

# CITY OF COCKBURN

## SUMMARY OF MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 4 FEBRUARY 2010 AT 6:00 PM

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## CITY OF COCKBURN

### MINUTES OF SPECIAL COUNCIL MEETING HELD ON THURSDAY, 4 FEBRUARY 2010 AT 6:00 PM

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#### PRESENT:

##### ELECTED MEMBERS

Mr L Howlett	-	Mayor
Mr K Allen	-	Deputy Mayor
Ms L Smith	-	Councillor (Arr. 6.03 pm & Dep. 7.15 pm)
Ms H Attrill	-	Councillor
Mr I Whitfield	-	Councillor
Mrs C Reeve-Fowkes	-	Councillor
Mr T Romano	-	Councillor
Mrs S Limbert	-	Councillor
Mrs V Oliver	-	Councillor
Mrs R O'Brien	-	Councillor

##### IN ATTENDANCE

Mr S. Cain	-	Chief Executive Officer
Mr D. Green	-	Director, Administration & Community Services
Mr S. Downing	-	Director, Finance & Corporate Services
Mr M. Littleton	-	Director, Engineering & Works
Mr D. Arndt	-	Director, Planning & Development
Mrs B. Pinto	-	PA to Directors – Fin. & Corp. Serv. / Admin. & Comm. Serv.
Ms S. Seymour-Eyles	-	Media Liaison Officer

#### 1. DECLARATION OF MEETING

The Presiding Member declared the meeting open at 6.01 pm.

#### 2. APPOINTMENT OF PRESIDING MEMBER (If required)

Nil.

#### 3. DISCLAIMER (Read aloud by Presiding Member)

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking



clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

**4. ACKNOWLEDGEMENT OF RECEIPT OF WRITTEN DECLARATIONS OF FINANCIAL INTERESTS AND CONFLICT OF INTEREST (by Presiding Member)**

Nil

**5. APOLOGIES & LEAVE OF ABSENCE**

Nil

CLR SMITH JOINED THE MEETING AT THIS POINT THE TIME BEING 6.03 PM.

**6 (SCM 04/02/2010) - PUBLIC QUESTION TIME**

**Colin Crook, Spearwood**

Q1. Could clarification be made in regard to providing questions only to items on the Agenda?

A. The protocol for public questions at a Special Council Meeting is that questions would be accepted only for the purposes for which the Meeting has been convened to consider.

**7. DECLARATION BY COUNCILLORS WHO HAVE NOT GIVEN DUE CONSIDERATION TO MATTERS CONTAINED IN THE BUSINESS**

Nil

**8 (SCM 04/02/2010) - PURPOSE OF MEETING**

The purpose of the meeting is to consider Tender Procurement – Policies, Delegated Authorities and Position Statements.

**9. COUNCIL MATTERS**

**9.1 (MINUTE NO 4147) (SCM 04/02/2010) - TENDER PROCUREMENT - POLICIES, DELEGATED AUTHORITIES & POSITION STATEMENTS (5015) (S DOWNING) (ATTACH)**

**RECOMMENDATION**

That Council:



- (1) adopt proposed amendments to Policy SC38 'Sustainable Procurement;
- (2) adopt proposed amendments to Policy SES3 'Evaluation of Tenders and associated delegated authority;
- (3) adopt proposed amendments to Delegated Authority LGAES4 'Local Government Act 1995 – Contract Variations';
- (4) delete Position Statement PSES15 'Reports to Council - Tenders'; and
- (5) update the Delegated Authority Register accordingly.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

**COUNCIL DECISION**

MOVED Cllr C Reeve-Fowkes SECONDED Cllr R O'Brien that Council defer this item until the March 2010 Ordinary Council Meeting and bring each Policy, Delegated Authority and Position Statement listed within this item, as a separately numbered item on the March 2010 Ordinary Council Meeting Agenda.

**VOTE TIED 5/5**

**MOTION LOST ON CASTING VOTE OF PRESIDING MEMBER**

MOVED Cllr S Limbert SECONDED Cllr I WHITFIELD that the recommendation be adopted.

**VOTE TIED 5/5**

**MOTION LOST DUE TO LACK OF AN ABSOLUTE MAJORITY OF COUNCIL**

Note: CLR REEVE-FOWKES REQUESTED THAT HER VOTE AGAINST THE MOTION TO BE RECORDED

**Background**

This item was previously considered by Council at the Ordinary Council meeting held on Thursday, 10 December 2009. At the meeting, the Council resolved:



*that the matter be deferred for consideration at a Special Council Meeting.*

The reason for the decision was that the Agenda item contained changes to Council Policy which needs considered discussion and debate prior to presentation to full Council. With no Policy Committee currently, this has not occurred.

There are many questions which still need to be answered on changes to these Policies and it would be inappropriate for Council not to have enough time to consider this item fully.

As such, this report is now resubmitted with additional information and explanation raised at the December 2009 Council Meeting to answer a number of the questions raised by Elected Members.

Implementation of Policy SC38 'Sustainability', first adopted by Council on 8 June 2006, has identified impacts on other Council Policies and Position Statements, necessitating a review of the same to ensure compatibility and effectiveness.

In this report two Policies, two Delegated Authorities and one Position Statement have been reviewed:

- Policy SC38 'Sustainable Procurement'
- Policy SES3 'Evaluation of Tenders'
- Delegated Authority SES3 'Evaluation of Tenders'
- Delegations made pursuant to the Local Government Act 1995 – LGAES4 'Contract Variation'.
- Position Statement PSES15 'Reports to Council – Tenders'

### **Submission**

That Council delete Position Statement PSES15 "Reports to Council - Tenders'. Endorse changes to Policy SC38 – Sustainable Procurement, SES3 - Evaluations of Tenders and associated Delegation, and LGAES4 – Contract Variations.

### **Report**

Implementation of Policy SC38 'Sustainability', first adopted by the Council on 8 June 2006, has identified impacts on other Council Policies and Position Statements, necessitating a review of the same to ensure compatibility and effectiveness. Accordingly, a panel of Staff from the following departments of the City:

- Finance
- Parks
- Environmental Services



(with support from all Directors and their endorsement) have undertaken a review of:

1. Policy SC38 'Sustainable Procurement';
2. Policy SES3 'Evaluation of Tenders'; and
3. Delegated Authorities LGAES4 'Local Government Act 1995, 'Contract Variation' and SES3 'Evaluation of Tenders'.
4. Position Statement PSES 15 'Reports to Council – Tenders';

It is recommended that Position Statement PSES15 'Reports to Council – Tenders' is deleted and its content incorporated into Policy SES3 'Evaluation of Tenders'.

Policies SC38 and SES3 are attached, with recommended changes tracked. The major recommended changes, and reasons for the changes, to each of these is summarised below:

#### Policy SC38 'Sustainable Procurement'

Below is a detailed analysis for each section to be amended as part of this Policy

##### *Status*

This section is being amended to reflect the division is Finance and Corporate Services not Corporate Services.

##### *Background*

This section is being amended to reflect the background of the actual policy and not the background to changes to the Local Government Act 1995 and the Local Government (Functions and General) Regulations.

##### *Purpose*

This section is being amended to reflect a more succinct Purpose behind the policy and rather than list them as 1, 2, 3 etc, the purposes are aggregated into one paragraph. The removal of such terms as integrity, value for money and promotes effective governance, amongst other terms, is because these terms are stated in other documents, such as the Local Government Act, the Staff Code of Conduct, which provide an over-riding guide to how Officers of the City should conduct themselves. So mentioning it here is redundant and if not redundant should probably be repeated in all staff related policies.

##### *Ethics and Integrity*

Attached is a copy of the Staff Code of Conduct, which has had the relevant sections highlighted. It is more stringent than the sections of the current policy and applies to all actions of Officers of the City. The removal is not perceived by Officers as an open cheque book to cease to behave in an ethical manner. The removal is a reflection that Officers are governed by the overall Staff Code of Conduct regardless of what a specific Policy states or does not state. A copy of the Staff



Code of Conduct is included in every e-evaluation tender pack issued for all panel members for all tender assessments.

*Environment Considerations/Sustainability Section*

The old sections on Environment, Social and Economic Considerations is being changed to a more succinct version and reducing the more prescriptive policy implications with more strategic directions. This in turn allows for greater not less considerations for environmental impacts on purchasing policies as times change. Sustainability is being introduced as overall concept into procurement procedures and processes rather than just four more defined terms. The aim is maximise the sustainability of procurement for the City by minimising the environmental, social and economical impacts, and encourage the City's suppliers to adopt similar policies.

*Procurement Thresholds Increased*

The procurement thresholds have been altered so as to have limits and values for all general supplies. So now, one verbal quotation will be required for all purchases less that \$3,000. Two written quotes for purchases between \$3,000 to \$10,000. Three written quotes will be required for procurement between \$10,001 to \$99,999.

Preferred suppliers are treated differently as they have already been processed by the City as supplying the best price in their category.

All purchasing over \$100,000 is required to be by tender. By virtue of the anti-avoidance clauses of the Local Government Act, this means that any procurement greater that \$33,000 in one financial year will have a tender.

A formal request for quotation (RFQ) shall only be required to be called where a specification, selection criteria and conditions of contract are required. This has been amended to reflect that the cost of business has increased and what the City is trying to do is make it relatively easy to do business with the City, given the high cost of putting together a tender response.

*Quotation Principles*

This section has been amended to reflect other changes in the policy, remove some prescriptive elements and update the section such as the inclusion of qualitative elements for example environmental impacts/considerations.

*Purchase Orders*

This section has been redrafted to reflect the correct procedures.

*Regulatory Compliance*

There has been no change to this section.





*Records Management*

This section has been amended to be more explicit in that all documents for tenders, quotations and other areas associated with procurement should be recorded in the City's Record Management System.

Policy SES3 'Evaluation of Tenders'*Status*

This section has been changed to reflect current policy presentation styles including the correct division with carriage for implementing the policy.

*Policy Background*

The background to the policy has been enhanced. The previous policy section did not have sufficient background.

*Purpose*

This section has been changed to reflect the current process the Officers believe is necessary to undertake when tasked with a tender evaluation.

*Evaluation or Selection Criteria*

This section has been amended by the removal of material that is in the actual tender document and is not necessarily the basis on which a tender is determined. So for example, a tenderer may have to have a management safety plan. The pre-evaluation checks govern the process of reviewing this, not the tender evaluation panel. The quality of the plan may impact on the overall qualitative marking the tenderer receives but this is now covered under the section for qualitative evaluation. So the compliance checks will pick up this section. The panel then needs to consider the areas:

1. Compliance
2. Qualitative Criteria
3. Price Criteria

An evaluation officer will then mark a tenderer on this specific requirement rather than the more general area as previously required.

*Tender Weightings Changes*

This section has been included for the first time with weightings having been altered to accommodate sustainability. Price has been allocated a 50% maximum weighting to greater reflect the importance to the City that the tender outcome is of high economic importance.

Sustainability can attract a higher cost and up to 10% price differential has been allowed for in the evaluation process. By accepting this Policy, it will strengthen the requirement and support for sustainability in the evaluation of tenders process.



*Canvassing*

This has been inserted for the first time, to bring our practices in line with other Local Governments in WA and state that lobbying would disqualify a tenderer. To date there have been no apparent efforts of lobbying for a particular tender.

*Insertion of Evaluation Panel*

An Evaluation panel has been inserted, which stipulates a minimum of three staff. The panel must specifically contain a member of the Strategic Business Group, and should not contain more than 2 members from the same service or business unit proposing the tender. An officer from the Environmental Services unit can be used where specific expertise is required in the area of sustainability. However, it is expected that each member of every evaluation panel will have sufficient expertise to address the sustainability components when required.

*Evaluation Process*

This is the process that is to be followed by relevant officers in processing a tender.

*Recommendations - Delegations*

The delegation to the CEO and Directors has been increased from \$500,000 to \$1 million. This amendment will give authority to two Directors or the CEO and one Director to accept a tender that has a total value of less than \$1 million (excluding GST). A summary of tenders that would have fallen into this range that Council has approved, over the past 12 month period is attached to the Agenda.

Attached is a copy of what other Councils have as delegations. The City of Cockburn clearly is at the forefront of delegations, but to date the delegations have worked well and minimised the administrative burden on our Staff.

If the above delegation had been in place over the last twelve months the City would have had the following approved on delegation:

- Pre-mixed Concrete – two year contract \$597,000;
- Two rubbish trucks - \$642,000;
- Tree watering service – three year contract \$717,000;
- Weed and Turf/Plant pest control – three year contract \$958,000;
- Landscape maintenance (Atwell) – three year contract \$787,000 ;
- Plant hire (wet & Dry) – three year contract - \$719,000;
- Crushed Stone metal – three year contract \$560,000;
- Mowing of road verges – three year contract \$942,000;
- Architectural services (library and super clinic) - \$958,000.

Please note that this expenditure has already been approved by Council through the annual budget process and this change is affecting



the contract acceptance only. All tenders are noted in the Elected Members bulletin and can be withdrawn and considered by Council at the request of an Elected Member(s).

In the last two years, the following tenders would still have gone to Council for its determination:

- Hammond Road Regional Recreational Facility - \$10m
- Aubin Grove Community Facility - \$2m
- Coolbellup Centre Redevelopment \$3m
- Recycling \$3m

Whether the tender goes to Council or is approved under delegation, the amount of detailed work undertaken for every tender is extensive so as to ensure that the best price and the best outcomes are always sought for ratepayers and the community.

#### PSES15 – Reports to Council – Tenders

This Position Statement has been deleted as a stand alone document, and the majority of this has been incorporated into Policy SES3 'Evaluation of Tenders'. There is an existing Position Statement PSES7 'Reports to Council', and the specific requirements for reports to Council for tenders have been added to Policy SES3 'Evaluation of Tenders'. In essence it is being deleted as it is superfluous given the City has a standard report template for all officers including writers of tenders reports whether they go to Council or are decided by delegated authority.

#### Delegations made pursuant to the Local Government Act 1995 – LGAES4 'Contract Variation'

The delegation to approve price variations for a specific contract has been modified to include Managers who constitute the Strategic Business Group. These Managers are responsible for the day to day management of their own budgets, and are accountable for expenditure of Council funds. Such responsibility should encompass the conditions/guidelines as listed under LGAES4. The delegation to accept variation only works when there is a variance between the accepted contract price and the adopted budget for the project. Where there is no 'contingency' any variation will require a budget amendment.

#### Delegations made pursuant to the Local Government Act 1995 – SES3 'Evaluation of Tenders'

This delegation has been amended to reflect the changes to the Policy SES3, in that it increases the quantum of the delegation, the CEO and Directors can accept before the tender goes to Council. The increase is the first since the introduction of the new Local Government Act in 1996. Although the list provided in Attachment 8 'Details of the Policy



Effect – Council endorsed tenders' highlights nine, the average for prior years 2 per year. This only highlights the rapid escalation in the values of contracts let by Council and the need to amend the delegation.

### **Strategic Plan/Policy Implications**

#### **Governance Excellence**

- To conduct Council business in open public forums and to manage Council affairs by employing publicly accountable practices.

### **Budget/Financial Implications**

N/A

### **Legal Implications**

Local Government Act 1995 s. 3.57.

Local Government (Functions and General) Regulations 1996, as amended.

### **Community Consultation**

N/A

### **Attachment(s)**

1. Existing Policy SC38 'Sustainable Procurement'
2. Proposed amended Policy SC38 'Sustainable Procurement'
3. Existing Policy SES3 'Evaluation of Tenders'
4. Proposed amended Policy SES3 'Evaluation of Tenders'
5. Proposed amended Delegated Authority SES3 'Evaluation of Tenders'
6. Proposed amended Delegated Authority LGAES4 'Contract Variation'
7. Proposed deleted Position Statement PSES15 'Reports to Council – Tenders'
8. Details of Policy Effect - Council endorsed Tenders
9. Delegations at other Councils
10. Code of Conduct for Staff
11. Part 4 – Provision of Goods and Services – Local Government Regulations

### **Advice to Proponent(s)/Submissioners**

N/A

### **Implications of Section 3.18(3) Local Government Act, 1995**

Nil.



CLR SMITH LEFT THE MEETING AT 7.15 PM AND DID NOT RETURN

**10. (MINUTE NO 4148) (SCM 04/02/2010) - RESOLUTION OF COMPLIANCE (SECTION 3.18(3), LOCAL GOVERNMENT ACT 1995)**

**RECOMMENDATION**

That Council is satisfied that resolutions carried at this Meeting and applicable to items concerning Council provided services and facilities, are:-

- (1) integrated and co-ordinated, so far as practicable, with any provided by the Commonwealth, the State or any public body;
- (2) not duplicated, to an extent Council considers inappropriate, services or facilities as provided by the Commonwealth, the State or any other body or person, whether public or private; and
- (3) managed efficiently and effectively.

**COUNCIL DECISION**

MOVED Clr S Limbert SECONDED Clr I Whitfield that the recommendation be adopted.

**CARRIED 9/0**

**11 (SCM 04/02/2010) - CLOSURE OF MEETING**

7.17 pm

**CONFIRMATION OF MINUTES**

I, ..... (Presiding Member) declare that these minutes have been confirmed as a true and accurate record of the meeting.

Signed: ..... Date: ...../...../.....

