



SUPPLEMENTARY BRIEFING PAPERS
FOR ELECTED MEMBERS'
BRIEFING SESSION

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Supplementary Briefing Papers for Tuesday 31 March, 2020

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L A T E I T E M S A G E N D A

Item 5 Late Reports

5.1 Decisions During COVID-19 Pandemic

File Ref:	9167V04 – 20/110359
Responsible Officer:	Executive Manager Governance and Legal
Disclosure of Interest:	Nil
Attachments:	6

Issue

To consider providing the required authorisations and delegations of authority to ensure effective and efficient decision making by the Chief Executive Officer (**CEO**) (and the Mayor where applicable) to exercise the functions of Council and maintain sufficient business continuity for the City during the state and public health emergency in respect of the Novel Coronavirus Pandemic (**COVID-19 Pandemic**).

Background

In response to the COVID-19 Pandemic, the following has occurred:

1. On 15 March 2020 the Minister for Emergency Services declared a **State of Emergency in Western Australia** in respect of the pandemic caused by the COVID-19 virus. This state of emergency declaration has effect on and from 12am on 16 March 2020 and remains in force until 12am on 19 March 2020 or it is revoked under *section 59 of the Emergency Management Act 2005*; or the expiry of any extension of the state of emergency declaration made under section 58 of the *Emergency Management Act 2005*.
2. At 16 March 2020 the Minister for Health declared a **Public Health State of Emergency in Western Australian** which has since been updated. The new declaration has effect from 1:30pm on 23 March 2020 and remains in force until 11:59pm on 29 March 2020; or the expiry of any extension of the state of emergency declaration made in accordance with *section 170 of the Public Health Act 2016*; or it is revoked under *section 171 of the Public Health Act 2016*.
3. On 18 March 2020, the Governor-General of Australia declared that a **Human Biosecurity Emergency** exists in Australia in accordance with the Biosecurity Act 2015 (Cth). This declaration gives the Commonwealth Minister for Health expansive powers to issue directions and set requirements in order to combat the COVID-19 Pandemic.

As a result of the above declarations, certain directions, measures and restrictions are being implemented across Western Australia to minimise the impact of the COVID-19 Pandemic which have and will continue to impact the continuity of business, services, service levels and the operations of the City.

Detail

It is clear that under the current emergency situation, it is no longer business as usual and the City has already taken steps as part of its Business Continuity Plan and has invoked the

Crisis Management and Pandemic Plans to prepare, respond and recover from the COVID-19 Pandemic.

The Crisis Management Team (**CMT**) has been actively monitoring all Commonwealth and State Government and Department of Health (**DoH**) advices and directions issued in relation the COVID-19 Pandemic and have changed service delivery and levels accordingly, including the closure of certain facilities which include but are not limited to Aquamotion, libraries, sport grounds and community facilities. Further decisions have been implemented to maintain a safe workplace in accordance with DoH guidelines and to seek to reduce the City's services, operations and functions to those that are considered essential to both Council and the Community.

The purpose of this report is to ensure the continuity of the City's leadership (the Council body, the CEO and Executive team) and to ensure that the City can with agility, effectively and efficiently respond and manage the City's operations during the COVID-19 Pandemic.

The following outlines the likely scenarios (not an exhaustive list) that have the potential to significantly impact the City and where the City will need to be sufficiently agile to respond quickly to minimise the impact:

1. Further directions and restrictions imposed by relevant authorities that restrict the ability of Council and Administration to convene Ordinary or Special Meetings of Council.
2. The requirement to meet social distancing guidelines by reducing staff at the Administration centre and other City office buildings to minimise the risk of exposure to COVID-19.
3. A complete lock-down in Western Australia, requiring all persons to stay at home unless providing essential services.

It is imperative for Council to provide the authorisation and delegations of authority to the CEO as identified in this report to ensure that the City can adequately manage its operations during the COVID-19 Pandemic.

Council Meeting to be held Electronically

Section 5.3 of the *Local Government Act 1995* (the **Act**) requires that a Council is to hold Ordinary Meetings not more than three months apart. If a Council fails to meet as required, it must notify the Minister of that failure.

On Wednesday 25 March 2020 amendments to the *Local Government (Administration) Regulations 1996* were gazetted that enable Council Meetings, Special Council Meetings and Committee Meetings (including Audit Committee meetings) to be held online or via telephone during a public health emergency or a state of emergency. The amendments also enable either individual council members or the entire council to participate in meetings remotely.

In accordance with *Regulation 14D(2) Local Government (Administration) Regulations 1996*, Ordinary Council Meetings can be held by electronic means if:

1. A public health emergency or a state of emergency exists in the whole or a part of the area of the district of a local government; and
2. Because of the public health emergency or state of emergency, the mayor, president or council considers it appropriate for the meeting to be held by electronic means;
or
3. A direction is issued under the *Public Health Act 2016* or the *Emergency Management Act 2005* that prevents the meeting from being held in person; and
4. The Mayor, President or Council authorises the meeting to be held by electronic means.

In accordance with Regulation 14D(3), the Mayor or Council determines the method of electronic meeting, including whether by telephone conference, video conference or other instantaneous communication.

The amendments also modify the provisions in the Act that relate to notice of a meeting and public question time to enable meetings to be held electronically. If a meeting is held electronically, Public Question Time requirements will be met if council allocates time for raising questions by members of the public and provides a means for questions to be submitted prior to the meeting. The amended regulations came into operation on 26 March 2020 and apply to the Ordinary Council Meeting scheduled for 7 April 2020.

Council is to note that on 27 March 2020 the Mayor, in consultation with the CEO determined that Ordinary Council Meetings, Special Council Meetings and Audit and Risk Committee Meetings be conducted via electronic means in accordance with the Regulations. This arrangement will apply for the next 120 days or until such time as the Mayor, in consultation with the CEO, determines otherwise or the current situation changes to affect the cessation of this arrangement.

Council is to further note that due to the challenges of online communication, Ordinary Council Meetings should be kept brief and restricted to matters that statutorily require a Council decision (including decisions required to be made by Absolute Majority) and cannot be delegated, subject to Council resolving the proposed authorisations and delegations of authority outlined in this report.

Authorisations and Delegations of Authority to the CEO

Council has granted a number of delegations to the CEO in relation to operational issues of the City, however, the impact of the COVID-19 Pandemic means it is prudent for Council to consider granting further authorisations and delegations to effectively manage the City's business and operations during the current state of emergency. It is proposed that these authorisations and delegations of authority remain in effect for a minimum of 120 days, with a report to Council of all decisions made and enacted under these authorisations and delegations.

Council is required to consider the following amendments to authorisations and delegation of authorities:

Category	Comment and Conditions
Agreements	Subject to Regulation 11 of the <i>Local Government (Functions and General) Regulations 1996</i> , authorise the CEO to consider and renew all agreements that are due to expire within 120 days following the 7 April 2020 Ordinary Council Meeting.
Appointment of Acting Chief Executive Officer	<p>Council has delegated the power to appoint a person to the position of Acting Chief Executive Officer for a period of 35 days or less with the condition that the appointment is to a Director and where an appointment is likely to exceed more than 35 days, the appointment is to be presented to Council for determination.</p> <p>It is proposed that Council broadens this delegation so that if the CEO is sick or otherwise absent from work for a period of 3 consecutive business days, any person holding the position of Director be temporarily appointed to the position of Acting CEO and on and from the following day, such appointment being subject to:</p>

Category	Comment and Conditions
	<p>a) The maximum period of appointment being for the period considered the period so specified by Section 5.39 (1a) of the Act (not more than a year);</p> <p>b) The appointment terminating on the day prior to the day that the CEO returns to work; and</p> <p>c) The person not being unable or unwilling to be so appointed,</p> <p>as set out in Attachment 1.</p> <p>Council is to note that the Acting CEO will also have the authority to appoint an Acting CEO in the absence of the CEO.</p>
Audit and Risk Committee	It is proposed that the three Years Strategic Audit Plan be suspended until 31 December 2020 with no new internal audits undertaken or commenced until 1 January 2021. The Audit Log will continue to be managed and progress reported to the Audit and Risk Committee noting that some of the audit recommendations may require further extensions of time to complete.
Community Funding Policy	In accordance with the City's Community Funding Policy, Community Development Funding and Community Event Funding applications are due to be considered at the May Ordinary Council Meeting. It is proposed that determinations of all community funding applications are deferred to August 2020.
Community Consultation	Considering that our community is focused on the impact of the COVID-19 Pandemic, it is considered appropriate that the City does not engage in community consultation that is not otherwise required statutorily. Our community will be best placed to actively engage and participate in consultation once the COVID-19 Pandemic is no longer an emergency situation.
Compliance and Enforcement	<p>Council is to note that during the COVID-19 Pandemic, the City will comply with all Commonwealth, State Government and/or DoH advice or directions especially in relation to compliance but will seek to achieve compliance where it is in the public interest to do so.</p> <p>In circumstances where it is in the public interest or there is a risk to public safety, the City will consider the most appropriate enforcement action to be undertaken.</p>
Donations, Sponsorship and the Waiver of Fees and Charges	<p>Council has authorised the CEO, through the Donations, Sponsorship and Waiver of Fees and Charges Policy the authority to make decisions based on the policy criteria. Any decision relating to a donation of sponsorship arrangement over \$500 is to be referred to Council for a decision.</p> <p>Considering that the City's facilities are closed, the travel restrictions in place and sporting organisations and clubs have ceased their activities, it is expected that there will be a significant reduction in applications.</p> <p>It is proposed that Council authorises the CEO to make all decisions relating to this policy as the criteria within the policy adopted by Council provides sufficient guidance to ensure that decisions made by the CEO are aligned with Council's direction.</p>
Disposing of	Council has delegated this function to dispose property, however

Category	Comment and Conditions
Property	has limited the disposal of property to less than \$250 000 and the disposal of land being valued up to \$600 000. It is proposed that Council removes the conditions on the delegation as set in Attachment 2 .
Fees and Charges – Waiver, Grant of Concession or Write Off	<p>Section 6.12(1)(b) and (c) of the Act provides the local government with the power to “defer, grant discounts, waive or write off debts”. Council has granted a delegation of authority (1.1.24) to the CEO (and sub-delegated to each of the Directors) however this is limited to matters valued at \$10 000 or under.</p> <p>It is proposed that Council amends the delegation to the CEO to consider and approve/refuse all requests received as set out in Attachment 3.</p>
Financial Hardship – Collection of Rates and Service Charges Policy	<p>Council is to note that the City has suspended all new debt collection processes during the COVID-19 Pandemic however there a few matters currently before the Magistrates Court and are subject to court scheduling and processes.</p> <p>It is proposed that Council acknowledges that the following officers will be authorised to undertake any action or determination under the Financial Hardship – Collection of Rates and Service Charges Policy (in addition to the CEO):</p> <ul style="list-style-type: none"> a) Director Corporate Strategy and Performance; b) Chief Operating Office; and c) Manager Finance. <p>Council is to also note that rent abatement in respect of the City's leased facilities is subject to a separate report before Council.</p>
Petitions	<p>Petitions from residents of the City may be received by a Councillor, the Mayor or Administration. In all cases they are to be forwarded to the Mayor's office for processing and presentation to a Council meeting.</p> <p>It is proposed that Council authorise the CEO to receive all petitions, note receipt and forward to the relevant Directorate for investigation. Once the petition request is investigated, the relevant Director will report to the CEO recommendations to determine the appropriate action in respect of the petition request.</p>
Planning Delegations	<p>It is proposed that Council delegate authority to the CEO to determine development applications where objections are received (unless it is requested in writing by a Council Member that it be referred to Council) by amending delegation 2.10.3 – Development Control.</p> <p>As a consequence of the proposed amendment to the delegation, the CEO's conditions on sub-delegation will be amended so that any application that would ordinarily be determined by Council could be determined by the Director Planning and Sustainability, if the Manager Approval Services considers objections raise relevant planning considerations that cannot be overcome through modification to the proposal or by conditions being imposed.</p>

Category	Comment and Conditions																				
	<p>The condition that provides the applicant with the ability to request their application be determined by Council to be removed.</p> <p>The delegation as it is currently constructed is not clear as to who has authority to determine s31 reconsiderations. Currently, they are all presented to Council however this is not considered a preferred position during the COVID-19 Pandemic.</p> <p>Amendments to the instrument of delegation are shown in mark up at Attachment 4.</p>																				
Projects	It is proposed that a number of Corporate Business Plan projects and Capital Works Projects be deferred for a period of 120 days and each of these will be fully detailed in the 4 th Quarter Corporate Business Plan report.																				
Services and Services Levels	<p>During the COVID-19 Pandemic and in response to Commonwealth, State Government and/or DoH advice or directions, the City may be required to cease services, provide new services or change service levels of current services.</p> <p>It is proposed that Council authorise the CEO to make the necessary changes to services and service levels accordingly.</p>																				
Tenders	<p>Delegation 1.1.14 – Choice of Most Advantageous Tender – is limited to the CEO making decisions subject to:-</p> <p>a) Tenders resulting from the expiry of a recurring contract - \$5 million (life of contract);</p> <p>b) Supply of plant and equipment - to a maximum amount of \$2,000,000;</p> <p>c) All other tenders - to a maximum amount of \$1,000,000.</p> <p>It is proposed Council delegates authority to the CEO to make all decisions in relation to tenders which are subsequently reported to Council. Council is to note the following tenders which, subject to Council's resolution, the CEO will consider and determine.</p> <table><tr><th>Tender No.</th><th>Details</th><th>Tender Closing Date</th><th>Estimated Contract Value</th></tr><tr><td>19251</td><td>Supply and Laying of Bituminous Surfacing and Associated Civil Work</td><td>May 2020</td><td>Provided in Confidential Attachment 6</td></tr><tr><td>20085</td><td>The Provision of Specialised Mowing to Active Parks</td><td>9 April 20</td><td>Provided in Confidential Attachment 6</td></tr><tr><td>20098</td><td>FOGO Processing (RFQ)</td><td>24 April 2020</td><td>Provided in Confidential Attachment 6</td></tr><tr><td>20020</td><td>Hinckley Park</td><td>Planning Stage</td><td>Provided in</td></tr></table>	Tender No.	Details	Tender Closing Date	Estimated Contract Value	19251	Supply and Laying of Bituminous Surfacing and Associated Civil Work	May 2020	Provided in Confidential Attachment 6	20085	The Provision of Specialised Mowing to Active Parks	9 April 20	Provided in Confidential Attachment 6	20098	FOGO Processing (RFQ)	24 April 2020	Provided in Confidential Attachment 6	20020	Hinckley Park	Planning Stage	Provided in
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Category	Comment and Conditions			
		Hocking - Upgrade Passive Park		Confidential Attachment 6
	20040	Annual Park Asset Renewal (Separable Portions)	26 May 2020	Provided in Confidential Attachment 6
	20019	Construction of Halesworth Park Playing Fields	4 March 2020	Provided in Confidential Attachment 6
<p>Delegation 1.1.16 – Selecting the next most advantageous tender. The delegation to the CEO provides that decisions can be made in this regard provided that the variation is minor having regard to the total goods or services that the tenderers were invited to supply. Selecting the next most advantageous tender is subject to:-</p> <p>a) Regulation 20(2) of the Local Government (Functions and General) Regulations 1996; and</p> <p>b) A provision in the adopted Annual Budget and limited to:</p> <p>i) Tenders resulting from the expiry of a recurring contract - \$5 million (life of contract);</p> <p>ii) Supply of plant and equipment - to a maximum amount of \$2,000,000;</p> <p>iii) All other tenders – to a maximum amount of \$1,000,000</p> <p>Council is requested to consider authorising the CEO to make all decision relating to the above functions as set out in Attachment 5.</p>				

Ordinary Council Meetings – Quorum

Council is to note that during the COVID-19 Pandemic, there may be situations where Council is unable to achieve a quorum to convene an Ordinary Council Meeting, with a quorum being at least 50% of the number of Council Member offices, section 5.19 of the Act.

If such circumstances occur, an application can be made to the Minister for Local Government; Heritage; Culture and the Arts to reduce the number of Council Member offices to achieve a quorum in accordance with section 5.7 of the Act. The Department has confirmed that the Minister has delegated this power to the Department who will expedite determining any application (within four hours of receipt) as it is the Department's position to support councils to ensure that council business can continue in the event that a quorum cannot be achieved. The application must detail the following:

1. The date and type of the Council meeting;
2. Whether approval is sought under 5.7(1) or 5.7(2);
3. If approval is required under 5.7(2), please include the agenda item numbers for the Absolute Majority decisions that require a reduced quorum;
4. The number of offices of member –
 - a) That normally form a quorum; and
 - b) That are required to form a quorum for the specified meeting.

5. Provide the names of the councillors who cannot attend due to ill health or self-isolation as a result of the pandemic
6. Provide the names of the councillors who cannot attend for any other reason.

Council is requested to consider authorising the CEO to make an application to reduce the number of Council Member offices to achieve a quorum in circumstances where a quorum cannot be achieved.

Continuity of Management

As set out above, the authorisation and delegation of authority identified in this report are part of the City's Crisis Management Strategy in respect of the COVID-19 Pandemic which will ensure the continued business, available service provision and operation of the City through the current management and Executive structure.

Consultation

Nil

Comment

Council should note that the authorisations and delegation of authorities as set out in this report will only be in place for a period of 120 days from the date of Council's resolution. If the COVID-19 Pandemic continues for a period exceeding the 120 days, a further report to Council will be presented for Council to consider extending the authorities and delegation of authorities if deemed appropriate.

Statutory Compliance

5.3. Ordinary and special council meetings

- (1) A council is to hold ordinary meetings and may hold special meetings.*
- (2) Ordinary meetings are to be held not more than 3 months apart.*
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.*

5.7. Minister may reduce number for quorum and certain majorities

- (1) The Minister may reduce the number of offices of member required for a quorum at a council meeting specified by the Minister if there would not otherwise be a quorum for the meeting.*
- (2) The Minister may reduce the number of offices of member required at a council meeting to make a decision specified by the Minister if the decision is one which would otherwise be required to be made by an absolute majority and a sufficient number of members would not otherwise be present at the meeting.*

5.19. Quorum for meetings

The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.

5.42. Delegation of some powers and duties to CEO

- (1) *A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under —*

- (a) *this Act other than those referred to in section 5.43; or*
- (b) *the Planning and Development Act 2005 section 214(2), (3) or (5).*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) *any power or duty that requires a decision of an absolute majority of the council;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.*

5.45. Other matters relevant to delegations under this Division

- (1) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 —*

- (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; and*
- (b) *any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.*

- (2) *Nothing in this Division is to be read as preventing —*

- (a) *a local government from performing any of its functions by acting through a person other than the CEO; or*
- (b) *a CEO from performing any of his or her functions by acting through another person.*

6.8. Expenditure from municipal fund not included in annual budget

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*

- (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
- (b) *is authorised in advance by resolution*; or*
- (c) *is authorised in advance by the mayor or president in an emergency*

** absolute majority.*

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
 - (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *wave or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money, which is owed to the local government.*
- * Absolute majority required.*
- (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

Strategic Implications

The proposal aligns with the following objective within the Strategic Community Plan 2017 – 2027:

“4 Civic Leadership

4.2 Good Governance

4.2.1 Provide transparent and accountable governance and leadership”

Risk Management Considerations

Risk Title	Risk Rating
CO-C01 Compliance Framework	Low
Accountability	Action Planning Option
Executive Manager Governance & Legal	manage

Risk Title	Risk Rating
CO-017 Financial Management	Moderate
Accountability	Action Planning Option
Director Corporate Strategy & Performance	manage

Risk Title	Risk Rating
ST-S23 Stakeholder Relationships	Low
Accountability	Action Planning Option
Chief Executive Officer	manage

The above risks relating to the issue contained within this report have been identified and considered within the City's Strategic and Corporate risk registers. The approval of these provisional delegation of authority plans will greatly assist to ensure the continuity of the City's leadership and efficient decision making in light of the COVID-19 Pandemic.

The City places a high priority on the importance of maintaining good governance and has no appetite for deliberate act or omission by any party that jeopardises this. The City provides appropriate systems and processes to realise its values and achieve good governance. Decisions are aligned to policy to ensure non-compliance impacts are reduced as low as reasonably practicable (**ALARP**) and reputational damage is restricted to low. Therefore the City accepts low or ALARP of compliance and governance risk.

Policy Implications

Specific sections of policies and procedures that support delegations affected by these amendments may need to be exempted on a case by case basis.

Financial Implications

The City's finances will be impacted by the anticipated increase of waiving fees and charges and the slow-down in rate payments received as the City will seek to support those residents and the community who are experiencing financial hardship as a result of the COVID-19 Pandemic.

Voting Requirements

Absolute Majority

Recommendation

That Council:

1. **NOTES that a State Emergency and a Public Health Emergency has been declared in Western Australia in relation to the COVID-19 Pandemic and it is imperative for Council to provide the required authorisation and delegations of authority to the Chief Executive Officer to ensure that the City of Wanneroo can adequately manage its operations during the COVID-19 Pandemic for the next 120 days;**
2. **NOTES that in accordance with Regulations 14D(2) and (3) of the *Local Government (Administration) Regulations 1996*, the Mayor, in consultation with the Chief Executive Officer, has determined that Ordinary Council Meetings, Special Council Meetings and Audit and Risk Committee Meetings be conducted via electronic means for a period of 120 days commencing from 27 March 2020;**
3. **NOTES that Council will receive and consider only those matters that legislatively require a Council decision and which cannot be delegated to the Chief Executive Officer in accordance with section 5.43 of the *Local Government Act 1995*;**
4. **For a period of 120 days commencing from 12pm on the day immediately after the date this resolution is made, ADOPTS BY ABSOLUTE MAJORITY the marked-up amendments to the delegation of authorities as follows:**

- a) **Delegation 1.1.22 – Appointment of Acting Chief Executive Officer – amendments as set out in Attachment 1**
 - b) **Delegation 1.1.20 – Disposing of Property – amend conditions (2) and (3) as set out in Attachment 2;**
 - c) **Delegation 1.1.24 – Fees and Charges – amend condition (b) as set out in Attachment 3;**
 - d) **Delegation 2.10.3 – Development Control – amendments as set out in Attachment 4 and NOTE that the Chief Executive Officer's conditions on sub-delegation will be amended so that any application that would ordinarily be determined by Council would be determined by the Director Planning and Sustainability, if the Manager Approval Services considers objections raised relevant planning considerations that cannot be overcome through modification to the proposal or by conditions being imposed and remove the condition that provides the applicant with the ability to request their application be determined by Council; and**
 - e) **Delegation 1.1.14 – Choice of Most Advantageous Tender and Delegation 1.1.16 – Selecting the Next Most Advantageous – as set out in Attachment 5;**
5. **For a period of 120 days commencing from 12pm on the day immediately after the date this resolution is made, AUTHORISES the Chief Executive Officer to:**
- a) **Subject to Regulation 11 of the *Local Government (Functions and General) Regulations 1996*, consider and renew all agreements that are due to expire within 120 days following the 7 April 2020 Ordinary Council Meeting;**
 - b) **Determine all applications received in respect of the City's Donations, Sponsorship and the Waivers of Fees and Charges Policy;**
 - c) **Receive, note, forward all petitions to the relevant Directorate and determine the appropriate action in respect of the petition request;**
 - d) **Make any and all changes to services (including ceasing or providing new services) and service level as deemed necessary by the Chief Executive Officer; and**
 - e) **if necessary, make an application to the Department of Local Government, Sport and Cultural Industries for the Minister of Local Government, Heritage, Culture and the Arts' to approve a reduction of the number of Council offices required to achieve a quorum to convene an Ordinary Council Meeting or Special Council Meeting;**
6. **ACKNOWLEDGES that the CHIEF EXECUTIVE OFFICER AUTHORISES the:**
- a) **Director Corporate Strategy and Performance to determine all applications received in respect of the City's Donations, Sponsorship and the Waivers of Fees and Charges Policy; and**

- b) Director Corporate Strategy and Performance, Chief Operating Officer and Manager Finance to determine all requests in respect of the City's Financial Hardship – Collection of Rates and Service Charges Policy;

7. ACCEPTS that:






- a) The three Year Internal Audit Plan in respect of 2020 will be suspended for the duration of 2020 with no new planned internal audits to be undertaken until 1 January 2021; however, the Audit Log will continue to be managed and reported to the Audit and Risk Committee noting that some of the audit recommendations may require further extensions of time to complete;
- b) The Community Development Funding and Community Event Funding Applications received in accordance with the City's Community Funding Policy will be deferred and determined by Council in August 2020; and
- c) Except where required by legislation, community consultation and engagement will not occur for a period of 120 days commencing from 12pm on the day immediately after the date this resolution is made;

8. NOTES that:

- a) The City will comply with advice and directions of the Commonwealth and State Government, and the Department of Health WA in relation to the City's compliance function and the City will seek to achieve compliance where it is in the public interest to do so, and consider the most appropriate enforcement action considering the public interest and any risk to public safety;
- b) the City's debt collection processes in relation to new debts owed to the City are suspended during the COVID-19 Pandemic however current matters before the Magistrates Court are subject to court scheduling and processes; and
- c) a number of Corporate Business Plan projects and Capital Works Project will need to be deferred for a period of 120 days commencing from 12pm on the day immediately after the date this resolution is made and each such project will be detailed in the 4th quarter Corporate Business Plan report; and

- 9. NOTES that all decisions made in accordance with resolutions 4 to 8 above, as applicable, will be reported to Council at the first Ordinary Council Meeting after the 120 day period unless otherwise resolved by Council.**

Attachments:

1. 	Delegation 1.1.22	20/121581	Minuted
2. 	Delegation 1.1.20	20/119097	Minuted
3. 	Delegation 1.1.24	20/119095	Minuted
4. 	Delegation 2.10.3	20/119113	Minuted
5. 	Delegation 1.1.14 and 1.1.16	20/119092	Minuted
6.	Tenders - Confidential Information	Confidential	

1.1.22 APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER ~~(FOR PERIODS OF 35 DAYS OR LESS)~~

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	The power to make appointments to the position of Acting Chief Executive Officer for a period of 35 days or less.
Statutory Power being Delegated:	Local Government Act 1995 Section 5.36(1)(a) local government employees
Power is originally assigned to:	Local Government
Statutory Power of Delegation	Local Government Act 1995: s 5.42 Delegation of some powers or duties to the CEO s 5.43 Limitations on delegations to the CEO
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	<p><u>1. The position of Acting Chief Executive Officer can only be conferred on an employee of the City of Wanneroo who currently holds the position of Director and is designated as a "Senior Employee" in accordance with section 5.37(1) of the Local Government Act 1995.</u></p> <p><u>2. If the Chief Executive Officer (or Acting Chief Executive Officer) is sick or otherwise absent from work for a period of 3 consecutive business days, any person holding the position of meeting the criteria of condition 1 above may be temporarily appointed to the position of Acting Chief Executive Officer and on and from the following day, such appointment being subject to:</u></p> <p><u>(a) the maximum period of appointment being for the period considered the period so specified by Section 5.39 (1a) of the Local Government Act 1995 (not more than a year);</u></p> <p><u>(b) the appointment terminating on the day prior to the day that the Chief Executive Officer (Acting Chief Executive Officer) returns to work; and</u></p> <p><u>(c) the person not being unable or unwilling to be so appointed.</u></p> <p>Delegated authority is only granted for appointments to the position of Acting Chief Executive Officer covering a period of 35 days or less. In instances where an appointment is required for a period exceeding 35 days, then that proposed appointment must be presented to Council for determination prior to the appointment taking effect. The calculation of the period includes all days – business days, weekends and public holidays.</p>
Statutory Power to Sub-Delegate:	Local Government Act 1995 s5.44 CEO may delegate powers and duties to other employees
CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i>	Nil
CEO's Conditions on Sub-delegation:	Nil

Record Keeping Statement (LGA 1995) <i>s5.46(3) "A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty."</i>	<p>The Chief Executive Officer <u>(or Acting Chief Executive Officer)</u> must advise <u>Elected Council</u> Members, on a quarterly basis, of any appointments made to the position of Chief Executive Officer under delegated authority for the ensuing three month period.</p> <p>In instances where it is necessary for an appointment to be made at short notice, then <u>Elected Council</u> Members are to be advised of that appointment as soon as possible.</p> <p>Details of appointments made under this delegation are to be retained on the appropriate file or record.</p>										
Compliance Links	<i>Financial Interest Returns Required - No</i>										
Delegation Administration:											
Decision Reference 1. CB01-11/14 and OC01-11/14 2. PS11-10/15 3. 16/436067 4. CE03-03/17 & 17/73467	<table> <tr> <th data-bbox="587 629 951 651">Decision Reference</th><th data-bbox="951 629 1355 651">Decision Reference</th></tr> <tr> <td data-bbox="587 651 951 674">6. CE06-05/17</td><td data-bbox="951 651 1355 674">11. 19/104903</td></tr> <tr> <td data-bbox="587 674 951 696">7. CE01-06/18</td><td data-bbox="951 674 1355 696">12.</td></tr> <tr> <td data-bbox="587 696 951 719">8. 18/203840</td><td data-bbox="951 696 1355 719">13.</td></tr> <tr> <td data-bbox="587 719 951 721">9. 18/455559</td><td data-bbox="951 719 1355 721">14.</td></tr> </table>	Decision Reference	Decision Reference	6. CE06-05/17	11. 19/104903	7. CE01-06/18	12.	8. 18/203840	13.	9. 18/455559	14.
Decision Reference	Decision Reference										
6. CE06-05/17	11. 19/104903										
7. CE01-06/18	12.										
8. 18/203840	13.										
9. 18/455559	14.										

1.1.20 DISPOSING OF PROPERTY (PUBLIC AUCTION, PUBLIC TENDER OR PRIVATE TREATY)

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	<ol style="list-style-type: none"> Authority to dispose of property to: <ol style="list-style-type: none"> to the highest bidder at public auction [s.3.58(2)(a)]. 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)] 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)].
Statutory Power being Delegated:	<i>Local Government Act 1995:</i> s.3.58(2) & (3) Disposing of Property
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	<p>Subject to;</p> <ol style="list-style-type: none"> The disposal complying with the requirements of: <ol style="list-style-type: none"> Section 3.58 of the Local Government Act 1995; The exclusions set out in Regulation 30 of the Local Government (Functions and General) Regulations 1996; Council Policies or Management Procedures. the disposal of property being less than \$250,000, except for land; the disposal of land being identified in the City's Annual Budget and valued up to \$600,000 excluding GST.
Statutory Power to Sub-Delegate:	<i>Local Government Act 1995</i> S5.44 CEO may delegate powers and duties to other employees
CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i>	<p>Director Assets - \$150,000 Director Corporate Strategy & Performance - \$150,000 Manager Asset Maintenance - \$50,000 Manager Contracts & Procurement \$50,000 Manager Property Services \$150,000</p>
CEO's Conditions on Sub-delegation:	<p>Subject to the conditions on delegation to the CEO. The delegation to the Manager Property Services is for the disposal of land only.</p>

Record Keeping Statement (LGA 1995) s5.46(3) " A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty."	The full details of the transaction including copies of the advertisements to be recorded on the appropriate record and or register.	
Compliance Links	Financial Interest Return Required - Yes	
Delegation Administration:		
Decision Reference	Decision Reference	Decision Reference
1. CE06-05/17	6.	11.
2. CE01-06/18	7.	12.
3. 19/394864	8.	13.
4.	9.	14.

1.1.24 WAIVER, GRANT OF CONCESSION OR WRITE OFF OF MONIES OWING

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	<ol style="list-style-type: none"> 1. The waiver or grant of concessions in relation to any amount of money that it is owed to the City (but specifically excludes rates and service charges); or 2. The write off of any amount of money that it is owed to the City. <p>Note that:</p> <ul style="list-style-type: none"> • section 1 applies to fees and charges as they are incurred; and • section 2 applies to debts owed to the City.
Statutory Power being Delegated:	<i>Local Government Act 1995 Section 6.12(1) (b) & (c) Power to defer, grant discounts, waive or write off debts</i>
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<i>Local Government Act 1995: Section 5.42 – Delegation of some power or duties to the CEO Section 5.43 – Limitations on delegation to the CEO</i>
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	<p>Subject to:</p> <ol style="list-style-type: none"> a) Section 6.12(2) of the Act which states that Section 6.12 (1) (b) "waive or grant concessions" does not apply to an amount of money owing in respect of rates and service charges; and b) the waiver, concession or write off of money owing not exceeding \$10,000. All waivers, concessions or write offs of money owing greater than \$5001 to be reported to the Audit and Risk Committee; and c) b) Council's Accounting Policy.
Statutory Power to Sub-Delegate:	<i>Local Government Act 1995 S5.44 CEO may delegate powers and duties to other employees</i>
CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i>	Director Corporate Strategy & Performance Director Community & Place Director Assets Director Planning & Sustainability
CEO's Conditions on Sub-delegation:	Subject to the conditions on delegation to the CEO.
Record Keeping Statement (LGA 1995) <i>s5.46(3) "A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations"</i>	The full details of the waiver, concession or write off to be recorded on the appropriate financial record.

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<i>in relation to the exercise of the power or the discharge of the duty."</i>	
Compliance Links	<i>Financial Interest Returns Required - Yes</i>
Delegation Administration:	
Decision Reference	Decision Reference
1. 17/46347	6.
2. CE01-06/18	7.
3. 19/470186	8.
4.	9.
	11.
	12.
	13.
	14.

2.10.3 DEVELOPMENT CONTROL

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	<ul style="list-style-type: none"> Determination of applications for planning approval (including the exercise of discretion under District Planning Scheme No. 2 and the Residential Design Codes); and All matters which arise out of the imposition of conditions on planning approvals under the District Planning Scheme No. 2;
Statutory Power being Delegated:	The power to determine applications for planning approvals lodged pursuant to Clause 60 of Schedule 2 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (the deemed provisions) and Clause 28 of the Metropolitan Region Scheme including all applicable decisions under the District Planning Scheme No. 2 and the Metropolitan Region Scheme.
Power is originally assigned to:	Local Government
Statutory Power of Delegation	<i>Planning and Development (Local Planning Schemes) Regulations 2015</i> (the deemed provisions) Clause 82
Power Delegated to:	Chief Executive Officer
Council's Conditions on Delegation:	<p>Council and Business Practice Condition</p> <p>a) Any application will be referred to Council for determination if an Elected Member requests such referral by <u>a</u> written request to the Manager Approval Services;</p> <p>b) Any application for determination by the City that has been advertised for public comment shall be referred to Council for determination if any objection has been received that, in the opinion of the Chief Executive Officer, raises relevant planning considerations that cannot be specifically addressed or overcome by: modification of the proposal; imposition of appropriate conditions of approval; or compliance with the applicable deemed-to-comply provisions and/or design principles of the R-Codes.</p> <p>c) Any application for determination by the City will be referred to Council for determination if requested by the applicant in writing;</p> <p>d) b) Any application for an Industry – Extractive, Industry – General, Industry – Hazardous, or Concrete Batching Plant, may be determined under delegation.</p> <p><u>c) To determine a development application subject to a section 31 reconsideration Order issued by the State Administrative Tribunal.</u></p>
Statutory Power to Sub-Delegate:	<i>Planning and Development (Local Planning Schemes)</i>

	<p><i>Regulations 2015</i> Clause 83</p>
<p>CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i></p>	<p>Director Planning & Sustainability Manager Approval Services Coordinator Planning Services Coordinator Building Services Specialist Planner – Approval Services Specialist Project Planner Senior Planners Senior Building Surveyors</p>
<p>CEO's Conditions on Sub-delegation:</p>	<p>The exercise of this delegated authority is conditional on the following:</p> <p>a) Any application will be referred to Council for determination if an Elected Member requests such referral by <u>a</u> written request to the Manager Approval Services;</p> <p>b) Any application for determination by the City that has been advertised for public comment shall be referred to Council<u>the Director Planning & Sustainability Manager Approval Services</u> for determination if any objection has been received that, in the opinion of the <u>Manager Approval Services –Director Planning & Sustainability</u>, raises relevant planning considerations that cannot be specifically addressed or overcome by:</p> <ul style="list-style-type: none"> • modification of the proposal; • imposition of appropriate conditions of approval; or • compliance with the applicable deemed-to-comply provisions and/or design principles of the R-Codes. <p>c) Any application for determination by the City will be referred to Council for determination if requested by the applicant in writing;</p> <p>d) c) Any application for an Industry – Hazardous or Concrete Batching Plant, may be determined by the Director Planning & Sustainability or Manager Approval Services. Any application for Industry – Extractive may be determined by Director Planning & Sustainability, Manager Approval Services, Specialist Planner – Approval Services or Specialist Project Planner. Any application for Industry – General may be determined by Director Planning & Sustainability, Manager Approval Services or Senior Planners.</p> <p><u>d) Determination of a development application subject to a section 31 reconsideration Order issued by the State Administrative Tribunal shall be determined by the Director Planning & Sustainability or the Manager Approval Services.</u></p> <p>This delegated authority is limited for the Coordinator Building Services and Senior Building Surveyors as follows:</p> <p>a) to only make decisions related to applications seeking</p>

	<p>variation/s to the deemed-to-comply requirements of the R-Codes or provisions of a relevant structure plan or local development plan for a Single House located in a Residential Zone or any of the following on the same lot as a Single House:</p> <ul style="list-style-type: none"> i) outbuildings, garages or carports; ii) patios or verandas; iii) street walls or fences; and iv) retaining walls, and <p>b) Providing that the application for development (outlined in point a) above) is not located in a place that is:-</p> <ul style="list-style-type: none"> • Entered in the Register of Heritage Places under the <i>Heritage of Western Australia Act 1990</i>; or • Included on a heritage list prepared in accordance with DPS 2; • Within an area designated under DPS 2 as a heritage area; or • The subject of a heritage agreement entered into under the <i>Heritage of Western Australia Act</i> section 29;
<p>Record Keeping Statement (LGA 1995) s5.46(3) "A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty."</p>	<p>Copies of approvals given and reports of actions taken are to be retained on the appropriate file or record.</p> <p><i>Financial Interest Returns Required - No</i></p>
Compliance Links	<i>Financial Interest Returns Required - No</i>
Delegation Administration:	
Decision Reference	Decision Reference
1. CB01-11/14 and OC01-11/14	6. CE06-05/17
2. PS11-10/15	7. CE01-06/18
3. 16/436067	8. 18/203840
4. CE03-03/17 & 17/73467	9. 18/455559
	11. 19/104903
	12.
	13.
	14.

1.1.14 CHOICE OF MOST ADVANTAGEOUS TENDER

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	1. To consider the most advantageous tender to accept by means of a written evaluation of the extent of which each tender satisfies the criteria and has not been rejected in accordance with Regulations 18(1), 18(2) or 18(3) of the Local Government (Function and General) Regulations 1996. 2. To decline to accept any tender.		
Statutory Power being Delegated:	Local Government (Function and General) Regulations 1996 r18(4), (4a) & (5) Rejecting and accepting tenders		
Power is originally assigned to:	Local Government		
Statutory Power of Delegation	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO		
Power Delegated to:	Chief Executive Officer.		
Council's Conditions on Delegation:	Delegation 1. subject to a provision in the adopted Annual Budget and limited to: <ul style="list-style-type: none">Tenders resulting from the expiry of a recurring contract – \$5 million (life of contract);Supply of plant and equipment – to a maximum amount of \$2,000,000;All other tenders – to a maximum amount of \$1,000,000.		
Statutory Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees		
CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i>	All Directors (execution of contractual documents only)		
CEO's Conditions on Sub-delegation:	Once the tender has been accepted by the CEO the CEO or any Director may execute the contractual documents relating to the acceptance of the tender.		
Record Keeping Statement (LGA 1995) s5.46(3) " A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty."	Acceptance must be recorded in the appropriate record and in the Tender Register as required by Regulation 17 of the Local Government (Functions and General) Regulations 1996.		
Compliance Links	<i>Delegation 4.5.4 – Execution of Documents</i> <i>Financial Interest Returns Required - Yes</i>		
Delegation Administration:			
Decision Reference		Decision Reference	
1. CE04-12/16		11.	
2. 16/421025		12.	
3. 17/335505		13.	
4. CE01-06/18		14.	

1.1.16 SELECTING THE NEXT MOST ADVANTAGEOUS TENDER

Function Delegated: <i>This text is provided as a reference only. Delegates shall only act in full understanding of the delegated statutory power, inclusive of conditions [see below].</i>	If the successful tenderer is unwilling or unable to accept the contract with the variation or the local government and the tenderer cannot reach agreement, select the next most advantageous tenderer.		
Statutory Power being Delegated:	<i>Local Government (Function and General) Regulations 1996</i> r20(2) Variation of requirements before entry into contract		
Power is originally assigned to:	Local Government		
Statutory Power of Delegation	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO		
Power Delegated to:	Chief Executive Officer		
Council's Conditions on Delegation:	Subject to:- <ul style="list-style-type: none">• Regulation 20(2) of the Local Government (Functions and General) Regulations 1996; and• A provision in the adopted Annual Budget and limited to:<ul style="list-style-type: none">◊ Tenders resulting from the expiry of a recurring contract – \$5 million (life of contract);◊ Supply of plant and equipment – to a maximum amount of \$2,000,000;◊ All other tenders – to a maximum amount of \$1,000,000		
Statutory Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees		
CEO's Sub-Delegation: <i>The exercise of the delegated power does not include the power of delegation</i>	Nil		
CEO's Conditions on Sub-delegation:	Nil		
Record Keeping Statement (LGA 1995) s5.46(3) " A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty."	Acceptance must be recorded in the appropriate record and in the Tender Register as required by regulation 17 of the Local Government (Functions and General) Regulations 1996. —		
Compliance Links	<i>Financial Interest Returns Required - Yes</i>		
Delegation Administration:			
Decision Reference	Decision Reference	Decision Reference	
1. CE06-05/17	6.	11.	
2. CE01-06/18	7.	12.	
3.	8.	13.	
4.	9.	14.	

ATTACHMENT 6

5.1 Decisions During COVID-19 Pandemic

This attachment is confidential and distributed under a separate cover to all Council Members.

Administration Use Only

Attachment 6 – HPE # 20/119585