



Policy and Legislation Committee Agenda

26 May 2016

ALL INFORMATION AVAILABLE IN VARIOUS FORMATS ON REQUEST

CITY OF BUSSELTON

MEETING NOTICE AND AGENDA – 26 MAY 2016

TO: THE MAYOR AND COUNCILLORS

NOTICE is given that a meeting of the Policy and Legislation Committee will be held in the Meeting Room A, City Administration Site, Harris Road, Busselton on Thursday, 26 May 2016, commencing at 2.00pm.

The attendance of Committee Members is respectfully requested.



MIKE ARCHER

CHIEF EXECUTIVE OFFICER

20 May 2016

CITY OF BUSSELTON

AGENDA FOR THE POLICY AND LEGISLATION COMMITTEE MEETING TO BE HELD ON 26 MAY 2016

TABLE OF CONTENTS

| ITEM NO. | SUBJECT | PAGE NO. |
|----------|---|----------|
| 1. | DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS | 4 |
| 2. | ATTENDANCE | 4 |
| | Apologies | 4 |
| | Approved Leave of Absence | 4 |
| 3. | PUBLIC QUESTION TIME | 4 |
| 4. | DISCLOSURE OF INTERESTS | 4 |
| 5. | CONFIRMATION OF MINUTES | 4 |
| | 5.1 Minutes of the Policy and Legislation Committee held on 24 March 2016 | 4 |
| 6. | REPORTS | 5 |
| | 6.1 TENDER PRE-SELECTION CRITERIA POLICY AND CEO DELEGATION | 5 |
| | 6.2 STATUTORY REVIEW OF DELEGATIONS | 13 |
| | 6.3 REVIEW OF COUNCILLORS' INDUCTION, TRAINING AND DEVELOPMENT POLICY | 90 |
| 7. | GENERAL DISCUSSION ITEMS | 98 |
| | 7.1 PARKING STALLS, PARKING STATIONS AND PARKING AREAS | 98 |
| 8. | NEXT MEETING DATE | 99 |
| 9. | CLOSURE | 99 |

1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS**

2. **ATTENDANCE**

Apologies

Nil

Approved Leave of Absence

Nil

3. **PUBLIC QUESTION TIME**

4. **DISCLOSURE OF INTERESTS**

5. **CONFIRMATION OF MINUTES**

5.1 **Minutes of the Policy and Legislation Committee held on 24 March 2016**

RECOMMENDATION

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

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.

OFFICER RECOMMENDATION

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 |
|-----------------------|---|-------------------|

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.

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 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. |
| 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 | Enables the payment of creditors without specific Council approval. All payments |

| | | |
|------------|--|---|
| | 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> . | made must be reported to Council which 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.

OFFICER RECOMMENDATION**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*:

- 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 | <p>Legislative Function</p> <p>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.</p> |
| 3D | <p>Notices Requiring Things to be Done</p> <p>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>.</p> |
| 3E | <p>General Procedure for Entering Property</p> <p>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>.</p> |
| 3F | <p>Power to Remove and Impound</p> <p>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>.</p> |
| 3G | <p>Disposing of Uncollected Goods</p> <p>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>.</p> |
| 3H | <p>Thoroughfare Closure</p> <p>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>.</p> |
| 3J | <p>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>Conditions</p> <p>The delegation is subject to:</p> <ol style="list-style-type: none"> Utilising the standard selection criteria as per Policy 031; Following the City's operational practice utilising tender evaluation processes and documentation developed by WALGA; Compliance with the requirements of the City's Purchasing Policy as it relates to tendering; and Acceptance of a tender is not to exceed a contract value of \$500,000. |
| 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) of the <i>Local Government Act 1995</i>, and further to acquire property on the local government's behalf.</p> <p>Conditions</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> . |
| 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</p> <p>To invest surplus funds in accordance with the Direct Investments section of the</p> |

| | |
|------------|---|
| | <p>Council's investment policy.</p> <p>Conditions</p> <p>Council approval is required for any investment in Managed Investments.</p> |
| 6E | <p>Payments from Sponsorship and Donations Fund</p> <p>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</p> <p>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</p> <p>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</p> <p>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</p> <p>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</p> <p>To consider claims against the local government for damage to property and either accept or deny liability.</p> <p>Conditions</p> <p>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 | <p>Administration of the Cat Act</p> <p>Authority to exercise the functions in relation to the administration of the <i>Cat Act</i></p> |
|------------|--|

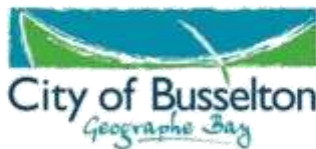
| | |
|--|-------|
| | 2011. |
|--|-------|

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 | <p>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.</p> |
|------------|--|

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 | <p>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.</p> |
| 7A | <p>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>.</p> |



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|---------------------------------------|-------------------------|---|
| 3A | Subdivision 2 of Division 2 of Part 3 | Chief Executive Officer | Legislative Function - Determining Applications Under Local Laws and Enforcement of Local Law Provisions |

Delegator

Council.

Power/Duty

To determine applications received by the City in accordance with a Local Law made by the City of Busselton (Shire of Busselton) in accordance with Subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* 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.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in any local law made in accordance with Part 3 of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

For the purposes of this delegation, related documents include:

Activities in Thoroughfares and Public Places and Trading Local Law

Busselton Regional Airport Local Law

Keeping and Control of Cats Local Law

Cemeteries Local Law

Depositing and Removal of Refuse Local Law

Dogs Local Law

Dust and Building Waste Control Local Law

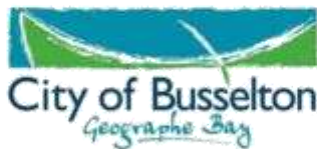
~~Eating Areas in Streets and Other Public Places Local Law~~

Health Local Law

Holiday Homes Local Law
~~Jetties Local Law~~
Local Government Property Local Law
Parking Local Law
~~Removal of Obstructing Vehicles and Animals Local Law~~
~~Signs Local Law~~
Standing Orders Local Law
~~Street Lawns and Gardens Local Law~~
~~Trading in Public Places Local Law~~
~~Use of Public Jetty Local Law~~

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995* and new title for local law.



INSTRUMENT OF DELEGATION

| Ref No | Act Ref | Delegate | Delegation Subject |
|---------------|-------------------------|-------------------------|---|
| 3B | Division 3 of Part 3 | Chief Executive Officer | Executive Function - Determining Applications in Relation to the Access or Use of City Property |

Delegator

Council.

Power/Duty

To determine applications received by the City to access, use or otherwise conduct activities on land or property that is owned by or vested with the City of Busselton.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in Division 3 of Part 3 of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

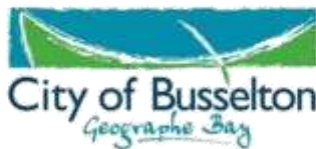
25 June, 2008 (implementation)

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|-------------------------------|-------------------------|---|
| 3D | 3.25(1) 3.26(2) 3.26(3) | Chief Executive Officer | Notices Requiring Certain Things to be Done by Owner or Occupier of Land and Additional Powers When Notice is Given |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 3.25(1), 3.26(2) and 3.26(3) of the *Local Government Act 1995*.

| |
|---|
| <p>Section 3.25(1) <i>A local government may give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice in writing relating to the land requiring the person to do anything specified in the notice that –</i> (a) <i>is prescribed in Schedule 3.1, Division 1; or</i> (b) <i>is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.</i></p> |
| <p>Explanatory note only Schedule 3.1, Division 1 Things a notice may require to be done</p> <ol style="list-style-type: none"> 1. Prevent water from dripping or running from a building on the land onto any other land. 2. Place in a prominent position on the land a number to indicate the address. 3. Modify or repair, in the interests of the convenience or safety of the public, anything constructed as mentioned in Schedule 9.1, clause 8, or repair any damage caused to the public thoroughfare or other public place mentioned in that clause. 4. <ol style="list-style-type: none"> (1) Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law – |

| | | |
|--|-----|--|
| | (a) | is suitably enclosed to separate it from the public place; and |
| | (b) | where applicable, is enclosed with a close fence, to the satisfaction of the local government, suitable to prevent sand or other matter coming from the land onto the public place. |
| 5. | (2) | The notice cannot be given to an occupier who is not an owner. |
| | (1) | Ensure that unsightly land is enclosed, to the satisfaction of the local government, with a fence or other means suitable to prevent the land, so far as is practicable, from being unsightly. |
| | (2) | In this item — |
| | | “unsightly”, in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality. |
| | (3) | The notice cannot be given to an occupier who is not an owner. |
| 5A. | (1) | Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy. |
| | (2) | In this item — |
| | | “disused material” includes disused motor vehicles, old motor vehicle bodies and old machinery. |
| 6. | | Take specified measures for preventing or minimizing sand drifts on the land that are likely to adversely affect other land. |
| 7. | | Ensure that land that adjoins a public thoroughfare or other public place that is specified for the purposes of this item by a local law is not overgrown. |
| 8. | | Remove all or part of a tree that is obstructing or otherwise prejudicially affecting a thoroughfare that is under the local government’s control or management and adjoins the land where the tree is situated. |
| 9. | | Ensure that a tree on the land that endangers any person or thing on adjoining land is made safe. |
| 10. | | Take specified measures for preventing or minimizing — |
| | (a) | danger to the public; or |
| | (b) | damage to property, which might result from cyclonic activity. |
| 11. | | Remove bees that are likely to endanger the safety of any person or create a serious public nuisance. |
| 12. | | Ensure that an unsightly, dilapidated or dangerous fence or gate that separates the land from land that is local government property is modified or repaired. |
| 13. | | Take specific measures to prevent — |
| | (a) | artificial light being emitted from the land; or |
| | (b) | natural or artificial light being reflected from something on the land, creating a nuisance. |
| 14. | (1) | Remove or make safe anything that is obstructing or otherwise prejudicially affecting a private thoroughfare so that danger to anyone using the thoroughfare is prevented or minimised. |
| | (2) | In this item — |
| | | “private thoroughfare” has the same meaning as in Schedule 9.1 clause 7(1). |
| Explanatory note only | | |
| Schedule 3.1, Division 2 | | |
| <u>Provisions contraventions of which may lead to a notice requiring things to be done</u> | | |
| 1. | | Regulations under Schedule 9.1, clause 3 (Obstructing or encroaching on public thoroughfare). |
| 1A. | | Regulations under Schedule 9.1, clause 5(1) (Gates and other devices across public thoroughfares) requiring a person to remove a gate or other device from across a public thoroughfare when requested by a local government to do so. |
| 2. | | Regulations under Schedule 9.1, clause 6 (Dangerous excavation in or near public thoroughfare). |
| 2A. | | Regulations under Schedule 9.1, clause 7(2) (Crossings from public thoroughfares to private land or to private thoroughfares) that — |
| | (a) | prohibit a person from constructing a crossing; or |
| | (b) | by means of a notice in writing given to a person by the Commissioner of Main Roads, require the person to bring a crossing into accordance with an approval by the Commissioner of Main Roads or to remove a crossing and restore the place where it was to its former condition. |
| 3. | | Regulations under Schedule 9.1, clause 8(1) (Constructing private works on, over, or under public places). |
| 4. | | Regulations under Schedule 9.1, clause 9 (Protection of watercourses, drains, tunnels and bridges). |
| 5. | | Regulations under Schedule 9.1, clause 10 (Protection of thoroughfares from water damage). |
| 6. | | Regulations under Schedule 9.1, clause 12 (Wind erosion and sand drifts). |

Section 3.26(2)

If the person who is given the notice ("notice recipient") fails to comply with it, the local government may do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.

Section 3.26(3)

The local government may recover the cost of anything it does under subsection (2) as a debt due from the person who failed to comply with the notice.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------|-------------------------|---|
| 3E | 3.31(2) | Chief Executive Officer | General Procedure for Entering Property |

Delegator

Council.

Power/Duty

To authorise persons on behalf of the local government for the purposes of discharging the duties under Section 3.31(2) of the *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Section 3.31(2)

If notice has been given under section 3.32, a person authorised by the local government to do so may lawfully enter the land, premises or thing without the consent of the owner or occupier unless the owner or occupier or a person authorised by the owner or occupier objects to the entry.

Explanatory note only

Section 3.32

- (1) A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.
- (2) The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.
- (3) The notice is to be given not less than 24 hours before the power of entry is exercised.
- (4) Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

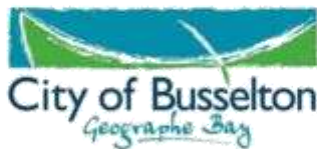
25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------------|-------------------------|---|
| 3F | 3.39 3.40A(1) | Chief Executive Officer | Power to Remove and Impound Goods or Abandoned Vehicle Wrecks |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Section 3.39

- (1) *An employee authorised by a local government for the purpose may remove and impound any goods that are involved in a contravention that can lead to impounding.*
- (2) *A person may use reasonable force to exercise the power given by subsection (1).*

Section 3.40A(1)

An employee authorised by a local government for the purpose may remove and impound a vehicle that, in the opinion of the local government, is an abandoned vehicle wreck.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

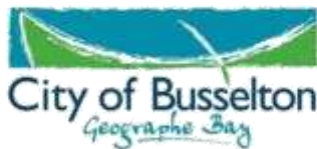
25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|---------------------|-------------------------|--------------------------------|
| 3G | 3.47(2) 3.47(2a) | Chief Executive Officer | Disposing of Uncollected Goods |

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Section 3.47(2) and 3.47(2a) of the *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 3.47(2) or 3.47(2a) of the *Local Government Act 1995*.

| |
|---|
| <p>Section 3.47(2) <i>The local government may sell or otherwise dispose of any vehicle that has not been collected within —</i> (a) 2 months of a notice having been given under section 3.40(3); or (b) 7 days of a declaration being made under section 3.40A(4) that the vehicle is an abandoned vehicle wreck.</p> |
| <p>Explanatory note only Section 3.40(3) If the person entitled to resume control of the vehicle is not present when the goods are unloaded or fails to resume control of the vehicle, the local government is to give notice to the person who is the holder of the requisite vehicle licence or permit under the Road Traffic Act 1974 in respect of the vehicle, advising that the vehicle may be collected from a place specified during such hours as are specified.</p> |
| <p>Explanatory note only Section 3.40A(4) If — (a) after 7 days from the removal of a vehicle under subsection (1), the owner of the vehicle has not been identified; or (b) after 7 days from being given notice under subsection (2), the owner of the vehicle has not collected the vehicle, the local government may declare that the vehicle is an abandoned vehicle wreck.</p> |

| |
|---|
| <p>Section 3.47(2a) <i>The local government may sell or otherwise dispose of impounded goods that have not been collected within the period specified in subsection (2b) of —</i></p> <p>(a) <i>a notice having been given under section 3.42(1)(b) or 3.44; or</i> (b) <i>being impounded if the local government has been unable, after making reasonable efforts to do so, to give that notice to the alleged offender.</i></p> |
| <p>Explanatory note only Section 3.47(2b) The period after which goods may be sold or otherwise disposed of under subsection (2a) is —</p> <p>(a) for perishable goods — 3 days; (b) for animals — 7 days; and (c) for other non-perishable goods — 2 months.</p> |
| <p>Explanatory note only Section 3.42(1)(b) requires the giving of a notice to the alleged offender that the goods may be collected from a place specified during such hours as are specified.</p> |
| <p>Explanatory note only Section 3.44 Where non-perishable goods have been removed and impounded under section 3.39 and a prosecution is instituted, if the alleged offender —</p> <p>(a) is not convicted; or (b) is convicted but the court does not order that the goods be confiscated, the local government is required to give the alleged offender notice that the goods may be collected from a place specified during such hours as are specified.</p> |

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|---|-------------------------|--|
| 3H | 3.50(1) 3.50(1a) 3.50(4) 3.50(6) 3.50A FG Reg 6(3) | Chief Executive Officer | Closing Certain Thoroughfares to Vehicles and Partial Closure of Thoroughfare for Repairs or Maintenance |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995* and regulation 6(3) of the *Local Government (Functions and General) Regulations 1996*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 3.50(1), 3.50(1a), 3.50(4), 3.50(6) and 3.50A of the *Local Government Act 1995* and regulation 6(3) of the *Local Government (Functions and General) Regulations 1996*.

Section 3.50(1)

A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

Section 3.50(1a)

A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

Section 3.50(4)

Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

- (a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;*
- (b) give written notice to each person who —
 - (i) is prescribed for the purposes of this section; or*
 - (ii) owns land that is prescribed for the purposes of this section;*and*
- (c) allow a reasonable time for submissions to be made and consider any submissions made.*

Section 3.50(6)

An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

Section 3.50A

Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure —

- (a) is for the purpose of carrying out repairs or maintenance; and*
- (b) is unlikely to have a significant adverse effect on users of the thoroughfare.*

Functions and General Regulation 6(3)

The local government may, by local public notice, order that the closure be revoked or that it be varied in such a way as to be less restrictive.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

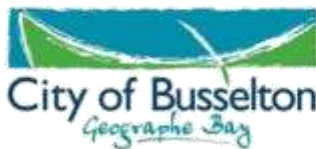
25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|---|-------------------------|---|
| 3J | 3.57 F and G Regs <u>11</u> , 14 and 18 | Chief Executive Officer | Inviting Tenders and Rejecting and <u>Accepting Tenders</u> |

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulation 14 of the *Local Government (Functions and General) Regulations* 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 *Local Government (Functions and General) Regulations* relating to ~~choice-rejecting and~~
accepting of tenders.

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 ~~\$350~~\$500,000.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 14 and Regulation 18 of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act Section 3.57.

Tenders for providing goods or services

(1) A local government is required to invite tenders before it enters into a contract of a prescribed

kind under which another person is to supply goods or services.

- (2) Regulations may make provision about tenders.

Functions and General Regulation 11. When tenders have to be publicly invited

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.

Functions and General Regulation 14. Requirements for publicly inviting tenders

- (2a) If a local government —

- (a) is required to invite a tender; or
(b) not being required to invite a tender, decides to invite a tender,

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

Functions and General Regulation 18. Rejecting and accepting tenders

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender.
- (6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local

government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

(7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1103/079

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

9 March, 2011 (implementation).

Related Documents

Tender Register.

Notes of Alterations

10/06/2015 – Increase of value to \$350,000

26/06/2013 – Increase of value to \$300,000 and other minor alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|--------------------|-------------------------|-------------------------------------|
| 3K | 3.58(2) 3.58(3) | Chief Executive Officer | Acquiring and Disposing of Property |

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Sections 3.58(2) and 3.58(3) of the *Local Government Act 1995*, and further to acquire property on the local government's behalf.

Conditions

The value of the property shall not exceed \$100,000 in accordance with Section 5.43(d) of the *Local Government Act 1995*.

Section 5.43(d)

A local government cannot delegate to a CEO any of the following powers or duties —

.....

- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph.*

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 3.58(2) and 3.58(3) of the *Local Government Act 1995*.

Section 3.58(2)

Except as stated in this section, a local government can only dispose of property to —

- (a) *the highest bidder at public auction; or*
- (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

Section 3.58(3)

A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

- (a) *it gives local public notice of the proposed disposition —*

- (i) describing the property concerned;*
(ii) giving details of the proposed disposition; and
(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
and
(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Nil.

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|-----------------------------------|-------------------------|--|
| 3L | 3.57 F and G Regs 14 and 18 | Chief Executive Officer | Airport Redevelopment Project - Inviting Tenders and Choice of Tenders Rejecting and Accepting Tenders |

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government under Regulation 14 of the *Local Government (Functions and General) Regulations* 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 *Local Government (Functions and General) Regulations* relating to ~~choice of tender~~rejecting and accepting tenders.

To approve variations to contracts awarded under this delegation.

Conditions

The delegation is subject to:

- a) Following the City's operational practice utilising tender evaluation processes and documentation;
- b) Compliance with the requirements of the City's Purchasing Policy as it relates to tendering;
- c) Acceptance of a tender is not to exceed a contract value of \$1,000,000;
- d) Any contract variation is not to exceed 10% of the contract value; and
- e) The delegation to accept a tender can only be exercised with agreement from the CEO of the South West Development Commission.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in section 3.57 of the *Local Government Act 1995* and part of Regulation 14 and Regulation 18 of the *Local Government (Functions and General) Regulations 1996*.

Local Government Act Section 3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Functions and General Regulation 14. Requirements for publicly inviting tenders

- (2a) If a local government —
 - (a) is required to invite a tender; or
 - (b) not being required to invite a tender, decides to invite a tender,the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

Functions and General Regulation 11. When tenders have to be publicly invited

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.

Functions and General Regulation 18. Rejecting and accepting tenders

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender.
- (3) If, under regulation 23(4), the CEO has prepared a list of acceptable tenderers for the supply of goods or services, a tender submitted by a person who is not listed as an acceptable tenderer is to be rejected.
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them (if any) it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.

(5) The local government may decline to accept any tender.

(6) If a local government has accepted a tender but acceptance of the tender does not create a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree not to enter into a contract in relation to the tender, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

(7) If a local government has accepted a tender and acceptance of the tender creates a contract and within 6 months of the day on which the tender was accepted the local government and the successful tenderer agree to terminate the contract, the local government may accept from the other tenders the tender which it thinks it would be most advantageous to the local government to accept.

Verification

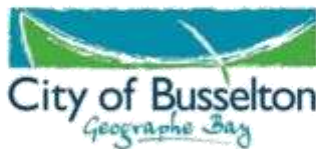
Council Resolution
C1508/219

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

12 August, 2015



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------|-------------------------|------------------------------------|
| 5A | 5.42(1)(a) | Chief Executive Officer | Provision of Urgent Legal Services |

Delegator

Council.

Power/Duty

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.

Conditions

The determination must be made in accordance with the provisions of the Council policy "Legal Representation for Council members and employees".

| |
|---|
| <p>Legal Representation for Council Members and Employees</p> <p>1.0 PURPOSE</p> <p>This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in legal proceedings because of their official functions. In most situations the City of Busselton may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings. In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district.</p> <p>2.0 SCOPE</p> <p>The policy applies to any current or former Council member or employee of the City of Busselton, subject to meeting the criteria set out in the policy.</p> <p>3.0 POLICY CONTENT</p> <p>3.1 Definitions</p> <p>approved lawyer is to be –</p> <p>(a) a 'certified practitioner' under the <i>Legal Practice Act 2003</i>;</p> <p>(b) approved in writing by the Council or the CEO under delegated authority.</p> <p>council member or employee means a current or former Council member or employee of the City of Busselton.</p> |
|---|

| |
|---|
| <p>legal proceedings may be civil, criminal or investigative.</p> <p>legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer.</p> <p>legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.</p> <p>legal services includes advice, representation or documentation that is provided by an approved lawyer.</p> <p>payment by the City of Busselton of legal representation costs may be either by –</p> <ul style="list-style-type: none">(a) a direct payment to the approved lawyer (or the relevant firm); or(b) a reimbursement to the Council member or employee. <p>3.2 Payment Criteria</p> <p>There are four major criteria for determining whether the City of Busselton will pay the legal representation costs of a Council member or employee. These are –</p> <ul style="list-style-type: none">(a) the legal representation costs must relate to a matter that arises from the performance, by the Council member or employee, of his or her functions;(b) the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced;(c) in performing his or her functions, to which the legal representation relates, the Council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and(d) the legal representation costs do not relate to a matter that is of a personal or private nature. <p>3.3 Examples of legal representation costs that may be approved</p> <p>If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –</p> <ul style="list-style-type: none">(a) where proceedings are brought against a Council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the Council member or employee; or(b) to enable proceedings to be commenced and/or maintained by a Council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the Council member or employee; or(c) where exceptional circumstances are involved. <p>The City will not approve, unless under exceptional circumstances, the payment of legal representation costs for a defamation action, or a negligence action, instituted by a Council member or employee.</p> <p>3.4 Application for payment</p> <p>A Council member or employee who seeks assistance under this policy is to make an application(s), in writing, to the Council or the CEO. The written application for payment of legal representation costs is to give details of –</p> <ul style="list-style-type: none">(a) the matter for which legal representation is sought;(b) how that matter relates to the functions of the Council member or employee making the application;(c) the lawyer (or law firm) who is to be asked to provide the legal representation; |
|---|

- (d) the nature of legal representation to be sought (such as advice, representation in court, preparation of a document etc);
- (e) an estimated cost of the legal representation; and
- (f) why it is in the interests of the City for payment to be made.

The application is to contain a declaration by the applicant that he or she has acted in good faith, and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter. As far as possible the application is to be made before commencement of the legal representation to which the application relates.

The application is to be accompanied by a signed written statement by the applicant that he or she –

- (a) has read, and understands, the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with the provisions of clause 3.9 of this policy.

An application is also to be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee.

3.5 Legal representation costs – Limit

The council in approving an application in accordance with this policy shall set a limit on the costs to be paid. A council member or employee may make a further application to the council in respect of the same matter.

3.6 Decision process and conditions

The council may –

- (a) refuse;
- (b) grant; or
- (c) grant subject to conditions

an application for payment of legal representation costs.

Conditions may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment, and repayment, of legal representation costs.

In assessing an application, the Council may have regard to any insurance benefits that may be available to the applicant under the City's Council members' or employees' insurance policy or its equivalent.

3.7 Revocation and variation

The Council may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.

The Council may, subject to natural justice principles, determine that a Council member or employee whose application has been approved has, in respect of the matter for which the approval was made –

- (a) not acted in good faith, or has acted unlawfully or in a way that constitutes improper conduct; or
- (b) given false or misleading information in respect of the application

and require the repayment by the Council member or employee the legal representation costs paid by the City.

3.8 Delegation to Chief Executive Officer

In cases where a delay in the approval of an application will be detrimental to the legal rights of the applicant, the CEO may exercise, on behalf of the council, the powers of the council under clause 3.6 to determine the application and set conditions, to a maximum of \$10,000 in respect of each application.

An application approved by the CEO is to be submitted to the next ordinary meeting of the Council. Council may exercise any of its powers under this Policy.

3.9 Repayment of legal representation costs

A Council member or employee whose legal representation costs have been paid by the City is to repay the City –

- (a) all or part of those costs – in accordance with a determination by the Council under clause 3.7;
- (b) as much of those costs as are available to be paid by way of set-off – where the Council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid legal representation costs.

The City may take action in a court of competent jurisdiction to recover any monies due to it under this Policy.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/166

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Legal Representation Policy.

Notes of Alterations

27/06/2012 – New policy adopted.

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------|-------------------------|---|
| 5B | 5.42(1)(b) | Chief Executive Officer | Directions regarding unauthorised development |

Delegator

Council.

Power/Duty

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.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(b) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 214(2), 214(3) and 214(5) of the *Planning and Development Act 2005*.

Section 214(2) - Planning and Development Act 2005

(2) If a development, or any part of a development, is undertaken in contravention of a planning scheme or an interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person undertaking that development to stop, and not recommence, the development or that part of the development that is undertaken in contravention of the planning scheme, interim development order or planning control area requirements.

Section 214(3) - Planning and Development Act 2005

(3) If a development has been undertaken in contravention of a planning scheme or interim development order or in contravention of planning control area requirements, the responsible authority may give a written direction to the owner or any other person who undertook the development –

(a) to remove, pull down, take up, or alter the development; and

(b) to restore the land as nearly as practicable to its condition immediately before the development started, to the satisfaction of the responsible authority.

Section 214(5) - Planning and Development Act 2005

(5) If it appears to a responsible authority that delay in the execution of any work to be executed under a planning scheme or interim development order would prejudice the effective operation of the planning scheme or interim development order, the responsible authority may give a written direction to the person whose duty it is to execute the work to execute that work.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Last Review Date

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011 (date of implementation)

Related Documents

Planning and Development Act 2005.

Notes of Alterations



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|---------------------|-------------------------|--|
| 6A | FM Reg 12 (6.10) | Chief Executive Officer | Payments From Municipal Fund or Trust Fund |

Delegator

Council.

Power/Duty

To exercise the powers and discharge the duties of the local government in accordance with regulation 12 of the *Local Government (Financial Management) Regulations 1996*, in relation to Section 6.10 of the *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Section 6.10

Regulations may provide for —

- (d) *the general management of, and the authorisation of payments out of —*
 - (i) *the municipal fund; and*
 - (ii) *the trust fund,*
- of a local government.*

Financial Management Regulation 12

(1) *A payment may only be made from the municipal fund or the trust fund —*

- (a) *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO.*

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|-------------------------------------|-------------------------|---|
| 6B | 6.12(1)(b) 6.12(1)(c) 6.12(3) | Chief Executive Officer | Power to Defer, Grant Discounts, Waive or Write Off Debts |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995*.

Conditions

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.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 6.12(1)(b), 6.12(1)(c) and 6.12(3) of the *Local Government Act 1995*.

Section 6.12(1)

Subject to subsection (2) and any other written law, a local government may —

.....

(b) waive or grant concessions in relation to any amount of money; or

(c) write off any amount of money,

which is owed to the local government.

Explanatory note only

Section 6.12(2)

Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

Section 6.12(3)

The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

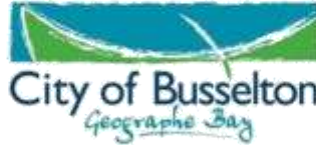
24 June, 2009

25 June, 2008 (implementation).

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995* and removal of requirement limiting fee waiver or concession to not-for-profit organisations. Increase of waiver or concession limit to \$2000.

23/06/2010 - Requirement for any fee waiver or debt write off to be \$1000 or less included as a condition by the Council.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|--|-------------------------|---------------------------|
| 6C | 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) Sch 6.2 1(1) Sch 6.3 1(4) Sch 6.3 4(1) | Chief Executive Officer | Rates and Service Charges |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995*.

Conditions

The delegation shall be exercised within the limitations identified in delegation LGA 3K regarding the value of property.

The value of the property shall not exceed \$100,000 in accordance with Section 5.43(d) of the Local Government Act 1995.

Section 5.43(d)

A local government cannot delegate to a CEO any of the following powers or duties —

.....

- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph.*

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995* to delegate to the CEO the discharge of its powers and duties provided for in sections 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 *Local Government Act 1995*.

Section 6.49

A local government may accept payment of a rate or service charge due and payable by a person in accordance with an agreement made with the person.

Section 6.50(1)

Subject to –

- (a) subsections (2) and (3);*
- (b) any concession granted under section 6.47; and*
- (c) the Rates and Charges (Rebates and Deferments) Act 1992,*

a rate or service charge becomes due and payable on such date as is determined by the local government.

Explanatory note only

Section 6.50(2)

The date determined by a local government under subsection (1) is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued.

Explanatory note only

Section 6.50(3)

Where a person elects to pay a rate or service charge by instalments the second and each subsequent instalment does not become due and payable at intervals of less than 2 months.

Explanatory note only

Section 6.47

Subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

* Absolute majority required.

Section 6.50(2)

The date determined by a local government under subsection (1) is not to be earlier than 35 days after the date noted on the rate notice as the date the rate notice was issued.

Section 6.56(1)

If a rate or service charge remains unpaid after it becomes due and payable, the local government may recover it, as well as the costs of proceedings, if any, for that recovery, in a court of competent jurisdiction.

Section 6.60(2)

If payment of a rate or service charge imposed in respect of any land is due and payable, notice may be given to the lessee of the land requiring the lessee to pay to the local government any rent as it falls due in satisfaction of the rate or service charge.

Section 6.60(3)

The local government is to give to the lessor a copy of the notice with an endorsement that the original of

it has been given to the lessee.

Section 6.60(4)

The local government may recover the amount of the rate or service charge as a debt from the lessee if rent is not paid in accordance with the notice.

Section 6.64(1)

If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and —

- (a) from time to time lease the land;
- (b) sell the land;
- (c) cause the land to be transferred to the Crown; or
- (d) cause the land to be transferred to itself.

Section 6.64(3)

Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.

Section 6.71(1)

If under this Subdivision land is offered for sale but at the expiration of 12 months a contract for the sale of the land has not been entered into by the local government, it may by transfer, where the land is subject to the provisions of the Transfer of Land Act 1893, and by deed, where the land is not subject to the provisions of that Act, transfer or convey the estate in fee simple in the land to —

- (a) the Crown in right of the State; or
- (b) the local government.

Section 6.74(1)

If land is —

- (a) rateable land;
- (b) vacant land; and
- (c) land in respect of which any rates or service charges have been unpaid for a period of at least 3 years,

the local government in whose district the land is situated may apply in the form and manner prescribed to the Minister to have the land revested in the Crown in right of the State.

Section 6.76(4)

The local government may, on application by a person proposing to make an objection, extend the time for making the objection for such period as it thinks fit.

Section 6.76(5)

The local government is to promptly consider any objection and may either disallow it or allow it, wholly or in part.

Schedule 6.2, Clause 1(1)

Form of Lease

The local government —

- (a) may lease the land for such term, not exceeding 7 years at one time, as it thinks fit; and
- (b) may make such reservations and such exceptions, covenants and conditions in the lease, except a

covenant for renewal of the term of the lease if the renewal would extend the term beyond 7 years, as it thinks fit.

Schedule 6.3, Clause 1(4)

Conditions for Exercise of Power for Sale of Land

The local government is to appoint a time not less than 3 months and not more than 12 months from the service of the notices required by this clause as the time at which the land may be offered for sale by public auction.

Schedule 6.3, Clause 4(1)

Power of local government to transfer or convey land

A local government exercising the power of sale of any land has power —

- (a) by transfer, where the land is under the Transfer of Land Act 1893; and*
 - (b) by deed or transfer, where the land is not under that Act,*
- to transfer or convey to the purchaser an indefeasible estate in fee simple subject only to the encumbrances specified in section 6.75(1)(c), (d) or (e).*

Explanatory note only

Section 6.75(1)

Where, at the expiration of 12 years from the taking of possession of any rateable land by a local government under section 6.64 —

.....

by operation of this section the fee simple in the land is to be transferred to the local government subject to —

- (c) easements in favour of the public which affect the land;*
- (d) the rights of the Crown in right of the State or Commonwealth or a department, agency, or instrumentality of the Crown in right of the State or Commonwealth; and*
- (e) rates and taxes (other than local government rates and service charges) due on the land, but free from other encumbrances.*

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Rates and Charges (Rebates and Deferments) Act 1992

Transfer of Land Act 1893

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|-------------------|-------------------------|-----------------------------|
| 6D | 6.14 | Chief Executive Officer | Investment of Surplus Funds |

Delegator

Council.

Power/Duty

To invest surplus funds in accordance with the Direct Investments section of the Council's investment policy.

Conditions

Council approval is required for any investment in Managed Investments.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1001/021

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

27 January, 2010 (implementation).

Related Documents

City of Busselton Investment Policy

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|-------------------|-------------------------|--|
| 6E | 6.10 | Chief Executive Officer | Payments from Sponsorship and Donations Fund |

Delegator

Council.

Power/Duty

To determine the allocation of donations and sponsorships from the fund established for this purpose in accordance with the Council's tiered funding scheme.

Conditions

Individual payments from this fund are not to exceed \$1,000 unless consultation with the Finance Committee has first occurred.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1110/333

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

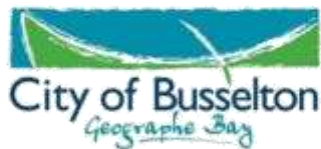
26 June, 2013

26 October, 2011 (implementation).

Notes of Alterations

10/06/2015 – Limit increased to \$1,000.

25/06/2014 – Capacity given for payments to exceed \$500 if consultation with the Finance Committee has first occurred.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|--------------------|-------------------------|-----------------------------------|
| 9A | 9.10(1) 9.10(2) | Chief Executive Officer | Appointment of Authorised Persons |

Delegator

Council.

Power/Duty

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 *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Section 9.10(1)

The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

Section 9.10(2)

The local government is to issue to each person so authorised a certificate stating that the person is so authorised, and the person is to produce the certificate whenever required to do so by a person who has been or is about to be affected by any exercise of authority by the authorised person.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------|-------------------------|--|
| 9B | 9.49A(2) | Chief Executive Officer | Authorising the Affixing of the Common Seal to Documents |

Delegator

Council.

Power/Duty

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 -

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.

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).

Section 5.37

A senior employee is an employee who has been appointed in accordance with Section 5.37 of the Local Government Act.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Section 9.49A(2)

The Common Seal of a local government is not to be affixed to any document except as authorised by the local government.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1005/169

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

26 May, 2010 (implementation).

Notes of Alterations

22/06/2011 - Update to refer to the correct section of the *Local Government Act 1995*.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|--------|------------|-------------------------|-------------------------------------|
| 10A | 5.42(1)(a) | Chief Executive Officer | Claims Against the Local Government |

Delegator

Council.

Power/Duty

To consider claims against the local government for damage to property and either accept or deny liability.

Conditions

The claim shall not exceed \$500. Payment up to \$500 is able to be made upon receipt of a release form.

Statutory Framework

Council is exercising its power of delegation under Section 5.42(1)(a) of the *Local Government Act 1995*.

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.46(2) of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

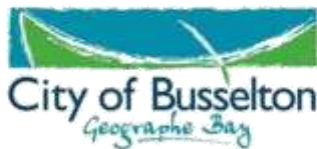
23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Notes of Alterations

25/06/2014 – Increase of the amount up to which a claim can be accepted from \$300 to \$500.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|----------------------------|--|--|
| 3I | 3.54(1) 5.16 5.17(c) | Meelup Regional Park Management Committee | Reserve Under the Control of the Local Government |

Delegator

Council.

Power/Duty

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.

Statutory Framework

Council is exercising its power of delegation under Section 5.16 of the *Local Government Act 1995* to delegate to a Committee the discharge of certain powers and duties in accordance with Section 5.17(c).

Verification

Council Resolution
C1510/296

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1006/217

Council Resolution
C0906/243

Council Resolution
C0806/188

Review Requirements

In accordance with the requirements of Section 5.18 of the *Local Government Act 1995*, at least once every financial year.

Review Dates

14 October, 2015

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

23 June, 2010

24 June, 2009

25 June, 2008 (implementation).

Related Documents

Meelup Regional Park Management Committee's Terms of Reference.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|-------------------|---|--|
| 6F | 6.7(2) | Busselton Settlement Art Project Steering Committee | Approval of fundraising activities funding |

Delegator

Council.

Power/Duty

To approve the disbursement of funds as approved by the Council in its annual budget for the purpose of raising funds for the project.

Conditions

The budget provided by the Council is to be used for fundraising events and initiatives, including the marketing and promotion of such events and initiatives.

Statutory Framework

Council is exercising its power of delegation under Section 5.16 of the *Local Government Act 1995* to delegate to a Committee the discharge of certain powers and duties in accordance with Section 5.17(c).

Verification

Council Resolution
C1510/294

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/139

Review Requirements

In accordance with the requirements of Section 5.18 of the *Local Government Act 1995*, at least once every financial year.

Review Dates

14 October, 2015

10 June, 2015

25 June, 2014

12 June, 2013 (implementation).

Related Documents

Busselton Settlement Art Project Steering Committee's Terms of Reference.



INSTRUMENT OF DELEGATION

| Ref No | LG Act Ref | Delegate | Delegation Subject |
|---------------|-------------------|-----------------|---------------------------|
| 7A | 7.12A(2) | Audit Committee | Meeting with the Auditor |

Delegator

Council.

Power/Duty

To meet with the auditor on behalf of the local government in accordance with the requirements of Section 7.12A(2) of the *Local Government Act 1995*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 5.16 of the *Local Government Act 1995* to delegate to a Committee the discharge of certain powers and duties in accordance with Section 5.17(c).

Verification

Council Resolution
C1506/161

Council Resolution
C1406/161

Council Resolution
C1306/168

Council Resolution
C1206/167

Council Resolution
C1106/199

Council Resolution
C1001/015

Review Requirements

In accordance with the requirements of Section 5.18 of the *Local Government Act 1995*, at least once every financial year.

Review Dates

10 June, 2015

25 June, 2014

26 June, 2013

27 June, 2012

22 June, 2011

27 January, 2010 (implementation).

Related Documents

City of Busselton Audit Committee Terms of Reference.



INSTRUMENT OF DELEGATION

| Ref No | Act Ref | Delegate | Delegation Subject |
|--------|--------------|-------------------------|-------------------------------|
| CA1 | Cat Act 2011 | Chief Executive Officer | Administration of the Cat Act |

Delegator

Council.

Power/Duty

Authority to exercise the functions in relation to the administration of the *Cat Act 2011*.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 44 of the *Cat Act 2011*.

Verification

Council Resolution
C1506/161

Council Resolution
C1310/285

Review Requirements

In accordance with the requirements of Section 47 of the *Cat Act 2011*, at least once every financial year.

Review Dates

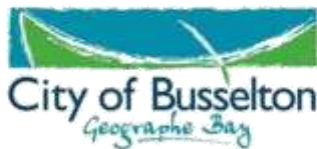
10 June, 2015

30 October, 2013 (implementation).

Related Documents

Cat Local Law

Notes of Alterations



INSTRUMENT OF DELEGATION

| Ref No | Act Ref | Delegate | Delegation Subject |
|---------------|----------------|-------------------------|--|
| DA1 | Dog Act 1976 | Chief Executive Officer | Appointment of Authorised Persons and Registration Officers |

Delegator

Council.

Power/Duty

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.

Conditions

Nil.

Statutory Framework

Council is exercising its power of delegation under Section 10AA(1) of the *Dog Act 1976*.

Verification

Council Resolution
C1506/161

Council Resolution
C1312/328

Review Requirements

In accordance with the requirements of Section 10AB of the *Dog Act 1976*, at least once every financial year.

Review Dates

10 June, 2015

11 December, 2013 (implementation).

Related Documents

Dog Local Law

Notes of Alterations

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.

OFFICER RECOMMENDATION

That the Council:

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

| | | |
|-----|---|----------|
| 098 | Councillors' Induction, Training and Professional Development | V3 Draft |
|-----|---|----------|

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 |

Last updated 13 June 2012

| | | | |
|-----|--|--------------|-----------------------|
| 098 | Councillors' Induction, Training and Development | Professional | V2—CurrentV3 Draft |
|-----|--|--------------|-----------------------|

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.

Last updated 13 June 2012

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 in a non-delegate observer capacity. It is intended that all Councillors will be given the opportunity to attend a Local Government Week Convention during their time as an elected member.

Determination of the appropriate number of attendees in any year will be based on:

- The program being offered;
- The number of Councillors interested in attending;
- Previous attendance; and
- Budget availability

It would be usual for up to three non-delegate observers to be considered, which may or may not include the Chief Executive Officer.

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.

Last updated 13 June 2012

Approval Process

Applications from Councillors will be determined by the ~~Mayor~~~~President and Deputy President~~ in consultation with the CEO with regard to applicability of the development opportunity to the Councillor's role and budget availability. ~~It is intended that the budget allocation for Councillors will be applied in a consistent and fair manner without patronage.~~

The application can only be approved where the costs including professional registration fees, travel, accommodation and an estimation of other expenses in accordance with Council Policy 001 can be accommodated within the approved budget 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 001N/A

History

| Council Resolution | Date | Information |
|--------------------|---------------|--|
| | | <u>Proposal to provide an equal allocation for use by each Councillor on approved training programs and Local Government Week attendance</u> |
| 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 |

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;
- Cammilleri 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.

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

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

8. **NEXT MEETING DATE**

9. **CLOSURE**