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CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 29 MAY 2018

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MINUTES

MINUTES OF A MEETING OF THE POLICY AND LEGISLATION COMMITTEE HELD IN THE COMMITTEE ROOM, ADMINISTRATION BUILDING, SOUTHERN DRIVE, BUSSELTON, ON 29 MAY 2018 AT 2.00PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 2.00pm

2. ATTENDANCE

Presiding Member:

Cr Grant Henley Mayor

Members:

Cr Ross Paine
Cr Rob Bennett
Cr Kelly Hick
Cr Lyndon Miles

Officers:

Mr Mike Archer, Chief Executive Officer
Mr Tony Nottle, Director, Finance and Corporate Services
Ms Sarah Pierson, Manager, Governance and Corporate Services
Mr Hendrik Boshoff, Manager, Information Services
Miss Kate Dudley, Administration Officer, Governance

Apologies

Nil

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held 17 April 2018

COMMITTEE RECOMMENDATION

PL1805/185 Moved Councillor R Paine, seconded Councillor K Hick

That the Minutes of the Policy and Legislation Committee Meeting held 17 April 2018 be confirmed as a true and correct record.

CARRIED 5/0

6. REPORTS

6.1 REVIEW OF CLOSED CIRCUIT TELEVISION (CCTV) POLICY 028

SUBJECT INDEX:	Policy Review
STRATEGIC OBJECTIVE:	Assets are well maintained and responsibly managed.
BUSINESS UNIT:	Information Services
ACTIVITY UNIT:	Information Services
REPORTING OFFICER:	Manager, Information Services - Hendrik Boshoff
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A POLICY 028 - Closed Circuit Television - Current⇒
	Attachment B POLICY 028 - Closed Circuit Television - Revised⇒
	Attachment C MOU - Closed Circuit Television - WA Police⇒

2.12pm At this time the CEO entered the meeting.

PRÉCIS

The purpose of this report is to present a revised Closed Circuit Television (CCTV) Policy (the Policy) in order to bring the current policy up to date with changes that have occurred in recent years. The Policy is also written in accordance with the new Policy Template.

BACKGROUND

The Policy was first implemented on the 9 October 2013 and has not been reviewed since. The focus of the Policy at the time of implementation was the management of CCTV on and around the Busselton Jetty. Since then, the City has progressed with a number of major projects and other items which brought to bear a significant increase in the use of CCTV across the City. Current sites with some form of video surveillance installed include:

- Busselton Jetty;
- Youth and Community Activities building and Skate Park on Foreshore Parade;
- Civic and Administration Building and surrounds on Southern Drive;
- Margaret River Busselton Airport on Neville Hyder Drive;
- Busselton Library and surrounds at Camilleri Street;
- Naturaliste Community Centre in Dunsborough; and
- Busselton Waste Transfer Station on Rendezvous Road.

Included in these implementations was a direct link for the Busselton Police station into selected public open space cameras, which was well received and has been well used by the Busselton Police.

During 2015, the City entered into an agreement with the Western Australia (WA) Police in the form of a Memorandum of Understanding (MOU), for the sharing and management of CCTV Systems and resulting data. The MOU was jointly developed by the WA Local Government Association (WALGA) and the Minister of Police in accordance with the WA Police State CCTV Strategy. The MOU formed the base of cooperation during the implementation of the direct link into the Busselton Police station as noted above.

STATUTORY ENVIRONMENT

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

Other legislation relevant to the management of CCTV Systems include:

- Surveillance Devices Act 1998; and
- State Records Act 2000.
- MoU – Between City of Busselton and WA Police for the State CCTV Strategy

RELEVANT PLANS AND POLICIES

This report recommends the update of Policy 028 – Close Circuit Television. A copy of the current Policy is attached and revised Attachment B.

Also included please find a copy of the MOU (Attachment C) between the City of Busselton and the WA Police.

FINANCIAL IMPLICATIONS

There are no financial implications in relation to this item.

Long-term Financial Plan Implications

There are no Long Term Financial Plan (LTFP) implications in relation to this item.

STRATEGIC COMMUNITY OBJECTIVES

This policy aligns with and supports the **Council's Key Goal Area 6 – 'Leadership'** and more specifically **Community Objective 6.3** 'Assets are well maintained and responsibly managed.'

RISK ASSESSMENT

There are no risks associated with the Officer Recommendation identified as being of a medium or greater level.

CONSULTATION

No external consultation is required in relation to this policy review. The City will ensure its CCTV Systems management and information release is consistent with the Policy and the MOU in place with the WA Police.

OFFICER COMMENT

To date the main reasons for the installation of CCTV Systems included:

1. Increased asset protection;
2. Reduction of crime and anti-social behaviour; and
3. Improving public safety.

In particular the installation of the CCTV system at the Busselton Foreshore has resulted in a reduction of general vandalism, asset damage and anti-social behaviour in and around the Skate Park. Therefore it is anticipated the use of CCTV systems across other open public spaces will increase. The availability of new and more affordable technologies will also see a change in the diversity of video surveillance devices and systems. For example the City might elect to utilise a temporary deployment on a vehicle or similar to assist with managing large events like the annual school leavers etc.

With these predicted changes it is advantageous for the City to implement a more high level policy position as a guiding principle and enable the CEO to develop the necessary executive and operational practises to ensure the principles are sustained.

Thus the policy has been updated to include:

- The five surveillance categories which are governed by the Policy;
- That there exists a separate agreement in the form of a MOU between the City and the WA Police for the internal management of CCTV system and resulting evidence;
- That the City is not to release any recorded CCTV media, other than to the WA Police or where legally obligated to do so; and
- That the CEO is to ensure the City complies with statutory requirements as it relates to CCTV systems.

CONCLUSION

Changing the Policy to include more high level principles will ensure the City can readily implement surveillance systems where the need arises. These might range from temporary, short term or long-term surveillance solutions as required by situations or opportunities.

OPTIONS

The Council could choose not to endorse the new Policy, or make additional changes to the Policy.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised Policy would be effective immediately upon endorsement by Council.

OFFICER RECOMMENDATION

That the Council endorse the revised Policy 028 – Closed Circuit Television as shown in Attachment B.

COMMITTEE RECOMMENDATION

PL1805/186 Moved Councillor K Hick, seconded Councillor L Miles

That the Council endorse the revised Policy 028 – Closed Circuit Television as shown in Attachment B subject to the following amendments:

Item 3 Definitions: definitions for public area and MOU to be included

Item 5.4 Policy Statement: “directed” is amended to “required”

CARRIED 5/0

6.2 RESCISSION OF STRATEGIC PLANNING POLICY

SUBJECT INDEX:	Strategic Planning
STRATEGIC OBJECTIVE:	Governance systems, process and practices are responsible, ethical and transparent.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Council Policy 242 Strategic Planning ⇒ Attachment B Advisory Standard ⇒

PRÉCIS

The purpose of this report is to recommend rescission of Council Policy 242 Strategic Planning (Attachment A), which outlines Council's approach to planning for the future, as required by the Local Government Act 1995.

In 2012 the Department of Local Government, Sport and Cultural Industries (then the Department of Local Government) introduced regulations, contained within the Local Government (Administration) Regulations 1996 which established more detailed and prescriptive requirements in relation to planning for the future. The Council has established strategic planning processes which meet these requirements minimum requirements and it is therefore not considered necessary for Council to maintain a separate policy in relation to Strategic Planning.

BACKGROUND

The current Strategic Planning policy (the Policy) was adopted in June 2010. The Policy outlines the City's (then Shire's) commitment and approach to (integrated) strategic planning processes and development of a Strategic Plan, defined in the Policy as the "Plan for the future" required by the Local Government Act 1995 (the Act).

At that time, while there was the requirement to plan for the future under the Act, there were no regulations or other prescriptive / detailed guidance as to how that should be done. Hence Council developed a policy to guide its community planning.

On 26 August 2012 the Minister for the Department of Local Government, Sport and Cultural Industries (the DLG) (the then Department of Local Government) introduced regulations, contained within the Local Government (Administration) Regulations 1996 (the Regulations) to establish new requirements for planning for the future under the Act. Under these regulations, all local governments in Western Australia were required to develop and adopt (by absolute majority) two key documents (by 30 June 2013): a Strategic Community Plan (SCP) and a Corporate Business Plan (CBP). These documents are required to be supported and informed by resourcing and delivery strategies, namely Asset Management Plans (AMP), a Long Term Financial Plan (LTFP) and a Workforce Plan (WP). This framework is commonly referred to as the Integrated Planning and Reporting Framework (IPRF).

The DLG uses three standards for measuring a local government's performance, as set out in its Advisory Standard (Attachment B), level 1 – achieving standard, level 2 – intermediate standard and level 3 – advanced standard. The legislation requires that only level 1 standards are met, with intermediate and advanced standards demonstrating the higher levels to which local governments should aspire as they mature and improve their planning practices.

Perhaps pleasingly for the City at the time, the new IPRF reflected the same intent and many aspects of the planning regime adopted through the Strategic Planning Policy. The new regulations necessitated however the development of a new set of documents in order to meet all of the minimum regulatory requirements. As a result, officers focused their efforts on achieving and furthering the planning framework and have not until now reviewed in detail 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 the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

Section 5.56 of the Local Government Act 1995 requires local governments to Plan for the Future, ensuring that plans made are in accordance with any regulations made about planning for the future of the district. Regulation 19C of the Local Government Administration Regulations 1996 requires the creation of a Strategic Community Plan in accordance with the following:

1. *A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
2. *A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*
3. *A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*
4. *A local government is to review the current strategic community plan for its district at least once every 4 years.*
5. *In making or reviewing a strategic community plan, a local government is to have regard to —*
 - (a) the capacity of its current resources and the anticipated capacity of its future resources; and*
 - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*
 - (c) demographic trends.*
6. *Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*
7. *A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*

**Absolute majority required.*
8. *If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*
9. *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*

10. A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

Regulation 19DA requires that a corporate plan is made for the district covering at least 4 years and setting out, consistent with any relevant priorities set out in the SCP for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district.

RELEVANT PLANS AND POLICIES

The City's current SCP, the Strategic Community Plan 2017, was adopted on 12 April 2017 (C1704/076). The CBP and informing documents, the AMP, the LTFP and the WP, are all current and reviewed regularly.

FINANCIAL IMPLICATIONS

The recommendation to rescind the policy has no financial implications.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Officers Recommendation will not impact adversely on the achievement of any of the community objectives contained within the Strategic Community Plan 2017 and will instead serve to meet the objectives of Key Goal Area 6, specifically community objective 6.1 - Governance systems, processes and practices are responsible, ethical and transparent, by streamlining the City's governance approach with respect to strategic planning.

RISK ASSESSMENT

Council's current strategic community planning practices have been established since 2012 and align to the requirements of the Act and the Regulations. Therefore there are no identified risks of a medium or greater level associated with the Officers Recommendation

CONSULTATION

Nil

OFFICER COMMENT

The Policy outlines the various plans considered part of the then integrated planning framework, and then describes in some detail about the process by which the overarching Strategic Plan will be developed and reviewed including the collection and review of data, the engagement with stakeholders, and the establishment of performance criteria and standards. It also outlines in detail the roles and responsibilities of elected members and of the senior management and other staff.

While the Policy was necessary at the time it was adopted, it has since been superseded by the introduction of more prescriptive regulations setting out the approach that all local governments must take to their planning for the future.

Given the existence of fairly extensive Regulations and documentation such as the Advisory Standard and the Integrated Planning and Reporting Framework and Guidelines available from the DLG, it is not considered that maintaining a policy in relation to strategic community planning would add any significant value.

Further it is considered that the Policy is quite operational in its focus and, where aspects are considered to be usefully documented, they can be more appropriately done so through the development of an operational document. This is in line with the recommendations of the Governance System Review carried out by Mr John Woodhouse August – November 2017, as outlined below:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*
 - c. *Should, where appropriate provide sufficient direction to the CEO to develop OPPs which deal with the implementation of the Council Policy or other detailed matters.*
2. *As part of that review, any existing Council Policy should be deleted where it could, more sensibly, be dealt with by an OPP adopted by the CEO*

For these reasons it is recommended that the Policy be rescinded and that Council rely on the provisions of the Act, the Regulations, the Advisory Standard and other DLG information to guide its approach to strategic (community) planning.

CONCLUSION

It is recommended that the policy 242 Strategic Planning be rescinded, as the Regulations now prescribe the approach local governments must take to strategic community planning, the subject matter of the policy.

OPTIONS

Council could instead require that the Strategic Planning Policy is reviewed and updated to reflect their commitment to the objectives of the Regulations.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Policy will be rescinded immediately upon adoption of the Officers Recommendation.

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION

PL1805/187 Moved Councillor G Henley, seconded Councillor R Paine

That the Council rescinds Council Policy 242 – Strategic Planning.

CARRIED 5/0

6.3 SALARY PACKAGING POLICY

SUBJECT INDEX:	Remuneration and Benefits
STRATEGIC OBJECTIVE:	Accountable leadership that is supported by a skilled and professional workforce.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Human Resources
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Salary Packaging Policy ⇒ Attachment B Current Salary Packaging Policy ⇒

PRÉCIS

This report presents a revised Salary Packaging Policy (Attachment A) for Council approval, with the policy having been amended to reflect the function and purpose of a Council Policy as recommended by the Governance System Review carried out by Mr John Woodhouse in 2017.

Salary packaging is considered an effective attraction and retention tool. Continuing to support the offering of these benefits will assist the City in meeting its Workforce Planning strategy of “Retaining our staff through attractive remuneration, benefits and innovative practices”.

BACKGROUND

In April 2012 Council endorsed (C1204/095) a new Salary Packaging Policy which allowed City employees to salary package a number of benefits in addition to those that were available at the time (Superannuation, City uniforms and recreational facility fees). These additional benefits were Remote Area Rent, Living Away From Home Allowance and Novated Leasing of Vehicles. The policy provided that an external provider specialised in packaging arrangements administer these benefits. To this end the City has been working with Pay Plan for approximately five (5) years.

As part of the 2013 Enterprise Agreement negotiations staff requested that the City further look into the possibility of providing additional benefits that would allow them to access greater tax savings through a legitimate avenue. In particular employees with mortgages were seeking the ability to access remote area housing assistance. As a result of this Officers identified a number of additional benefits that could be offered, namely:

- Airline Lounge Membership
- Remote Area Housing Mortgage Interest
- Remote Area Domestic Energy

In August 2014 Council endorsed a revised Salary Packaging policy which included the provision of these additional benefits (C1408/197).

In March 2017 Council endorsed (C1703/039) a further revision of the policy as part of its ongoing review of Council policies, with the policy simplified and more operational aspects moved into a new operational level practice and procedure (Attachment B). The current policy is however still considered to be too operational in nature when considered against the recommendations of the Governance System Review conducted by Mr John Woodhouse in August – November 2017, namely:

1. *There should be a review of the Council Policies with the intent that a Council Policy:*
 - a. *Should deal with higher level objectives and strategies;*
 - b. *Should not deal with operational matters, employee matters, or other matters which are the responsibility of the CEO; and*

RELEVANT PLANS AND POLICIES

The Salary Packaging Policy provides for improved employee benefits, and aids the City in achieving its Workforce Plan strategy of “Retaining our staff through attractive remuneration, benefits and innovative practices.

FINANCIAL IMPLICATIONS

The revised policy has no additional financial implications. The cost of any associated fees and charges for each package arrangement (administrative or FBT) will continue to be borne by the employee.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The Officers recommendation aligns with and supports the Council’s Strategic Community Plan 2017, specifically Key Goal 6– Leadership and Community Objective 6.3 – Accountable leadership that is supported by a skilled and professional workforce.

RISK ASSESSMENT

The revised policy does not materially change the City’s position or offering in relation to salary packaging, and hence poses no risk.

A risk assessment was previously undertaken to assess potential risks associated with offering salary packaging benefits to employees, with the overall risk being assessed as low. In introducing the current range of benefits the City sought and received Tax Rulings from the ATO on various aspects and liaised extensively with its tax advisers.

The City, through its external administrator Pay-Plan, conducts a thorough assessment of eligibility prior to packaging benefits, with employees having to provide documentary evidence related to the benefit being claimed, for instance rental agreements in relation to remote area rent and mortgage settlement documents and loan statements in relation to remote area mortgage interest.

A Salary Packaging Agreement is also entered into between the City, Pay-Plan and the employee which contains obligations for the employee to comply with all ATO and declaration requirements.

CONSULTATION

Nil

OFFICER COMMENT

The revised policy presented does not materially change the City’s position or offering in relation to salary packaging. The policy is simply being streamlined to align with the City’s new Policy Framework and converted into the City’s new policy template.

There are currently 29 employees who take advantage of the benefits offered through the policy. A brief overview of the salary packaging benefits available is provided below.

Work Related Items

The following items were used for work purposes only and not provided by the City:

- portable electronic devices (laptops, mobile phones and PDA's)
- protective clothing
- briefcase
- calculator
- computer software

Airline Lounge Membership

Airline lounge membership joining fees and airline membership annual renewal fees are "tax free" when provided to an employee as part of a salary packaging arrangement.

Novated Leasing of Vehicles

Novated car leases for new or used cars may be packaged by employees. The employee owns the vehicle and has the right to take the vehicle with them should they leave employment of the City, with full responsibility for the vehicle passed on to the employee.

Remote Area Housing Rent*Rent - Employer Provided Housing*

Eligible employees may be provided with a Council owned or leased rental property within a Remote Area as part of their package, and the employee may apply to salary package 100% of the rental value tax free.

Rent - Private Rentals

Employees renting privately (i.e. employees who have a rental agreement with a landlord or agency), within a Remote Area can apply to salary package 50% of their rental value tax free.

Remote Area Housing Mortgage Interest

Subject to qualifying criteria, employees with a mortgage on their home which is in a Remote Area can apply to salary package their interest expenses on the mortgage. The home must be their usual place of residence.

Remote Area Domestic Energy

Subject to qualifying criteria, employees who package remote area housing benefits can apply to salary package 100% of the value of the cost of their residential electricity and gas expenses. 50% of the reimbursement does however attract FBT, which is payable by the employee.

CONCLUSION

It is recommended that Council continue to support salary packaging as a useful staff attraction and retention tool. In accordance with the recommendations of the Governance Systems Review, it is however recommended that the current policy be amended to reflect Council's support of salary packaging as opposed to outlining more operational aspects. A Staff Management Procedure is in place to ensure salary packaging is provided within appropriate operational parameters and in accordance with the parameters of the policy.

OPTIONS

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

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

OFFICER RECOMMENDATION

That the Council adopts the Salary Packaging Policy as per Attachment A, to replace the current Salary Packaging Policy (Attachment B).

COMMITTEE RECOMMENDATION

PL1805/188 Moved Councillor G Henley, seconded Councillor K Hick

That the Council rescinds Council Policy 042 – Salary Packaging.

CARRIED 5/0

Reason: The Committee determined that this policy was of an operational nature and there for should be revoked.

2:43pm At this time the CEO left the meeting

6.4 DESIGNATION OF SENIOR EMPLOYEES AND ACTING CEO.

SUBJECT INDEX:	Human Resources
STRATEGIC OBJECTIVE:	Accountable leadership that is supported by a skilled and professional workforce.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Human Resources
REPORTING OFFICER:	Manager Governance and Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director Finance and Corporate Services - Tony Nottle
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Proposed Policy - Designation of Senior Employees and Acting CEO⇒ Attachment B Current Policy - Senior Employee⇒

2:45pm At this time the CEO returned to the meeting.

PRÉCIS

This report presents a new policy with respect to the designation of senior employees and the appointment of an Acting Chief Executive Officer (CEO) during periods of leave by the Chief Executive Officer for periods of up to six continuous weeks.

Council policy 149 – Senior Employees currently deals with the designation of senior employees however there is currently no formal policy in place with respect to the appointment of an Acting CEO. It is recommended that Council adopt the new policy as attached (Attachment A).

BACKGROUND

Section 5.37(1) of the Local Government Act 1995 (the Act) provides for a local government to designate employees or persons belonging to a class of employees to be Senior Employees. Section 5.37(2) of the Act requires the CEO to inform the Council of each proposal to employ or dismiss a Senior Employee. The current Council policy 149 – Senior Employees, last reviewed in April 2015, designates the following positions as Senior Employees:

- Director, Planning and Development Services;
- Director, Community and Commercial Services;
- Director, Engineering and Works Services; and
- Director, Finance and Corporate Services

The proposed policy does not amend the designation of senior employees but converts the current policy into the new Council policy template and adds to it with respect to the appointment of an Acting CEO.

Section 5.36 of the Act establishes that a person is not to be employed in the position of CEO unless the council believes that the person is suitably qualified for the position. Council does not currently have a formal policy with respect to the appointment of an Acting CEO, with the CEO having responsibility under his contract of employment for all staffing matters, including the appointment of an Acting CEO for periods when he is on leave. While this has worked effectively since his commencement in 2010, recent reviews of the City's governance system has identified a potential gap in the City's policy framework.

STATUTORY ENVIRONMENT

Section 5.37 of the Act provides for a local government to designate employees or persons belonging to a class of employees to be Senior Employees and outlines the requirement for the CEO to inform the Council or each proposal to employ or dismiss a Senior Employee.

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

RELEVANT PLANS AND POLICIES

NA.

FINANCIAL IMPLICATIONS

NA.

Long-term Financial Plan Implications

NA.

STRATEGIC COMMUNITY OBJECTIVES

The Officers recommendation aligns with and supports the Council's Strategic Community Plan 2017, specifically Key Goal 6– Leadership and Community Objective 6.1 – Governance systems, processes and practices are responsible, ethical and transparent, and 6.3 – Accountable leadership that is supported by a skilled and professional workforce.

RISK ASSESSMENT

There are no risks identified of a medium or greater level associated with the Officers recommendation with the policy serving to secure the operational effectiveness of the organisation.

CONSULTATION

Officers sought advice from the Western Australian Local Government Association who confirmed that a Council policy outlining the person/s and / or the incumbents of position/s considered to be suitably qualified to act as CEO was recommended.

OFFICER COMMENT

The proposed policy does not seek to change the designation of Senior Employees. It does however seek to formalise Council's policy position with respect to who is a suitably qualified person for the position of Acting CEO. To this end the policy proposes that incumbent Senior Employees will be appointed as Acting CEO for periods of leave at the discretion of the CEO, subject to performance and dependant on availability and operational requirements. Leave is defined as annual or personal leave (that is sick or carers leave) with the policy limiting this discretion to a period of six continuous weeks. Beyond this a formal decision of Council will be required to appoint an Acting CEO.

Since commencing employment in August 2010, the CEO has effectively managed the appointment of an Acting CEO for his periods of leave, ensuring that each Senior Employee is given the opportunity to act, while at the same time ensuring timing is appropriate to each person and their role requirements.

This has enabled all four Senior Employees to develop their skills and gain experience in the role of CEO, and minimises the risk of the organisation not having a suitably capable person to act as CEO.

The proposed policy does not therefore seek to change the current practice with respect to the appointment of an Acting CEO, but seeks to formally endorse it and ensure there is a supporting policy background.

CONCLUSION

The proposed policy updates the current Senior Employees policy and introduces a policy background for the appointment of an Acting CEO. Current practices with respect to the designation of Senior Employees and the appointment of an Acting CEO are considered to be effective and the policy is not designed or expected to change these.

OPTIONS

Council could decide not to adopt the proposed policy and instead require a different approach to be taken to either the designation of Senior Employees or to the appointment of an Acting CEO. For reasons outlined in this report this is not recommended.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

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

OFFICER RECOMMENDATION

That the Council adopts the Designation of Senior Employees and Acting CEO Policy as per Attachment A, to replace the current Senior Employees Policy (Attachment B).

COMMITTEE RECOMMENDATION

PL1805/189 Moved Councillor R Paine, seconded Councillor K Hick

That the Council adopts the Designation of Senior Employees and Acting CEO Policy as per Attachment A, to replace the current Senior Employees Policy (Attachment B) subject to the following amendments:

Item 5 Policy Statement

- 5.4 remove "in accordance with the requirements of the *Local Government Act 1995* section 5.36(2)(a)"
- 5.4 remove "the persons"" and replace with" those"
- 5.6 amend Appointments for any periods to "Appointments of Acting CEO for any periods"

CARRIED 5/0

6.5 DELEGATION OF AUTHORITY TO CEO TO DISPOSE OF PROPERTY BY WAY OF LEASE FOR THE NEW GENERAL AVIATION PRECINCT AT BUSSELTON MARGARET RIVER AIRPORT

SUBJECT INDEX:	BMRA 001
STRATEGIC OBJECTIVE:	A community where local business is supported and in turn drives our economy
BUSINESS UNIT:	Community and Commercial Services
ACTIVITY UNIT:	Community and Commercial Services
REPORTING OFFICER:	Project Manager - Business Development - Emma Heys
AUTHORISING OFFICER:	Director, Community and Commercial Services - Naomi Searle
VOTING REQUIREMENT:	Absolute Majority
ATTACHMENTS:	Nil

PRÉCIS

Officers are seeking a Delegation of Authority or authorisation from Council to the CEO to enter into new lease agreements for land lots at the Busselton Margaret River Airport new General Aviation Precinct.

BACKGROUND

As part of the Busselton Margaret River Airport (BMRA) Development Project, the City is constructing a new General Aviation Precinct. Up to 36 new land lots will be available for lease and development.

Initially the leasable lots will be made available through two Expression of Interest programs; Program A – available only to the current tenants of the existing hangars; and Program B – allocation of remaining lots made available to the general public. Any remaining lots will be open to the public until all lots have been taken up.

Due to the high volume of potential new lease agreements (36) expected from the General Aviation Precinct and the similar nature of each lease agreement, Officers are seeking approval to delegate authority to the CEO to enter into the new lease agreements.

A Delegated Authority or authorisation to the CEO will negate the need to present each individual lease agreement to Council and expedite the timeline for the Expression of Interest program. This will ensure the completion of the construction of the General Aviation Precinct aligns with the ability of new tenants to commence construction of hangars and the generation of revenue for the City.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act 1995 requires the Local Government to advertise for public comment the proposed disposition of property (by way of lease) for a minimum of 14 days and include details of the parties, the consideration of the disposal and consider any public comment prior to entering into the proposed lease agreement.

RELEVANT PLANS AND POLICIES

The current Instrument of Delegation (LG3C) only allows for the CEO to approve subsequent leases, renewals or options to exercise to a value not exceeding \$25,000. An approval or delegated authority to enter into new lease agreements for the land lots at the BMRA General Aviation Precinct only is being requested.

FINANCIAL IMPLICATIONS

The potential revenue from each new lease agreement over 20 years, based on a conservative \$9 per square meter rate, has been estimated:

# of Lots	Lot Size	Potential Revenue per lot (over 20 years)	Total potential revenue
15	18 x 10m (180sqm)	\$32,400	\$486,000
5	18 x 15m (270sqm)	\$48,600	\$243,000
3	20 x 25m (500sqm)	\$90,000	\$270,000
8	25 x 25m (625sqm)	\$112,500	\$900,000
3	35 x 25m (875sqm)	\$157,500	\$472,500
Total			\$2,371,500

Costs associated with the execution of the new lease agreements will be borne by the tenant.

STRATEGIC COMMUNITY OBJECTIVES

Key Goal Area 4 - Economy: Diverse, robust and prosperous.

4.1 An innovative and diversified economy that provides a variety of business and employment opportunities as well as consumer choice.

4.2 A community where local business is supported and in turn drives our economy.

Key Goal Area 6 – Leadership: Visionary, collaborative and accountable.

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

6.3 Accountable leadership that is supported by a skilled and professional workforce.

RISK ASSESSMENT

A risk assessment was undertaken and following risk mitigation, no residual risks were rated as medium or high and as such a formal risk assessment is not provided.

CONSULTATION

Officers provided a briefing to Council 9th May 2018 regarding the proposed delegation request. Following this Officers present the request to the Airport Advisory Committee (23rd May) and the Policy and Legalisation Committee (29th May) for consideration.

OFFICER COMMENT

Officers are seeking a Delegation of Authority or authorisation from Council to the CEO to enter into new lease agreements for land lots at the BMRA new General Aviation Precinct.

As part of the BMRA Development Project, the City is constructing a new General Aviation Precinct. Up to 36 new land lots will be available for lease and development. The lease agreements will be made available through two Expression of Interest programs; Program A – available only to the current tenants of the existing hangars; and Program B –allocation of remaining lots made available to the general public. Any remaining lots will be open to the public until all lots have been taken up.

Due to the high volume of potential new lease agreements (36) expected from the General Aviation Precinct and the similar nature of each lease agreement, Officers are seeking approval or authority to delegate authority to the CEO to:

- Negotiate the terms and conditions of the lease agreements;
- Advertise as per the requirements of section 3.58 of the Act; and
- Provided there are no adverse public comments, enter into a lease agreement.

The current Instrument of Delegation (LG3C) only allows for the CEO to approve subsequent leases, renewals or options to exercise to a value not exceeding \$25,000.

CONCLUSION

A Delegated Authority or authorisation to the CEO will negate the need to present each individual lease agreement to Council and expedite the timeline for the Expression of Interest program. This will ensure the completion of the construction of the General Aviation Precinct aligns with the ability of new tenants to commence construction of hangars and the generation of revenue for the City.

OPTIONS

Should Council choose not to accept the Officers Recommendation, Council could choose to consider each new lease agreement, requiring Officers to present each new lease agreement through individual Council Reports.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The Officer Recommendation will be presented to the Policy and Legislation Committee at the 29th May 2018 meeting and to Council at the Ordinary meeting on 13th June 2018. Following Council endorsement the Officer recommendation will be implemented immediately.

COMMITTEE RECOMMENDATION

PL1805/190 Moved Councillor L Miles, seconded Councillor K Hick

That the committee accept this report as a late item.

CARRIED 5/0

COMMITTEE RECOMMENDATION AND OFFICER RECOMMENDATION**PL1805/191** Moved Councillor K Hick, seconded Councillor R Paine**ABSOLUTE MAJORITY DECISION OF COUNCIL REQUIRED**

That the Council delegates authority to the CEO to exercise the powers and discharge the duties of the local government under Sections 3.58 of the *Local Government Act 1995* to:

1. Negotiate the terms and conditions of new lease agreements relating to land lots at the new Busselton Margaret River Airport General Aviation Precinct;
2. Advertise the proposed disposition of property (by way of lease) as per the requirements of Section 3.58 of the Local Government Act 1995; and
3. Provided there are no adverse public comments received of a significant nature, authorize the CEO to enter into individual lease agreements.

CARRIED 5/0

7. GENERAL DISCUSSION ITEMS

Nil

8. NEXT MEETING DATE

Tuesday, 26 June 2018

9. CLOSURE

The meeting closed at 3.21pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 22 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON TUESDAY, 26 JUNE 2018.

DATE: _____

PRESIDING MEMBER: _____