

5.5.1 Delegated Authority Review

Ward:	-	Date:	
Precinct:	-	File Ref:	
Attachments:	1 – Delegated Authority Register 2015 - 2016		
Tabled Items:	Nil		
Reporting Officer:	R Hall, Project Manager – Business Improvement		
Responsible Officer:	L Kosova, Chief Executive Officer		

OFFICER RECOMMENDATION:

That Council:

1. **NOTES** the annual review of its Delegations of Authority in accordance with Section 5.46(2) of the *Local Government Act 1995*, as outlined in this report and summarised in Attachment 1; and
2. **REVOKES** the following Delegations of Authority for the reasons summarised in Attachment 1:
 - 1.1 Provision of Services and/or Facilities
 - 1.2 Amending and Updating Policies and Policy Manuals
 - 1.4 Appointment of Employees and Determination of an Organisational Structure
 - 1.5 Appointment of Consultants and Contractors
 - 1.8 Legal Representation – Council Members and Employees
 - 1.9 Obtaining Legal Advice
 - 1.10 Use of Corporate Logo
 - 1.11 Receptions, Civic Functions and Use of Administration and Civic Centre
 - 1.12 Preparation of Annual Report
 - 1.13 Preparing and Issuing the City's Newsletter
 - 1.15 Purchase and Provision of Vehicles for the City
 - 2.2 Performing Its Executive functions Outside the City District
 - 3.4 Amending the Rate Record
 - 3.12 Revocation of Instalment Options for Rates or Service Charges
 - 3.15 Preparation of Monthly financial Statements and Reports
 - 3.16 Disposal of Surplus Plant, Equipment or Materials
 - 3.17 Signing of Requisitions and Purchase Orders
 - 3.19 Issue of Petty Cash Advances
 - 3.20 Submission of Grants and Subsidy Applications
 - 3.21 Negotiating Terms and Conditions for Leases and Properties
 - 8.1 Disturbing Local Government Land or Anything On It
 - 8.2 Obstructing A Public Thoroughfare
 - 8.3 Encroaching A Public Thoroughfare
 - 8.4 Offences Relating to the Repair of Gates and Fences
 - 8.5 Dangerous Excavation in or Near Public Thoroughfare
 - 8.6 Crossing from Public Thoroughfare to Private Land or Private Thoroughfare Without Approval

- 8.7 Requirement to Construct and Repair a Crossover
- 8.8 Private Works On, Over or Under Public Place
- 8.9 Offences Relating to Watercourses, Drains, Tunnels and Bridges
- 8.10 Offences Relating to the Protection of Thoroughfares from Water Damage
- 8.11 Action Against Persons in Relation to Wind Erosion and Sand Drifts
- 9.1 Parks and Reserves – Allocation, Use, Banners, Recovery of Costs, Use of Alcohol
- 9.2 Street Trees – Management, Planting, Pruning and Removal
- 9.3 Halls, Parks and Reserves – Hire, Fees, Selling of Goods
- 9.4 Traffic Management Treatments/Local Traffic Management Schemes/Referrals to the City’s Integrated Transport, Traffic and Road Safety Advisory Group
- 9.5 Unauthorised works in a Street – Serving of Notices
- 9.6 Works in the Street
- 9.7 Materials to be Used in the Road Reserve
- 9.8 Reinstatements of Roads and Footpaths
- 9.9 Approval of Works Orders to Public Utility Service Authorities
- 9.10 Upgrading of Existing Street Lighting and Underground Power
- 9.11 Location of Bus Shelters and Seats
- 9.12 Footpaths – Prevention of Damage to
- 9.13 Approval of Design Projects
- 9.14 Laneways and Rights of Way – Closure, Part closure, Amalgamation, Paving, Drainage and Obstruction of
- 9.15 Approval of ACROD Car Parking Bays
- 9.16 Recovery of Overdue Library Books and Other Loaned Items
- 9.17 Approval of Grants, Donations, Sponsorship and Waiver of Fees and Charges
- 10.2 Stadium (Medibank) Management Committee
- 10.3 Leederville Masterplan Management Committee

3. **NOTES that further reports will be submitted to Council to consider:**

- a) **changes to existing Delegations of Authority which are not being revoked by 2 above; and**
- b) **any new Delegations of Authority**

being proposed by Administration.

PURPOSE OF REPORT:

To consider the annual review of Council’s delegations of authority to the Chief Executive Officer (CEO), as required by Section 5.46(2) of the *Local Government Act 1995* (‘the Act’).

BACKGROUND:

Under the Act, Council can delegate certain powers and duties to the CEO and the CEO, in turn, can on-delegate those powers and functions to other employees.

Section 5.46 of the Act requires the CEO to keep a record of the delegations adopted by Council and on-delegated by the CEO. This Section also requires the delegations to be reviewed at least once every financial year.

The current Delegated Authority Register was last reviewed by Council at its meeting on 9 July 2013 (in the 2013/14 financial year) and the delegations have not yet been reviewed in the 2014/15 financial year. The 30 June 2015 Council meeting is the last opportunity to review the delegations for the 2014/15 financial year, to fulfil the review obligation under s.5.46 of the Act.

DETAILS:

The Act does not specify the manner in which Council must 'review' its delegations and simply states that a review must occur. In the past, these annual reviews have resulted in very few or no changes being made to the delegations previously granted by Council.

In the case of the current review process, Administration has reviewed and tested the appropriateness of all delegations granted by Council and has identified that the delegations generally fall into the following categories:

- The delegation relates to a power that is already a function of the CEO under the Act and which Council therefore has no ability to delegate;
- The delegation relates to a power that is exercisable by Administration in an 'Acting Through' capacity and which does not require a delegation;
- The delegation operates as a *de facto* Policy in the absence of a formal Council Policy;
- The delegation is contrary to the Act or Policy;
- The delegation is appropriate, with or without some modification.

For the purpose of this review exercise, Administration is proposing a staged and detailed consideration of the delegations that fall into each of the above categories. This will provide an improved opportunity for Council to discuss and determine a position on the delegations that fall in those different categories through separate reports to Council; providing more detail on the 'Recommended Approach' than that contained in **Attachment 1**. However, in the first instance, Administration is recommending (as part of this annual review) that Council revoke the delegations of authority which are CEO functions at law and which Council therefore has no ability to delegate to the CEO, given that Council can only delegate the powers and duties which would otherwise only be exercisable by Council.

Importantly, revoking delegations, as recommended by Administration, will not change or remove the need for Administration to still comply with any adopted Council Policy relating to the exercise of that particular function.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Section 5.46(2) of the Local Government Act 1995 requires the Council to carry out a review of its delegations at least once every financial year.

RISK MANAGEMENT IMPLICATIONS:

High: To comply with the Act the delegations must be reviewed by 30 June 2015.

STRATEGIC IMPLICATIONS:

Nil in terms of the recommendation to revoke delegations for powers that already and automatically rest with the CEO.

SUSTAINABILITY IMPLICATIONS:

Nil

FINANCIAL/BUDGET IMPLICATIONS:

Nil

COMMENTS:

Attachment 1 summarises the results of Administration's review of all existing delegations and outlines for each delegation the 'Recommended Approach' for that delegation as well as any corresponding Policy links to guide the exercise of each function.

Administration is recommending that Council notes the annual delegation review for 2014/15, revokes the existing delegations referenced in Attachment 1 as are CEO functions and notes that further reports will be submitted to Council in the coming months to consider the recommended approaches to the various other categories of delegations listed in **Attachment 1**.