

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

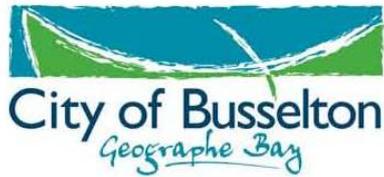
~~Street Lawns and Gardens Local Law~~

~~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

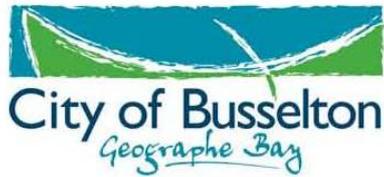
25 June, 2008 (implementation)

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*.

Section 3.25(1)

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 –

- (a) is prescribed in Schedule 3.1, Division 1; or*
- (b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.*

Explanatory note only

Schedule 3.1, Division 1

Things a notice may require to be done

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.
 - (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.
5A.	(3)	The notice cannot be given to an occupier who is not an owner.
	(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

Provisions contraventions of which may lead to a notice requiring things to be done

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

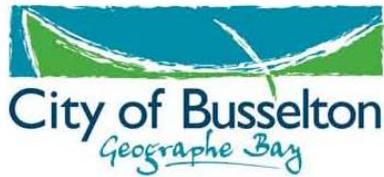
25 June, 2008 (implementation).

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

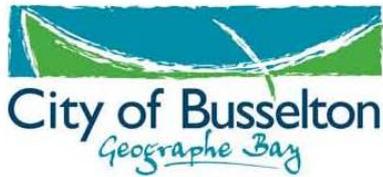
25 June, 2008 (implementation).

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

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22 June, 2011

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24 June, 2009

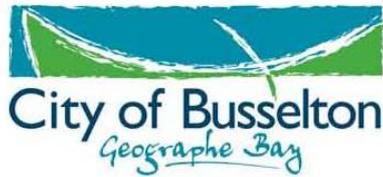
25 June, 2008 (implementation).

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

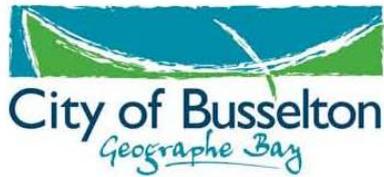
25 June, 2008 (implementation).

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

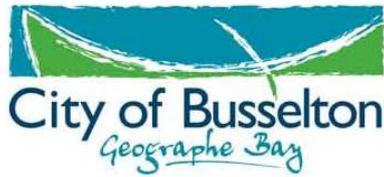
25 June, 2008 (implementation).

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 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 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*.

<p><i>Local Government Act Section 3.57. Tenders for providing goods or services</i></p> <p><i>(1) A local government is required to invite tenders before it enters into a contract of a prescribed</i></p>
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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

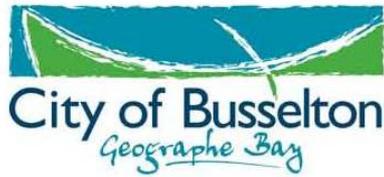
Tender Register.

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

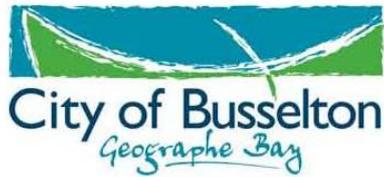
Council Resolution
C1508/219

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".

Legal Representation for Council Members and Employees

1.0 PURPOSE

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.

2.0 SCOPE

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.

3.0 POLICY CONTENT

3.1 Definitions

approved lawyer is to be –

- (a) a 'certified practitioner' under the *Legal Practice Act 2003*;
- (b) approved in writing by the Council or the CEO under delegated authority.

council member or employee means a current or former Council member or employee of the City of Busselton.

legal proceedings may be civil, criminal or investigative.

legal representation is the provision of legal services, to or on behalf of a Council member or employee, by an approved lawyer.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation.

legal services includes advice, representation or documentation that is provided by an approved lawyer.

payment by the City of Busselton of legal representation costs may be either by –

- (a) a direct payment to the approved lawyer (or the relevant firm); or
- (b) a reimbursement to the Council member or employee.

3.2 Payment Criteria

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 –

- (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.

3.3 Examples of legal representation costs that may be approved

If the criteria in clause 3.2 of this policy are satisfied, the City may approve the payment of legal representation costs –

- (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.

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.

3.4 Application for payment

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 –

- (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).

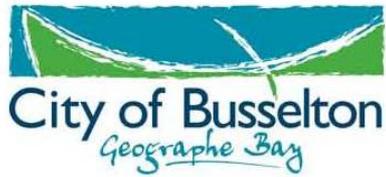
Related Documents

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

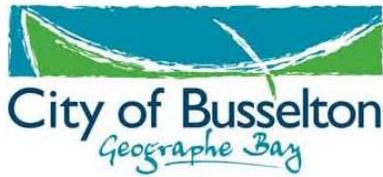
27 June, 2012

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*.

<p>Section 6.12(1) <i>Subject to subsection (2) and any other written law, a local government may —</i> (b) <i>waive or grant concessions in relation to any amount of money; or</i> (c) <i>write off any amount of money,</i> <i>which is owed to the local government.</i></p>
<p>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.</p>

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

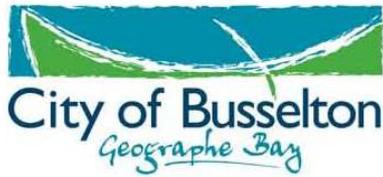
24 June, 2009

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).

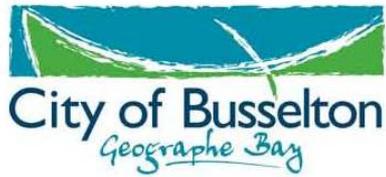
Related Documents

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

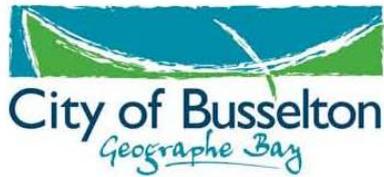
27 January, 2010 (implementation).

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

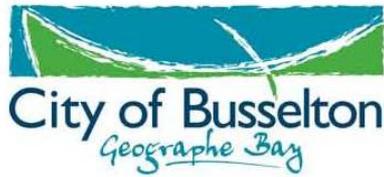
26 June, 2013

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

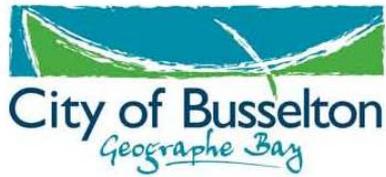
27 June, 2012

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

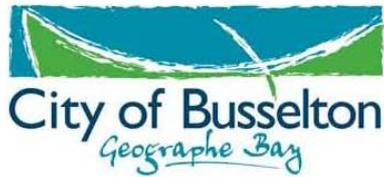
23 June, 2010

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
3l	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

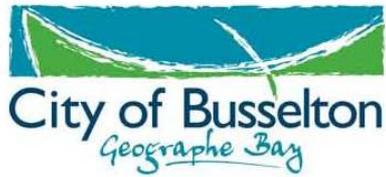
23 June, 2010

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

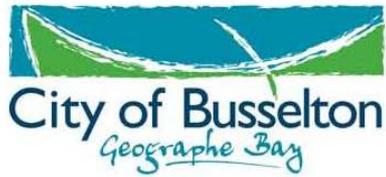
10 June, 2015

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

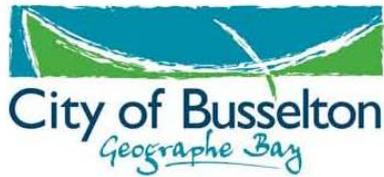
27 June, 2012

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

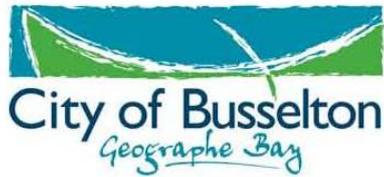
10 June, 2015

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