

# CITY OF ARMADALE

## AGENDA

**OF TECHNICAL SERVICES COMMITTEE TO BE HELD IN THE FUNCTION ROOM, ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON WEDNESDAY, 7 JUNE 2023 AT 7:00 PM.**

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*A meal will be served at 6:15 p.m.*

### **PRESENT:**

### **APOLOGIES**

Cr G Nixon (Leave of Absence):

### **OBSERVERS:**

### **IN ATTENDANCE:**

### **PUBLIC:**

*“For details of Councillor Membership on this Committee, please refer to the City’s website  
– [www.armadale.wa.gov.au/your\\_council/councillors](http://www.armadale.wa.gov.au/your_council/councillors).”*

## **DISCLAIMER**

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The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings to be read.

## **DECLARATION OF MEMBERS' INTERESTS**

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## **QUESTION TIME**

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*Public Question Time is allocated for the asking of and responding to questions raised by members of the public.*

*Minimum time to be provided – 15 minutes (unless not required)*

*Policy and Management Practice EM 6 – Public Question Time has been adopted by Council to ensure the orderly conduct of Public Question time and a copy of this procedure can be found at <http://www.armadale.wa.gov.au/PolicyManual>*

*It is also available in the public gallery.*

*The public's cooperation in this regard will be appreciated.*

## **DEPUTATION**

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## **CONFIRMATION OF MINUTES**

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## **RECOMMEND**

**Minutes of the Technical Services Committee Meeting held on 1 May 2023 be confirmed.**

## **ITEMS REFERRED FROM INFORMATION BULLETIN**

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### **Outstanding Matters and Information Items**

Various Items

### **Monthly Departmental Reports**

Technical Services Works Programme

*If any of the items listed above require clarification or a report for a decision of Council, this item to be raised for discussion at this juncture.*

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## TECHNICAL SERVICES COMMITTEE

7 JUNE 2023

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***1.1 - PETITION - REQUEST - MAINTAIN NATURE SPACE & INSTALL SHADE SOLUTIONS - GUERIN PARK AND COLUMBIA PARKWAY GARDENS, PIARA WATERS***

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WARD : RANFORD  
FILE No. : M/312/23  
DATE : 29 May 2023  
REF : DF  
RESPONSIBLE : Executive Director  
MANAGER : Technical Services

**In Brief:**

- A petition was presented 14 March 2023, the prayer of which reads a number of requests regarding the maintenance and upkeep of Guerin Park and Columbia Parkway Gardens, Piara Waters
- It is recommended that Council endorse the Officers Recommendations, Options 1, 2, 4, 6, 8, 10, 12, 14 and 16 and advise the petition convener accordingly.

**Tabled Items**

Nil

**Decision Type**

- ☐ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☒ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

**Officer Interest Declaration**

Nil

**Strategic Implications**

- 2.2 Attractive, inclusive and functional public places
- 2.2.4 Develop, improve and maintain quality parks, playgrounds and public open spaces throughout the City

**Legal Implications**

General assessment of relevant legislation (e.g. *Local Government Act 1995*) has not revealed any restrictions.

**Council Policy/Local Law Implications**

General assessment of relevant legislation (e.g. *Local Government Act 1995*) has not revealed any restrictions.



### **Budget/Financial Implications**

The adoption of the recommendation contained in this report has no financial implication.

### **Consultation**

1. Intra Directorate

### **BACKGROUND**

A Petition was presented to Council dated 14 March 2023, detailing 200 signatures, the prayer of which reads: -

*We the undersigned respectfully request that the Council : Implement appropriate and consistent measures to maintain and rejuvenate the nature space between Columbia Parkway & Archdale Loop, Piara Waters, and to immediately install a shade solution over the play area within Piara Waters Park.*

*Residents are seeking the following solutions: increased watering days, footpath and verge maintenance, removal and replacement of dead trees and shrubs, maintenance of mature trees growing over residential properties, annual mulching, annual street sweeping, repair and maintenance of existing play equipment within Piara Waters Park.*

*These issues have been raised with the City of Armadale on several occasions and by many residents of Piara Waters. Residents of Columbia Parkway and Archdale Loop urge the City to maintain and care for this community streetscape.*

The Petition made a number of requests regarding the maintenance and upkeep of Guerin Park and Columbia Parkway Gardens, Piara Waters

A detailed analysis of the findings and subsequent recommendations are provided within the body of this report for consideration.

### **DETAILS OF PROPOSAL**

#### **Columbia Parkway Gardens Overview**

The Columbia Parkway Gardens were established as part of a development in 2011. Since 2011 the vegetation has established well (Image 1).

The City, as the Licensee, is responsible for maintaining the land as a low maintenance native garden. The Water Corporation, as the Licensor, can do anything on or under the premises including opening and breaking up the soil including excavation. Given the land is owned by the Water Corporation the City's investment on the land is subject to disturbance should the Water Corporation require to undertake such works. As a consequence, investment of City resources should be limited to an appropriate standard, and general upkeep should be in line with the original intent of the land as a low maintenance native garden.

Further improvement works including plantings, would be subject to Water Corporation approval. Council should be aware that this land forms part of a greater corridor that

stretches from Nicholson Road to Armadale Road, and that the setting of a precedence for this portion may have subsequent budgetary implications for the remaining portion.



**Image 1 (Columbia Parkway Gardens 2011 and 2023)**

The parkland is landscaped with native plants and provides connectivity along Columbia Parkway via a meandering pathway through the middle of the park (Image 2).

Columbia Parkway Gardens is owned in Freehold by the Water Corporation and is maintained under a general License Agreement between the Water Corporation and the City of Armadale (2010). Water Corporation has subsurface infrastructure network that runs through the land, namely potable water pipes.

Columbia Parkway Gardens forms part of a linear length of land that forms part of the Serpentine Trunk Main Line, which delivers drinking water from the Serpentine Dam to the metropolitan area. This section runs from Warton Road (adjoining City of Gosnells) extending a length approximately 5km through to Armadale Road.

The City's intent has been to establish the gardens so they are a low maintenance native area acting as a wildlife corridor and providing connectivity for residents via the footpath. The maintenance schedule is a monthly schedule. This service incorporates weed management, general pruning and litter removal. The maintenance area is from the curb lines between Archdale Loop and Columbia Parkway and the roads Pleasant Avenue and Guerin Avenue. The area is currently managed by the City using a specialist contractor under the Parks Landscape Maintenance Services Tender (TEN/17/22).





**Image 2 (Pathway through Columbia Parkway Gardens)**

### **Watering days**

Currently the Gardens are being watered twice per week for 45 minutes between 6pm and 6am during the non-winter months. Irrigation was initially installed to establish the vegetation in 2011. The area was originally planted with native vegetation in line with Water Wise garden standards and to enhance local biodiversity.

In February 2023, the City was again endorsed as a 'Water Wise Council' (Water Corporation); a component of the plan is for the City to use lower water use plants, Water Wise mulch, hydro zoning and soil amendments. Columbia Parkway Gardens aligns with these standards.

The City abstracts ground water to irrigate its reserves from its annual allocation, the City's water allocation is granted through the State Department of Water, Environment and Regulation (DWER) who issue the City with Ground Water Licenses allowing a quantity of water to be abstracted to irrigate turf and gardens throughout the City. The State Government has released a plan to rebalance precious groundwater resources. Under the plan, Local Governments are required to reduce their ground water usage (abstraction) by 10% as of July 2028.

The City currently abstracts approximately 90% of its allocation of ground water (under its Ground Water Licenses), with a 10% reduction in allocation in 2028, the City would be at 100% of its abstraction allocation. Therefore, the City does not support an increase in watering at Columbia Parkway Gardens.



### Footpath and verge maintenance

The footpaths are maintained as per the monthly schedule whereby paths are blown and vegetation is generally maintained off the pathway (Image 4). Vegetation incorporated in the monthly schedule, is pruned away from the verge as required (Image 3).



**Image 3 (Verge along Columbia Parkway and Archdale Loop)**



**Image 4 (Sections of footpath through Columbia Parkway Gardens.)**

### Removal and replacement of dead trees and shrubs

Columbia Parkway has experienced a natural decline in areas and particularly the *Callistemon viminalis* (Kings Park Special) which is a species that is in severe decline across the Perth Metropolitan Area. Historically, the scope of works in managing the area has not included removal of all the dead vegetation as the area is generally managed as a natural area in which dead vegetation is considered a component of a natural vegetation structure, unless the City deems any dead vegetation poses any risk. However, the City has recently assessed



the level of dead vegetation and has subsequently removed a significant amount of dead vegetation from within the park area.

The City does not have a program for the replacement of dead trees and shrubs in this area. The Columbia Parkway Gardens were established as part of a development in 2011. Since 2011 the vegetation has been well established, though it is recognised that infill planting of trees to attain higher level of long term canopy and shrub understory after twelve years is an activity that would be beneficial to the City's environment (Image 5).



**Image 5 (Example of areas that could be improved with replacement tree and shrub planting).**

### **Maintenance of mature trees growing over residential properties**

The City generally prunes trees only to:

- Clear overhead power lines and other utility services;
- Improve the tree's form, structural integrity or heal;
- Clear infrastructure such as street lights, street signs and City controlled CCTV;
- Maintain pedestrian and vehicle access and /or sightlines; and
- In accordance with statutory and other industry guidelines and requirements.

The trees within the Columbia Parkway Gardens area that grow along the property line of residents were assessed. Only six houses have fence lines adjacent to Columbia Parkway Gardens.



Number 36 and 38 Pleasant Avenue and 61 and 63 (Image 5) Archdale Loop were assessed for mature trees growing over residential properties; no significant over growth was identified (Image 6).



**Image 5 Aerial view of Number 36 and 38 Pleasant Avenue and 61 and 63 Archdale Loop.**





**Image 6 (Fence line of Number 36 and 38 Pleasant Avenue and 61 and 63 Archdale Loop).**

Number 53 Archdale Loop and 60 Guerin Avenue (Image 7) were assessed for mature trees growing over residential properties; no significant over growth was identified along 53 Archdale Loop (Image 8), whilst there was notable dense growth along the fence line of 60 Guerin Avenue (Image 9). It is recommended that the City prune the vegetation away from the fenceline of 60 Guerin Avenue.

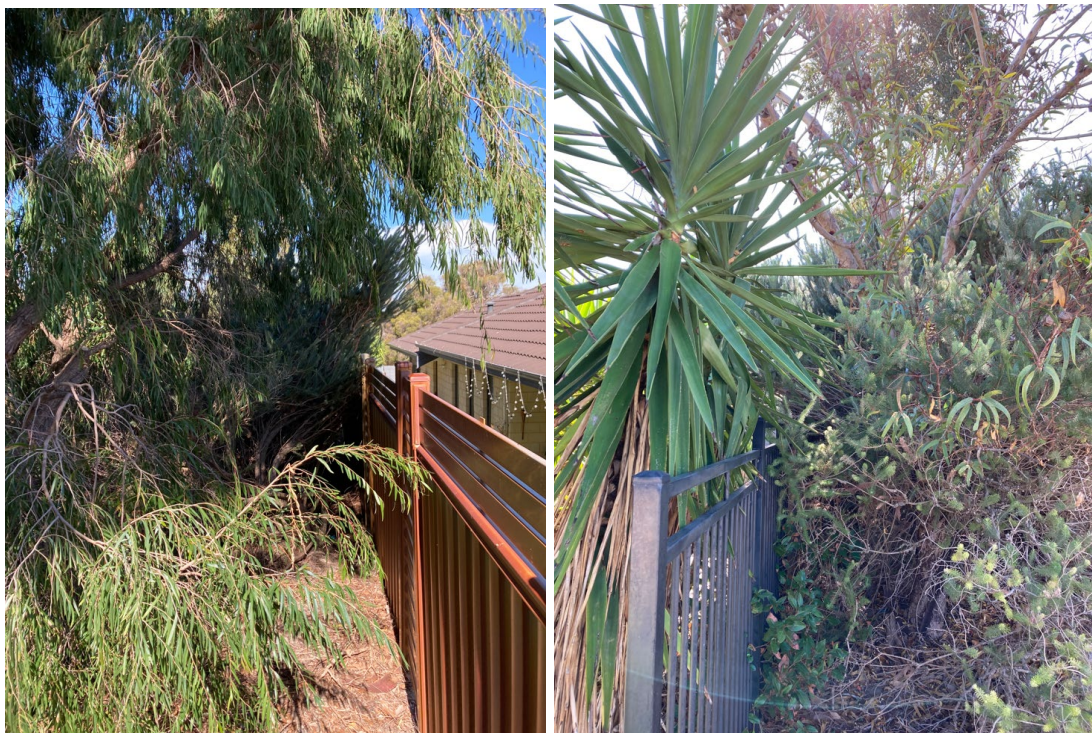


**Image 7 (Aerial view of Number 53 Archdale Loop and 60 Guerin Avenue).**





**Image 8 (Fence line of Number 53 Archdale Loop; note that the Bougainvillea is growing from the residents property).**



**Image 9 (Fence line of Number 60 Guerin Avenue)**

### **Annual Mulching**

The City does not currently implement any regular mulching in the Gardens. The area is approximately 0.6ha and the cost would be prohibitive. The native gardens produce leaf debris to assist in soil conditioning and acting as a natural mulch once established.



It is identified that there are areas that are bare of vegetation and could benefit from mulching by way of sand erosion control on the banks and be aesthetically pleasing if mulched, whilst soils generally benefits from the addition of organic matter. Mulching would be appropriate to establish any new plantings, particularly in the bare areas.

### **Annual street sweeping**

The City undertakes street sweeping of all local access roads twice per year.

### **Repair and maintenance of existing play equipment within Guerin Park (Piara Waters Park).**

Guerin Park (Piara Waters Park) Playground (Image 10) has a service regime, this service incorporates the activities detailed in Table 1 below.

Table: 1 Playground Maintenance Regime

<b>Activity</b>	<b>Frequency</b>
Inspection Routine	Monthly
Mulch Cleaning	Monthly
Mulch Rotary Hoe	Quarterly
Graffiti Removal	Monthly
Vandalism and Repairs*	Monthly
High Pressure Cleaning	Twice Yearly (Biannual)
Sanding and or Oiling of Timber Equipment	Once per Annum (September/October)
Rubbish Removal	Monthly
Emptying of the park rubbish bins	Weekly
Weed Control	Monthly

\*Urgent playground repairs are responded to immediately by City officers.

Guerin Park Playground currently has a condition rating of Fair to Good. The playground was installed in 2012, and based on a 15-year life cycle and is due to be replaced in 2026/2027.

The City provides safe playgrounds by having external biennial inspections by a specialist playground auditor, with maintenance carried out by weekly/monthly contracted services.



**Image 10 (Components of Guerin Park Playground)**

## **Shade Solutions**

Under the City's Parks Facility Strategy, Guerin Park is considered a local recreation reserve, as such the infrastructure is considered reasonable for the size and the use of the reserve.

Shade sails are not generally provided at local parks with preference for tree cover to provide shade instead, due to the costs associated with shade sails they cannot be provided in all locations. Guerin Park generally has some morning shade cover by the trees to the western side but minimal afternoon shade cover. It is suggested that some further tree planting is undertaken within the Park specifically to assist in natural shade in the long term.

## **COMMENT**

The issues raised within the petition requesting the implementation and measures to maintain and rejuvenate the nature space between Columbia Parkway and Archdale Loop, Piara Waters have been assessed.

The Columbia Parkway Gardens has a prescribed monthly maintenance whilst the Guerin Park playground has a regime as depicted in Table 1 above, although the City does recognise that on occasion Columbia Parkway Gardens has been underserviced at times due to resourcing challenges. The Gardens however, is now currently under a monthly contracted maintenance service. It should be noted that this standard and type of reserve is designed to be low maintenance and Water Wise.

Given the City's requirements to reduce water abstraction in 2028 by 10% (under the State Governments Plan to rebalance groundwater resources) it is not recommended that the City increase watering in the Gardens and particularly when it is designed to be water use efficient with native plantings.

The current maintenance program ensures footpaths and verges are kept clear of vegetation. Since the planting of the Gardens in 2011 it is recognised that even though across the land the planting has been a success, there are areas where trees have not survived along with some shrubs and ground covers. Replanting these areas would be appropriate to ensure the objectives of the initial planting are achieved. To ensure the best chance of survival, this would occur in the 2024 planting season (Winter months 2024).

The City recently (May 2023) assessed Columbia Parkway and provided an extra service level which incorporated removal of all dead vegetation as well as a higher level of weed control and pruning activities.

Of the six properties adjacent to Columbia Parkway, only one property (60 Guerin Avenue) was assessed to be requiring pruning of vegetation, notably away from the fence as the vegetation is dense and up against the fence line. All other properties have no significant vegetation over hanging the property lines. The pruning along 60 Guerin Avenue fence line would take place in July 2023.

Annual mulching of the Gardens is not required as native gardens are designed to provide self-generating beneficial leaf debris (mulch) once established. However, the Gardens do have a number of areas where the planting has not established, as such a mulching regime to assist in the establishment of any infill planting would be implemented in September/October 2023.

The City schedules a twice yearly street sweeping activity on all the local access roads. The roads within the vicinity of Columbia Parkway and Archdale Loop will continue to be swept in line with the level of service of all roads within the City.

Guerin Park Playground is currently on a monthly inspection and service regime which incorporates repairs to equipment, cleaning, treatments, undersurface cleaning and rubbish removal. As Guerin Park is a 'local playground', the City will continue to maintain the playground on the monthly service, as detailed in Table 1 above. As the playground was installed 2012 it will be due for replacement in 2026/2027. We will look to engage local residents ahead of the replacement.

The City generally does not provide shade sails to local parks where play is often of a short duration and children are responsibly sun smart. It is not recommended that shade sails be installed over the playground. The City will investigate shade tree planting for a longer term, natural and sustainable solution to shade.

Columbia Parkway is owned by the Water Corporation in Freehold and the City maintains the land under a general license agreement between the Water Corporation and the City of Armadale. The City is the Licensee and as such is responsible for maintaining the land. The Water Corporation, as the Licensor, can do anything on or under the premises including opening and breaking up the soil including excavation.

The Water Corporation has scheme water pipes under Columbia Parkway Gardens, as such, the City's investment on the land is subject to disturbance should the Water Corporation require to undertake such works. Further, any improvement works (inclusive of plantings) would be subject to Water Corporation approval.

## **ANALYSIS**

A full assessment has been carried out, with background, comment and recommendation outlined within the body of this report.

## **OPTIONS**

The City has reviewed the requests submitted within the petition and the following information is provided for Councilors' consideration.

**Option 1** Undertake a planting assessment of the Gardens to increase canopy with local native tree species, shrubs and ground cover where required. Subsequent planting to be undertaken during winter 2023/2024.

**Option 2** Undertake mulching and irrigation adjustments to support future planting.

**Option 3** Increase maintenance activity to mulch the whole Gardens annually.

**Option 4** Continue to operate the watering schedule twice weekly in the summer months; subject to future water restrictions.

**Option 5** Increase the watering schedule to thrice weekly; subject to future water restrictions.

- Option 6** Maintain current monthly service schedule of Columbia Parkway Gardens, subject to available resources.
- Option 7** Increase the planned maintenance activity service schedule of Columbia Parkway Gardens to fortnightly, subject to available resources.
- Option 8** Prune the vegetation from the fence line at 60 Guerin Avenue.
- Option 9** Increase the number of fence lines to be pruned of any vegetation away from the fence line and any vegetation overhanging fence line to include those along the properties of 60 Guerin Avenue, 53 Archdale Loop, 36 and 38 Pleasant Avenue, and 61 and 63 Archdale Loop.
- Option 10** Maintain the biannual street sweep activity.
- Option 11** Increase the sweeping activity to 3-4 times per year.
- Option 12** Do not install shade sails of the playground at Guerin Park.
- Option 13** Install shade sails over the playground at Guerin Park.
- Option 14** Investigate shade tree planting around the Guerin Park Playground and plant trees as required.
- Option 15** Do not investigate shade tree planting around the Guerin Park Playground.
- Option 16** Maintain current monthly maintenance regime on the Guerin Park Playground
- Option 17** Increase the planned maintenance activity on the Guerin Park Playground from monthly to a fortnightly regime.

## CONCLUSION

A petition has been received requesting consideration be given to the rejuvenation of Columbia Parkway Gardens, and an increase in service levels along with installing shade sails over Guerin Park Playground.

The City has given consideration to the concerns raised in the petition. In doing so, it is recognised that enhancing the Columbia Parkway Gardens vegetation with infill planting is appropriate, as well as maintaining a consistent monthly service regime.

As such, it is recommended that Council advise the convener of the petition that Options 1, 2, 4, 6, 8, 10, 12, 14 and 16 are the practical approaches to the matters raised within the petition.

## **RECOMMEND**

### **That Council:**

- 1. Endorse Options 1, 2, 4, 6, 8, 10, 12, 14 and 16**
- 2. Inform the petition convener**

## **ATTACHMENTS**

There are no attachments for this report.



***\*\*2.1 - TECHNICAL SERVICES DIRECTORATE - REVIEW OF DELEGATIONS***

WARD : ALL

FILE No. : M/261/23

DATE : 12 May 2023

REF : DB

RESPONSIBLE : Executive Director  
MANAGER Technical Services

**In Brief:**

- On 25 July 2022 Council reviewed all of its delegations to the CEO (Local Government Act, Dog Act, Cat Act) to ensure compliance with *Local Government Act 1995* requirements.
- This review was made on the premise that a detailed review and update of the City's delegations would continue to occur in time for the subsequent 12 month milestone.
- Tranche 1 of that detailed review is complete and delegations relevant to Technical Services Directorate functions are presented for consideration.
- Recommend that Council adopt the delegations as attached to this report.

**Tabled Items**

Nil.

**Decision Type**

- ☒ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☐ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

**Officer Interest Declaration**

Nil.

**Strategic Implications**

- 4.1. *Develop organisational frameworks to achieve consistency, transparency and clarity of decision making processes.*

**Legal Implications**

Delegations of authority are made using enabling legislation (in this case, the *Local Government Act 1995*) to allow Officers to exercise functions and powers that would otherwise require to be exercised by Council.

Section 5.46(2) of the *Local Government Act 1995* (Act) requires delegations made under the Act to be reviewed at least once by the delegator in every financial year.

### **Council Policy/Local Law Implications**

New and revised delegations should not alter the ability of the City to use local laws or policies. Some policies may require an administrative amendment to reflect a change in the name of a delegation; however, the heads of power remain the same.

### **Budget/Financial Implications**

Nil.

### **Consultation**

1. Directorate Managers
2. Chief Executive Officer
3. ELT
4. External legal services provider in some cases

## **BACKGROUND**

At Council's meeting on 25 July 2022, Council reviewed, for the purposes of compliance with section 5.46(2) of the Act, section 47 of the *Cat Act 2011* and section 10AB(2) of the *Dog Act 1976*, all of the City's delegations of authority from Council to the CEO (CS36/7/22).

This followed an in-depth review commenced by the Standing Order House Advisory Group (SOHAG) in 2020 which ultimately recommended to Council to review, amend or approve a number of delegations (both existing and new) that covered a range of functions and business areas. Fifty two (52) in total were subject to review.

The review of the delegations by Council in July 2022, was made on the premise that a detailed assessment of the City's existing delegations would continue to be conducted. This would allow the City to account for changes in legislation, address any anomalies or issues with current delegations, and any operational gaps in functions and powers that are delegated.

Due to the timing of the review falling due by the end of this financial year to achieve compliance with the Act, it will not be possible for SOHAG to review the delegations and still allow the City to be compliant with legislative requirements. Consequently, the delegations are presented to committees for consideration and recommendation to Council.

## **DETAILS OF PROPOSAL**

As noted earlier, Council's review on 25 July 2022 was for the purpose of satisfying the compliance requirements of the enabling legislation behind those delegations where review by the delegator is required on an annual basis. It did not constitute a detailed review of each instrument, however, it was understood that this would continue to be done in time for the next review anniversary.

Since then, a wide ranging assessment of the City's existing delegations that had not been subject to detailed review has been conducted and benchmarked against other local governments in the Perth metropolitan area, as well as against templates provided by the Western Australian Local Government Association (WALGA). Legislative requirements



were reviewed, and where necessary, advice obtained from external legal service providers on particular powers and the delegable status of those powers.

This assessment eventually led Officers to form the view that for the remaining delegations that had not been reviewed, the City's existing delegation structure, and many individual delegations, were no longer fit for purpose and did not reflect current industry practice.

In addition, the system administrators of the cloud-based Attain system, which the City uses to manage its delegations (amongst other functions) have provided an updated and improved delegated authority template to better demonstrate functions and powers that have been delegated, in detail. This was in response to requests from the City for a better template to serve a more contemporary approach to making and managing instruments of delegated authority. It was viewed as an opportunity to make a generational change to the City's instruments of delegation and improve their utility.

Where more than one delegation is identified that has the same head of power, generally a single replacement is proposed combining them. The previously reviewed delegations are proposed to be replaced like-for-like with a version using the updated format and providing expanded detail of the delegation.

The delegations are proposed to be dealt with in the following way:

**Tranche 1** – delegations that require annual review. *Local Government Act 1995, Cat Act 2011, Dog Act 1976*. Delegations in this Tranche to be presented to the respective Committees responsible for the function being administered.

**Tranche 2** – all other delegations that do not have an annual review requirement. This will include Development Services delegations and *Bush Fires Act 1954* delegations. Delegations in this Tranche are still being assessed, with internal consultation ongoing.

Delegations for the Technical Services Directorate are attached to this report, numbering 10 in total. It is proposed that these delegations will replace existing delegations as follows.

### **Local Government Act 1995 Delegations – Council to CEO**

- 1.1.4 Compensation for damage incurred when performing executive function.** New delegation for dealing with s. 3.22 of the Act in the event the City damages private property whilst performing any of its functions under the Act.
- 1.1.5 Power of entry.** Replaces “NEW TBC Local Government Act 1995 – Power of entry” however in reality it is a carryover of the existing delegation with formatting changes.
- 1.1.9 Closing certain thoroughfares to vehicles.** Replaces “TS 3.0 Authority to close roads” and improves the current delegation by ensuring the functions are adequately defined.
- 1.1.10 Reserves under control of the local government.** Replaces “TS 2.0 Reserves under control of Local Government” however it is essentially a carryover of the existing delegation, albeit with expanded detail of the functions.

- 1.1.11 Obstruction of footpaths and thoroughfares.** This is not expressly covered in an existing delegation. It introduces the ability for the City to exercise provisions of the *Local Government (Uniform Local Provisions) Regulations 1996* in respect of private works obstructing footpaths and roads.
- 1.1.12 Public thoroughfare – dangerous excavations.** This is a new instrument to allow the City to exercise provisions of the *Local Government (Uniform Local Provisions) Regulations 1996* that deal with excavations done in thoroughfares that present a public safety risk.
- 1.1.13 Requirement to construct, repair or remove crossing.** Replaces “NEW TBC Requirement to construct and repair crossing” and “NEW TBC Crossing from public thoroughfare to private land or private thoroughfare”. The existing delegations have the same head of power and deal with the same basic function (i.e. crossovers). It was considered better practice to combine the two and prescribe the functions with better detail in respect of the functions to be exercised.
- 1.1.14 Private works on, over or under public places.** Replaces “TS 5.0 Approval of Private Works on a Public Place” with a delegation that prescribes the functions to be exercised in detail.
- 1.1.20 Disposing of property other than land or buildings.** This is a new delegation that in part will replace some functions of “CORPS 11.0 Disposal of Property”. The delegated functions are proposed to be separated into two categories: disposal of property involving land or buildings, and disposal of property that is not land or buildings. Because the latter continually involves a substantial volume of transactions where City fleet vehicles and plant are disposed of, it is presented to Technical Services Committee for consideration.
- 1.1.35 Particular things local governments can do on land that is not local government property.** Replaces “TS 1.0 Things Local Government can do on land that is not Local Government Property”. The current delegation does not detail a head of power to carry out the function prescribed; the new delegation corrects this. This delegation will allow the use of the powers of the Act to perform works on private property that are prescribed by Schedule 3.2 of the Act (flooding mitigation for example).

## COMMENT

Council will note the proposed new and replacement delegations have new designator numbers. Whilst these may, on the face of it, seem to have no real sequence as shown in this report, eventually, once all delegations have been adopted they will all form part of a revised Register of Delegations that will be structured like a piece of legislation, with the delegated powers being separated by their respective heads of power. All will be numbered sequentially with sub-delegations similarly separated by head of power.

Council is requested to adopt the delegations that are presented, with any such desired modifications as the case may be, and specify that the delegations do not come into effect until a future date, in this case, 7 August 2023.

The reason for this is to allow time for Officers to create sub-delegations for approval by the CEO, so that the sub-delegations are able to come into effect at the same time as the principal delegations. This is necessary due to the changes proposed in the attached drafts and the fact

that if adopted, existing delegations are required to be repealed. Consequently, any sub-delegation made under a current delegation will cease to have legal effect as its source of authority will no longer exist.

Section 59(1)(b) of the *Interpretation Act 1984* provides broad discretion to a delegator when making or granting a delegated power. Notwithstanding the technical requirements of the LGA when making a delegation, section 5.45(1)(a) of the LGA itself appears to grant a Council the ability to delegate its authority in the manner proposed, particularly when a limitation of time is involved:

*“(a) a delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely...”*

Council can, therefore, specify a period of time when the delegations come into effect, in its resolution.

## OPTIONS

- 1) Adopt the draft delegations attached, and revoke the existing delegations as recommended.
- 2) Not adopt the delegations and request additional information or explanation on them. The City will still be compliant with the annual review requirement of section 5.46 of the Act, as Council will have made a decision to accept or not accept the draft delegations.

## CONCLUSION

The assessment and revision of the attached delegations and the overarching process involved represents a significant body of work to overhaul the City’s delegation structure and bring about a contemporary change to how the City makes and exercises its functions and powers.

For all practical purposes, little will change for Officers in the course of their day to day duties and the powers delegated are the same as those used currently. What these changes will do is improve transparency around how Council delegates, and what specific legislative functions are delegated, whilst creating a clear and unambiguous link between the legislation through to the proper exercise of a power.

## **RECOMMEND**

### **That Council:**

**In accordance with section 5.42(1) of the *Local Government Act 1995*, delegate to the CEO the exercise of the powers and duties prescribed in the instruments of delegation specified by Attachment 1 of this report, and that –**

- 1. Pursuant to section 5.45(1)(a) of the *Local Government Act 1995*, the instruments of delegation have effect from 7 August 2023; and**
- 2. Upon the coming into effect of the instruments of delegation on 7 August 2023, and in accordance with section 5.45(1)(b) of the *Local Government Act 1995*, instruments of delegation specified by Attachment 2 of this report are revoked in their totality.**
- 3. Authorise the CEO to correct any identified minor grammatical, formatting or punctuation errors to the delegations once adopted, provided the correction does not represent a change to the function or power delegated.**

### **ABSOLUTE MAJORITY RESOLUTION REQUIRED**

## **ATTACHMENTS**

- 1. DRAFT delegations - Technical Services Directorate**
- 2. CURRENT - Technical Services Directorate delegations**

***COUNCILLORS' ITEMS***

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Nil

***EXECUTIVE DIRECTOR TECHNICAL SERVICES REPORT***

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Nil

**MEETING DECLARED CLOSED AT \_\_\_\_\_**

<b>TECHNICAL SERVICES COMMITTEE</b>		
<b>SUMMARY OF ATTACHMENTS</b>		
<b>7 JUNE 2023</b>		
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DRAFT

## DELEGATIONS

### Part 1 - Local Government Act 1995

Local Government Act 1995

#### Division 1.1 - Local Government Act 1995 - delegations from Council to CEO

<b>Delegation</b>	<b>1.1.4 Compensation for damage incurred when performing executive function (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to the CEO. s. 5.43 - Limitations on delegations to the CEO.
<b>Express power or duty delegated</b>	<b>Local Government Act 1995</b> s. 3.22(1) - Compensation s. 3.23 - Arbitration
<b>Function</b>	1. In accordance with the procedure prescribed by the Act, assess and determine the extent of damage to private property arising directly from performance of executive functions and make payment of compensation [Act, s. 3.22(1)]. 2. Where compensation is unable to be determined and agreed between parties, give effect to arbitration in accordance with s. 3.23.
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	1. Limited to settlements which do not exceed a material value of \$10,000. 2. Settlements under the City's insurance policy are not included.
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.



<b>Delegation</b>	<b>1.1.5 Power of entry (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to the CEO s. 5.43 - Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government Act 1995</b> s. 3.28 - When this Subdivision applies s. 3.32 - Notice of entry s. 3.33 - Entry under warrant s. 3.34 - Entry in an emergency s. 3.36 - Opening fences
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Exercise powers to enter onto land to perform any of the local government functions under this Act, other than entry under a local law [Act, s. 3.28]</li> <li>2. Give notice of entry [Act, s. 3.32]</li> <li>3. Seek and execute an entry under warrant [Act, s. 3.33]</li> <li>4. Execute entry in an emergency, using such force as is reasonable [Act, s. 3.34(1) and (3)]</li> <li>5. Give notice of intent to open a fence [Act, s. 3.36]</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<p>The authority is to be exercised in accordance with the criteria contained within the following sections of the Act -</p> <ol style="list-style-type: none"> <li>1) General procedure for entering property [s. 3.31(1)]</li> <li>2) Notice of entry [s. 3.32]</li> <li>3) Entry under warrant [s. 3.33]</li> <li>4) Entry in emergency [s. 3.34]</li> <li>5) Opening fences [s. 3.36]</li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees.
<b>Statutory framework</b>	<b>Local Government Act 1995</b> Part 3, Division 3, Subdivision 3 - prescribes statutory processes for Powers of Entry.
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.

<b>Delegation</b>	<b>1.1.9 Closing certain thoroughfares to vehicles (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to the CEO s. 5.43 - Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government Act 1995</b> s. 3.50 - Closing certain thoroughfares to vehicles s. 3.50A - Partial closure of thoroughfares for repairs or maintenance s. 3.51 - Affected owners to be notified of certain proposals
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to close a thoroughfare (wholly or partially) to vehicles or particular classes of vehicles for a period not exceeding four weeks [Act, s. 3.50(1)].</li> <li>2. Authority to determine to close a thoroughfare for a period exceeding four weeks, and before doing so, to: <ol style="list-style-type: none"> <li>a. Give public notice, written notice to the Commissioner of Main Roads, and written notice to prescribed persons and persons that own prescribed land; and</li> <li>b. Consider submissions relevant to the road closure(s) proposed [Act, s. 3.50(1), (2) and (4)].</li> </ol> </li> <li>3. Authority to partially and temporarily close a thoroughfare without public notice for repairs or maintenance, where it is unlikely to have significant adverse effect on users of the thoroughfare [Act, s. 3.50A].</li> <li>4. Before doing anything to which s.3.51 applies, take action to notify affected owners and give public notice that allows reasonable time for submissions to be made and consider any submissions made before determining to fix or alter the level or alignment of a thoroughfare or draining water from a thoroughfare to private land [Act, s. 3.51].</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. If, under s.3.50(1) a thoroughfare is closed without giving local public notice, local public notice is to be given as soon as practicable after the thoroughfare is closed [s. 3.50(8)].</li> <li>2. Maintain access to adjoining land [s. 3.52(3)].</li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 CEO may delegate some powers and duties to other employees.
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.

<b>Delegation</b>	<b>1.1.10 Reserves under control of the local government (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to the CEO s. 5.43 - Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government Act 1995</b> s. 3.54(1) - Reserves under control of local government
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to agree the method for control and management of an unvested facility which is partially within two or more local government districts [Act, s. 3.53(3)].</li> <li>2. Authority to do anything for the purpose of controlling and managing land under the control and management of the City, that the City could do under s.5 of the <i>Parks and Reserves Act 1895</i> [Act, s. 3.54(1)].</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil.
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees.
<b>Statutory framework</b>	<i>Local Government Act 1995</i> <i>Parks and Reserves Act 1895</i> <i>Land Administration Act 1997</i>
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.

<b>Delegation</b>	<b>1.1.11 Obstruction of footpaths and thoroughfares (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. - 5.42 Delegation of some powers or duties to CEO s. - 5.43 Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government (Uniform Local Provisions) Regulations 1996</b> r. 5(2) - Interfering with, or taking from, local government land r. 6 - Obstruction of public thoroughfare by things placed and left r. 7A - Obstruction of public thoroughfare by fallen things r. 7 - Encroaching on public thoroughfare
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to determine, by written notice served on a person who is carrying out plastering, painting or decorating operations (the work), over or near a footpath on land that is local government property, to require the person to cover the footpath during the period specified in the notice so as to: <ol style="list-style-type: none"> <li>a. Prevent damage to the footpath; or</li> <li>b. Prevent inconvenience to the public or danger from falling materials [r. 5(2)].</li> </ol> </li> <li>2. Authority to provide permission, including imposing appropriate conditions or to refuse to provide permission, for a person to place on a specified part of a public thoroughfare, one or more specified things that may obstruct the public thoroughfare [r. 6(2) and (4)].</li> <li>3. Authority to renew permission to obstruct a thoroughfare, and to vary any condition imposed on the permission, effective at the time written notice is given to the person to whom permission is granted [r. 6(6)].</li> <li>4. Authority to require an owner or occupier of land to remove any thing that has fallen from the land, or from anything on the land, which is obstructing a public thoroughfare [r. 7A].</li> <li>5. Authority to require an owner occupier of land to remove any part of a structure, tree or plant that is encroaching, without lawful authority on a public thoroughfare [r. 7].</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. Actions under this Delegation must comply with procedural requirements detailed in the <i>Local Government (Uniform Local Provisions) Regulations 1996</i>.</li> <li>2. In addition to those matters prescribed by regulation 6(4) the City may impose conditions on a permission to obstruct a thoroughfare, which may require a proponent to: <ol style="list-style-type: none"> <li>a. Where appropriate, obtain written permission from each owner of adjoining or adjacent property which may be impacted by the proposed obstruction.</li> <li>b. Provide a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good public assets damaged by the construction at the completion of works.</li> <li>c. Provide evidence of sufficient Public Liability Insurance.</li> <li>d. Provide pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.</li> </ol> </li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees.

<b>Statutory framework</b>	<b><i>Local Government (Uniform Local Provisions) Regulations 1996</i></b> Penalties under the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i> .  <b>Activities and Trading in Thoroughfares and Public Places Local Law</b>
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.

DRAFT

<b>Delegation</b>	<b>1.1.12 Public thoroughfare - dangerous excavations (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to the CEO s. 5.43 - Limitations on delegations to the CEO
<b>Express power or duty delegated</b>	<b>Local Government (Uniform Local Provisions) Regulations 1996</b> Reg 11(1), (4), (6) and (8) - Dangerous excavation in or near public thoroughfare
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to determine if an excavation in or on land adjoining a public thoroughfare is dangerous and take action to fill it in or fence it or request the owner/occupier in writing to fill it in or securely fence the excavation [r. 11(1)].</li> <li>2. Authority to determine to give permission or refuse to give permission, to make or make and leave an excavation in a public thoroughfare or land adjoining a public thoroughfare [r. 11(4)].</li> <li>3. Authority to impose conditions on granting permission [r. 11(6)].</li> <li>4. Authority to renew a permission granted or vary at any time, any condition imposed on a permission granted [r. 11(8)].</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. Actions under this Delegation must comply with procedural requirements detailed in the Local Government (Uniform Local Provisions) Regulations 1996.</li> <li>2. In addition to those matters prescribed by regulation 11(6) the City may impose conditions on a permission to obstruct a thoroughfare, which may require a proponent to: <ol style="list-style-type: none"> <li>a. Where appropriate, obtain written permission from or enter into a legal agreement with, each owner of adjoining or adjacent property which may be impacted by the proposed works.</li> <li>b. Provide a bond, sufficient to the value of works that may be required if the proponent does not satisfactorily make good the public assets at the completion of works.</li> <li>c. Provide evidence of sufficient Public Liability Insurance.</li> <li>d. Provide pedestrian and traffic management plans which are sufficient for the protection of public safety and amenity.</li> </ol> </li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995:</b> s.5.44 - CEO may delegate some powers and duties to other employees.
<b>Statutory framework</b>	<ol style="list-style-type: none"> <li>1. Local Government (Uniform Local Provisions) Regulations 1996 – prescribe applicable statutory procedures.</li> <li>2. Penalties under the Local Government (Uniform Local Provisions) Regulations 1996 are administered in accordance with Part 9, Division 2 of the Local Government Act 1995.</li> </ol>
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.



<b>Delegation</b>	<b>1.1.13 Requirement to construct, repair or remove crossing (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 Delegation of some powers and duties to CEO
<b>Express power or duty delegated</b>	<b>Local Government (Uniform Local Provisions) Regulations 1996</b> Regulation 12(1) - Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1 cl. 7(2). Reg 13(1) - Requirements to construct or repair crossing – Sch. 9.1 cl. 7(3).
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to approve or refuse to approve, applications for the construction of a crossing giving access from a public thoroughfare to land or private thoroughfare serving land [r. 12(1)].</li> <li>2. Authority to determine the specifications for construction of crossings to the satisfaction of the local government [r. 12(1)(a)].</li> <li>3. Authority to give notice to an owner or occupier of land requiring the person to construct or repair a crossing [r. 13(1)].</li> <li>4. Authority to initiate works to construct a crossing where the person fails to comply with a notice requiring them to construct or repair the crossing and recover 50% of the cost of doing so as a debt due from the person [r. 13(2)].</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. Actions under this delegation must comply with procedural requirements detailed in the <i>Local Government (Uniform Local Provisions) Regulations 1996</i>.</li> <li>2. Specification of a crossing is set out in Policy - Crossovers and unless otherwise provided, crossings approved are to be of a specification set out in that policy.</li> <li>3. Requirements of regulation 14 – the local government cannot –               <ol style="list-style-type: none"> <li>(a) under regulation 12 construct or approve the construction of; or</li> <li>(b) under regulation 13(1) require the construction of,</li> </ol>               a crossing to which this regulation applies unless the local government has consulted with Main Roads and Main Roads has approved in writing the construction of the crossing.             </li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees.
<b>Statutory framework</b>	<ol style="list-style-type: none"> <li>1. <i>Local Government (Uniform Local Provisions) Regulations 1996</i> – prescribe applicable statutory procedures.</li> <li>2. Penalties under the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i>.</li> </ol>
<b>Policy</b>	Policy - Crossovers
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.

<b>Delegation</b>	<b>1.1.14 Private works on, over or under public places (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to CEO
<b>Express power or duty delegated</b>	<b>Local Government (Uniform Local Provisions) Regulations 1996</b> Regulation 17 - Private works on, over, or under public places – Sch. 9.1
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Authority to grant permission or refuse permission to construct a specified thing on, over, or under a specified public thoroughfare or public place that is local government property [r. 17(3)]</li> <li>2. Authority to impose conditions on permission [r. 17(5)], including those prescribed [r. 17(6)]</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. Actions under this Delegation must comply with procedural requirements detailed in the <i>Local Government (Uniform Local Provisions) Regulations 1996</i></li> <li>2. The function is unable to be exercised in respect of the construction of things by or on behalf of the Crown [r. 17(2)]</li> <li>3. Approval is not to be granted unless the applicant has provided, in advance, sufficient information or undertaken sufficient measures to account for those matters prescribed by r. 17(6) and r. 17(8)</li> </ol>
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate powers and duties to other employees
<b>Statutory framework</b>	<ol style="list-style-type: none"> <li>1. <i>Local Government (Uniform Provisions) Regulations 1996</i> – prescribe applicable statutory procedures.</li> <li>2. Penalties under the <i>Local Government (Uniform Local Provisions) Regulations 1996</i> are administered in accordance with Part 9, Division 2 of the <i>Local Government Act 1995</i>.</li> </ol>
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.



<b>Delegation</b>	<b>1.1.20 Disposing of property other than land or buildings (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<p><b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers or duties to CEO</p> <p><b>Local Government (Functions and General) Regulations 1996</b> r. 30 - Dispositions of property excluded from Act s. 3.58</p>
<b>Express power or duty delegated</b>	<p><b>Local Government Act 1995</b> s. 3.58(2) and (3) - Disposing of Property.</p> <p><b>Local Government (Functions and General) Regulations 1996</b> Reg 30(3) - exempt dispositions</p>
<b>Function</b>	<p>'property' includes the whole or any part of the interest of a local government property but does not include money.</p> <p>1. Authority to dispose of property, other than land or buildings, which has a market value of less than \$20,000, in accordance with the relevant Council policy.</p> <p>2. Authority to dispose of property other than land or buildings which has a market value between \$20,000 and \$100,000 (excluding GST) to:</p> <ol style="list-style-type: none"> <li>to the highest bidder at public auction [Act, s. 3.58(2)(a)]; or</li> <li>to the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tenders [Act, s. 3.58(2)(b)].</li> </ol> <p>c. Authority to dispose of property, other than land or buildings which has a market value between \$20,000 and \$150,000 (excluding GST) by negotiating, and entering into, an agreement subject to compliance with s. 3.58(3) and (4) of the Act including the consideration of any submissions received following the giving of public notice prior to the disposal.</p> <p>d. Authority to dispose of property, other than land or buildings, where the entire consideration received for the disposition is used to purchase other property (other than Land or Buildings), and where the total consideration for the other property is not more, or worth more, than \$150,000 (excluding GST).</p>
<b>Delegates</b>	Chief Executive Officer

<b>Conditions</b>	<p>1. Authority to dispose of an asset (such as fleet vehicles and plant items) other than land or a building where the market value of the property is determined as being less than the \$20,000 exemption threshold prescribed by r. 30(3) of the Local Government (Functions and General) Regulations 1996 may be undertaken:</p> <ul style="list-style-type: none"> <li>a. Without reference to Council for resolution; and</li> <li>b. In any case, be undertaken to ensure that the best value return is achieved, however where the property is determined as having a nil market value, then the disposal must ensure environmentally responsible disposal;</li> <li>c. To the highest bidder at public auction;</li> <li>d. To the person who at public tender called by the local government, makes what is considered by the delegate to be the most acceptable tender, whether or not it is the highest tender.</li> <li>e. Any property (other than land or building) which is being disposed of must not exceed a market value of \$150,000 (excluding GST).</li> </ul>
<b>Express power to subdelegate</b>	<p><b>Local Government Act 1995</b> s. 5.44 - CEO may delegate some powers and duties to other employees</p>
<b>Statutory framework</b>	<p><i>Local Government Act 1995</i> – s3.58 – Disposal of Property. <i>Local Government (Functions and General) Regulations 1995</i> – Reg 30 – Dispositions of property excluded from Act s3.58.</p>
<b>Policy</b>	<p>FIN 7 - Disposal of Assets</p>
<b>Record keeping</b>	<p>Exercise of the authority is to be recorded in the City's records management system and Attain.</p>

DRAFT

<b>Delegation</b>	<b>1.1.35 Particular things local governments can do on land that is not local government property (DRAFT)</b>
<b>Category</b>	Technical Services Directorate
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<b>Local Government Act 1995</b> s. 5.42 - Delegation of some powers and duties to CEO
<b>Express power or duty delegated</b>	s. 3.27 - Particular things local governments can do on land that is not local government property
<b>Function</b>	Do any of the things prescribed in Schedule 3.2 of the Local Government Act 1995 even though the land on which it is done is not local government property and the local government does not have consent to do it [Act, s. 3.27(1)]
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil
<b>Express power to subdelegate</b>	<b>Local Government Act 1995</b> s. 5.44 - CEO may delegate powers and duties to other employees
<b>Statutory framework</b>	<b>Local Government Act 1995</b> s. 3.27 Schedule 3.2
<b>Record keeping</b>	Exercise of the authority is to be recorded in the City's records management system and Attain.



## Delegation of authority

<b>Delegation</b>	<b>NEW TBC Local Government Act 1995 - Power of Entry</b>
<b>Category</b>	Engineering and Property (New)
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	Local Government Act 1995 s5.42 Delegation of some powers to the CEO
<b>Express power or duty delegated</b>	<i>Local Government Act 1995</i> , Part 3, Division 3 s3.28 When this subdivision applies s3.32 Notice of entry s3.34 Entry in an emergency s3.36 Opening of fences
<b>Function</b>	Authority to: <ol style="list-style-type: none"> <li>1. Exercise powers of entry to enter onto land to perform any of the local government functions under this Act, other than entry under a Local Law.</li> <li>2. Give notice of entry.</li> <li>3. Seek and execute an entry under warrant.</li> <li>4. Execute entry in an emergency, using such force as is reasonable.</li> <li>5. Give notice and effect entry by opening a fence.</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Delegated Authority is to undertaken in accordance with the Act - <ol style="list-style-type: none"> <li>1. s3.31(1)(a) - Consent of the owner or occupier has been obtained</li> <li>2. s3.32 - Notice has been given</li> <li>3. s3.34(2) - Entry in an emergency</li> <li>4. s3.36 - Opening fences</li> </ol>
<b>Express power to subdelegate</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate some power and duties to other employees
<b>Subdelegate conditions</b>	<a href="#">Local Government Act 1995</a>
<b>Statutory framework</b>	<a href="#">Local Government Act 1995</a>
<b>Policy</b>	Nil
<b>Record keeping</b>	The exercise of this delegation is to be recorded in Attain.
<b>Date adopted</b>	29 September 2020
<b>Adoption references</b>	Council Meeting of 29 September 2020 - CS47/9/20



## Delegation of authority

<b>Delegation</b>	<b>TS 3.0 Authority to close roads</b>
<b>Category</b>	Primary Delegations - Council to CEO
<b>Delegator</b>	Council
<b>Express power or duty delegated</b>	Authority to approve road closures in accordance with sections 3.50, 3.50A of the Act.
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil
<b>Subdelegates</b>	Yes - Refer to Secondary Delegations
<b>Statutory framework</b>	Sections 3.50 and 3.50A of the Local Government Act 1995
<b>Policy</b>	Nil
<b>Date adopted</b>	13 May 2019
<b>Adoption references</b>	Resolution - T32/5/19
<b>Last reviewed</b>	13 May 2019



## Delegation of authority

<b>Delegation</b>	<b>TS 2.0 Reserves under control of Local Government</b>
<b>Category</b>	Primary Delegations - Council to CEO
<b>Delegator</b>	Council
<b>Express power or duty delegated</b>	Authority to do anything on land vested or under the control and management of Council that it could do under the Parks and Reserves Act 1895 if it were a board appointed under that Act, to control and manage any land reserved under the Land Administration Act 1997.
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil
<b>Subdelegates</b>	Yes - Refer to Secondary Delegations
<b>Statutory framework</b>	Section 3.54(1) Local Government Act 1995 Section 5 Parks and Reserves Act 1895 Land Administration Act 1997
<b>Policy</b>	Nil
<b>Date adopted</b>	13 May 2019
<b>Adoption references</b>	Resolution - T32/5/19
<b>Last reviewed</b>	13 May 2019



## Delegation of authority

<b>Delegation</b>	<b>NEW TBC Crossing from public thoroughfare to private land or private thoroughfare</b>
<b>Category</b>	Engineering and Property (New)
<b>Head of power</b>	Part 1 - Local Government Act 1995
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some power to the CEO
<b>Express power or duty delegated</b>	<i>Local Government (Uniform Local Provision) Regulations 1996</i> r12(1) Crossing from a public thoroughfare
<b>Function</b>	Upon application, approve the construction of a crossing giving access from a public thoroughfare to the land, or a private thoroughfare serving the land.
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Approvals are subject to: <i>Local Government (Uniform Local Provisions) Regulations 1996</i> r12(2) crossing from public thoroughfare to private land or private thoroughfare r14(2)(a) Role of Commissioner of Main Roads in some cases
<b>Express power to subdelegate</b>	<i>Local Government Act 1995</i> s5.44 CEO may delegate some powers and duties to other employees
<b>Statutory framework</b>	<i>Local Government Act 1995</i>
<b>Policy</b>	Council Policy - Crossovers
<b>Record keeping</b>	The exercise of this delegation is to be recorded in Attain.
<b>Date adopted</b>	25 January 2021
<b>Adoption references</b>	Council Resolution



## Delegation of authority

<b>Delegation</b>	<b>NEW TBC Requirement to construct and repair crossing</b>
<b>Category</b>	Engineering and Property (New)
<b>Delegator</b>	Council
<b>Express power to delegate</b>	<i>Local Government Act 1995</i> s5.42 Delegation of some powers to the CEO
<b>Express power or duty delegated</b>	<i>Local Government (Uniform Local Provisions) Regulations 1996</i> r13(1) and (2) Requirement to construct or repair crossover
<b>Function</b>	<ol style="list-style-type: none"> <li>1. Give a person who is the owner or occupier of private land a notice in writing requiring the person to construct or repair a crossing from a public thoroughfare.</li> <li>2. Construct or repair the crossing and recover 50% of the cost if the person fails to comply with the notice.</li> </ol>
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	<ol style="list-style-type: none"> <li>1. <i>Local Government (Uniform Local Provisions) Regulations 1996</i> - r14(2)(b) Role of Commissioner of Main Roads</li> <li>2. That due process be followed for the issuing of a notice under section 3.25 of the <i>Local Government Act 1995</i> for a notice served under Regulation 14(3)</li> </ol>
<b>Statutory framework</b>	<i>Local Government Act 1995</i> <i>Local Government (Uniform Local Provisions) Regulations 1996</i>
<b>Policy</b>	Crossovers
<b>Record keeping</b>	The exercise of this delegation is to be recorded in Attain.
<b>Date adopted</b>	25 January 2021
<b>Adoption references</b>	Council Resolution - T68/1/21





## Delegation of authority

<b>Delegation</b>	<b>TS 5.0 Approval of Private Works on a Public Place</b>
<b>Category</b>	Primary Delegations - Council to CEO
<b>Delegator</b>	Council
<b>Express power or duty delegated</b>	Approve private works on, over or under a public thoroughfare or other public place and to enforce the provisions of Regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil
<b>Subdelegates</b>	Yes - Refer to Secondary Delegations
<b>Statutory framework</b>	Regulation 17 Local Government (Uniform Local Provisions) Regulations 1996
<b>Policy</b>	Nil
<b>Date adopted</b>	13 May 2019
<b>Adoption references</b>	Resolution - T32/5/19
<b>Last reviewed</b>	13 May 2019



## Delegation of authority

<b>Delegation</b>	<b>CORPS 11.0 Disposal of Property</b>
<b>Category</b>	Primary Delegations - Council to CEO
<b>Delegator</b>	Council
<b>Express power to delegate</b>	5.42 Local Government Act 1995
<b>Express power or duty delegated</b>	<p>Authority to dispose of property to:</p> <ul style="list-style-type: none"><li>a. to the highest bidder at public auction [s.3.58(2)(a)].</li><li>b. to the person who at public tender called by the local government makes what is considered by the delegate to be, the most acceptable tender, whether or not it is the highest tenders [s.3.58(2)(b)]</li></ul> <p>The Authority to dispose of property by private treaty only in accordance with section 3.58(3) and prior to the disposal, to consider any submissions received following the giving of public notice [s.3.58(3)]</p>



## Delegation of authority

<b>Function</b>	<p>The delegation to dispose of property is to be in accordance with the following conditions:</p> <p>a) disposal of assets is limited to matters specified in the Annual Budget and in any other case, a Council resolution is required.</p> <p>b) in accordance with s.5.43:</p> <p>i. the disposal of land or buildings, for any single project or where not part of a project but part of a single transaction, is limited to a maximum value of \$5,000 or less.</p> <p>ii. The disposal of property other than land or buildings is limited to a maximum value of \$100,000 or less.</p> <p>c) When determining the method of disposal:</p> <ul style="list-style-type: none"> <li>• Where a public auction is determined as the method of disposal: <ul style="list-style-type: none"> <li>- Reserve price has been set by independent valuation.</li> <li>- Where the reserve price is not achieved at auction, negotiation may be undertaken to achieve the sale at up to a -10% variation on the set reserve price.</li> </ul> </li> <li>• Where a public tender is determined as the method of disposal and the tender does not achieve a reasonable price for the disposal of the property, then the CEO is to determine if better value could be achieved through another disposal method and if so, must determine not to accept any tender and use an alternative disposal method.</li> <li>• Where a private treaty is determined [s.3.58(3)] as the method of disposal, authority to: <ul style="list-style-type: none"> <li>- Negotiate the sale of the property up to a -10% variance on the valuation; and</li> <li>- Consider any public submissions received and determine if to proceed with the disposal, ensuring that the reasons for such a decision are recorded.</li> </ul> </li> </ul> <p>d) Where the market value of the property excluding land:</p> <p>i. is determined as being less than \$20,000; or</p> <p>ii. the entire consideration received by the local government for the disposition is used to purchase other property, and where the total consideration for the other property is not more, or worth more, than \$75,000 (F&amp;G r.30(3) exclusions)</p> <p>disposals may be undertaken without reference to Council for resolution; and in any case, be undertaken to ensure that the best value return is achieved however, where the property is determined as having a nil market value, then the disposal must ensure environmentally responsible disposal.</p> <p>e) Disposals of assets are to be in accordance with the Management Practice.</p>
<b>Delegates</b>	Chief Executive Officer
<b>Statutory framework</b>	s.3.58 Local Government Act 1995
<b>Policy</b>	FIN 7 - Disposal of Assets (Management Practice - FIN 7 - Disposal of Assets)
<b>Date adopted</b>	23 September 2019
<b>Adoption references</b>	Resolution - CS84/9/19



## Delegation of authority

<b>Delegation</b>	<b>TS 1.0 Things Local Government can do on land that is not Local Government Property</b>
<b>Category</b>	Primary Delegations - Council to CEO
<b>Delegator</b>	Council
<b>Express power or duty delegated</b>	Go onto private land in circumstances prescribed in Schedule 3.2 and carry out works, even if the owners consent is not obtained.
<b>Delegates</b>	Chief Executive Officer
<b>Conditions</b>	Nil
<b>Subdelegates</b>	Yes - Refer to Secondary Delegations
<b>Statutory framework</b>	Section 3.27 Local Government Act 1995 Schedule 3.2 Local Government Act 1995
<b>Policy</b>	Nil
<b>Date adopted</b>	13 May 2019
<b>Adoption references</b>	Resolution - T32/5/19
<b>Last reviewed</b>	13 May 2019