

T21/3917 – LATE ITEM - RESPONSE TO PETITION TO RECONSIDER THE DESIGN OF A NEW PATH IN KENNEDY STREET, ALFRED COVE (REC) (ATTACHMENT)

Ward : Bicton - Attadale – Alfred Cove
 Category : Operational
 Subject Index : Footpath Construction
 Customer Index : Engineering Design, City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Works Programme : 2020/21
 Funding : \$179,500
 Responsible Officer : Kimberly Brosztl
 Manager Engineering

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

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A NEW PATH IN KENNEDY STREET, ALFRED COVE (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The installation of a path on Kennedy Street was included in the 2020-2021 budget in response to community requests.
- Detailed consultation was conducted in November 2020 and included the proposed design for community feedback.
- Feedback from consultation was focused around the layout of the crossing at Kennedy Street and Latham Street. The design of the crossing was reviewed and changed to provide a more suitable path of travel for pedestrians in February 2021.
- In February 2021, the contractor issued the standard two week notice of construction and it was at this point that three residents communicated their objection regarding their crossovers being cut through to allow for the path.
- The City responded by highlighting policy, crossover approval requirements and community safety issues associated with path construction.
- Investigations following the objections found that none of the objecting residents crossovers have been granted approvals from the City and that the crossovers did not meet current standards.
- Path construction began in March 2021; however works have now been halted around the crossovers of 52A, 52B and 54A to allow for the petition to be presented to the Council.
- The petition contains 39 signatories of which six reside on Kennedy Street from three properties objecting to the path construction design.
- Twenty-one properties now have the path works completed with no complaints regarding the cut through of crossovers, with only the path outside the three aforementioned properties remaining incomplete.
- The objecting residents have cited the Council resolution related to Beach Street in Bicton as a precedent for retaining crossovers, however officers have responded by advising that Beach Street was a special circumstance as reflected in the minute record relating to that decision.
- Completing the construction along Kennedy Street as a continuous concrete path that cuts through all existing crossovers will provide the safest and most accessible pedestrian connection for the community.
- A Council resolution to maintain some crossovers would compromise the City's ability to construct the path to meet adopted Policies and best practice guidelines and specifications. It is likely that such a decision would also lead to increased resident expectations, construction costs and capital works project timeframes for future path construction projects.
- Due to the number of projects already completed to the City's current path construction standards, the Officers recommendation to construct the footpath in accordance with the current design as it is the safest, most cost effective and equitable solution for completing the path project.

BACKGROUND

The need for a path along Kennedy Street was identified in 2018, at the time the City received reports the road was being used as a "rat run" for vehicles travelling via Kennedy Street to bypass Canning Highway and thereby creating safety concerns for pedestrians. This path was submitted as part of the City's 2020-2021 budget and approved by Council in June 2020.

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As part of Community consultation, letters and the proposed path design were mailed to affected residents on the 4 November 2020 with consultation closing date of 27 November 2020.

[3917 - Mail Out Letter & FAQs Plan - 6 Nov 2020](#)

Feedback showed a number of residents questioning the layout of the Latham Street crossing. There was little feedback given on the cutting through of crossovers as shown in the design at that time.

In February 2021, the City's contractor issued a standard two week notice for commencement of works. At this time, three residents began communicating with the City highlighting objections regarding the cutting through of their unapproved aggregate crossovers.

The objections were communicated by phone and in writing from the three residents, with one resident citing the Council resolution on Beach Street path project as a precedent. This prompted a written response from the City detailing why it is necessary for the City to cut through crossovers to construct a compliant path. Officers also advised that the Beach Street Council Resolution and supporting notes from the Ordinary Meeting of Council on the 18 August 2020 did not set a precedent as outlined below:

“Retain the one approved and six unapproved crossovers with minor non-compliances (2A, 4, 14, 14A, 16, 22, 26A) and remove wings”.

The following notes were included in the Minutes to provide further context around Council's decision:

“At 8:07pm Mayor Gear foreshadowed that the Beach Street path project is a special circumstance requiring resolution and that Council will not get involved in this process in future, with officers to manage the path construction process in line with Council Policies and the City's guidelines and specifications. Elected Members requested that this statement be recorded in the minutes”.

It should be noted that two residents on Beach Street later opted for the path to be continued through their crossover as per the City's standard design.

Also at the time that Beach Street path project was first programmed for construction, the City's Policy and Guidelines and Specifications had recently been updated to follow best practice guidelines. Therefore, Beach Street could be considered to be in the transition phase of adoption between superseded and current requirements. Since the adoption of the Policy, the City has completed over ten path construction projects following the latest standards including continuing the path through all of the existing crossovers along the path alignment.

The City's response, which including legal representation on behalf of the objecting residents concerned, was rejected by the residents and the request to not continue the path through the crossovers was escalated to the Director Technical Services. Following a request from one of the objecting residents that a petition was planned to be lodged, the Director granted the pausing of the works planned for the three crossovers while the remainder of the path was completed to enable Council consideration of the petition.

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Communications to residents clearly identified the safety of pedestrians is the priority of the City, therefore continuing the path through the crossovers is the safest option and is recommended as best practice in State guidelines. This methodology of path construction highlights pedestrians have priority over vehicles, provides a consistent surface material (colour and texture) to aid people with vision impairments and smoother transitions through crossovers for people that may have mobility restrictions.

Installing the path through the crossover reduces the undulations in the path, ensures grades are appropriate and reduces the risk of trip hazards.

References to the Beach Street path project, where a special circumstance led to the retention of crossovers as a result of a Council resolution, did not result in a change of Policy for future path construction.

The City received a petition on 12 April 2021. This petition cites major issues with the design consisting of:

- *“All driveways will be cut back two meters from the road and replaced with a normal concrete crossover/path.*
- *If your driveway does not meet the height level of the new path your driveway will be cut further back till the heights line up.*
- *That cut back will be replaced with pavers, concrete or exposed aggregate trying to match your existing aggregate. (Mine is eight years old exposed aggregate and I have been told by two exposed aggregate installers that they won't be able to match it.)*
- *Matching the levels has particular implications for concrete/exposed aggregate. To create the new levels they will cut through the steel reinforcement, the new path crossover, the infill aggregate and then the old existing driveway will be three different colour separate floating slabs. This will look shocking affecting property values and they will be more prone to movement by tree roots water etc.*
- *The new levels and falls will affect drainage of these driveways leaving them more prone to pooling.*
- *In the case of Kennedy Street and Beach Street we understand that there are historical concerns of cases of the council not responding to issues raised in the two week consultation period. My own concern is that the City deliberately does not respond to concerns, so they do not have to address said concerns and commence the work regardless.”*

The City has managed these issues as part of its standard path construction process by:

- Ensuring impacts to verge and crossovers are minimised, with two metres from the road being the minimum cutback to allow a 1.8 metre wide path plus 200 millimetre kerbing.
- The City only cuts back further into the crossover to attain suitable levels, however crossovers constructed in accordance with the City's guidelines would not need to be cut back further as the levels would be compliant and only the minimum cut back would be required.
- Crossover reinstatements endeavour to match the existing colour and material as closely as possible.

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- Steel reinforced crossovers are uncommon in residential areas. Steel reinforced crossovers are intended for commercial properties and are not approved for residential areas. The City would not reinstate to this specification under normal circumstances.
- Reinstatements are completed to minimise drainage issues within site specific constraints.
- The City takes all issues raised from consultation into consideration, noting that community feedback received for the Kennedy Street path project resulted in design changes for the crossing at Latham Street.

Twenty-one properties on Kennedy Street now have the works completed with no complaints regarding crossovers.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

As part of the drive to improve consultation, an improved community engagement process was introduced in 2020 to enhance consultation with residents across a range of works including path construction. Previously the City had “informed” residents when construction was about to commence. As the Strategic Community Plan had identified aspirations for residents in the City to have paths, it was decided to “Consult” as described in Council Policy CP-002 Stakeholder Engagement and the path construction communication process was changed to accommodate this improvement.

As part of Community consultation letters, the proposed design was mailed to residents whose properties adjoined the path on the 4 November 2020 with consultation closing date of 27 November 2020. The community feedback received resulted in a number of residents questioning the layout of the Latham Street crossing which was subsequently adjusted. Little feedback was given on continuing the path through the crossovers at that time.

The majority of feedback was communicated by phone with each resident responded to within appropriate time frames. Feedback from residents was communicated to the design team for consideration, residents were notified no changes were being made at that time however if under further review major changes were accepted they would be notified.

In February 2021, the City’s path construction contractor issued a standard two week notice for commencement of works, at this time residents again questioned the Latham Street crossing. The design was reviewed by the Manager Engineering where an appropriate solution was found and designs updated, with this update communicated to the affected residents and those residents who raised the issue.

Following this initial round of consultation and resolution of issues raised, objections regarding cutting through the three unapproved aggregate crossovers were received by the City. This was responded to by phone initially and subsequently by email from the Manager Engineering and Director Technical Services as a result of escalation of the objections. The City’s correspondence referenced the Council resolution and notes from the Mayor that concluded that Beach Street was not setting a precedent and also reinforced the safety and accessibility requirements for continuing paths through crossovers as the best outcome.

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This response was rejected by the lead objecting resident who advised that a petition would be lodged seeking a decision by Council similar to that for the Beach Street path project. The Director Technical Services agreed to delay the completion of the path project related to the three crossovers to allow time for a petition to be presented to Council, noting that the remainder of the path construction project was completed.

II. OTHER AGENCIES / CONSULTANTS

No engagement with other agencies or consultants has occurred.

STATUTORY AND LEGAL IMPLICATIONS

There are no statutory or legal implications.

FINANCIAL IMPLICATIONS

The amount of \$179,500 has been provided in the 2020/2021 budget to construct the path along Kennedy Street. Due to the delays from objections and additional design, additional costs have been incurred and the final cost is expected to be well above the planned budget. This does not include staff time for additional consultation activities and the fact that further cost increases are likely as contractors may need to remobilise and staff would need to continue to work on resolutions to complete the path project.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
Exceptions to adopted Policy and Guidelines undermine community outcomes. Policy and Guidelines have been carefully created to mitigate risks to the community and council, by allowing exceptions this undermines these documents.	High likelihood with Moderate consequences, resulting in a High level of risk.	Continue to support Policy and Guidelines
By allowing existing non-conforming crossovers, this would require paths and kerbs to be modified to meet these levels and heights. Non-conforming crossovers may: <ul style="list-style-type: none"> • Be set too low and may cause future drainage issues • Impact future road surface treatments, create undulating surfaces causing hazards for path users and result in path material changes less suitable for the visually impaired 	Likely likelihood with Moderate consequences, resulting in a High level of risk.	Construct paths to current standards and guidelines to provide consistency and achieve wider community safety and accessibility benefits.

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It should be noted that, given the references to Beach Street as a recent example of residents who have kept existing crossovers, the Council resolution and notes referred to in the background to this report clearly states that the Beach Street path project was a special circumstance and Council noted in the Minutes that Council would not get involved in the process in the future and that officers were to manage the path construction process.

There are significant cost and project delay consequences in allowing some crossovers to remain (including adjusting wings). This outcome would also undermine the Crossover Policy CP-110 and the Crossover Guidelines and Specifications, leading to reduced safety and accessibility for residents while increasing liability risks to the City.

Continued deviations and exceptions to Crossover Policy will set an undesirable precedent for the future and will require a complete review and major changes to the City's Policy and Guidelines and Specifications, which will compromise community safety and amenity.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The City's responses to options provided in the petition are;

1. *Do the same as what they did at Beach Street Bicton by removing the wings and tying in with our existing driveways.*

Keeping existing crossovers is not recommended as this will go against current policy, guidelines and specifications. The path will then need to be redesigned and lowered to meet each independent crossover and meet each crossover level. Reducing the height of the kerb to meet the lower crossover is likely to create drainage issues where the crossover is at road level or lower and may limit future road resurfacing treatments. Changes in materials will result in losing continuity and visual representation of the path and pedestrian priority. Reinforced crossovers for residential properties are not specified as it is excessive in a residential situation and the City or service providers have a legal right to access services beneath the crossover at any time.

2. *Put the new path in normal concrete; replace the entire length of all existing concrete/aggregate at the front of the premises. This will keep everything the same colour and the rest of the driveway will be one engineered reinforced unit that allows for new falls drainage including drains and soak wells.*

Reinstatement to the property line may occur in certain circumstances to gain acceptable levels and minimise any access or drainage issues. The City does not perform works inside the resident's property due to legal and risk issues. The fall of the crossover should be as such that no additional drainage is required. The City will not be responsible for maintaining any additional drainage required for a crossover.

The City's practice is to only replace the section of crossover that is required to be modified to meet the back of the path in order to minimise the impact on the existing crossover. This is generally to the nearest expansion joint. Increasing this length to the property line in all cases would add excessive and unacceptable costs to the project. This practice is not generally undertaken on other path projects and therefore would expose the City to significant cost and equity issues.

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The City's Contractors endeavour to best match existing crossover material taking age and weathering into consideration as part of the City's standard reinstatement requirements.

Examples photos taken from Kennedy Street path project and other recent path projects are provided and form an attachment to this Item.

[3917 Examples of Completed Crossovers](#)

CONCLUSION

Completing the construction of the path along Kennedy Street as a continuous concrete path that cuts through all existing crossovers will provide the safest and most accessible pedestrian connection for the community.

A Council Resolution to maintain some crossovers would compromise the City's ability to construct the path to meet adopted Policies and best practice guidelines and specifications. Maintaining some crossovers in implementing the City's path capital works program would lead to increased and unrealistic resident expectations, significant additional costs and delays in timeframes for future path construction projects.

Due to the number of successful path construction projects completed to the City's current standards with community safety, accessibility and pedestrians as priority, the most cost effective and equitable solution is to construct the remaining footpath in accordance with the current design.

OFFICER RECOMMENDATION – (3917)**APPROVAL****That the Council:**

- 1. Notes the petition received; and**
- 2. Approves the construction of the path along Kennedy Street, Alfred Cove to be completed in accordance with the current design that requires cutting through crossovers and is consistent with Council Crossover Policy CP – 110; and**
- 3. Directs the CEO to advise the lead petitioner of the above resolutions.**