

DA	OBTAINING LEGAL OR OTHER EXPERT ADVICE & LEGAL PROCEEDINGS BETWEEN CITY OF COCKBURN & OTHER PARTIES	
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DIRECTORATE:	Executive Services
BUSINESS UNIT:	Executive Services
SERVICE UNIT:	Executive Services
RESPONSIBLE OFFICER:	Director, Governance & Community Services
FILE NO.:	086/003
DATE FIRST ADOPTED:	1997
DATE LAST REVIEWED:	10 September 2020
ATTACHMENTS:	N/A
VERSION NO.	4

Dates of Amendments / Reviews:	
DAPPS Meeting:	24 June 2012 26 May 2016 27 August 2020
OCM:	13 May 2010 14 June 2012 9 June 2016

FUNCTION DELEGATED:

The authority to obtain legal or other expert advice and respond to legal proceedings on behalf of Council.

CONDITIONS/GUIDELINES:

- (1) Obtaining Legal or Other Expert Advice:
1. in the instances where Council has resolved or requested to seek legal or other expert advice, a copy of that advice and Council's letter of instruction be provided to all Elected Members as soon as practicable within seven(7) days of receipt by the City unless otherwise resolved by Council;
 2. where copies of legal or other expert advice are made available to Elected Members, the content of the advice is not permitted to be disclosed to third parties, unless by resolution of Council', following the opinion of the Solicitor or specialist who provided advice to the Council about the possible consequences of making that advice available to a third party;
 3. Council maintain its retainer arrangement with its Solicitors for the purpose of ascertaining matters of an administrative nature where

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procedural verbal advice is obtained and that such advice sought be recorded as a file note on the appropriate file;

4. that where a legal or other expert opinion is sought in relation to an item placed before Council, a note that the item is subject to legal or other expert advice (as appropriate) be included in the relevant Agenda or Minutes.
5. before the Council considers an item on an agenda that includes or is based on expert advice (eg legal, environmental, financial) the Council shall have been provided with a copy of that advice (or summary if appropriate) prior to the meeting with adequate time to read and understand the advice before making its decision.
6. Legal advice sought by Council can only be obtained utilising the services of practitioners who form part of the Panel of Preferred Suppliers, as adopted by Council from time to time, unless, in the CEO's opinion, it is advantageous to utilise the services of a different provider who has specific expertise in a particular case.

(2) Responding to Legal Proceedings

1. the Elected Members must be advised that a legal proceeding has been commenced against the City as soon as practicable after the City has been given notice of the proceeding.
2. a record of the proceedings taken pursuant to this Policy shall be presented to the Audit and Strategic Finance Committee at least annually, or as often as considered appropriate by the CEO, or as requested by the Audit and Strategic Finance Committee.

- (3) All transactions utilising this delegation are to be recorded in the City's record keeping system (ECM) by the delegated officer, or by another officer directed by the delegated officer.

AUTONOMY OF DISCRETION:

As provided in Conditions above.

LEGISLATIVE REQUIREMENTS/COUNCIL POLICY:

Council Policy 'Obtaining Legal or Other Expert Advice & Legal Proceedings Between City of Cockburn & Other Parties' refers.

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DELEGATE:

Chief Executive Officer

Note: The Chief Executive Officer will sub-delegate this authority to:

DELEGATE/S AUTHORISED:

Director - Finance and Corporate Services
Director - Planning & Development
Director – Governance & Community Services
Director - Engineering & Works
Manager, Statutory Planning
Manager, Strategic Planning
Manager, Environmental Health
Manager, Building Services