers and seek expressions of interest with respect to the supply of the goods or services;*
- *determine the selection criteria in accordance with Policy XXX **Tender Pre Selection Criteria Policy**; and*
- *decide which, if any, of those expressions of interest are from persons who he thinks would be capable of satisfactorily supplying the goods or services.*

Background/History - Initiated [insert date] to streamline tender processes and procedures

History

Council Resolution	Date	Information
C		

2. Delegates to the Chief Executive Officer the exercise of Council’s powers and discharge of its duties under regulation 21 of the *Local Government (Functions and General) Regulations 1996* to make a preliminary selection from amongst prospective tenderers, utilising the evaluation methodology and selection criteria under the *Tender Pre Selection Criteria Policy*; and
3. Delegates to the Chief Executive Officer the exercise of Council’s powers and discharge of its duties under regulation 23(3) of the *Local Government (Functions and General) Regulations 1996* to decide in accordance with the *Tender Pre Selection Criteria Policy* which, if any, of those expressions of interest received from prospective tenderers are from persons who he thinks would be capable of satisfactorily supplying the goods or services.

CARRIED 5/0

BY ABSOLUTE MAJORITY

6.2 STATUTORY REVIEW OF DELEGATIONS

SUBJECT INDEX:	Authorised Delegation of Power / Authority
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Support
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich Ranger and Emergency Services Coordinator - Dean Freeman
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Attachment A Delegations for Review

PRÉCIS

The *Local Government Act 1995* requires delegations made under that Act to be reviewed by the delegator at least once each financial year. This review is to fulfil that requirement for the 2015/2016 financial year. Additionally, delegations made under the *Cat Act 2011* and the *Dog Act 1976* are required to be reviewed once every financial year.

BACKGROUND

Council has the ability to delegate the exercise of powers and discharge of duties to its Chief Executive Officer or to Committees. These delegations are required to be reviewed by the delegator (in this case the Council) at least once 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. This review is to comply with the requirements of Section 5.46 of the Act. 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.

Section 5.16 of the Act provides the ability for powers and duties to be delegated to Committees. This review is to comply with the requirements of Section 5.18 of the Act.

The delegations must be contained in a register. Wherever a decision is 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

There are no plans or policies directly applicable to the review of delegations, while noting that several of the powers and duties delegated need to be carried out in accordance with applicable policy provisions.

FINANCIAL IMPLICATIONS

Nil, other than utilising delegated authority creates organisational efficiencies. Without a system of delegated authority in place, a significant number of day-to-day local government decisions would have to be referred to the Council as agenda reports.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

Delegations enable officers to carry out some of the powers and duties of the local government (the Council) which reduces the volume of matters being referred to Council for a decision. This can effectively reduce the turnaround time for some matters and enables the Council to use its time to undertake its more strategic role.

This contributes to the Strategic Community Objective of Governance systems that deliver responsible, ethical and accountable decision-making. It also provides for efficient and effective decision-making practices leading to a better use of limited resources.

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's Delegations guidelines.

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 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.

Delegations to the CEO

3A	Legislative Function To determine applications received by the City in accordance with any Local Law and to enforce the provisions of Local Laws.	The related documents in this delegation have been updated to reflect Local Laws made or repealed.
3B	Executive Function To determine applications received by the City to access, use or otherwise conduct activities on land or property.	This delegation is recommended for revocation as it is not required due to the power being covered either by the CEO's functions or by delegation 3A and the Property Local Law.
3D	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.
3E	General Procedure for Entering Property	A person requires authorisation in order

	To authorise persons on behalf of the local government for the purposes of discharging the duties under Section 3.31(2).	to enter property. This enables the CEO to authorise others instead of requiring Council approval.
3F	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.
3G	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.
3H	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.
3J	Inviting and Awarding Tenders 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 \$350,000, subject to conditions.	It is recommended that the contract value is increased to \$500,000 for the reasons discussed later in this report. The information contained in the delegation from the Functions and General Regulations has also been updated.
3K	Acquiring and Disposing of Property 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.	Enables the CEO to dispose of property of the local government and may include goods surplus to requirements, such as plant, office furniture etc.
3L	Airport Redevelopment Project - Inviting Tenders and Awarding Tenders 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 SWDC.	Due to the nature and scope of the airport redevelopment project a specific tender delegation to be exercised with agreement from the SWDC CEO was put in place by the Council. The information contained in the delegation from the Functions and General Regulations has also been updated.
5A	Provision of Urgent Legal Services To provide authorisation in accordance with Council policy "Legal Representation for Council members and employees" for urgent legal services to a maximum value of \$10,000.	
5B	Directions Regarding Unauthorised Development 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.	
6A	Payments from Municipal Fund and Trust Fund To exercise the powers and discharge the	Enables the payment of creditors without specific Council approval. All payments made must be reported to Council which

	duties of the local government in accordance with regulation 12 of the <i>Local Government (Financial Management) Regulations 1996</i> .	is undertaken with a monthly report via the Finance Committee.
6B	Power to Defer, Grant Discounts, Waive or Write Off Debts 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> .	Enables the CEO to deal with minor fee waivers, concessions and debt write-off requirements.
6C	Rates and Service Charges To exercise the powers and discharge the duties of the local government under Section 6.49, 6.50(1), 6.50(2), 6.56(1), 6.60(2), 6.60(3), 6.60(4), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4), 6.76(5), schedule 6.2 clause 1(1) and schedule 6.3 clauses 1(4) and 4(1).	Enables the CEO to determine due dates for rates and to take recovery action for unpaid rates.
6D	Investment To invest surplus funds in accordance with the Direct Investments section of the Council's investment policy.	Enables funds to be invested by the CEO as set out in the Council policy.
6E	Payments from Sponsorship and Donations Fund To determine the allocation of donations and sponsorships from the fund established for this purpose.	This delegation currently requires that individual payments do not generally exceed \$1,000.
9A	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> .	A person requires authorisation in order to take enforcement action. This enables the CEO to authorise others instead of requiring Council approval.
9B	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.	The CEO can authorise the affixing of the Common Seal so specific Council approval of each document is not required. It is also necessary for the document to be signed by the Mayor.
10A	Claims Against the Local Government To consider claims against the local government for damage to property and either accept or deny liability.	Intended only for minor claims within the City's insurance excess and there is a \$500 limit on the delegation.

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. Where a power or duty in the Act identifies the Council, the Council itself must carry out that function. It is noted that this does not prevent the local government from performing any of its functions by acting through a person other than the CEO, nor from a CEO from performing any of his or her functions by acting through another person.

The delegation relating to awarding tenders is proposed for an increase in the amount above which a tender cannot be determined under delegation. The tender threshold was recently increased to \$150,000 from \$100,000. Typically, operational contracts that need to be tendered are of three years duration and an increase would more readily enable award of a new contract. The current limit

is \$350,000, but with the increase of the tender threshold it is considered that an increase to \$500,000 is warranted. \$350,000 equates to \$50,000 above \$100,000 per year, and \$500,000 is representative of \$50,000 above \$150,000 per year. Additionally, an examination of upcoming contracts would indicate that some of the contracts associated with the City's foreshore works (concrete and aggregate footpaths for example) then may be able to be determined under delegation, while the more significant building contracts would still require full Council consideration.

Committee delegations

3I	Meelup Regional Park Management Committee When constituted for a formal meeting is delegated to adopt plans, policies or documents that relate to management of the Park, subject to conditions.
6F	Busselton Settlement Art Project Steering Committee To approve the disbursement of funds as approved by the Council in its annual budget for the purpose of raising funds for the project.
7A	Audit Committee To meet with the auditor on behalf of the local government in accordance with the requirements of Section 7.12A(2).

While a delegation was provided to the Busselton Settlement Art Project Steering Committee, it has not been utilised as the budget has been implemented by the City in consultation with the Committee. It is therefore recommended for revocation and for a review of the Committee's terms of reference to be undertaken to allow it to operate in a less formal manner.

Dog Act and Cat Act

CA1	Administration of the Cat Act Authority to exercise the functions in relation to the administration of the <i>Cat Act 2011</i> .
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.

The delegations to the CEO under the *Cat Act 2011* and the *Dog Act 1976* are recommended to continue unchanged.

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 duties delegated to the CEO or Committees, or that it wishes 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

PL1605/071 Moved Councillor R Paine, 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. delegates to the CEO of the City of Busselton in accordance with Section 5.42(1)(a) and (b) of the *Local Government Act 1995* the following powers and duties:

3A	Legislative Function To determine applications received by the City in accordance with a Local Law made by the City of Busselton 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.
3D	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) of the <i>Local Government Act 1995</i> .
3E	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) of the <i>Local Government Act 1995</i> .
3F	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) of the <i>Local Government Act 1995</i> .
3G	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) of the <i>Local Government Act 1995</i> .
3H	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 of the <i>Local Government Act 1995</i> and regulation 6(3) of the <i>Local Government (Functions and General) Regulations 1996</i> .
3J	Inviting Tenders and Choice of Tender To exercise the powers and discharge the duties of the local government under Regulation 14 of the <i>Local Government (Functions and General) Regulations</i> to publicly invite tenders by determining the written criteria for deciding which tender should be accepted. To exercise the powers and discharge the duties of the local government under Regulation 18 of the <i>Local Government (Functions and General) Regulations</i> relating to Choice of Tender. Conditions The delegation is subject to: 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.
3K	Acquiring and Disposing of Property To exercise the powers and discharge the duties of the local government under Sections 3.58(2) and 3.58(3) of the <i>Local Government Act 1995</i> , and further to

	<p>acquire property on the local government's behalf.</p> <p>Conditions</p> <p>The value of the property shall not exceed \$100,000 in accordance with Section 5.43(d) of the <i>Local Government Act 1995</i>.</p>
3I	<p>Airport Redevelopment Project - Inviting Tenders and Choice of Tender</p> <p>To exercise the powers and discharge the duties of the local government under Regulation 14 of the <i>Local Government (Functions and General) Regulations</i> to publicly invite tenders by determining the written criteria for deciding which tender should be accepted.</p> <p>To exercise the powers and discharge the duties of the local government under Regulation 18 of the <i>Local Government (Functions and General) Regulations</i> relating to choice of tender.</p> <p>To approve variations to contracts awarded under this delegation.</p> <p>Conditions</p> <p>The delegation is subject to:</p> <ol style="list-style-type: none"> Following the City's operational practice utilising tender evaluation processes and documentation; Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; Acceptance of a tender is not to exceed a contract value of \$1,000,000; Any contract variation is not to exceed 10% of the contract value; and The delegation to accept a tender can only be exercised with agreement from the CEO of the South West Development Commission.
5A	<p>Provision of Urgent Legal Services</p> <p>To provide authorisation in accordance with Council policy "Legal Representation for Council members and employees" for urgent legal services to a maximum of \$10,000.</p> <p>Conditions</p> <p>The determination must be made in accordance with the provisions of the Council policy "Legal Representation for Council members and employees".</p>
5B	<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>
6A	<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</i>, in relation to Section 6.10 of the <i>Local Government Act 1995</i>.</p>
6B	<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>Conditions</p> <p>Any waiver or granting of a concession shall only be for up to \$2000 and considered solely on its merits; and any debt write off approved shall be less than \$1000 if it is more than 12 months old or less than \$200 if it is between 90 days and 12 months old.</p>
6C	<p>Rates and Service Charges</p> <p>To exercise the powers and discharge the duties of the local government under Section 6.49, 6.50(1), 6.50(2), 6.56(1), 6.60(2), 6.60(3), 6.60(4), 6.64(1), 6.64(3), 6.71(1), 6.74(1), 6.76(4), 6.76(5), schedule 6.2 clause 1(1) and schedule 6.3 clauses 1(4) and 4(1) of the <i>Local Government Act 1995</i>.</p> <p>Conditions</p> <p>The delegation shall be exercised within the limitations identified in delegation LGA 3K regarding the value of property.</p>

6D	<p>Investment To invest surplus funds in accordance with the Direct Investments section of the Council's investment policy.</p> <p>Conditions Council approval is required for any investment in Managed Investments.</p>
6E	<p>Payments from Sponsorship and Donations Fund To determine the allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme.</p> <p>Conditions Individual payments from this fund are not to exceed \$1,000 unless consultation with the Finance Committee has first occurred.</p>
9A	<p>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>
9B	<p>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 and that is in one or more of the following categories -</p> <ol style="list-style-type: none"> 1. documents required to satisfy conditions of subdivision and/or development approval; 2. documents required to effect the transfer of land as part of a settlement transaction (sale and purchase); 3. documents required to secure the repayment of a loan granted by the City, a loan granted to the City by a third party and/or to secure the pre-funding of infrastructure works by the City; 4. documents required to effect the grant of leasehold interests in the land either by the City to a third party, or by a third party to the City; 5. documents required to effect the grant of a licence either by the City to a third party, or by a third party to the City; 6. documents required to effect the subdivision of land, including the strata titling of land; 7. documents which are capable of registration and/or lodgement at Landgate (WA Land Titles office); and 8. documents that are necessary or appropriate to enable a CEO to carry out his functions under any written law. <p>Conditions The document must not be inconsistent with a Council policy or resolution. While the CEO can authorise the affixing of the Common Seal to a document as classified, it is noted that it is also necessary for the document to be signed by both the Mayor and the CEO (or a senior employee authorised by the CEO).</p>
10A	<p>Claims Against the Local Government To consider claims against the local government for damage to property and either accept or deny liability.</p> <p>Conditions The claim shall not exceed \$500. Payment up to \$500 is able to be made upon receipt of a release form.</p>

2. revokes delegation 3B Executive Function;
3. delegates to the CEO of the City of Busselton in accordance with Section 44 of the *Cat Act 2011* the following powers and duties:

CA1	Administration of the Cat Act Authority to exercise the functions in relation to the administration of the <i>Cat Act 2011</i> .
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4. delegates to the CEO of the City of Busselton in accordance with Section 10AA(1) of the *Dog Act 1976* the following powers and duties:

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.
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5. revokes delegation 6F to the Busselton Settlement Art Project Steering Committee;
6. delegates to Committees in accordance with Section 5.16 of the *Local Government Act 1995* the following powers and duties:

3I	Meelup Regional Park Management Committee When constituted for a formal meeting is delegated to adopt plans, policies or documents that relate to management of the Park. Conditions The above power or duty is other than where those plans, policies or documents require adoption pursuant to a particular statutory power, and the Committee may not make any decision that would require expenditure of funds contrary to the adopted budget and any decisions shall not be actioned until the Committee meeting minutes have been formally received and noted by the Council.
7A	Audit Committee To meet with the auditor on behalf of the local government in accordance with the requirements of Section 7.12A(2) of the <i>Local Government Act 1995</i> .

CARRIED 5/0

BY ABSOLUTE MAJORITY

6.3 REVIEW OF COUNCILLORS' INDUCTION, TRAINING AND DEVELOPMENT POLICY

SUBJECT INDEX:	Councillors
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Support
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Councillors' Induction, Training and Development Policy

PRÉCIS

The Council policy relating to Councillors' Induction, Training and Development is presented for review in order to provide an equal allocation of the budget for training adopted by the Council for access by each Councillor and other related matters. It is recommended that the Council adopts the updated Councillors' Induction, Training and Professional Development Policy.

BACKGROUND

The policy was last reviewed in 2012 and this update is to provide for an individual allocation for each Councillor that was not previously included in the policy.

STATUTORY ENVIRONMENT

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

RELEVANT PLANS AND POLICIES

The Councillors' Induction, Training and Development policy is applied in accordance with the Fees, Allowances and Expenses for Elected Members policy to identify the costs that will be met by the Local Government for this purpose. In addition, there are specific requirements relating to conference attendance where significant travel is involved in accordance with Council policy 013.

FINANCIAL IMPLICATIONS

The draft budget includes an allocation for training and conference requirements for elected members of \$27,000. The policy seeks to provide an allocation of \$3,000 per Councillor for training and professional development purposes.

Long-term Financial Plan Implications

Nil.

STRATEGIC COMMUNITY OBJECTIVES

The Induction, Training and Development policy contributes to governance systems that deliver responsible, ethical and accountable decision-making.

RISK ASSESSMENT

Not required for a review of the policy.

CONSULTATION

The proposed changes to the policy have been discussed as part of the workshops for the development of the draft budget with relevant staff and Councillors.

OFFICER COMMENT

The policy continues to provide for a range of training and development opportunities for the Councillors, however, changes are proposed on the basis of identifying the desire for each Councillor to have an equal allocation of funds for training and conference attendance purposes that are applicable to their role.

In this regard, the Council policy relating to the specific requirements for conference attendance where significant travel is proposed is relevant. That policy provides that training and professional development is to be relevant to the functions of the City, provide scope for the skills acquired to be applied and that there shall be due regard for Committee and representative roles that the individual has been appointed to.

Changes to the policy have been identified in the attachment to the report. It is intended that any Councillor's unspent funds within a biennial election cycle will be carried forward into the following financial year's budget. It is noted that the training and professional development funds will be made available on a pro-rata basis in accordance with that election cycle.

CONCLUSION

The proposed policy is presented for Council's consideration. Should it be adopted, a register of training attendance and associated expenditure for each Councillor will be maintained to ascertain current funding availability for each Councillor.

OPTIONS

The Council could determine that changes to the policy are required or that a policy is not required in relation to this matter.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The policy will be effective immediately.

Committee Recommendation and Officer Recommendation

PL1605/072 Moved Councillor R Paine, seconded Councillor R Reekie

That the Council:

1. Adopts the updated Councillors' Induction, Training and Professional Development Policy:

098	Councillors' Induction, Training and Professional Development	V3 Draft
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1. PURPOSE

This policy is to provide a framework within which Councillors can have access to a range of development opportunities that will assist them to undertake their role, including but not limited to pre-election information sessions, induction programs, training programs and development opportunities throughout the elected term of office.

The City of Busselton has a budget allocation for the purpose of enabling Councillors to participate in development opportunities that will assist them to undertake their role and/or develop skills and competencies.

2. SCOPE

The policy provides that all Councillors can participate in development and training opportunities during their elected term of office, noting that where a term of office is less than the usual four-year term, access to a full range of opportunities may not be available within the term.

3. POLICY CONTENT

The City of Busselton will provide an induction, training and development program for Councillors that contributes to the corporate objectives by:

- Assisting prospective and new Councillors assimilate into the role;
- Assisting Councillors meet the demands upon them by developing the necessary skills through recognised training;
- Assisting Councillors achieve excellence in performance; and
- Ensuring Councillors work professionally in a team environment for the betterment of their constituents.

Councillors can attend various programs during their term of office, to assist their professional development and to provide them with enhanced skills to effectively maximise the benefits of the commitment they have given to their elected position.

Pre-election Information Sessions

This policy provides for the Chief Executive Officer to conduct a seminar for aspiring Councillors to be held prior to a Local Government election. The aim of this seminar would be to provide aspirants with an insight to the role of a Councillor and better prepare them for what lays ahead.

Induction Program

Following election, new Councillors will be guided through an in-house induction program, modelled on the Department of Local Government Councillor Induction Checklist, to provide them with all the information relevant to commencing their role as a Councillor. The provision of in-house information and training sessions is also encouraged after the completion of the induction program.

WALGA Training Program

The Western Australian Local Government Association offers a module-based training program that is standardised for WA Local Governments. Progressive participation in this program is encouraged and is considered to be the best opportunity outside of the organisation to develop relevant local government knowledge, including the opportunity to obtain a Diploma in Local Government by the completion of the course modules.

Local Government Week

Local Government Week is an annual networking and development opportunity for Councillors provided by the Western Australian Local Government Association. This is undertaken in conjunction with the association's Annual General Meeting at which the City of Busselton is entitled to have two delegates. It is usual that this will be the Mayor and Deputy Mayor, however, this may be passed to another Councillor or Councillors when one or both of the Mayor and Deputy Mayor are not in attendance.

In addition to the two delegate participants, opportunity exists for other Councillors and the CEO to attend Local Government Week.

Other Training and Development

Other training and development opportunities are identified from time to time by either an individual Councillor or the organisation, attendance at which may be approved where:

- The course or development opportunity is relevant to the functions of a Councillor; or
- The course or development opportunity is relevant to a Councillor's role of Council approved representative on a Council Committee or external body; and
- There is scope for application of skills acquired by the attendee at the City.

Approval Process

Applications from Councillors will be determined by the Mayor in consultation with the CEO with regard to applicability of the development opportunity to the Councillor's role and budget availability.

The application can only be approved where the costs including registration fees, travel, accommodation and an estimation of other expenses in accordance with Council Policy 001 can be accommodated within the approved allowance allocated to the Councillor for this purpose in accordance with the annual budget provision. The annual training budget determined by the Council will be equally allocated to each Councillor on a pro-rata basis in accordance with election dates. An individual's unspent funds can be carried forward for use within the biennial election cycle.

The CEO is to maintain a register of each Councillors' training and professional development expenses.

Nothing in this policy provision prevents the Council from approving additional funds to be accessible or the Council from approving a specific application that is outside of the existing budget.

Policy Background

Policy Reference No. - 098

Owner Unit – Governance Services

Originator – Manager, Governance Services

Policy approved by – Council

Date Approved – 13 June 2012

Review Frequency – As required

Related Documents –

Council Policy 001

Council Policy 013

History

Council Resolution	Date	Information
		Proposal to provide an equal allocation for use by each Councillor on approved training programs and Local Government Week attendance
C1206/138	13 June, 2012	Proposal to consolidate the Elected Member Induction, Training and Development Policy with the Local Government Week policy Version 2
		Version 1

CARRIED 5/0

- 3.05pm At this time the Director, Finance and Corporate Services left the meeting and did not return.
- 3.06pm At this time the Director, Planning and Development Services and the Senior Prosecutions and Policy Officer entered the meeting.

7. GENERAL DISCUSSION ITEMS

7.1 PARKING STALLS, PARKING STATIONS AND PARKING AREAS

SUBJECT INDEX:	Parking Local Laws
STRATEGIC OBJECTIVE:	Infrastructure assets are well maintained and responsibly managed to provide for future generations.
BUSINESS UNIT:	Environmental Services
ACTIVITY UNIT:	Ranger and Emergency Services
REPORTING OFFICER:	Ranger and Emergency Services Coordinator - Dean Freeman
AUTHORISING OFFICER:	Director, Planning and Development Services - Paul Needham
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

The City is in the process of reviewing parking controls established under the Parking Local Law and potential amendments are being considered, summarised as follows:

MINOR PARKING AMENDMENTS – (No prior public consultation considered necessary)

- Parking bay at Port Geographe marina boat ramp for Sea Rescue Service;
- Camilleri Street - timed parking out the front of the Salvation Army Store; and
- Albert Street – East Side – changing car bays to Bus bay on Southern side of road.
- Fairbairn Road

MAJOR PARKING AMENDMENTS (Public Consultation prior to submitting to Council)

- Yallingup Townsite;
- Fairbairn Road - No Parking between Brown and Camilleri Streets; and
- Dunsborough town centre parking control review.

The Committee discussed the review of parking controls throughout the City of Busselton, Officers advised that some of the proposed changes would be put out for public consultation prior to being considered by Council in a formal report.

8. NEXT MEETING DATE

Thursday, 16 June 2016

9. CLOSURE

The meeting closed at 3.56pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 26 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON THURSDAY, 16 JUNE 2016.

DATE: _____ PRESIDING MEMBER: _____