

**City of Fremantle**

# **MINUTES**

## **Strategic and General Services Committee**

Wednesday, 9 September 2009  
6.00 pm

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### **COMMITTEE MEMBERS**

Mayor Peter Tagliaferri  
Cr Shirley Mackay  
Cr Georgie Adeane  
Cr Donna Haney  
Cr Brad Pettitt  
Cr Alice King  
Cr Doug Thompson

Beaconsfield Ward  
South Ward  
City Ward  
East Ward  
Hilton Ward  
North Ward

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## STRATEGIC AND GENERAL SERVICES COMMITTEE

Minutes of the Strategic and General Services Committee  
held in the Council Chambers, Fremantle City Council  
on 9 September 2009 at 6.00 pm.

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### DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.02pm.

### NYOONGAR ACKNOWLEDGEMENT STATEMENT

"We acknowledge this land that we meet on today is part of the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Nyoongar people as the custodians of the greater Fremantle/Walyalup area and that their cultural and heritage beliefs are still important to the living Nyoongar people today."

### IN ATTENDANCE

Cr Georgie Adeane	Presiding Member / South Ward
Cr Shirley Mackay	Deputy Presiding Member / Beaconsfield Ward
Cr Robert Fittock	North Ward
Cr Donna Haney	City Ward
Cr Brad Pettitt	East Ward <i>arrived 6.03pm</i>
Cr Alice King	Hilton Ward <i>arrived 6.10pm</i>
Cr John Alberti	Observing only
Mr Philip St John	Acting Chief Executive Officer
Mr Lionel Nicholson	Manager City Works
Mr John Amor	Manager Property Services
Mrs Mia Zaknich	Minute Secretary

*There were 9 members of the public and 2 members of the press in attendance.*

### APOLOGIES

Cr Doug Thompson                      North Ward

### LEAVE OF ABSENCE

Nil

**Cr B Pettitt arrived at 6.03pm.**

## RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

### PUBLIC QUESTION TIME

Ms June Hutchison made the following comment and questions in relation to Item SGS0909-6, Notice of Motion Review of the Memorandum of Understanding with the Notre Dame University;

'I do believe that this is a matter of public interest and there should be an opportunity for public comment, and my question is: Has there been any assessment of the extent to which the parties to the agreement have met their obligations?

For example:

- Has UNDA met its aim to provide accommodation for students, estimated at 400 beds by 2010?
- What has been UNDA's contribution to infrastructure projects in the UNDA zone? What projects have been undertaken?
- To what extent has the City considered the needs of UNDA students when reviewing parking and transport policies?
- Does UNDA give priority, on a competitive basis, to local businesses for the supply of goods and services?

I believe that the information from such an assessment could contribute to the framing of a new MOU'.

**Response: Acting Chief Executive Officer, Philip St John requested that the questions put to the committee by Ms Hutchison be received in writing and that he will take them on notice.**

The following members of the public also spoke in relation to item SGS0909-6 Notice of Motion Review of the Memorandum of Understanding with the Notre Dame University;

- Mr Ron Davidson and
- Ms Maryrose Baker

**Cr A King arrived at 6.10pm.**

Cathy Hall spoke in support of Item SGS0909-6 Notice of Motion Review of the Memorandum of Understanding with the Notre Dame University. Ms Hall asked if there was any impediment in the current process to review and implement a new Memorandum of Understanding with Notre Dame University.

**Response: Acting Chief Executive Officer, Philip St John responded that he believes that there is no current impediment to implement a new Memorandum of Understanding at the expiry date of the current Memorandum of Understanding.**

Mr Leo James from the Royal Fremantle Golf Club spoke in support of Item SGS0909-2, The Royal Fremantle Golf Club - Application for a new long term lease and said he was available if committee had any questions for them during the debate.

### **DEPUTATIONS / PRESENTATIONS**

Cr Mackay welcomed Cr Henry Wilson from Beaconsfield in England and presented Cr Wilson with a gift from the City of Fremantle. Cr Wilson thanked Cr Mackay and the committee for the warm welcome and looked forward to observing this committee meeting.

### **DISCLOSURES OF INTEREST BY MEMBERS**

Nil

### **LATE ITEMS NOTED**

Nil

### **CONFIRMATION OF MINUTES**

**Cr B Pettitt vacated the chamber at 6.15pm.**

**MOVED: Cr G Adeane**

That the Minutes of the Strategic and General Services Committee dated 12 August 2009 as listed in the Council Agenda dated 26 August 2009 be confirmed.

**CARRIED: 5/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Robert Fittock	

### **TABLED DOCUMENTS**

Nil

**Cr B Pettitt returned to the meeting at 6.17pm.**

**REPORTS BY OFFICERS (COMMITTEE DELEGATION)**

The following items are subject to clause 1.1 and 2.1 of the City of Fremantle Delegated Authority Register

**SGS0909-1 EXTENSION OF CONTRACT FOR SPECIALISED CLEANING OF ROADS (FCC 319/08)**

**DataWorks Reference:** 135/01  
**Disclosure of Interest:** Nil  
**Previous Item:** SGS0811-3 of 12 November 2008  
**Responsible Officer:** Peter Pikor, Director Technical Services  
**Actioning Officer:** Lionel Nicholson, Manager City Works  
**Decision Making Authority:** Committee  
**Agenda Attachments:** Nil

**PURPOSE**

To extend the contract for Specialised Cleaning of Roads (Tender FCC 319/08) for the one year option allowed for within the contract.

**EXECUTIVE SUMMARY**

**Tender FCC 319/08 was awarded to Spots All Surface Cleaning in November 2008 for a period of one year (to operate from 1 November 2008 – 31 October 2009).**

**The contract provides for a one year option to be exercised at the same rate and conditions for the existing works. Based on the satisfactory performance of the contractor to date, it is proposed to extend the contract for the option period prior to pursuing any further tendering process for the specialised cleaning services.**

**BACKGROUND**

Tenders were invited from suitably qualified and experienced contractors to provide specialised cleaning services for roads and footpaths within the City of Fremantle in September - October 2008. The contract period offered was from 1 November 2008 to 31 October 2009, with a further one year option. The scope of works under the tender supplements the City's own routine roads and footpath cleaning services and provides specialised cleaning for removal of chewing gum, oil, grease, paint and fuel stains.

The Strategic and General Services Committee approved the award of the tender in the November 2008 round of meetings, with an option for the one year extension to 31 October 2010.

## **COMMENT**

City Works have monitored the performance of Spots All Surface Cleaning since starting the specialised cleaning works under the contract and consider that it has performed satisfactorily. With the concurrence of the contractor it is proposed to extend the contract for the one year option using the same rates and level of service under the contract. As noted in the previous item for the award of the contract, the value of the services provided for the year was limited to \$210,000 (excluding GST) for the 2008/09 contract period.

Committee approval is sought to effect the extension of the contract for the one year option.

## **CONCLUSION**

Nil

## **STRATEGIC AND POLICY IMPLICATIONS**

This item has a connection to the Strategic Plan through Strategy 3.6 (A Beautiful and Accessible Place - Facilities and Infrastructure).

## **TRIPLE BOTTOM LINE IMPLICATIONS**

### **Economic**

The provision of a well maintained road and footpath network should provide potential economic benefits in that it projects an improved visual impact particularly in the central business district areas.

### **Environmental**

Nil

### **Social**

The provision of a well maintained road and footpath network through a suitable level of maintenance activity within the municipality should provide potential social benefits.

## **BUDGET IMPLICATIONS**

Provision of \$210,000 inclusive of GST has been made in the recurrent maintenance program for contracted services for this specialised cleaning, and the range of areas and frequency of cleaning has been developed to suit this funding limitation.

## **LEGISLATIVE AND LEGAL CONSIDERATIONS**

The obligations of Local Governments in regard to tenders for providing goods or services; Section 3.57 of the Local Government Act 1995 and Part 4 of the Local Government (Functions and General) Regulations 1996.

**PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION**

Nil

**VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

**COMMITTEE DECISION**

**MOVED: Cr G Adeane**

**That the Strategic and General Services Committee, acting under delegated authority from Council, approves the extension of the contract with Spots All Surface Cleaning (tender FCC 319/08 for the provision of specialised cleaning of roads and footpaths within the municipality) for the value of \$210,000 (excluding GST) for one year from 1 November 2009 – 31 October 2010.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Brad Pettitt Cr Robert Fittock	

## REPORTS BY OFFICERS (COUNCIL DECISION)

### SGS0909-2 THE ROYAL FREMANTLE GOLF CLUB - APPLICATION FOR A NEW LONG TERM LEASE

<b>DataWorks Reference:</b>	Leases – L022
<b>Disclosure of Interest:</b>	Nil
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Glen Dougall, Director of Corporate Services
<b>Actioning Officer:</b>	John Amor, Property Coordinator
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Royal Fremantle Golf Club letter dated 17 <sup>th</sup> August 2009

## PURPOSE

To Consider an application from the Fremantle Royal Golf Club for a new Lease with an initial term of twenty one (21) years, plus an option of twenty one (21) years of “C” Class Reserve 8860 and part “A” class reserve 6638, i.e.; The existing Royal Fremantle Golf Course premises.

## EXECUTIVE SUMMARY

**The current Royal Fremantle Golf Club Lease of these premises is scheduled to expire on the 30<sup>th</sup> June 2017 without any options available beyond that date.**

**As set out in the Royal Fremantle Golf Club letter dated the 17<sup>th</sup> August 2009 the club house and the green keepers facilities need a substantial upgrade and replacement.**

**According to the Royal Fremantle Golf Club the estimated total cost of these works will be \$760,000. The Club will need to initially borrow \$500,000 over a period of up to fifteen years. The club expects that negotiations will be for a rolling load facility to be “topped up” as each new project is commenced.**

**To secure the load the club argues that its tenure of these facilities must be guaranteed, and it therefore seeks a new Lease of twenty one years plus an option for a further twenty one years.**

## BACKGROUND

In its submission the Royal Fremantle Golf Club claims that it is the oldest Golf Club in the state of Western Australia that is still on its original site having been established 104 years ago in 1905.

The current Lease (which was for a period of twenty one years without any option) is scheduled to expire on the 30<sup>th</sup> June 2017.

The current annual rental is \$23,795.04 plus GST and is subject to annual CPI rent reviews except in 2009 when the review is to be market based.

The City has commissioned WA Landgate services to conduct this rental assessment. Very preliminary estimates suggest that the rental increase would perhaps be to \$40,000 approximately per annum.

**COMMENT**

As the Royal Fremantle Golf Club letter adequately addresses the issues such as Club history; membership; status with the golfing community; it's charitable role; its attraction to tourists to Fremantle; public access to the course for recreation; it is not necessary to address those matters here.

However, it should be noted that the Royal Fremantle Golf Club managers and pays for the maintenance of this entire facility without financial assistance from the City of Fremantle. Also the Royal Fremantle Golf Club intends to continue to honour the present practice of allowing public access to the course for walking recreation purposes along the existing walk trail away from the main areas of play. The land in question has been vested to the City of Fremantle, with the designated purpose of "Recreation" to manage and control with power to Lease for a period up to but not exceeding twenty one (21) years.

Preliminary telephone enquires of State Land Services (SSL) indicate that if the Council approves the 21 + 21 year arrangement then it will be necessary for the City to formally write to SSL advising it of any decision and seek to have the power to Lease term changed to reflect the extended term. Verbal indications are that SSL will approve the application.

Should the decision be to grant the new Lease set out below are some basic Lease terms and conditions;

Lessor:	City of Fremantle
Lessee:	Royal Fremantle Golf Club
Premises:	Existing Golf Club land and facilities
Term:	Twenty one (21) years
Option:	Twenty one (21) years
Commencing Annual Rental:	This is to be the figure settled upon between the parties around the July 09 market rental review.
Permitted Use:	Golf Course and Associated Club Facilities

Rent Review Schedule:	Annually on the anniversary of the Lease commencement date. The reviews will be to CPI except on every fifth anniversary the review is to be market based.
Service Charges:	Lessee's responsibility
Statutory Charges:	Lessee's responsibility
Maintenance:	Lessee's responsibility
Lease Legal Costs:	Lessee's responsibility

Clearly the Royal Fremantle Golf Club is a positive asset on many varied fronts for the City of Fremantle; its residents and the wider populace.

The Royal Fremantle Golf Club has proven to be an excellent tenant over extended periods of time.

## **CONCLUSION**

Given that the land in question are Reserves with the designated purpose of "Recreation" and that the land is now a professionally laid out golf course that is similarly managed, it would be a sound and practical decision to favourably respond to the clubs request for the new long term Lease of the premises.

## **STRATEGIC AND POLICY IMPLICATIONS**

This application from the Royal Fremantle Golf Club has relevance to the City's Strategic Plan at the following points:

### **1.4 Healthy & Active Community**

- 1.4.1 Provide, supportive and/or promote the City's sport, leisure and recreational facilities and programs.

### **2.3 Attractive & Welcoming to Visitors & Tourists**

- 2.3.1 Work with partners to attract national and international events to Fremantle.

### **3.1 Enhanced Open & Green Spaces**

- 3.1.1 Maintain and optimise reserves, open and green spaces.

## **TRIPLE BOTTOM LINE IMPLICATIONS**

### **Economic**

The Royal Fremantle Golf Club contributes to the City's economic life by hosting many major events that assist in raising the profile of the Fremantle area.

### **Environmental**

As part of the upgrade, the Royal Fremantle Golf Club plans to replace an asbestos roof. The golf course encompasses Tuart, Jarrah and Marri trees as well as a number of other Australian tree species.

### **Social**

The Royal Fremantle Golf Club actively supports many local charities and the course caters for recreational walkers as well as golfers.

## **BUDGET IMPLICATIONS**

The proposal from the Royal Fremantle Golf Club does not carry any costs for the City.

## **LEGISLATIVE AND LEGAL CONSIDERATIONS**

There will be a need to amend the Management Order held by the City over these premises; as well as documenting the new Lease arrangement.

## **PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION**

None undertaken.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr G Adeane**

- 1. That the Royal Fremantle Golf Club be granted a new Lease of its existing premises for an initial term of twenty one (21) years plus an option of twenty one (21)**
- 2. That the City of Fremantle apply to the State Land Services Department to amend the management order over this land so that the power to Lease is extended to a period of forty two years.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Brad Pettitt Cr Robert Fittock	

**SGS0909-3 ACCEPTANCE OF GRANT FOR RIVERBANK FUNDING AT PRAWN BAY**

**DataWorks Reference:** 146/015  
**Disclosure of Interest:** Nil  
**Previous Item:** Nil  
**Responsible Officer:** Peter Pikor, Director Technical Services  
**Actioning Officer:** Lionel Nicholson, Manager City Works  
**Decision Making Authority:** Council  
**Agenda Attachments:** Nil

**PURPOSE**

To seek Council approval for the acceptance of a grant in relation to the Swan River Trust Riverbank Funding Program (Prawn Bay), with amendments to budgets to allow for related expenditure.

**EXECUTIVE SUMMARY**

As part of the Swan River Trust Riverbank funding programs, Council officers have succeeded in securing a grant to assist with the revegetation of the Prawn Bay area. The program offered by the Swan River Trust helps in initiating foreshore restoration and protection projects.

Acceptance of the grant is conditional on meeting project timeframes for the completion of works and providing matching funds for the grant amount of \$20,500. It is proposed to use most of the currently budgeted recurrent maintenance funds for Prawn Bay to match the grant offer as the Council budgeted funds and Swan River Trust funds have similar objectives. As a consequence, the works that can be achieved will be effectively doubled.

Council is therefore requested to accept the grant and amend the budget by \$20,500 for such project expenditure, to be funded out of the grant available under the program.

**BACKGROUND**

The Swan River Trust provides funding opportunities to Local Governments to assist with various aspects of revegetation and protection of foreshore habitats within municipal boundaries.

Funding for the current round of Riverbank programs has just been advised to Council. The funds have not been included in the 2009/10 Council budget as there was no guarantee that applications for funding would be successful until the grants were formally offered by the agency.

## **COMMENT**

Acceptance of the grant and matching use of the approved recurrent maintenance budget for Prawn Bay will double the efforts in revegetation and rehabilitation that can be achieved for the area.

Formal Council endorsement of the grant and amendment of the budget is therefore sought.

## **CONCLUSION**

Nil

## **STRATEGIC AND POLICY IMPLICATIONS**

This item has a connection to the Strategic Plan through Strategy 3 (A Beautiful and Accessible Place), Key Result Area 6 (Facilities and Infrastructure).

## **TRIPLE BOTTOM LINE IMPLICATIONS**

### **Economic**

Nil

### **Environmental**

The application of funds to promote and enhance foreshore areas should provide a better habitat for native fauna and flora.

### **Social**

The revegetation efforts will provide potential social benefit through the provision of better amenity of foreshore areas.

## **BUDGET IMPLICATIONS**

Budget expenditure on foreshore rehabilitation will need to be increased by \$20,500, funded through the Swan River Trust grant. Funds for the grant will be matched by the existing recurrent budget.

## **LEGISLATIVE AND LEGAL CONSIDERATIONS**

Nil

## **PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION**

Nil

**VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr G Adeane**

- 1) That Council accept the grant of \$20,500 offered by the Swan River Trust for works at Prawn Bay.
- 2) That Council approves an increase of \$20,500 in the recurrent maintenance budget for Prawn Bay.

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Brad Pettitt Cr Robert Fittock	

**SGS0909-4 DELEGATED AUTHORITY REGISTER - ADDITION OF DELEGATION TO DEAL WITH MATTERS UNDER SECTION 25 OF THE STRATA TITLES ACT 1985 (IT/KB)**

**DataWorks Reference:** 100/003  
**Disclosure of Interest:** Nil.  
**Previous Item:** Nil.  
**Responsible Officer:** Graeme Mackenzie, Chief Executive Officer  
**Actioning Officer:** Kathy Bonus, Manager Development Services  
**Decision Making Authority:** Council  
**Agenda Attachments:** Government Gazette 9 June 2009

**PURPOSE**

This report recommends a minor alteration to the Delegated Authority Register to give additional delegation to the Chief Executive Officer under the *Strata Titles Act 1985* in accordance with a new procedure implemented by the Western Australian Planning Commission to streamline the current approvals process. Advice from the Department for Planning and Infrastructure on the new delegation was not received in time to be included in the recent review of the Council's register of delegated authority.

**EXECUTIVE SUMMARY**

**The Western Australian Planning Commission has recently delegated its authority to Local Governments to approve built strata titles, in certain circumstances, on its behalf under the *Strata Titles Act 1985*. The delegation is intended to speed approvals for built strata titles. The decision processes delegated to the local government do not involve a significant work load or a substantial increase in responsibility. The new delegation is succinctly documented in Planning Bulletin 52/2009 which is publicly available on the Commission's website.**

**BACKGROUND**

Having completed a review of its built strata approval processes the Commission has formed the view that delegation of its approval responsibility for built strata titles to local government would be of benefit to the community. Local government was consulted during the review process. Officers, given the minor nature of the proposal, responded positively to this initiative on behalf of Council given the obvious benefits of a more streamlined approach for both the community and local government.

The Commission considers that the requirement for WAPC consideration adds another layer of approval for the majority of built strata applications with little corresponding value and that streamlining the approval process for the applicant is beneficial for all parties.

## **COMMENT**

It is considered a more efficient approach for Council to delegate this determination authority to officers rather than require each application to go before Council. A built strata, by its very name, indicates that the development has been completed and the strata process is simply a formal method of determining the type of title to be issued. There are a number of administrative processes which are currently undertaken by officers prior to such applications being referred to the Commission (the current process) and it is now proposed that the local government issue the determination in place of the Commission.

To effect the change in process, an instrument of delegation was made under s16(3)(e) of the *Planning and Development Act 2005* and gazetted on 9 June 2009. These new delegation arrangements also require that local governments provide the WAPC with data regarding the exercise of this power.

The alteration to the Delegated Authority Register is required as there appropriate delegation does not currently exist for officers to make this determination on behalf of Council. The additional delegation to the listed officers will assist in improving the efficiency of the built strata approval process.

## **CONCLUSION**

Delegations provide for an effective and efficient delivery of services to the Fremantle community. This alteration to the Delegated Authority Register is considered to be minor in nature and the additional delegation will provide benefits to the community in assisting to achieve a more streamlined approval of built strata title development.

## **STRATEGIC AND POLICY IMPLICATIONS**

Minor additional approval task under the *Strata Titles Act 1985*.

## **TRIPLE BOTTOM LINE IMPLICATIONS**

### **Economic**

Nil, governance issue.

### **Environmental**

Nil, governance issue.

### **Social**

Nil, governance issue.

## **BUDGET IMPLICATIONS**

Nil.

**LEGISLATIVE AND LEGAL CONSIDERATIONS**

The Western Australian Planning Commission on 26 May 2009 resolved under section 16 of the *Planning and Development Act 2005* to delegate to local government and to members and officers of those local governments, its powers and functions under section 25 of the *Strata Titles Act 1985*.

**PRECINCTS AND OTHER COMMITTEES RECOMMENDATIONS PLUS OTHER CONSULTATION**

Not required.

**VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr G Adeane**

**That Council approve delegated authority to the Chief Executive Officer for the issue a certificate of approval under Section 25 of the Strata Titles Act 1985 with the delegation being subject to the provisions of the Instrument of Delegation 2009/03 made under the Planning and Development Act 2005.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Brad Pettitt Cr Robert Fittock	

**SGS0909-5 INFORMATION REPORT FOR SEPTEMBER 2009**

**NOTICE OF MOTION - ITEM NO0906-2 FROM THE 24 JUNE 2009 ORDINARY MEETING OF COUNCIL**

**DataWorks Reference:** 097/004  
**Author:** Philip Gale, Manager Infrastructure Services  
**Agenda Attachments:** Nil

Due to time constraints, the abovementioned Notice of Motion was not able to be presented to Council by July 2009 as per Point 3 of the Council Decision shown below;

- 3. A report to be brought to the July Strategic and General Services Committee meeting analyzing the best ways to improve sustainable transport initiatives in Fremantle using the budget intended for Freostar, including:**
- a. Joint projects with Transperth**
  - b. Employment of a Travelsmart officer**
  - c. Further subsidizing of Fremantle residents' travel**

A report with a suggested program will be presented to the November 2009 round of Committee and Council Meetings following a meeting with Council Officers and representatives from Events Corp, Fremantle Hospital, the Department of Transport and Notre Dame University to discuss Travel Smart options and the possible employment of a Travel Smart Officer.

**COMMITTEE AND OFFICER'S RECOMMENDATION**

**MOVED: Cr G Adeane**

**The information report for September 2009 be received.**

**CARRIED: 6/0**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay Cr Brad Pettitt Cr Robert Fittock	

**SGS0909-6 NOTICE OF MOTION - REVIEW OF THE MEMORANDUM OF UNDERSTANDING WITH NOTRE DAME UNIVERSITY**

**DataWorks Reference:** 030/019  
**Disclosure of Interest:** Nil  
**Author:** Cr Donna Haney  
**Decision Making Authority:** Council  
**Agenda Attachments:** MOU between Notre Dame University and the City of Fremantle

**PURPOSE**

This item seeks Council support for:

1. An invitation for public comment on the operation of the current Memorandum of Understanding (MOU) between the City of Fremantle and the University of Notre Dame Australia;
2. Clarification of the City's position in this agreement; and
3. A report examining the operation of the MOU and an analysis of other options.

**BACKGROUND**

An MOU between the City and the University of Notre Dame Australia (UNDA) came into effect in January 2003 with the purpose of "continuous improvement of relationships and understanding between the parties to the MOU". MOUs identify areas of agreement between parties and courses of action to achieve mutually agreed goals.

The current MOU is due to expire in December 2010 and provides for a review eighteen months prior to its expiry with the intention of renewing the agreement. Discussions have occurred between the parties regarding renewal of the agreement. No formal process has been initiated to gain comment from the community on the operation of the MOU over the past six years.

**COMMENT***Public Consultation*

In reviewing and evaluating the operation of the existing MOU, the City of Fremantle has a responsibility to seek comment from the community on both the positive elements resulting from the MOU and areas for improvement. The community, including residents, businesses, visitors, staff and students will be impacted by the initiatives that come from the MOU and can provide valuable and practical perspectives on the contribution of UNDA to the West End of the City. The community should be afforded the opportunity to have input and their views considered in the drafting of a revised MOU. The added value of community consultation is that it is likely that innovative ideas will emerge from the process that could benefit Fremantle.

### *Review Report*

In establishing a new MOU, Council requires an officer's analysis of the operation of the existing MOU and review of other agreements in place between local government authorities and universities (and other similar institutions). Such information helps in identifying other opportunities for the University and the City to work together for the benefit of Fremantle.

### *City's Position*

The City of Fremantle represents both its own interests and that of the community in its relationship with the University of Notre Dame. The City of Greater Bendigo has an MOU with La Trobe University and Bendigo recognizes its role is to "advocate on behalf of the community". There is an important distinction between the City of Fremantle representing its position and the City representing the position of the community. This has implications for the purpose and initiatives identified in the MOU and ultimately the outcomes achieved.

### *Concerns*

Concerns have been noted that public consultation may lead to unrealistic expectations. Public consultation can be conducted in a way that informs people of the process and outcomes, and of how their input will be used in the decision making process. Open and accountable processes foster trust, increase public participation and improve the quality of decision making.

Another concern raised by Councillors is that negative feedback will be received. In discussions with residents and businesses to date, many positive consequences of the University's presence have been identified. Without preempting public comment some of these include restored buildings, 24 hour security patrols and the availability of facilities for use by the community. By specifically seeking comment on what is working well, as well as what can be improved, the City can seek to preserve and enhance those elements that are working well. Critical analysis of the existing MOU may be negative or positive, but if it seeks to improve the process it should be seen as part of a constructive process to produce an improved MOU. Resisting or ignoring critical commentary could be viewed as a "head in the sand" approach and would only serve to weaken the integrity of a new MOU. Consequently, to choose not to consult the community based on concerns of receiving negative feedback is insufficient justification to prevent community participation on the MOU.

## **STRATEGIC AND POLICY IMPLICATIONS**

The Community Participation Policy (2001) demonstrates the City's commitment to public participation in decision making. The policy objectives include:

- Optimising opportunities for local residents, workers, ratepayers, students, community groups and businesses to participate in the making of decisions that impact upon their affairs.
- Initiating community participation when making decisions likely to have a significant impact on the affairs of an individual, group or the whole community.

The West End of Fremantle is iconic due to its restored historic buildings and role in the settlement of the State. The City of Fremantle's MOU with the University of Notre Dame Australia and its resulting implications will have significant impact on local residents, businesses and visitors to the area. It should therefore be based on the City's own policy of inviting public input in the review of the MOU.

## **CONCLUSION**

The City of Fremantle is in a position to promote the interests of the community in its negotiations with UNDA to review the MOU with the purpose of identifying initiatives of mutual benefit. The position of advocate for the community's interests is the starting point for establishing initiatives that will benefit the community.

Inviting comment from the community, both in terms of what is working well and what can be improved, is consistent with and complementary to the position of advocate for the community's interests.

Lastly, by being more fully informed, council officers will be better able to analyse the operation of the existing MOU and to generate options for improvement for a new MOU.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

**COMMITTEE RECOMMENDATION**

**MOVED: Cr G Adeane**

**That the City of Fremantle:**

1. Identifies its role in the MOU as being an advocate on behalf of the community;
2. Invites UNDA to participate in public consultation regarding the operation of the existing MOU;
3. Invites comment from the public on the operation of the MOU, including elements that have made a positive contribution to the West End of Fremantle, areas for improvement and any other suggestions;
4. Receives public comment for a period commencing on October 2009;
5. Provides a report to January 2010 SGSC that includes a review of similar interstate and international agreements, analysis and appropriate incorporation of public comments and a draft revised MOU for consideration, and;
6. Resumes negotiation with UNDA on renewal of the MOU following the decision of and direction provided by Council.

**CARRIED: 4/2**

<b>For</b>	<b>Against</b>
Cr Georgie Adeane Cr Donna Haney Cr Alice King Cr Shirley Mackay	Cr Brad Pettitt Cr Robert Fittock

**CONFIDENTIAL MATTERS**

Nil

**CLOSURE OF MEETING**

**THE PRESIDING MEMBER DECLARED THE MEETING CLOSED AT 6.45PM.**

**SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION**

**SUMMARY GUIDE TO CITIZEN PARTICIPATION & CONSULTATION**

The Council adopted a Participation Policy in August 2001 to give effect to its commitment to involving citizens in its decision-making processes.

The City values citizen participation and recognises the benefits that can flow to the quality of decision-making and the level of community satisfaction.

Effective participation requires total clarity so that Elected Members, Council officers and citizens fully understand their respective rights and responsibilities as well as the limits of their involvement in relation to any decision to be made by the City.

<b>How consultative processes work at the City of Fremantle</b>	
<b>The City's decision makers</b>	1 The Council, comprised of Elected Members, makes policy, budgetary and key strategic decisions while the CEO, sometimes via on-delegation to other City officers, makes operational decisions.
<b>Various participation opportunities</b>	2 The City provides opportunities for participation in the decision-making process by citizens via its Advisory Committees and Task Forces, its Community Precinct System, and targeted consultation processes in relation to specific issues or decisions.
<b>Objective processes also used</b>	3 The City also seeks to understand the needs and views of the community via scientific and objective processes such as its annual Community Survey.
<b>All decisions are made by Council or the CEO</b>	4 These opportunities afforded to citizens to participate in the decision-making process do not include the capacity to make the decision. Decisions are ultimately always made by Council or the CEO (or his/her delegated nominee).
<b>Precinct focus is primarily local, but also city-wide</b>	5 The Community Precinct System establishes units of geographic community of interest, but provides for input in relation to individual geographic areas as well as on city-wide issues.
<b>All input is of equal value</b>	6 No source of advice or input is more valuable or given more weight by the decision-makers than any other. The relevance and rationality of the advice counts in influencing the views of decision-makers.
<b>Decisions will not necessarily reflect the majority view received</b>	7 Local Government in WA is a representative democracy. Elected Members and the CEO are charged under the Local Government Act with the responsibility to make decisions based on fact and the merits of the issue without fear or favour and are accountable for their actions and decisions under law. Elected Members are accountable to the people via periodic elections. As it is a representative democracy, decisions may not be made in favour of the majority view expressed via consultative processes.

<b>How consultative processes work at the City of Fremantle</b>	
	Decisions must also be made in accordance with any statute that applies or within the parameters of budgetary considerations. All consultations will clearly outline from the outset any constraints or limitations associated with the issue.
<b>Decisions made for the overall good of Fremantle</b>	8 The Local Government Act requires decision-makers to make decisions in the interests of “the good Government of the district”. This means that decision-makers must exercise their judgment about the best interests of Fremantle as a whole as well as about the interests of the immediately affected neighbourhood. This responsibility from time to time puts decision-makers at odds with the expressed views of citizens from the local neighbourhood who may understandably take a narrower view of considerations at hand.
<b>Diversity of view on most issues</b>	9 The City is wary of claiming to speak for the ‘community’ and wary of those who claim to do so. The City recognises how difficult it is to understand what such a diverse community with such a variety of stakeholders thinks about an issue. The City recognises that, on most significant issues, diverse views exist that need to be respected and taken into account by the decision-makers.
<b>City officers must be impartial</b>	10 City officers are charged with the responsibility of being objective, non-political and unbiased. It is the responsibility of the management of the City to ensure that this is the case. It is also recognised that City Officers can find themselves unfairly accused of bias or incompetence by protagonists on certain issues and in these cases it is the responsibility of the City’s management to defend those City officers.
<b>City officers must follow procedures</b>	11 The City’s consultative processes must be clear, transparent, efficient and timely. City officers must ensure that policies and procedures are fully complied with so that citizens are not deprived of their rights to be heard.
<b>Consultation processes have cut-off dates that will be adhered to.</b>	12 As City officers have the responsibility to provide objective, professional advice to decision-makers, they are entitled to an appropriate period of time and resource base to undertake the analysis required and to prepare reports. As a consequence, consultative processes need to have defined and rigorously observed cut-off dates, after which date officers will not include ‘late’ input in their analysis. In such circumstances, the existence of ‘late’ input will be made known to decision-makers. In most cases where citizen input is involved, the Council is the decision-maker and this affords citizens the opportunity to make input after the cut-off date via personal representations to individual Elected

How consultative processes work at the City of Fremantle	
	Members and via presentations to Committee and Council Meetings.
<b>Citizens need to check for any changes to decision making arrangements made</b>	<p>1 The City will take initial responsibility, via</p> <p>3 'Consultation Process notifications', for making</p> <p>. citizens aware of expected time-frames and decision making processes, including dates of Standing Committee and Council Meetings if relevant. However, as these details can change, it is the citizens responsibility to check for any changes by visiting <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a>, checking the Port City Column in the Fremantle Herald or inquiring at the Service and Information Desk by phone or in-person.</p>
<b>Citizens are entitled to know how their input has been assessed</b>	<p>1 In reporting to decision-makers, City officers will in</p> <p>4 all cases produce a Schedule of Input received</p> <p>. that summarises comment and recommends whether it should be taken on board, with reasons.</p>
<b>Reasons for decisions must be transparent</b>	<p>1 Decision-makers must provide the reasons for</p> <p>5 their decisions.</p> <p>.</p>
<b>Decisions posted on <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a></b>	<p>1 Decisions of the City need to be transparent and</p> <p>6 easily accessed. For reasons of cost, citizens making input on an issue will not be individually notified of the outcome, but can access the decision at <a href="http://www.freofocus.com/projects/html/default.cfm">www.freofocus.com/projects/html/default.cfm</a> or at the City Library or Service and Information counter.</p> <p>.</p>

## Issues that Council May Treat as Confidential

Section 5.23 of the new Local Government Act 1995, Meetings generally open to the public, states:

1. Subject to subsection (2), the following are to be open to members of the public -
  - a) all council meetings; and
  - b) all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1) (b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:
  - a) a matter affecting an employee or employees;
  - b) the personal affairs of any person;
  - c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - e) a matter that if disclosed, would reveal –
    - i) a trade secret;
    - ii) information that has a commercial value to a person; or
    - iii) information about the business, professional, commercial or financial affairs of a person.Where the trade secret or information is held by, or is about, a person other than the local government.
  - f) a matter that if disclosed, could be reasonably expected to -
    - i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - ii) endanger the security of the local government's property; or
    - iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety.
  - g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - h) such other matters as may be prescribed.
3. A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.