



# AGENDA

## Finance, Policy, Operations and Legislation Committee

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Wednesday, 16 March 2016, 6.00pm

**CITY OF FREMANTLE**  
**NOTICE OF A FINANCE, POLICY, OPERATIONS AND LEGISLATION**  
**COMMITTEE MEETING**

Elected Members

A Finance, Policy, Operations and Legislation Committee meeting of the City of Fremantle will be held on **Wednesday, 16 March 2016** in the Council Chamber, Town Hall Centre, 8 William Street, Fremantle (access via stairs, next to the playground in Kings Square) commencing at 6.00 pm.

Glen Dougall  
**DIRECTOR CITY BUSINESS**

10 March 2015

# **FINANCE, POLICY, OPERATIONS AND LEGISLATION COMMITTEE**

## **AGENDA**

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### **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

### **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."

### **ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE**

### **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

### **PUBLIC QUESTION TIME**

### **DEPUTATIONS / PRESENTATIONS**

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

### **LATE ITEMS NOTED**

### **CONFIRMATION OF MINUTES**

That the minutes of the Finance, Policy, Operations and Legislation Committee dated 17 February 2016 be confirmed as a true and accurate record.

### **TABLED DOCUMENTS**

## TABLE OF CONTENTS

ITEM NO	SUBJECT	PAGE
<b>REPORTS BY OFFICERS (COMMITTEE DELEGATION)</b>		<b>1</b>
FPOL1603-1	CONSIDERATION OF MEMORANDUM OF UNDERSTANDING WITH ITALIAN CLUB FREMANTLE INC.	1
FPOL1603-2	OVERDUE DEBTS REPORT-FEBRUARY 2016	6
<b>REPORTS BY OFFICERS (COUNCIL DECISION)</b>		<b>8</b>
FPOL1603-3	APPROVAL OF LEASE FOR ENKEL - NAVAL STORES, CANTONMENT HILL	8
FPOL1603-4	FLY BY NIGHT CLUB REQUEST FOR DEBT RELIEF AND APPROVAL OF LEASE TERMS AND CONDITIONS	20
FPOL1603-5	AWARD OF TENDER FCC461/15 - FREMANTLE TOWN HALL EXTERNAL CONSERVATION WORKS	26
FPOL1603-6	KNUTSFORD DEPOT SITE REDEVELOPMENT - BUSINESS CASE	34
FPOL1603-7	ADVERTISE PROPOSED PUBLIC ROAD CLOSURE - PORTION OF MEWS ROAD, FREMANTLE FOR AMALGAMATION WITH THE ADJOINING RESERVE NO. 27807 MANAGED BY DEPARTMENT OF TRANSPORT (DOT).	41
FPOL1603-8	PROPOSED DEDICATION AS PUBLIC - CITY OF FREMANTLE OWNED RIGHT OF WAY NO. 7 - COMBEN PLACE, NORTH FREMANTLE (KW)	46
FPOL1603-9	DISABILITY SERVICES COMMISSION - FREO CLUB	50
FPOL1603-10	INFORMATION REPORT - CLEAN ENERGY FINANCE CORPORATION (CEFC) LOAN EXPRESSION OF INTEREST	54
FPOL1603-11	MONTHLY FINANCIAL REPORT - FEBRUARY 2016	55
<b>CONFIDENTIAL MATTERS</b>		<b>63</b>
FPOL1603-12	OFFER TO PURCHASE - 73 HAMPTON ROAD, FREMANTLE	63
<b>SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION</b>		<b>64</b>
<b>AGENDA ATTACHMENTS</b>		<b>1</b>
FPOL1603-2	OVERDUE DEBTS REPORT-FEBRUARY 2016	3

FPOL1603-5	AWARD OF TENDER FCC461/15 - FREMANTLE TOWN HALL EXTERNAL CONSERVATION WORKS	4
FPOL1603-6	KNUTSFORD DEPOT SITE REDEVELOPMENT - BUSINESS CASE	18
FPOL1603-7	ADVERTISE PROPOSED PUBLIC ROAD CLOSURE - PORTION OF MEWS ROAD, FREMANTLE FOR AMALGAMATION WITH THE ADJOINING RESERVE NO. 27807 MANAGED BY DEPARTMENT OF TRANSPORT (DOT).	71
FPOL1603-8	PROPOSED DEDICATION AS PUBLIC - CITY OF FREMANTLE OWNED RIGHT OF WAY NO. 7 - COMBEN PLACE, NORTH FREMANTLE (KW)	72
FPOL1603-9	DISABILITY SERVICES COMMISSION - FREO CLUB	75
FPOL1603-10	INFORMATION REPORT - CLEAN ENERGY FINANCE CORPORATION (CEFC) LOAN EXPRESSION OF INTEREST	87
FPOL1603-11	MONTHLY FINANCIAL REPORT - FEBRUARY 2016	102

## **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

### **FPOL1603-1 CONSIDERATION OF MEMORANDUM OF UNDERSTANDING WITH ITALIAN CLUB FREMANTLE INC.**

<b>ECM Reference:</b>	030/019, 65 Marine Tce, Italian Club Fremantle.
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	FPOL Committee – 16 March, 2016
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Glen Dougall, Director City Business
<b>Actioning Officer:</b>	Glen Dougall, Director City Business
<b>Decision Making Authority:</b>	Committee
<b>Agenda Attachments:</b>	Nil.

## **EXECUTIVE SUMMARY**

The Italian Club and the City of Fremantle are engaged in a conversation about the possible future needs of the Club and redevelopment of the Italian Club site. In December 2015 the City offered to enter into a Memorandum of Understanding (MOU) with the Club to progress these discussions. The Club have agreed to consideration of an MOU with the City.

Approval is now sought for the City to draft up an MOU to present to the Club.

## **BACKGROUND**

The City and the executive of the Club have been in discussion as to the future needs and aspirations of the Club. Part of the conversation includes the current size of the venue and whether it will suit the needs of the club going forward. The City is interested in progressing the conversation in relation to the extension of Norfolk Street through to Mews Road and the extension of the Esplanade Reserve across to the road reserve in accordance with the Esplanade Park Masterplan and Freo 2029 Transformational Moves.

## **COMMENT**

In December 2015 the discussions led the City to offer to enter into a Memorandum of Understanding with the club as a sign of good faith between the parties that we could begin further investigation into the options that may be available if a future possible redevelopment of the site is to be considered. The club are looking to protect their long term viability and lease and the City is looking to ensure that conversations are undertaken with genuine intent.

The offer made to the club is based on the following;

The term of the MOU will be 12 months. The MOU can be extended subject to the agreement by both parties.

1. The MOU can be abandoned by mutual agreement of both parties.
2. It is acknowledged that the Property is currently Leased to the Italian Club with the lease due to expire 28 April 2019 with a further term of 25 years.
3. It is acknowledged that the Property is Crown Grant in Trust and that the City will investigate the removal of the Crown Grant in Trust and report this information to the IC within six months of the signing of the MOU.
4. It is acknowledged by both parties that the Property is being discussed for redevelopment and that may include the sale of the Property to support the redevelopment. Sale will be subject to conditions along the following lines;
  - A total area of 1500 – 2000m<sup>2</sup> must be available for a long lease and development by the IC.
  - Onsite public parking of an approximate 350 parking bays to be included in the development which may be shared with the IC
  - The possibility of a residential development component.
  - The preference of a connection of Norfolk Street to Mews Road (which will also allow the City to release car park 11 and integrate this area into the Esplanade Park Master Plan).
5. It is acknowledged by both parties that the IC may seek a long term Lease, with either the City or new owner of the Land or ownership of the area required by the IC.
6. The IC acknowledge, subject to agreement of terms, that the current Lease will be Surrendered to allow a new agreement to be put in place whether this be a new Lease with the City, third party or ownership of the Land by IC.
7. The City will support grant funding application(s) by the IC for development, subject to Council priorities at the time of application lodgement.
8. In the event that only a portion of the Land be released from the Crown Grant Trust for sale and the portion of Land be retained by the City to Lease to IC, both parties agree to the following;
  - Best endeavours will be undertaken by both parties to negotiate a draft Land Lease between the City and the IC to be developed by the IC subject to relevant approvals and requirements.
  - Rent will be determined by an independent market valuation to be based on Land only and for “community use”
  - Acknowledgement by IC that the Property 65 Marine Tce, Fremantle will require Development Application Approval from the Western Australian Planning Commission due to the land being Crown Grant in Trust.
  - The Lease negotiated will be subject to Approval of a Development Application submitted by IC for the development of the site
  - All improvements and development to the Land will be the ownership and financial responsibility of IC. The City may not be financially responsible for any portion of the development or ongoing maintenance.
  - IC will be responsible for all outgoings associated with the property including but not limited to;

- Electricity usage
  - Water usage and rates
  - Gas usage
  - Phone and internet connection and costs
  - Building and Public Liability Insurance
  - Council Rates
  - Land Tax
9. At the Determination of the Lease (at which time the IC will vacate) ownership of any improvements to the Land will revert to the City. Should the Lease be renewed or extended, ownership of improvements will remain that of the IC.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The direct financial implications of entering into a MOU may be some legal fees to the value of \$2,000.

The intent of an MOU is to enter into discussions on the possible future redevelopment of the site and to change the conditioned title of the property. It is anticipated these costs may amount up to \$50,000 in the next financial year. Any future costs will be dependent on future decisions of council.

### **Legal**

Whilst the MOU itself has little legal standing, it does ensure there is agreement between the parties to undertake actions in good faith.

### **Operational**

The City will enter into discussion and undertake planning on future possible outcomes on the site, including the requirements of the Esplanade Masterplan and Freo 2029 Transformational Moves Strategy.

### **Organisational**

A project plan will need to be developed for consideration in the draft 2016/17 Budget for consideration.

## **STRATEGIC AND POLICY IMPLICATIONS**

Esplanade Park Masterplan – extension of the park up to the Norfolk Street road reserve to the southern side of the skate park,

Freo 2029 Transformational Moves - *Extend Norfolk Street and South Street to Mews Road* - Extending both of these streets will improve car, bicycle and pedestrian access to the waterfront. The Norfolk Street extension should be integrated with potential expansion of the Esplanade Reserve and redevelopment of the Italian Club and adjoining carpark.



## **COMMUNITY ENGAGEMENT**

Nil

## **CONCLUSION**

The opportunity to discuss possible future development options on the Italian Club site at 65 Marine Terrace, Fremantle, works well with the strategic outcomes identified by the City in various key plans.

The development of an MOU will allow both parties to commence formal discussion on working towards outcomes for both parties in good faith.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

- 1. Committee acting under delegation 1.1, authorises the Chief Executive Officer to develop a Memorandum of Understanding between the The Italian Club Fremantle Inc and the City of Fremantle based on the following terms;**

**The term of the MOU will be 12 months. The MOU can be extended subject to the agreement by both parties.**

- 1. The MOU can be abandoned by mutual agreement of both parties.**
- 2. It is acknowledged that the Property is currently Leased to the Italian Club with the lease due to expire 28 April 2019 with a further term of 25 years.**
- 3. It is acknowledged that the Property is Crown Grant in Trust and that the City will investigate the removal of the Crown Grant in Trust and report this information to the IC within six months of the signing of the MOU.**
- 4. It is acknowledged by both parties that the Property is being discussed for redevelopment and that may include the sale of the Property to support the redevelopment. Sale will be subject to conditions along the following lines;**
  - A total area of 1500 – 2000m2 must be available for a long lease and development by the IC.**
  - Onsite public parking of an approximate 350 parking bays to be included in the development which may be shared with the IC**
  - The possibility of a residential development component.**
  - The preference of a connection of Norfolk Street to Mews Road (which will also allow the City to release car park 11 and integrate this area into the Esplanade Park Master Plan).**
- 5. It is acknowledged by both parties that the IC may seek a long term Lease, with either the City or new owner of the Land or ownership of the area required by the IC.**
- 6. The IC acknowledge, subject to agreement of terms, that the current Lease will be Surrendered to allow a new agreement to be put in place whether this be a new Lease with the City, third party or ownership of the Land by IC.**

7. **The City will support grant funding application(s) by the IC for development, subject to Council priorities at the time of application lodgement.**
8. **In the event that only a portion of the Land be released from the Crown Grant Trust for sale and the portion of Land be retained by the City to Lease to IC, both parties agree to the following;**
  - **Best endeavours will be undertaken by both parties to negotiate a draft Land Lease between the City and the IC to be developed by the IC subject to relevant approvals and requirements.**
  - **Rent will be determined by an independent market valuation to be based on Land only and for “community use”**
  - **Acknowledgement by IC that the Property 65 Marine Tce, Fremantle will require Development Application Approval from the Western Australian Planning Commission due to the land being Crown Grant in Trust.**
  - **The Lease negotiated will be subject to Approval of a Development Application submitted by IC for the development of the site**
  - **All improvements and development to the Land will be the ownership and financial responsibility of IC. The City may not be financially responsible for any portion of the development or ongoing maintenance.**
  - **IC will be responsible for all outgoings associated with the property including but not limited to;**
    - **Electricity usage**
    - **Water usage and rates**
    - **Gas usage**
    - **Phone and internet connection and costs**
    - **Building and Public Liability Insurance**
    - **Council Rates**
    - **Land Tax**
9. **At the Determination of the Lease (at which time the IC will vacate) ownership of any improvements to the Land will revert to the City. Should the Lease be renewed or extended, ownership of improvements will remain that of the IC.**
2. **The Chief Executive Officer forward the Memorandum of Understanding as per part 1 above, to the Italian Club Fremantle Inc for consideration, amendment (if necessary) and signing,**
3. **Once the signed Memorandum of Understanding is returned the City the Agreement be brought back to council for consideration.**

## FPOL1603-2 OVERDUE DEBTS REPORT-FEBRUARY 2016

<b>ECM Reference:</b>	085/002; 085/003
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	17 February 2016
<b>Previous Item:</b>	SGS1509-3 of 16 September 2015
<b>Responsible Officer:</b>	Glen Dougall, Director City Business
<b>Actioning Officer:</b>	Wayne Wright, Manager Business Support
<b>Decision Making Authority:</b>	Committee
<b>Agenda Attachments:</b>	Summary of Overdue Debts above Threshold (Confidential Report)

### EXECUTIVE SUMMARY

**Council resolved that bi-annually (March and September) a report with a confidential attachment be provided to the Finance, Policy, Operations and Legislation Committee (Previous Strategic and General Services Committee) with details of overdue debts that exceed a threshold value of \$10,000.**

### BACKGROUND

The report is part of a framework for the write off of bad debts that was endorsed by the Audit and Risk Management Committee on 16 December 2014 and referred to Council who endorsed the framework on 28 January 2015.

### COMMENT

Compared to the report presented in September 2015 the total value of outstanding debtors shows a slight reduction from \$126K to \$115K. With two debtors no longer appearing on the list, the number of debtors being reported has reduced from seven to five.

The confidential attachment contains comment and background in relation to the debtors listed in the report.

A further report will be provided to Committee in two months' time for approval to write off those debts that are considered bad or doubtful.

### RISK AND OTHER IMPLICATIONS

#### Financial

The budget implications can be addressed in two parts:-

1. Cost of Credit Management. If an organisation does not have good credit management then it will have negative budgetary impacts as cash will not be collected for the sales of goods and services made. It should be noted that even with good credit management, bad debts can still be incurred, but they normally arise within an environment where the risk and reward factors have been balanced to try and achieve the best outcome for the organisation. It is a requirement for

completing annual financial statements that any potential bad debts are provisioned for and that is a cost to the budget in the year in which the provision is made.

2. Cost to Budget of Writing off Bad Debts. Generally this is budget neutral as the city provisions for potential bad and unrecoverable debts and the city has been doing so for many years in accordance with accounting standards. As a consequence, approvals to write off bad debts will generally result in the cost being written back against the provision with no net impact to the current budget.

### **Legal**

Section 6.12 (1) (c) of the Local Government Act 1995 provides authority for the Council to write off outstanding monies.

### **Operational**

The report is likely to highlight matters that have been or currently are the focus of operational activity.

### **Organisational**

It is possible that some of the matters highlighted are linked to current and evolving organisational plans.

## **CONCLUSION**

That the information be received.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**That the Overdue Debt report for outstanding debtors exceeding 90 days and \$10,000 in value as at 29 February 2016 be received.**

## REPORTS BY OFFICERS (COUNCIL DECISION)

### FPOL1603-3 APPROVAL OF LEASE FOR ENKEL - NAVAL STORES, CANTONMENT HILL

<b>ECM Reference:</b>	039/076
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	16 March 2016
<b>Previous Item:</b>	SGS1504-6; SGS1506-10
<b>Responsible Officer:</b>	Tom Griffiths, Manager of Economic Development and Marketing
<b>Actioning Officer:</b>	Nadine Weller, Property Services Administrator
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Nil.

## EXECUTIVE SUMMARY

**This Item is for Council to consider approval of the essential terms and conditions for a Lease between the City of Fremantle and Enkel at the building known as the Naval Stores, at 141 Queen Victoria Street, Fremantle.**

## BACKGROUND

At the Ordinary Council Meeting 16 October 2013, Council resolved the following;

*That Council:*

- 1. Endorses calling for expressions of interest through an EOI with input from the Cantonment Hill Working Group in relation to public and or commercial activities at the Cantonment Hill site, including the signal station, that could provide activation and a degree of caretaker presence in the short to medium term without obstructing the larger master planning and implementation process.*
- 2. Authorises interim actions including reconnection of services at the signal station, the up-lighting of the building and mural artwork*
- 3. Authorises additional funds of \$150 000 to be transferred from the Cantonment Hill Reserve for the interim actions and to support the activation of the ground floor of the signal station and naval store*
- 4. Lists progression of the implementation of the Cantonment Hill Master Plan as a high priority in future budgets.*
- 5. Delays changing the Cantonment Hill Working Group project scope, pending the Expression of Interest process outcomes.*

An expression of interest (EOI) process calling for submissions to activate the Cantonment Hill Reserve was advertised, closing on Monday 26 May 2014. Seven expressions of interest were received with the majority focused on use of the Naval Stores.

The Cantonment Hill Activation Working Group concluded that it is possible for more than one applicant to activate the Naval Stores with the possibility that there be one head lessee to manage the entire building.

The City received a total of six expressions of interest specifically for the Naval Stores. Of those, two applicants were recognised as potential head lessees with a model that includes other smaller operators as potential sub lessees.

The two suitable head Lessee candidates were Fremantle Foundations acting on behalf of the Circus School, and Enkel.

An item submitted to the Ordinary Council Meeting 22 April 2015 requested Council to consider the following Officer Recommendation;

*“For Council to approve;*

- 1. An offer to Enkel valid for a period of 90 days to complete due diligence and submit a business case to the City, without a commitment to a long term lease at this stage.*
- 2. City Officers to source costs to improve the building’s structural integrity for review by the Cantonment Hill Activation Working Group and presented to Council for budget approval.*
- 3. City officers to prepare and negotiate a Lease between the City of Fremantle and Enkel subject to points 1 & 2 of the Recommendation, for review by the Cantonment Hill Activation Working Group prior to being presented to Council for approval.”*

An alternate Recommendation was adopted by Council being;

Council’s Resolution:

*“To defer the item to the May Council Meeting to allow Enkel and Circus School to consider a joint proposal and to present to the next Informal Elected members Meeting.”*

The reason for the change to the Officers Recommendation was to allow for further discussion between the two potential tenants and the consideration of Enkel and the Circus School to occupy the Naval Stores together.

Discussions continued between Enkel and the Circus School of a period of time without resolution. A further item was brought to Council to consider a Lease with Enkel in June 2015 with the following Resolution made;

*“Council to approve;*

- 1. City Officers to provide an estimate of the cost of remedial works to the Naval Stores building and present them for review by the Cantonment Hill Activation Working Group and then to Council for approval.*
- 2. An offer to Enkel valid for a period of 90 days to complete due diligence, without a commitment to a long term lease at this stage, subject to point 1 of this recommendation.*
- 3. City Officers to prepare and negotiate a Lease between the City of Fremantle and Enkel subject to points 1 & 2 of this recommendation, for review by the*

*Cantonment Hill Working Group, prior to being presented to Council for approval”*

## **COMMENT**

A dilapidation, engineering and servicing report identifying the required remedial works to bring the Naval Store in line with building code compliance was completed Friday 9 October 2015. The City met with Enkel Tuesday 20 October 2015 and advised what components the City would undertake as part of the works subject to the budget approval by Council.

An item was taken to Strategic and General Services Committee regarding the works budget on the Naval Stores 18 November 2015. The resolution of the item approved funding to undertake building compliance and defer consideration of public access requirements to the next appropriate Committee meeting. The approval of funds by Council at the November 2015 meeting met the conditions of point 1 of the June 2015 Council Resolution, triggering the commencement of the 90 days due diligence period for Enkel, the Christmas and holiday period was taken into account when allowing for the time line with proposed Lease terms to be taken to Council in March 2016.

Since the approval of this budget, Enkel has submitted to the City's Asset Manager a copy of their internal design concept to allow for the City's detailed design to be finalised and a scope built for tender to architects. Quotes have now been received from four architects and are currently being assessed by Officers.

Staging of works will be based on Enkel's Lease approval to release funding for phase 2 (public access) of the building compliance (this will need to be approved at the next appropriate FPOL meeting subject to the approval of a Lease with Enkel). Both phase 1 (compliance) and phase 2 (public access) of the building compliance works hinges on the approval of the Section 18 for Cantonment Hill, receipt of which is currently scheduled for April 2016. This approval must be received before any works can commence onsite that involve excavation of the land, in this case the clearing of the debris behind the Naval Stores and stabilisation works to the cliff face.

A development application for phase 1 works is progressing with a second development application to be submitted for phase 2 subject Council approval of Enkel's Lease terms. Whilst DA's are being assessed, the tender documentation for both stages (if applicable) will be composed and the tender process carried out to secure a builder for the works. Based on estimated time lines, including phase 2 works, allowing for 90 days approval of each DA and assumed construction period of 14 weeks, the works for the Naval Stores would be complete by approximately January 2017.

Enkel have advised they are ready to proceed with the development application for the internal fit out but this cannot proceed until the two DA's for phase 1 and phase 2 have been accessed and approved. Given the time frames for proposed works hand over to Enkel would not be able to occur until the City's works are completed and a further six months would need to be granted to Enkel to complete in time for activation from July 2017.

A copy of Enkel's estimated cost of fit out is attached to this item under confidential file. This also includes a breakdown of Enkel's funding. It is proposed that fit out will take approximately six months to complete.

Initially Enkel proposed an incremented and staged approach of activation but this wasn't a realistic approach considering external funding options for both Enkel and the City would only be granted once. Further to this, the requirements under Building Code Australia, which are activated as soon as any works commence on the site, won't allow for public access until all works are complete and comply with the code.

To ensure compliance with overall project time line and June 2015 Council Resolutino, Officers have brought to Council the essential terms and conditions of the Lease for approval which will then allow for the finer details of the Lease to be finalised under Chief Executive Officer Delegated Authority.

**Special Conditions:**

1. Performance criteria will be an annexure to the Lease. This will be reviewed within the last three months of each term to ensure relevance and updated as necessary.
2. The Licensee will be required to report against the performance criteria annually on the anniversary of the Lease commencement date however the Lessor may request a report proving adherence to the performance criteria at any stage within the Lease term or further terms.
3. A performance management committee, consisting of Enkel and City of Fremantle Officers will meet to monitor the progress of Enkel. The meetings will be structured as follows;
  - 1<sup>st</sup> year – every quarter
  - 2<sup>nd</sup> year – biannually
  - 3<sup>rd</sup> year and ongoing – annually

If required, meetings may be increased to cater to any "underperformance" issues relating to the delivery of the performance criteria at the determination of the Lessor at any stage through the Lease.

4. If the Licensee does not adhere to the performance criteria this will be a breach against the Lease and the Licensee will be issued with a Notice of Default.
5. If a total of five (5) Notices of Default occur against the Lease, regardless of the reasons for the Notice of Default, the Lease can be terminated.



6. The Lease will include a subletting clause which will allow the Lessee to enter into subletting arrangements subject to Lessor approval. The collective value of the subletting of the premises may exceed the total rent payable under the Head Lease as long as the sublease rents are within Market range and the permitted use of the subleases are consistent with the Head Lease.
7. It is acknowledged by the Lessor that the Lessee is a stakeholder in regards to works to the surrounding Open Space Reserve (Cantonment Hill) but is not an approving authority. The Lessee may make requests regarding future plans, use of projects relating to the Project but the Lessor reserves the right to deny any requests. The Lessee acknowledges that this Lease is for the Building only known as the Navel Stores, 141 Queen Victoria Street, Fremantle.

### **Essential Terms and Conditions**

#### **Land Description**

Lot 602 on Deposited Plan 65368 Volume 2747 Folio 159

#### **Property Description**

Navel Store – 141 Queen Victoria Street, Fremantle

#### **Registered Proprietor**

City of Fremantle

#### **Site Area**

1,393m<sup>2</sup>

NOTE: Area to be confirmed subject to public toilets being located within the Naval Stores.

#### **Licence Commencement Date**

TBA - Subject to the completion of the City's remedial works on the Naval Stores and Development Application approval for Lessee fit out.

#### **Lease Term**

Five (5) years commencing TBA

#### **Further Terms**

1 – Five (5) years commencing TBA

2 – Five (5) years commencing TBA

3 - Five (5) years commencing TBA

Note: Lease options are the option of the Lessee not the Lessor with the Lessor required to give approval for exercising these options at the Lessee's request subject to the Lessor complying with all aspects of the Lease. If the Lessee is in breach of the terms for any reason (e.g. point 5 of the Special Conditions) then the Lessor can renege on exercising the option.

### **Rent**

Rent will be based on an independent market valuation which has been determined as \$35m2 pa + GST. The market valuation was based on "community use" of the building not on the open commercial market.

The rent will also be subject to the Lease area being confirmed.

Rent to be stepped in gradually over the first term of the lease with the aim to reach Market Rate at the end of the five years. The financial contribution to the building by Enkel will be considered when assessing the staged increase.

### **Rent Reviews**

No rent reviews will occur during the first term.

Market Reviews – These will occur at the commencement of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> further terms. Market Valuation will be based on "community use" and will not include any improvements by the Lessee.

Consumer Price Index (CPI) Reviews – will occur annually from the commencement of the 1<sup>st</sup> further term.

### **Permitted Use**

Hospitality; industrial working space, community venue and hire, office, climbing wall.

NOTE: The business model includes office, retail, industrial and hospitality.

The Naval Stores property type is "Industrial Improved" with a zoning of Open Space Reserve. Planning Department will require a submission to change of permitted use from Enkel during their Development Application phase. Advice from the Planning Department is that the proposed use of "Markets" would cover all uses and allow Enkel's business model to evolve without the need for reapplying to Planning for a change in usage.

## **Outgoings**

Outgoings will include but not be limited to;

- Water Rates and Usage
- Electricity Usage
- Council Rates and Tax
- Land Tax
- Building Insurance
- General Maintenance

NOTE: Council Rates – Council Rates are made up of Rate and a Federal Emergency Service Levy. The Rates are calculated on the basis of a Gross Rental Value Landgate valuation.

Based on Enkel's business model the business would not be exempt from Council Rates under the Local Government Act 1985. Enkel can however formally request Council to waive Council Rates but will still be liable for the Emergency Service Levy which is not considerable. A unanimous decision would be required to have the Rates waived and the areas of commercial activity such as the café and climbing wall may not be made exempt.

## **Condition Precedent**

The Lease will be subject to all Development Application approvals for the Naval Stores.

## **Performance Criteria**

### 1. Activation Techniques

- Learning pods: areas for local artists and entrepreneurs to include team and conference rooms
- Fab Lab: fabrication lab for prototyping and education to teach about new technologies and maker movement
- Co-creation and ideation workshops: share insights and skills with access to resources for the development of ideas and initiation of projects.

### 2. Public access, use and interaction

- Enkel membership is open to all public
- Hired space available for public use (conference and learning rooms)

### 3. Capacity

- Monitoring of membership capacity and reporting on level of building use in the following sectors
  - Full Enkel membership
  - Casual Enkel membership
  - General public hire and attendance - not relating to visitors to commercial elements (café, climbing wall)

### 4. Financial

- Annual profit and loss prepared by independent auditor/accountant.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

Remedial works budget has been approved for the Naval Stores in the 2015/16 budget.

Incremented rent will commence at the completion of the Enkel's fit out, expected to be July 2015.

### **Legal**

The Lease will be required to comply with the *Local Government Act 1985* and *Commercial Tenancy (Retail) Act 1995*

### **Operational**

Nil

### **Organisational**

Should Council approve the essential terms and conditions under this Item the lease the next step will be for Committee to consider approval of the budget for the public access (phase 2 of works) in line with the current proposed time frames in the Cantonment Hill Project.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **CONCLUSION**

Enkel have advised they are ready to proceed with the development application for the internal fit out but this cannot proceed until the two DA's for phase 1 and phase 2 have been accessed and approved. Given the time frames for proposed works hand over to Enkel would not be able to occur until the City's works are completed and a further six months would need to be granted to Enkel to complete in time for activation from July 2017.

Approval of the essential terms and conditions of this Item will allow for the Lease agreement to be finalised between the City and Enkel during in conjunction with DA approvals and Naval Stores works.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**For Council to approve Chief Executive Officer Delegated Authority to finalise a Lease between the City of Fremantle and Enkel for the building known as the Naval Stores, 141 Queen Victoria Street, Fremantle based on the following essential terms and conditions;**

### **Special Conditions:**

- 1. Performance criteria will be an annexure to the Lease. This will be reviewed within the last three months of each term to ensure relevance and updated as necessary.**
- 2. The Licensee will be required to report against the performance criteria annually on the anniversary of the Lease commencement date however the Lessor may request a report proving adherence to the performance criteria at any stage within the Lease term or further terms.**
- 3. A performance management committee, consisting of Enkel and City of Fremantle Officers will meet to monitor the progress of Enkel. The meetings will be structured as follows;**
  - 1<sup>st</sup> year – every quarter**
  - 2<sup>nd</sup> year – biannually**
  - 3<sup>rd</sup> year and ongoing – annually**

**If required, meetings may be increased to cater to any “underperformance” issues relating to the delivery of the performance criteria at the determination of the Lessor at any stage through the Lease.**

4. If the Licensee does not adhere to the performance criteria this will be a breach against the Lease and the Licensee will be issued with a Notice of Default.
5. If a total of five (5) Notices of Default occur against the Lease, regardless of the reasons for the Notice of Default, the Lease can be terminated.
6. The Lease will include a subletting clause which will allow the Lessee to enter into subletting arrangements subject to Lessor approval. The collective value of the subletting of the premises may exceed the total rent payable under the Head Lease as long as the sublease rents are within Market range and the permitted use of the subleases are consistent with the Head Lease.
7. It is acknowledged by the Lessor that the Lessee is a stakeholder in regards to works to the surrounding Open Space Reserve (Cantonment Hill) but is not an approving authority. The Lessee may make requests regarding future plans, use of projects relating to the Project but the Lessor reserves the right to deny any requests. The Lessee acknowledges that this Lease is for the Building only known as the Navel Stores, 141 Queen Victoria Street, Fremantle.

#### **Essential Terms and Conditions**

##### **Land Description**

**Lot 602 on Deposited Plan 65368 Volume 2747 Folio 159**

##### **Property Description**

**Navel Store – 141 Queen Victoria Street, Fremantle**

##### **Registered Proprietor**

**City of Fremantle**

##### **Site Area**

**1,393m<sup>2</sup> - Subject to public toilets being located within the Naval Stores.**

##### **Licence Commencement Date**

**TBA - Subject to the completion of the City's remedial works on the Naval Stores and Development Application approval for Lessee fit out.**

##### **Lease Term**

## **Five (5) years commencing TBA**

### **Further Terms**

**1 – Five (5) years commencing TBA**

**2 – Five (5) years commencing TBA**

**3 - Five (5) years commencing TBA**

### **Rent**

**Rent will be based on an independent market valuation which has been determined as \$35m2 pa + GST. The market valuation was based on “community use” of the building not on the open commercial market.**

**The rent will also be subject to the Lease area being confirmed.**

**Rent to be stepped in gradually over the first term of the lease with the aim to reach Market Rate at the end of the five years. The financial contribution to the building by Enkel will be considered when assessing the staged increase.**

### **Rent Reviews**

**No rent reviews will occur during the first term.**

**Market Reviews – These will occur at the commencement of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> further terms. Market Valuation will be based on “community use” and will not include any improvements by the Lessee.**

**Consumer Price Index (CPI) Reviews – will occur annually from the commencement of the 1<sup>st</sup> further term.**

### **Permitted Use**

**Hospitality; industrial working space, community venue and hire, office, climbing wall.**

### **Outgoings**

**Outgoings will include but not be limited to;**

- Water Rates and Usage**
- Electricity Usage**
- Council Rates and Tax**
- Land Tax**
- Building Insurance**
- General Maintenance**

## **Condition Precedent**

**The Lease will be subject to all Development Application approvals for the Naval Stores.**

### **Performance Criteria**

#### **1. Activation Techniques**

- **Learning pods: areas for local artists and entrepreneurs to include team and conference rooms**
- **Fab Lab: fabrication lab for prototyping and education to teach about new technologies and maker movement**
- **Co-creation and ideation workshops: share insights and skills with access to resources for the development of ideas and initiation of projects.**

#### **2. Public access, use and interaction**

- **Enkel membership is open to all public**
- **Hired space available for public use (conference and learning rooms)**

#### **3. Capacity**

- **Monitoring of membership capacity and reporting on level of building use in the following sectors**
  - **Full Enkel membership**
  - **Casual Enkel membership**
  - **General public hire and attendance - not relating to visitors to commercial elements (café, climbing wall)**

#### **4. Financial**

- **Annual profit and loss prepared by independent auditor/accountant.**



**FPOL1603-4 FLY BY NIGHT CLUB REQUEST FOR DEBT RELIEF AND APPROVAL OF LEASE TERMS AND CONDITIONS**

<b>ECM Reference:</b>	049/008
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	16 March 2016
<b>Previous Item:</b>	SGS1502-3
<b>Responsible Officer:</b>	Marisa Spaziani, Director Community Development
<b>Actioning Officer:</b>	Pete Stone, Manager Arts and Culture
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	<b>Confidential attachments Under Separate Cover</b> KPMG Fly By Night Musician's Club Report – Final 30.09.2015 Decision of Director of Liquor Licensing Valuation Update Herring Storer Acoustic Report Fly By Night Club Fly By Night Current Financials

**EXECUTIVE SUMMARY**

The Fly By Night Club has made a number of requests in relation to the lease at Victoria Hall. Firstly to approve changes to the essential terms and conditions of the lease between the City and Fly By Night Club. Secondly for the City to pay a total of \$20,516 for the cost of acoustic works required at Victoria Hall and thirdly to consider a one off payment of \$20,000 to assist with existing debts.

**BACKGROUND**

At Strategic and General Services Committee meeting dated 18 February 2015, the committee resolved:

Regarding the proposal from the Fly by Night Club to lease Victoria Hall, the Strategic and General Services Committee, in accordance with delegation 1.1, proceed with option 1 as follows:

1. Option 1, Fly by Night Club lease - the offer of a lease for Victoria Hall to the Fly by Night Club on the following basis:
  - a) The lease term is one year plus an additional year subject to satisfactory achievement of performance criteria that includes:
    - i. Continued use of the hall by community groups at or less than the current financial rate and to a level no less than 10% of the current level of usage.
    - ii. Existing bookings (some have been made until late 2015) are honoured. The Fly also manages all future bookings and collects all the revenue from them.

- iii. **The Hobbs Bar is operated (regardless of live music shows) at least on Friday, Saturday and Sunday afternoon/nights to further activate the area.**
  - iv. **Council are given at least twenty free bookings per annum for City-run Festivals and City-sponsored external events, with the dates provided with no less than 3 months' notice.**
  - v. **The City's bookings taking precedence over all other bookings.**
  - vi. **The Fly by Night Club collects all revenue generated from all activities related to Victoria Hall.**
  - vii. **The Fly by Night Club is responsible for paying all outgoings related to Victoria Hall.**
- b) **Evaluation of performance criteria after year one is reported to Council for its information.**
  - c) **Market rent is charged minus a 50% community subsidy.**
  - d) **A decision to extend the lease term will be brought before Council.**

\*Note: the City has used Victoria Hall for three 'City presented' events this financial year and paid for production and staffing costs. Other events held at Victoria Hall as part of Fremantle Festival, Freo Royale, Perth International Arts Festival and other City approved events, have been booked and negotiated by the private event coordinator.

To date, none of the resolutions of Strategic and General Services Committee meeting on 18 February 2015 have been implemented. Over this period of time, City officers have continued to work with the Fly by Night board to finalise a lease agreement, however to date the lease remains unsigned by the board. The liquor licensing of Victoria Hall has been the reason given by the Fly By Night Club for the protracted lease negotiations.

## **COMMENT**

### **Request for changes to lease terms and conditions.**

Due to the timeframes requiring Fly by Night Club to vacate the Drill Hall, the City in good faith, agreed for the Fly By Night Club to relocate to Victoria Hall ahead of the lease being finalised. This being the case, Fly by Night Club has been present on the premises for approximately twelve months. There is to date, no signed lease and the Fly by Night Club has not paid rent or outgoings over this time.

Utilities and tenant recoverable costs since February 2015 are \$20,225 not inclusive of rates.

City officers, given the 18 February 2015 resolution, would not have foreseen that the lease negotiations would take such an extended period of time or that, due to the lack of executed lease, the rent and outgoings would not be recovered from the Fly By Night Club.

The Fly By Night Club has made the space available for community bookings and the revenue has been collected by the Fly By Night Club.

The Fly By Night Club maintains that the relocation to Victoria Hall had a large impact on the finances of the club.

With the consent of the club, the City commissioned and paid for an independent report on the financial status of Fly By Night Club (confidential attachment 1) which determined that for the Fly By Night Club to be viable in Victoria Hall, the liquor licence for the premises needed to be secured.

Fly By Night Club have been granted a liquor license, however it is conditional on an acoustic assessment and finalisation of any required works from that assessment being concluded (confidential attachment 2).

As the Fly By Night Club has been present in Victoria Hall for a twelve month period, there are aspects of the resolution which now require reassessment. They are as follows:

- **Lease Term** – The resolution granted a lease for one year with a further term of one year subject to Council approval. Under the *Commercial Tenancy (Retail) Act 1985*, the Fly By Night Club is entitled to a five (5) year initial lease term. To ensure the City is in line with this requirement, it is requested that the lease term be one (1) year, being the year that Fly by Night Club have already occupied the premises with two further terms of two (2) years each.
- **Rent** – The City has commissioned an update on the original market rent valuation of \$100,000 that has determined commercial rent for Victoria Hall at \$85,000 per annum (confidential attachment 3). With the 50% subsidy, this will equate to a rental of \$42,500 per annum plus gst, equal to monthly amounts of \$3,541.66 plus gst. The Fly By Night Club has paid no rent for the first year nor outgoings. It would appear that the Fly By Night Club is not in a financial position at present to pay this level of rent. In recognition of this financial position, if Council wishes to offer a lease to Fly By Night Club, it is proposed that as the club have already been present in the premises for twelve months, that the rent commence as per the second term of the lease and be increased incrementally, until such time as the market rent is reached. The following breakdown indicates how this staged approach and rental payment will work:

<b>Month</b>	<b>Rent</b>
1 March 2016	\$500 plus gst
1 April 2016	\$750 plus gst
1 May 2016	\$1,000 plus gst
1 June 2016	\$1,250 plus gst
1 July 2016	\$1,500 plus gst
1 August 2016	\$1,750 plus gst
1 September 2016	\$2,000 plus gst
1 October 2016	\$2,250 plus gst
1 November 2016	\$2,500 plus gst
1 December 2016	\$2,750 plus gst
1 January 2017	\$3,000 plus gst
1 February 2017	\$3,250 plus gst
1 March 2017	\$3,541.66 plus

	gst
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- City bookings that were in place at the time Fly By Night Club entered the property have now concluded. This being the case, the Fly By Night Club has requested that the provision for twenty free bookings be amended to ten free bookings per annum with a maximum of five bookings on Friday, Saturday or Sunday. This will allow the Fly By Night Club to better manage long term bookings. Based on the current financial year usage, City of Fremantle events and festival staff do not foresee any issues with reducing the number of bookings to ten.
- As the Fly by Night Club have been granted a conditional liquor licence (subject to required works), it allows for the sale and supply of liquor to “persons attending a live performance by musicians or other artists at the club” and restricts liquor sales after 5.00 pm. While the Fly By Night Club have indicated that they would like to have the bar operating every Friday, Saturday and Sunday afternoon/evening, they cannot always guarantee that a live performance will be booked, therefore they have requested that the wording “best endeavours” be included in the requirement of Hobb’s Bar operation. The liquor licence that the Fly By Night Club have applied for is a “special facility licence” which allows them to sell liquor only during an event.

#### **Request for sound attenuation works**

The Fly By Night Club have obtained advice from an acoustics company that physical treatment to the eastern facing windows will allow the club to operate live music performances at a level that is acceptable to audience and performer, whilst remaining within allowable sound limits for neighbouring residents.

Herring Storer (confidential attachment 4) provided this report and Magnetite has provided a quote for these works of \$20,516. The Fly By Night Club approached two other companies to quote, but given the specialised nature of the works only Magnetite was able to commit to a retro fit, internal, non-permanent solution. As the proposed work is non-permanent, window treatments can be removed and the building can be returned to its original state when required. The City’s Heritage Coordinator is aware of proposed works and believes there will be no impact on heritage status of the building.

Once works are complete, the Fly By Night Club can activate their liquor license and operate as a licensed venue during events. If Council wish to see Victoria Hall utilised as a cultural venue with amplified events, these works would need to be carried out regardless of who is occupying the space.

#### **Request for debt relief**

The Fly By Night Club request Council to consider the immediate provision of \$20,000 debt relief. The Fly By Night Club’s debt position is outlined in confidential attachment 5. This includes Aged receivables, 30% of which has already been received.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The \$20,516 inclusive of gst cost of the acoustic works, has not been included in the 2015/2016 budget review which was brought to February's Ordinary Council Meeting. This would need to be found within the current budget costed to the City Asset Budget. Additionally, the request by Fly by Night Club for \$20,000 debt relief is also not within the City's current budget. Similar out of budget round requests from both Circus WA (debt relief) and Fremantle Literature Centre (Hungerford Award Sponsorship), resulted in less money being available in that financial year for the community funding grant rounds. However, another impost on this budget line would leave very little for other community based organisations in the grants process and could be considered inequitable. These funds would need to be considered in the 2016/2017 budget round.

### **Legal**

The lease will be in line with the requirements under the *Commercial Tenancy (Retailers) Act 1985* and *Local Government Act 1995*

### **Operational**

Nil

### **Organisational**

The requests cross three business units. The lease negotiations are undertaken via Economic Development. The acoustic works would need to be overseen by City Assets in consultation with the Heritage Coordinator and the grant would be delivered via Community Development. The Manager Arts and Culture would liaise with the Fly by Night Club in relation to all requests.

## **STRATEGIC AND POLICY IMPLICATIONS**

Nil

## **COMMUNITY ENGAGEMENT**

Nil

## **CONCLUSION**

The security of the liquor licence is essential for the Fly by Night Club to move toward financial security and this requires the sound attenuation works for Victoria Hall to be completed as soon as possible and the costs to be found within existing budgets.

The request to vary the terms and conditions of the lease and to grant a \$20,000 payment to assist with debt relief also needs to be considered by Council. These three issues are related, however Council can consider each request on its merits. As the sound attenuation works are critical to the liquor licence, this would then determine whether the Fly by Night Club proceed to lease signing.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

### OFFICER'S RECOMMENDATION

1. The sound attenuation work on the eastern facing windows, at the quoted cost of \$20,516 inclusive of gst are undertaken by the City and costed to the City assets budget.
2. Council approve a lease with Fly By Night Club at Victoria Hall on the following amended terms:

Lease Term: One (1) year effective 1 March 2015 expiring 29 February 2016

Option One: Two (2) years effective 1 March 2016 expiring 28 February 2018

Option Two: Two (2) years effective 1 March 2018 expiring 28 February 2020

Rent: \$42,500 per annum + GST with staged rental payments;

Month	Rent
1 March 2016	\$500 plus gst
1 April 2016	\$750 plus gst
1 May 2016	\$1,000 plus gst
1 June 2016	\$1,250 plus gst
1 July 2016	\$1,500 plus gst
1 August 2016	\$1,750 plus gst
1 September 2016	\$2,000 plus gst
1 October 2016	\$2,250 plus gst
1 November 2016	\$2,500 plus gst
1 December 2016	\$2,750 plus gst
1 January 2017	\$3,000 plus gst
1 February 2017	\$3,250 plus gst
1 March 2017	\$3,541.66 plus gst

**Bookings:** The City is granted at least 10 free bookings per annum with a maximum of 5 to be on Friday, Saturday and Sunday.

**Bar Operations:** The Lessee will use best endeavours to have the bar operational on Friday, Saturday and Sunday afternoons/evenings.

That the lease be signed within a four week period of offer, otherwise the offer is off the table and an EOI for use of the building is progressed.

3. For Council to consider the request for \$20,000 debt relief in its 2016/17 budget deliberations.

**FPOL1603-5 AWARD OF TENDER FCC461/15 - FREMANTLE TOWN HALL  
EXTERNAL CONSERVATION WORKS**

<b>ECM Reference:</b>	135/001
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	16 March 2016
<b>Previous Item:</b>	SGS1506-7 External Conservation Works to Fremantle Town Hall, 8 William Street Fremantle
<b>Responsible Officer:</b>	Paul Trotman, Director Strategic Planning and Projects
<b>Actioning Officer:</b>	Gena Binet, Heritage Project Officer
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Minutes of OGM 24 June 2015 - SGS1506-7 External Conservation Works to Fremantle Town Hall, 8 William Street Fremantle Assessment table – Conservation of Main roof only

**EXECUTIVE SUMMARY**

**At its June 2015 meeting Council agreed to the calling of tenders for conservation works to the main roof of the Fremantle Town Hall and also asked that the tender be constructed in a fashion that obtained prices for the facades and tower. Tenders were called in December 2015 and closed on 22 January 2016.**

**The purpose of this report is to update Council on the outcome of Tender FCC 461/15 for the Fremantle Town Hall External Conservation Works. The report recommends a preferred contractor based on the Evaluation Panel assessment of received tenders using the qualitative criteria set out in the conditions of tender.**

**The tender documents required the tenderers to provide fixed sum prices for five options for different scopes of work, in line with Council's June 2015 request. This report recommends a preferred scope of works that will require extra funding; there is also an alternative recommendation that can be carried out within the existing \$2,000,000 Town Hall Reserve Fund.**

**The Evaluation Panel's recommendation was endorsed by the City's Major Procurement Panel on 4 March 2016.**

**BACKGROUND**

A Conservation Management Strategy Report for the Fremantle Town Hall was presented at the Council Meeting of 24 June 2015. This report identified the urgent need to conserve the exterior of the building to arrest the rate of deterioration caused by rainwater, moisture penetration and the entrapment of salt and moisture within the masonry walls. To prevent structural damage during the 2016 winter these works needed to be carried out urgently.

A preliminary estimate of probable cost provided by a cost consultant indicated that it would cost \$2,860,000 ex. GST to carry out all the recommended conservation works (including consultant fees and a contingency sum) which was considerably greater than the \$2,000,000 available in the Town Hall Reserve fund.

While it is clear that the most efficient and cost effective approach would be to carry out all the works as one large project, costed options to stage the works were also provided to Council at its June 2015 meeting in recognition of the need to work within the City's resources. These options are set out below (note that the figures in brackets have had the construction contingency and fees deducted):

- |  |                           |
|--|---------------------------|
| - Conservation of main roof only               | \$1,622,500 (\$1,363,000) |
| - Conservation of main roof and facades only   | \$2,271,500 (\$1,907,500) |
| - Conservation of main roof, facades and tower | \$2,860,000 (\$2,400,000) |

Council decided to allocate \$1,622,500 ex GST from the \$2,000,000 Town Hall Reserve fund, for the replacement of the main roof. They also instructed officers to document the full scope of external conservation works for tendering, including the High and William Street facades and the tower. A further \$160,000 was allocated for consultant fees.

### **Documentation of the conservation works**

In July 2015 a tender was held to select a consultant team to provide architectural services to develop, document and administer the construction of this project. Hocking Heritage Studio was appointed in August. The consultants documented the conservation works and assisted the City's project team in developing qualitative criteria for the tender to allow the assessment panel to recommend the 'best value for money' and 'fit for purpose' tender.

### **Qualitative Criteria**

The qualitative criteria developed for this project addressed key skills, experience and knowledge that were identified by the consultant and Project Officer as being essential to the provision of conservation and refurbishment work that was the best value for money for the City of Fremantle and fit for purpose for this important State Heritage listed civic landmark.

Specialist skills, knowledge and experience is needed in conservation projects as heritage buildings were built with traditional construction techniques and materials that are different to contemporary building practice and because conservation work takes a different approach to standard refurbishment because of the need to protect significant fabric and heritage values. Knowledge of good conservation practice is also necessary to cost and programme the projects because traditional construction techniques and materials are often more time consuming and expensive and require an investigative stage where the contractor needs to work closely with the consultant to prepare samples that match original elements visually and in composition.

The qualitative criteria for this tender were:

1. Demonstrated experience working with conserving heritage buildings 30%
2. Organisational capacity 10%
3. Demonstrated understanding and methodology 30%
4. Price: 30%

### **Prices**

To allow the City flexibility with choosing how to stage and fund the project, the works were documented as three separable portions that could be priced as individual projects or in combination. The separable portions are:



- A. The main roof
- B. The William and High Street facades
- C. The tower

Tenderers were required to provide fixed prices for 5 options for the 3 separable portions:

- 1. Separable Portion A – Main Roof conservation only
- 2. Separable Portion B – Façade Conservation only
- 3. Separable Portion C – Tower Conservation only
- 4. Separable Portions A & B – Main Roof and façade conservation
- 5. All Portions A, B & C - Main Roof, façade and tower conservation

### **Pre tender estimate**

A pre-tender estimate was prepared by BSM Consulting (these estimates did not include a construction contingency or consultant fees). These figures were lower than those in the preliminary estimates:

Conservation of main roof only (A)	\$1,261,000
Conservation of main roof and facades only (A +B)	\$1,693,000
Conservation of main roof, facades and tower (A+B+C)	\$2,013,000

### **The Tender Process**

A Request for Tender was advertised in the West Australian and the Council website on Wednesday 2 December 2015. A mandatory site inspection was held the following week on Wednesday 9 December 2015 and was attended by 14 interested contractors. Two addendums were issued to all tenderers to answer questions raised by tenderers during the tender period. All tenderers acknowledged receipt of the addendums.

The original tender closing date was Friday 15 January 2016. This allowed a 6 week tender period which included the Christmas shutdown but, following requests from a number of tenderers this was extended to seven weeks. The final tender closing date was Friday 22 January 2016 at 2 pm.

Five (5) tenders were received on 22 January 2016, in order of opening:

- 1 McCorkell Construction
- 2 Colgan Industries
- 3 Clinton Long Project Management
- 4 PRC Building Services
- 5 Budo Group

The three-member evaluation panel met on 29 January 2016. Following a preliminary assessment it was decided that further information was required to make a final recommendation. The request for further information was sent out on 9th February 2016 to all tenderers and they all responded within the given week timeframe.

### **Assessment Panel's Recommendation**

The evaluation panel met again on 26 February 2016 and made their final recommendation

### **Conservation of the Main Roof of the Fremantle Town Hall – Separable portion A**

At the June 2015 Council Meeting the Council approved the allocation of \$1,622,500 ex GST from the \$2,000,000 Town Hall Reserve fund, for the replacement of the main roof of the Fremantle Town Hall. The Evaluation Panel recommended McCorkell Construction to carry out these works for their tender price of \$1,042,121 ex GST. (A summary of the tender assessment, as well as tendered prices, can be found at Attachment 1) The basis for this decision is as follows:

- a) They scored highest in the qualitative criteria table.
- b) The lowest tenderer did not score well in the qualitative criteria due to lack of experience with conservation projects of similar size and complexity and because their methodology did not reflect a good understanding of the project, conservation practice and the use of traditional materials and construction techniques. Further the Quantity surveyor noted his concern about the low percentage of the tender breakdown allocated to preliminaries, which he described as 'unrealistic'.
- c) The contract price of \$1,042,121 ex GST for the conservation of the main roof of the Fremantle Town Hall is significantly below the approved budget of \$1,622,500 ex GST even when an allowance for a 10% construction contingency has been made. The contract price is also below the pre-tender estimate of \$1,261,000 for these works.

### **Alternative Scopes Of Work**

Separate assessment tables were also prepared to assess the prices for the extended scopes of work that were priced as part of this tender. In these tables the Criteria for experience, organisational capacity and understanding and methodology remained the same with the only variable being the price. In both of these tables McCorkell Constructions was ranked equally with Colgan Industries. McCorkell Constructions were then selected on price.

- **Separable Portions A & B** - Main Roof and façade conservation - The Evaluation Panel recommended McCorkell Construction to carry out these works for their tender price of \$1,721,426 ex GST. The panel noted that the works could be funded if the remainder of the Reserve Fund was released.
- **All Portions A, B & C** - Main Roof, façade and tower conservation – The Evaluation Panel recommended McCorkell Construction to carry out these works for their tender price of \$2,281,850 ex GST. The Panel noted that the works could only be funded if the remainder of the Reserve Fund was released and further funding was provided from the budget.

### **RISK AND OTHER IMPLICATIONS**

#### **Financial**

##### Other Costs

The funding for these conservation works, including consultant fees and a construction contingency comes from the \$2,000,000 Town Hall Reserve and a \$75,000 Lotterywest grant. As well as the conservation works, this money needs to fund consultant fees and a construction contingency. While Council approved \$160,000 for consultant fees only

\$90,000 is actually required for fees and disbursements, leaving a balance of \$1,985,000. It is recommended that a 15% contingency be allowed for this project based on the City's recent experience in works to other historic buildings.

The financial implications for carrying out the extended scopes of works are:

**OPTION 1 – Carry out all conservation works (separable portions 1, 2 & 3)**

McCorkell Constructions' tender price for these works is \$2,281,850 ex GST. If the Council were to proceed with this option there would be a substantial financial implication on the budget. Council would need to release the remaining \$217,500 ex GST above that already approved from the Town Hall Reserve Fund and find an extra \$639,080 ex GST funding for the project. (Note: As the works will take approximately 6 months and are scheduled to start in April, funding will need to be carried over into the 2016-17 budget.)

Separable portion 1, 2 and 3	\$2,281,850
15% contingency	\$342,230
Fees (minus \$75,0000 grant)	\$15,000
<b>TOTAL</b>	<b>\$2,639,080.00</b>
Balance required to augment Reserve Fund	-\$639,080

The benefits of this option are:

- Carrying out all urgent works as soon as possible to minimise ongoing deterioration during the 2016 winter
- Increased efficiencies and cost savings – approximately \$100,000
- Minimisation of disruption to users of the town hall and Kings Square
- Works will include the most identifiable/ photographed part of the building - the tower
- Minimisation of lost income from events in Town Hall and William Street parking
- Conservation benefits e.g.
  - o Increasing the time for walls to dry out before commencement of repairs
  - o Continuity in finishes such as lime renders

**ALTERNATIVE OPTION 2 – Carry out conservation of the main roof and facades (separable portions 1 & 2)**

McCorkell Constructions' tender price for these works is \$1,721,426 ex GST. If the Council were to proceed with this option there would be a no financial implication on the budget. Council would only need to release the remaining \$217,500 ex GST above that already approved from the Town Hall Reserve Fund.

Separable portion 1 and 2	\$1,721,426
15% contingency	\$258,214
Fees (minus \$75,0000 grant)	\$15,000
<b>TOTAL</b>	<b>\$1,994,640.00</b>
Balance remaining in reserve fund	+\$5,360

The benefits of this approach are:

- These works can be funded by the existing \$2,000,000 Reserve Fund

- Urgent works to the main part of the building (also the area that accommodates people) will be carried out as soon as possible to protect these areas from further damage during the 2016 winter
- Increased efficiencies and cost savings – approximately \$100,000
- Reduction of disruption to users of the town hall and Kings Square
- Reduction of loss of income from events in Town Hall
- Conservation benefits over the roof only option
- Scaffolding to main section of building only erected once

The disadvantages of this approach

- Urgent works to the tower will be delayed and the deterioration of structural timbers will continue and accelerate – this may cause structural problems and the loss of original fabric
- Not as efficient as option 1 (but more efficient than a 3 stage project)
- Reduced conservation benefits compared to alternative option 1
- Visual discontinuity - the tower will look different to remainder of building – this will affect its presentation from its most prominent and photographed angle
- Lack of continuity between finishes applied during different phases of work
- The tower will still need to be conserved in the future so there will be further disruption to users of the building and surrounding spaces.

## **Legal**

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

## **Operational**

The project will deliver the conservation of the exterior of the Fremantle Town Hall.

The works are programmed to take approximately 6 months and are scheduled to start in April and conclude in September during this time the users of this building, Kings Square and William Street will be affected in the following ways:

- i. Hire of the auditorium and atrium spaces will be limited leading to lost revenue.
- ii. Staff working in the first floor offices on William Street will need to be relocated for a period of time while the roof directly above them is re-clad.
- iii. Storage rooms on the second floor will need to be emptied during the works.
- iv. A one-room tenancy on High Street that opens directly into Kings Square will be used by the contractor for the works leading to a loss of revenue.
- v. The 16 parking bays on William Street will be used as the contractor's yard and deliveries area during the project leading to a loss of revenue and convenience for visitors to the Town Hall Centre.
- vi. Scaffolding will prevent use of the William Street footpath as well as a portion of Kings Square (including some seating).

## **Organisational**

The City Heritage Project Officer will project manage the project with the assistance of the asset manager.

## **STRATEGIC AND POLICY IMPLICATIONS**

The City of Fremantle has a long history of conserving its built heritage and history as a way of preserving its unique character. More recently conservation and preservation of the built heritage is being leveraged to help regenerate the City in combination with sympathetic and sustainable development.

The Fremantle Town Hall External Conservation project supports many of the strategic imperatives in the City's Strategic Plan, particularly under the banner of Character where it will strengthen sense of place. In particular the project fits within the three-year plan to improve the physical presentation of the city, its streetscapes and council owned buildings.

This project also contributes directly to one of the five identified Transformational Moves to economically and socially revitalise the core area of Fremantle as well as an identified Major Project. The conservation of the exterior of the Fremantle Town Hall will contribute to the rejuvenation of the CITY CENTRE and help attract new residents, businesses and visitors. It will also contribute to the \$220m Kings Square project to transform the city centre with new civic chambers, library and City offices, high quality commercial space and an upgrade of the public square. The proposed new City offices will directly adjoin the Fremantle Town Hall and will connect directly into the building.

## **COMMUNITY ENGAGEMENT**

The process of awarding the tender includes advertising of the tender in the public domain and allows for a transparent, equal opportunity competitive process.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute Majority Required

## **OFFICER'S RECOMMENDATION**

**That Council:**

- 1. Accepts the tender submitted for Fremantle Town Hall External Conservation Works under Tender FCC461/15 by McCorkell Construction to conserve the main roof and facades of the Fremantle Town hall for the fixed price of \$1,721,426 ex GST.**
- 2. Approves delegated authority to the Chief Executive Officer to approve variations up to 15% of the contract value (\$258,214 ex GST)**
- 3. Amends the 2015/16 Budget to reflect the transfer of \$1,994,640 from the Heritage Reserve to reflect parts 1 and 2 above.**
- 4. Subject to agreement with McCorkell Construction, Council accept part 3 of the McCorkell tender to conserve the Fremantle Town Hall Tower for a further \$560,424 ex GST subject to;**
  - a. Adoption of the additional funding required (\$630,000 inclusive of 15% contingency for the tower works) in the 2016/17 Budget (to be adopted in June 2016);**
  - b. Costs being maintained by McCorkell Construction for part 3 of their**

- tender submitted on 15 January 2016; and
- c. The practical ability of the Tower being added to the contract in June 2016, through a contract variation to be agreed by the CEO

**FPOL1603-6 KNUTSFORD DEPOT SITE REDEVELOPMENT - BUSINESS CASE**

<b>ECM Reference:</b>	049/004 - 115/085
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	23 March 2016
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Manager Strategic Planning, Paul Garbett
<b>Actioning Officer:</b>	Louise Ainsworth, Senior Strategic Projects Officer
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	1. Business Case 2. Assessment Summary

**EXECUTIVE SUMMARY**

**The City has prepared a business case in which it has assessed various options for achieving the vision for development of the Knutsford St depot site. Part and full disposal options were assessed as well as subdivision and built form options. This paper outlines the assessment process and outcomes and recommends Council authorise the CEO to negotiate on a preferred option.**

**BACKGROUND**

The City has prepared a business case in which it has assessed various options for achieving the vision for development of the Knutsford St depot site. Part and full disposal options were assessed as well as subdivision and built form options. The options were assessed in terms of the City's capacity to:

- achieve its strategic plans and objectives
- achieve project objectives and outcomes
- demonstrate prudent financial and risk management
- participate in project implementation

In 2010, the City of Fremantle (City) commissioned a report to identify the requirements for the construction of a potential new depot to replace the existing depot in Knutsford Street.

A review of the requirements for a new depot was undertaken and opportunities identified to consolidate building and storage requirements. A site for a new depot was identified in Jones St, O'Connor and the City has now acquired the site and appointed architects. Operations are expected to be transferred to the new site early in 2017.

With relocation of the Council depot to O'Connor there is an opportunity to make better use of a council asset in a prime location through a change of use from industrial to residential and commercial. With this opportunity goes the prospect of disposal of the land for a financial return which could (partly) cover the cost of the new depot. A 2015 valuation suggested a clean site would be worth \$11.1m. The valuation hasn't changed since 2012.

On 27 February 2008 Council resolved to adopt the Knutsford Street East Structure Plan as a guiding document to facilitate redevelopment within the area including the depot site. Under the Structure Plan, the site is zoned *mixed use residential R60/100*.

The Knutsford Street East Structure Plan area is adjacent to LandCorp's Swanbourne Street Structure Plan area which includes the current redevelopment by LandCorp and its development partners on Blinco Street.

The City's vision is to redevelop the City's Knutsford Depot site with a range of residential, community, commercial activities and cottage industries, in such a way as to set an exemplary new standard for sustainable urban development and infrastructure and as a catalyst to the coordinated revitalisation of the broader precinct.

Council's Strategic Plan 2010-15 highlights the City's desire to lead in the provision of environmentally sustainable solutions through the strategic imperatives for *Climate Change* and *Environmental Protection*. The *Urban Renewal* imperative specifically nominates Knutsford East precinct as an area for development.

The One Planet Fremantle Strategy 2014/15 – 2019/20 Highlights the Knutsford depot site redevelopment as one of the City's top five corporate actions:

*Investigation of sustainable development potential for the Knutsford St, City Works Depot site with a view to negotiating positive sustainability outcomes for any development on the site.*

The One Planet framework was used in developing the concepts and aspirational outcomes which underpin the assessment assumptions in the business case

In 2011 LandCorp expressed an interest in continuing to work with the City on priority sites under a Memorandum of Understanding (MOU) dated 31 May 2004. In the 2011 letter LandCorp states with respect to the depot site that it – *would welcome the opportunity to work with the City of Fremantle to investigate options for the City's land holding including a possible disposal to LandCorp*. In a further letter proposing cost sharing for infrastructure dated 10 July 2015, LandCorp reiterated its interest in acquiring the site.

Both market (ie private sector developers) and LandCorp options were assessed in the business case.

## COMMENT

The business case considers seven disposal and development scenarios with a view to achieving the vision for development of the Knutsford St depot site as well as optimal financial outcomes. The options assessed are as follows:

- Option 1a & 1b - Straight sale by tender to the open market (1a - as-is, 1b clean) - This option was included for the purpose of comparison. The City is unlikely to consider a straight sale by tender with no conditions as it is doubtful project objectives would be met in this scenario.
- Option 1c - Structured sale to open market (clean,) - In this option tenderers would be requested to bid showing how the City's redevelopment objectives would be met as well as on price.



- Options 2a & 3a City to retain and develop (land or built form development options) - Given the strong commitment to the redevelopment objectives, this may be a way of ensuring these objectives are met, although the City's capacity to do this itself is doubtful.
- Options 2b & 3b - City joint venture or development agreement - (land or built form development options)

All options assume the trunk services work, agreed by Council in November 2015 will go ahead.

While the City has an MOU with LandCorp and LandCorp has expressed a specific interest in acquiring the site, the City is also aware of market interest in the site. All options were considered in terms of dealing with both LandCorp and the market.

In order to get a feel for the capacity and appetite of the market to take up the leadership aspirations, the City conducted informal meetings with a number of developers. The outcome was the City felt that the private development industry could achieve the development outcomes and has some enthusiasm to experiment (only) as long as the market will pay.

A business case working group was convened to agree the assessment criteria (financial and non-financial) and methodology. The working group terms of reference are as follows:

- define expected development outcomes
- define measures and/or weightings for assessing the likelihood of expected development outcomes being achieved through disposal options
- define expected financial outcomes
- agree weighting of financial and non-financial criteria

The business case working group comprises the following members:

CEO (Chair)	Graeme McKenzie
Mayor	Brad Pettitt
Deputy Mayor	Josh Wilson
Elected representative	Cr John Strachan
Director City Business	Glen Dougall
Manager Strategic Planning	Paul Garbett
Project Officer	Louise Ainsworth

The business case working group has endorsed:

- the desired development outcomes and the criteria used to assess them
- the traffic light approach for measuring the likelihood of both non-financial and financial outcomes being met.
- The absence of weightings and numerical scores in favour of an overall view of the likelihood of objectives/criteria being met for any particular option.

The evaluation methodology and assumptions are set out in detail in section 6.0 and the financial analysis, non-financial and risk analysis are set out in sections 8.0, 9.0 and 10.0 of the business case. (See Attachment 1) From the analysis of the seven disposal and development options (1a, 1b, 1c, 2a, 2b, 3a, 3b) a clear ranking of unacceptable,

possible and preferred options arose. This analysis was reviewed, finalised and endorsed by the business case working group. A summary of the assessment outcomes can be found at Attachment 2.

## **RISK AND OTHER IMPLICATIONS**

Risk assessment was inherent in the approach used to assess and compare options against both financial and non-financial objectives. The assessment summary sheet attached captures the risk in the traffic light colours red, amber or green depending on the likelihood of a particular option achieving an acceptable outcome against particular criteria.

### **Financial**

Each option was assessed against each financial criteria and judged to be *acceptable*, *conditional* (acceptable under certain conditions) or *unacceptable* in terms of outcomes and risk.

From a financial perspective the key risks are that the City will get a poor return on its asset and/or will be required to outlay significant capital expenditure that it may not be able to afford. A risk margin in the form of a discount rate was applied to each option. These aim to reflect the risk premium associated with the various development roles and is set out in Section 8.5 of the business case report.

In addition, the sensitivity of applying environmental initiatives was also tested in the financial modelling. 100% cost and 50% cost impacts were tested. For the purpose of the financial assessment in the business case, the worst case (100% cost to City/developer) was adopted.

### **Non-Financial Risk**

As with the financial assessment, risk assessment was inherent in the approach used to assess and compare options against non-financial objectives.

The key risk in the non-financial criteria was the risk that a particular outcome would not be met under a particular development option. To address this, each option was assessed in terms of the likelihood that a particular outcome or objective would be achieved. The outcomes correspond to the criteria and the likelihood of achieving each was assessed as likely, *possible* or *unlikely*.

Further risks assessed were the City's capacity (or otherwise) to implement or successfully negotiate a particular option and whether LandCorp or the open market would be most likely to deliver the outcomes required.

### **Legal**

Whichever option is recommended will result in a contract of sale and/or a development agreement which will require legal input. Under the Local Government Act Part 3, such a contract would be defined as a major land transaction and would require the City to prepare and advertise a business plan.

### Organisational

The major organisational risk is that some or all of the desired design, sustainability and precinct outcomes will not be met under a particular option, thus threatening the desired outcomes stated in the City's Strategic Plan and One Planet strategies.

### Operational

Operationally there is a risk that the City will not have, or be able to recruit the capacity to undertake, participate in, negotiate or implement a particular option in terms of personnel, resources, skills and expertise.

## STRATEGIC AND POLICY IMPLICATIONS

The One Planet Fremantle Strategy 2014/15 – 2019/20 highlights the Knutsford depot site redevelopment as one of the City's top five corporate actions. The recommendation in this report also supports the *Urban Renewal* imperative in the Council's Strategic Plan 2010-15 which specifically nominates Knutsford East precinct as an area for development. In addition, the development outcomes proposed support the *Climate Change* and *Environmental Protection* imperatives.

## COMMUNITY ENGAGEMENT

The Knutsford Street East Local Structure Plan, adopted 27 February 2008, was developed in conjunction with LandCorp and was the product of extensive community input. The concepts referred to in the business case were created solely for the purpose of developing assumptions and costs as inputs for assessment in the business case. Community input has not been sought on these concepts which have no statutory standing. The ultimate developer will be required to do a detailed area plan and associated council and community comment will be sought at that time. Alternatively amendments to the Structure Plan may be considered which would require a consultative process.

If a major land transaction is negotiated as a result of the recommendation of this business case, a business plan would be required under the Local Government Act. This would be subject to a period of public comment.

## CONCLUSION

The preferred options were the ones where the City would have some capacity to influence outcomes. These show 'scores' of *likely* (green) or *possible* (amber) against the criteria in the assessment summary sheet attached. (Attachment 2) This could be achieved through a structured sale/sale with conditions (Option 1c.) The capacity to influence outcomes could also be achieved by the City retaining an interest in the land through a joint venture which enabled subdivision (Option2b). These options could involve either the open market or LandCorp. While the City could also influence outcomes by being the developer or being a partner in a built form joint venture (options 2a, 3a & 3b) the business case working group agreed the City would not have the capacity to successfully implement or participate in these options and that the capital outlay would be unacceptably high.

On balance, the business case working group considered that option 2b would be most acceptable and allow greatest flexibility. The City could form a joint venture or development agreement with a third party developer to subdivide and sell the land. This which could include the input of the englobo land value only, or additional contribution to an agreed level (traditionally 50:50) and undertake the land subdivision as a joint risk/return arrangement.

Option 2b is preferred because

- It has the best opportunity to influence outcomes for a modest commitment from the City (land only)
- There is better potential for other 'experimental' developments with the subdivision option than there is by merely imposing development conditions on the englobo parcel.
- While the financial return may not be as timely as in option 1c (depending on the time payments agreed under that option) under option 2b the City could negotiate an agreement which allows for a range of outcomes or agreed end points. – eg transfer land on agreed subdivision plan, completed subdivision or continue on into built form.
- The City could negotiate to contribute all or part of the land and could negotiate to retain a portion of the subdivided land on which to undertake a small demonstration project of its own.

While it could be argued that either LandCorp or the market would deliver a similar financial return under similar development conditions, the market option was considered slightly more risky in terms of the likelihood of delivering non financial outcomes. Conversely there was some thought that there could be the opportunity for more exceptional outcomes too, as it was felt that there are players in the market that have the enthusiasm to experiment. However, the business case working group felt that this extends only as far as the market has the capacity to pay.

LandCorp also shows a willingness to experiment through its 'innovation through demonstration' program. With its strategic leadership role as the state government's development agency, LandCorp has a good track record in demonstrating sustainable development both locally (White Gum Valley) and elsewhere in the state (Alkimos, the Pilbara etc.) The City's existing MOU with LandCorp and ongoing co-operation with design and demonstration in the surrounding precinct show an established and constructive working relationship and a willingness to continue. Coordinated precinct and streetscape development were seen to be more likely to be met with LandCorp as the development partner.

On this basis, the City concludes that LandCorp is likely to offer more flexibility than the market in working to achieve the project's desired non-financial outcomes as well as an appropriate and timely return on investment.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

### **That Council:**

- 1. Authorise the CEO to negotiate directly with LandCorp with a view to setting up a development agreement or joint venture whereby:
  - a. the City inputs all or part of the value of its land.**
  - b. the City and LandCorp agree the best way forward (with appropriate measures and milestones) to achieve the desired non financial outcomes for the site and the broader precinct**
  - c. the City and LandCorp agree appropriate valuation methodology and triggers for land transfer to achieve a satisfactory financial return to the City.****
  
- 2. The draft/negotiated agreement in Part 1 above, and an associated business plan be subject to Council approval**

**FPOL1603-7 ADVERTISE PROPOSED PUBLIC ROAD CLOSURE - PORTION OF MEWS ROAD, FREMANTLE FOR AMALGAMATION WITH THE ADJOINING RESERVE NO. 27807 MANAGED BY DEPARTMENT OF TRANSPORT (DOT).**

**ECM Reference:** 163/002  
**Disclosure of Interest:** Nil  
**Meeting Date:** 24 February 2016  
**Previous Item:** Nil  
**Responsible Officer:** Lionel Nicholson, Acting Director Infrastructure and Project Delivery,  
**Actioning Officer:** Phil Adams, Manager Infrastructure Projects  
**Decision Making Authority:** Council  
**Agenda Attachments:** Attachment 1: Map of the proposed portion of Mews Road to be closed and amalgamated.

**EXECUTIVE SUMMARY**

The Department of Transport (DoT) has approached the City to seek the transfer of the southern section of Mews Road (south of Arundel Street crossing to Capo D'Orlando Drive) to DoT (refer attachment). The DoT currently has responsibility for the northern section (note that the northern section of Mews Road is located within the DoT managed Reserve No. 32382 forming part of the Crown Reserve, and the road tenure is simply "*a constructed road on Crown Land*", as described by the Department of Land (DoL)). It sees that the overall management of Mews Road will provide it with opportunities to improve the existing parking layout, traffic flow, road resurfacing and aesthetics for this section.

Council officers accept that DoT is better placed to provide funding and resources for improvements to the road reserve in this location to service its own lessees fronting Mews Road, and acknowledge that there is no significant detriment to the City in relinquishing the vesting of road reserve for this area; while also alleviating some of its responsibility for maintenance and potential upgrade requirements.

In order to transfer the existing portion of Mews Road (currently dedicated road reserve) to the DoT, a formal road closure process is required under Section 58 of the Land Administration Act 1997 ("Act"). In accordance with the Act, the road closure process commences with the formal public advertising of the proposal (requested in this item to council), with a second item to council to report on the results of advertising and to make a final decision with regard to the proposed road closure. Following the closure (subject to statutory approvals) the land is transferred back to the Crown and may then be amalgamated with the adjoining DoT Reserve No. 27807.

Council approval is sought to advertise the proposed closure of the southern portion of Mews Road, (dedicated), and amalgamate this portion with the adjoining Reserve No. 27807 under the management of the DoT for "Harbour Purposes".

## **BACKGROUND**

DoT has a number of leasehold lots within the DoT reserve fronting Mews Road where lessees are making significant investments to the lots. Concerns on availability of parking and road maintenance have been raised through lessee customers and workers. DoT wants to pursue plans to formalise parking through delineation of car bays and dedicated short term bays for customers, together with possible widening of the roadway and resurfacing, as well as soft and hard landscaping. By making these improvements it hopes to mitigate any issues from lessees for safe customer and supplier access to this part of Mews Road and the Fishing Boat Harbour

## **COMMENT**

Council officers note that ordinarily the City has management responsibility for all road reserves as a core function of local government. However, in this instance it is also recognised that DoT has a high interest in upgrading and maintaining the road reserve infrastructure and facilities for lessees fronting Mews Road. Given that this section of Mews Road is essentially used as a business service road, the upgrades being identified as the area further develops does not have the same priority for the City as it does for DoT.

The City will be able to transfer the liability for such maintenance and upgrades of the road reserve. This extends to storm water requirements for the reserve, where the City may be responsible for partial funding of gross matter traps and drainage connections for storm water drainage through leasehold lots where easements and permits are not in place.

It is noted that the current car parking agreement for car park 31 at the Fremantle Fishing Boat Harbour may be extended to include the southern section of Mews Road to allow for paid parking revenue should this be installed. It is also noted that the proposed change in management for the road reserve will not affect the ability of the City to levy rates for commercial leased properties within State Government controlled land (as for areas north of the Arundel St railway crossing).

There are future plans to extend strategic corridors across the rail line to Mews Road at Norfolk Street and South Street to improve vehicle, bicycle and pedestrian access to the waterfront. These initiatives have been included in FREO 2029 Transformational Moves. The future extension of Norfolk Street would not be affected by closure of the road reserve as Norfolk Street is located to the north of the Arundel Street crossing and therefore an extension would connect to the section of Mews Road already in the Crown Reserve managed by DoT. However the extension of South Street would connect to the section of Mews Road road reserve proposed to be closed and therefore such a link would be simpler if the road reserve area affected were to remain under the City's control. It is recognised that any proposed road changes would need to be considered and agreed with DOT prior to any progression of such plans in any case. While it could be assumed that improved connection of these strategic transport links to the Fishing Boat Harbour would be in DOT's interest (and DOT has previously indicated informal support) it is recommended that the City should seek some form of written confirmation from DoT that it will continue to support and work with the City in pursuing the

achievement of a connection on the South Street alignment in the event of a change in management of the affected road reserve area.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

There are no short term financial implications for the proposed change in management for the road reserve outside those costs which will be generated for survey costs in relation to legal requirements noted below. Longer term liabilities for road maintenance will be reduced.

The surveyor will be required to provide a Deposited Plan for a Crown Subdivision to create a new lot for inclusion into the DoT adjoining Reserve No. 27807. The tenure change will be processed by the DoL as a reserve amendment to the DoT existing Reserve No.27807.

### **Legal**

Interest in public road reserves cannot be granted to management bodies outside local government or Main Roads under Land Administration legislation. Therefore the City will not be able to seek assignment of the care, control and management of this southern section of Mews Road to DOT as a public road.

The legal mechanism to achieve an effective transfer of control will be:

- To formally seek closure of this southern section of Mews Road under section 58 of the Land Administration Act 1997
- To seek an amalgamation of the existing DOT reserve 27807 to include this proposed closed section of Mews Road. Reserve 27807 contains those sections of land to the west of the southern section of the Mews Road reserve, and is a reserve granted for Harbour Purposes. It is noted that the northern section of Mews Road is also contained within a DOT reserve (number 32382) which has the same legal status as this reserve 27807, namely a reserve for Harbour Purposes. In effect the proposal to amalgamate this section of Mews Road will bring it into line with the current status of the northern section, being a constructed road within a reserve managed for Harbour Purposes.

### Land Administration legislation

The proposed road closure of the dedicated portion of Mews Road, Fremantle (extending to South Fremantle) is in accordance with Section 58 of the Land Administration Act 1997 headed "Closing Roads". The advertising requirement is contained within Section 58 (3) with subsections 1, 2 and 3 noted below;

- (1) *"When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*



*(3) A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.”*

The DoL require a Council Resolution with regard to advertising as outlined in the Land Administration Regulations 1998 Section 9 headed “*Local government request to close road permanently (Act s. 58(2))*”, requirements for

*For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request –*

- (a) written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and*
- (b) sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and*
- (c) copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government’s comments on those submissions; and*
- (d) a copy of the relevant notice of motion referred to in paragraph (c); and*
- (e) any other information the local government considers relevant to the Minister’s consideration of the request; and*
- (f) written confirmation that the local government has complied with section 58(2) and (3) of the Act.”*

Further legal requirements (e.g. in relation to statutory declaration of interest regarding the proposed road section to be closed) will be undertaken as necessary.

### **Operational**

The changes proposed will have minimal impact on operational works.

### **Organisational**

There should be no immediate impact to scheduling of projects.

### **CONCLUSION**

On balance, the proposal to transfer management of the road reserve to DoT (through a road closure and amalgamation to an existing reserve) for this section of Mews Road is favourable to the City and does not present any significant detriment. Council approval is therefore sought to proceed with the legal requirements to effect transfer of the road reserve, subject to confirmation of DoT’s ongoing support for the long term objective of extending the South Street transport corridor across the railway line to achieve better connectivity to the waterfront.

## **STRATEGIC AND POLICY IMPLICATIONS**

This item has a connection to the Strategic Plan through Urban Renewal and Integration.

## **COMMUNITY ENGAGEMENT**

Closure of any section of road will require public advertisement and formal consideration of objections as stipulated under the Land Administration Act 1997. Public advertising will need to refer to the final amalgamation to the DoT reserve.

Future planning for rail crossings will need to be subject to full consultation with stakeholders at the time of the works being considered.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**Council:**

- 1. Authorise the Chief Executive Officer to seek a written undertaking from the Department of Transport to continue to support and work with the City of Fremantle in pursuing the achievement of an extension to the South Street strategic corridor across the rail line to Mews Road to improve vehicle, bicycle and pedestrian access to the waterfront, in accordance with the FREO 2029 Transformational Moves document, in the event of a change in management of the affected road reserve area.**
- 2.. Subject to receipt of the written undertaking referred to in (1) above, undertake a public consultation and advertising process including a 35 day public comment period in regard to the proposed closure of the dedicated portion of Mews Road Reserve (south of the Arundel Street railway crossing to Capo D'Orlando Drive, Fremantle) for the purpose of amalgamation with Reserve No. 27807 managed by the Department of Transport (as detailed in attachment 1) - pursuant to Section 58 of the Land Administration Act 1997.**
- 3.. Following the completion of the advertising period, consider the submissions received during the advertising and public consultation in a report to council for a final decision prior to an application being made to the Department of Lands to close and amalgamate Mews Road as described in point 2.**
- 4. Authorise the Chief Executive Officer to progress discussions with the Department of Transport regarding the extension of the car parking arrangement for car park No. 31 to this section of the proposed amended reserve (i.e. containing the proposed road closure).**

**FPOL1603-8 PROPOSED DEDICATION AS PUBLIC - CITY OF FREMANTLE  
OWNED RIGHT OF WAY NO. 7 - COMBEN PLACE, NORTH  
FREMANTLE (KW)**

**ECM Reference:** 049/001  
**Disclosure of Interest:** Nil  
**Meeting Date:** 16 March 2016  
**Previous Item:** Nil  
**Responsible Officer:** Jeremy Kemp - Business Systems Coordinator  
**Actioning Officer:** Kerry Wood - Land Administrator  
**Decision Making Authority:** Council  
**Agenda Attachments:** Copy of Certificate of Title Volume 2230 Folio 246 and  
 Deposited Plan 45978

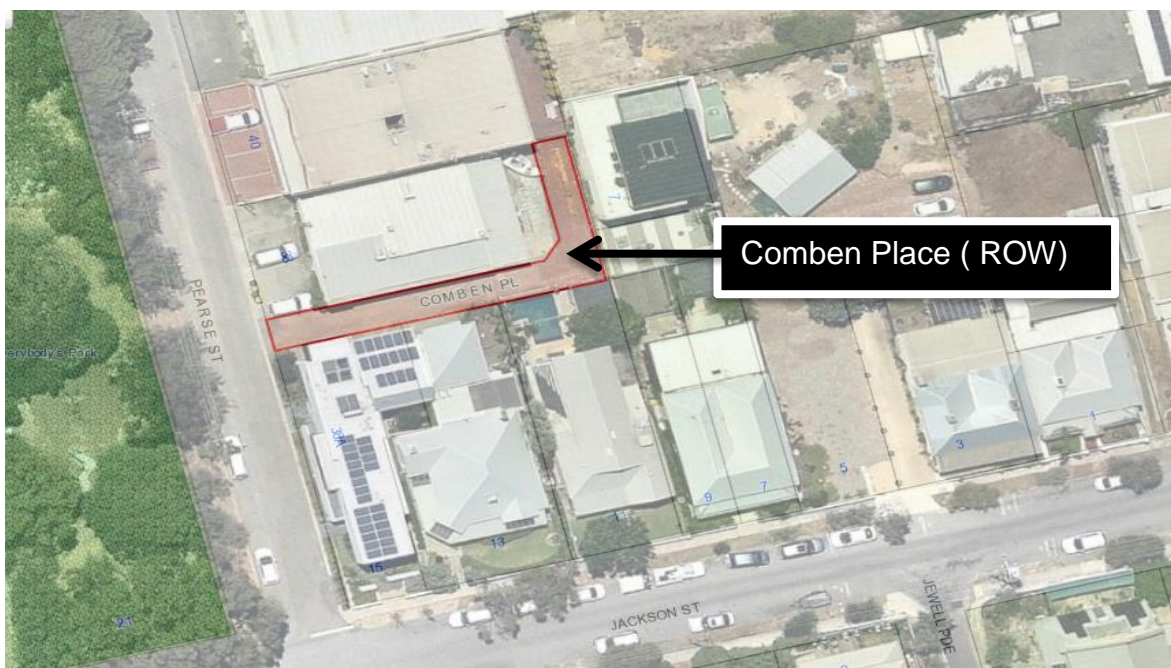


Figure 1 - Comben Place (ROW No.7) outlined in red

**EXECUTIVE SUMMARY**

The City of Fremantle (“City”) is the registered freehold owner of the private right of way No. 7 known as Comben Place, North Fremantle (see figure 1 above).

The purpose of this report is to dedicate Comben place as a public ROW as requested by the Director of Infrastructure Projects and Delivery. The proposal will ensure that appropriate traffic legislation can be enforced.

Council approval is sought to proceed with the dedication of the subject land held in Certificate of Title Volume 2230 Folio 246 as a public right of way pursuant of *Section 56 of the Land Administration Act 1997* (‘Act’).

## **BACKGROUND**

The private ROW No. 7 (Comben Place) is described on Certificated of Title Volume 2230 Folio 246 being Lots 100 and 101 on Deposited Plan 45978 (“ROW”). The ROW was transferred to the North Fremantle Municipality (NF M) on 4 August 1960 and later to the City as a result of the NFM amalgamation with the City of Fremantle.

On 02 October 2007, a right of carriageway easement (No.K361821) was registered by the City for the benefit of Lot 1 (No.9) Jackson Street, North Fremantle– thereby providing legal access to the property.

## **COMMENT**

Infrastructure and Projects management has requested that the proposed dedication of the whole of Comben Place should proceed.

The proposed dedication of Comben Place as a public ROW will ensure that traffic legislation is enforced over the subject area. Further, any encumbrances or implied rights under Section 167 of the Transfer of Land Act (TLA) that may be attached to the land will be extinguished by the proposed dedication.

The City can confirm that the public has enjoyed uninterrupted access to the ROW for well in excess of 10 years.

The ROW as shown on Deposited Plan 45978 consists of Lot 100, with a total area of 171m<sup>2</sup> and Lot 101 with a total area of 6m<sup>2</sup>. Lot 101 was originally created as a 0.34 m wide reserve on Diagram 1269.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

There are no additional financial implications associated with the proposed dedication of Comben Place. The ROW is currently maintained by the City being the owner of the land with an approved upgrade scheduled for the second quarter of this year. Roads to Recovery (RTR) have accepted the upgrade as a valid project for funding purposes. The ROW is currently unsealed limestone.

### **Legal**

The proposed dedication of the whole of private ROW No. 7 (Comben Place) is in accordance with *Section 56* of the Land Administration Act 1997 headed “Dedication of land as road” subsections 1 (c), 2 (a) and (b), together with subsection 4 and subsection 6 as noted below;

(1) *“If in the district of a local government –*

*(a) ...*

*(b) ... or*

*(c) Land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years,*

*And that land is described in a plan of survey, sketch plan or document, the local government may request the Minister to dedicate that land as a road.*

*(2) If a local government resolves to make a request under subsection (1), it must –*

- (a) In accordance with the regulations prepare and deliver the request to the Minister; and*
- (b) Provide the Minister with sufficient information in a plan of survey, sketch plan or document to describe the dimensions of the proposed road.*

*(3) ...*

*(4) On the Minister granting a request under subsection (3), the relevant local government is liable to indemnify the Minister against any claim for compensation (not being a claim for compensation in respect of land referred to in subsection (6)) in an amount equal to the amount of all costs and expenses reasonably incurred by the Minister in considering and granting the request.*

*(5) ...*

*(6) If land referred to in subsection (1)(b) or (c) is dedicated under subsection (3)(a), a person with an interest in that land (including a person who has the benefit of an easement created under section 167A of the TLA) is not entitled to compensation because of that dedication.”*

The Land Administration Regulations 1998 section 8 headed ‘Local government request to dedicate land as a road (Act,s 56) requirements for’ with subsection (c) and (d) as noted below;

*“For the purpose of preparing and delivering under section 56(2)(a) of the Act a request to the Minister to dedicate land as a road, a local government must include with the request –*

- (a) ...*
- (b) ...*
- (c) If the request is made in respect of a private road referred to in section 56(1)(c) of the Act –*
  - i. written confirmation that the public has had uninterrupted use of the private road for a period of not less than 10 years; and*
  - ii. a description of the section or sections of the public who have had that use; and*
  - iii. a description of how the private road is constructed;*

*and*

- (d) copies of any submissions relating to the request that the local government has received, and the local government’s comments on those submissions; and”*
- (e) ...*
- (f) ...*

### **Operational**

The changes proposed will not impact on operational works.

### **Organisational**

The changes will not impact on the scheduled upgrade to Comben Place.

### **STRATEGIC AND POLICY IMPLICATIONS**

This item has a connection to the Strategic Plan through Urban Renewal and Integration.

### **COMMUNITY ENGAGEMENT**

Nil

### **CONCLUSION**

The proposed dedication of Comben Place, North Fremantle will enable;

- The enforcement of traffic legislation as a public right of way.
- The whole of Comben Place is currently managed by the City as the owner of the ROW. The proposed dedication will formalise and transfer the subject land to a public ROW under the care, control and management of the City.

### **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

### **OFFICER'S RECOMMENDATION**

#### **Council**

1. **Approve to proposed dedication of the whole of Comben Place, North Fremantle as described on Certificate of Title Volume 2230 Folio 246 being Lot 100 and 101 on Plan No. 45978 pursuant of *Section 56 (1) (c)* of the Land Administration Act 1997 (LAA).**
2. **Indemnifies the Minister of Lands from all costs associated with this process in accordance with *Section 56 (4)* of LAA.**

## **FPOL1603-9 DISABILITY SERVICES COMMISSION - FREO CLUB**

<b>ECM Reference:</b>	023/046
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	16 March 2016
<b>Previous Item:</b>	Nil
<b>Responsible Officer:</b>	Marisa Spaziani, Director Community Development
<b>Actioning Officer:</b>	Beverley Bone, Manager Community Development
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	1: 2016-2020 Access and Inclusion Plan

### **EXECUTIVE SUMMARY**

Since 2002, The City of Fremantle has a service agreement with the Disability Services Commission (DSC) to provide a recreation program to adults with a disability. DSC has informed the City that due to significant changes in the way disability services are currently funded, block funding will no longer continue after 30 June 2016. This change impacts the delivery of the program, as no further funding will be received from 1 July 2016.

**Council are required to make a decision on the future of this program.**

### **BACKGROUND**

The City has been providing Freo Club to adults with disability since 2002. The club runs weekly on a Wednesday evening from 5.00 pm to 8.00 pm, with the exception of school holidays. The program alternates between The Meeting Place and other community locations such as sporting facilities, restaurants, cinemas and parks. City facilities such as the One Stop Shop and the Walyalup Aboriginal Cultural Centre have more recently been utilised to familiarise members with these services. The program aims to facilitate social interaction, recreation, relationship development and community inclusion. Activities vary widely and include lawn bowling, dancing, playing games, painting, drumming and cooking.

The club currently has 14 members, some of whom have been attending for up to 14 years. Some parents and carers also attend the club. Members' age range is from 27 to 67 years and there are currently 12 males and two females. Weekly attendance averages 12 members. Disability types include intellectual disability, acquired brain injury, learning disability, vision impairment, hard of hearing, schizophrenia, epilepsy, Cerebral Palsy and Down Syndrome.

The Access and Inclusion Project Officer has been employed for 0.2 FTE to plan, budget and facilitate the program with the help of a casual support worker on the night. Community Development Coordinator, Manager and administrative staff resources also contribute to the running of the club.

The DSC undertook a quality evaluation in May 2015 which highlighted that the Freo Club is an important part of members' lives through supporting meaningful and ongoing opportunities for members to participate and develop long-term friendships and

relationships in their community. Members and their family members provided positive feedback such as “[The individual] wouldn’t miss it for the world”, “[They] love to see their friends” and “It’s such a valuable service, I don’t know what we’d do without it”.

### New Funding Model

Across Australia, the National Disability Insurance Scheme (NDIS) has commenced in various launch sites. Where required, funding is now provided to individuals (individualised funding) rather than to organisations (block funding). This is a different way of providing support to individuals and families living with disability, where the individual/family has choice, control and flexibility around accessing supports.

The Commonwealth and State Government signed an agreement in order to start a two year trial of the NDIS in Western Australia. This trial commenced in the Perth Hills in July 2014 and is run by the National Disability Insurance Agency (NDIA). This trial is occurring alongside the State Government’s WA NDIS My Way model which has commenced in the Lower South West region with the Cockburn and Kwinana area joining in July 2015. These trials are run by DSC.

Developing an individualised plan is central to both the NDIS and WA NDIS My Way process and will be one of the first things undertaken with the assistance of a Planner or Coordinator. This plan is then used to determine what sorts of support a person may require and whether there are any funded supports as part of that plan. Eligible clients will transition to this funding model from 1 July 2016.

### **COMMENT**

The DSC has historically provided block funding for the program which was \$21,096 for the 2015-2016 financial year. Members contribute a small fee to attend each week and pay for their own meal. Due to significant changes in the way that disability services will be funded in the near future, the DSC have informed the City that this block funding will not continue after the current financial year.

Five Freo Club members currently reside within the City’s boundaries. Four members live in suburbs outside of the City that are part of the National Disability Insurance Scheme (NDIS) My Way trial site. In these locations, clients can receive support to use individualised funding for services they choose, however not all clients are linked into this service. Five of the 14 members are in contact with their My Way Coordinator or DSC Local Area Coordinator (LAC) who provide access to support and services they may need.

Six members live in supported group housing, whilst others live with a parent or sibling. Ten members are currently working or volunteering. Most members access other activities organised by service providers such as Activ. One member does not access any other recreation or social activities outside of work.

DSC staff have met with City officers to gain further knowledge of the program and information on clients. The DSC has a committed team to undertake the transition of services across the metropolitan area and will collaborate with the City and client families with regard to their individualised funding. At this stage, the discussion has been around



transitioning the Freo Club members as a group to another Disability Service provider who has the capacity to provide recreational programs in a group setting. This may involve the new service provider utilising some of the existing locations to ensure the surrounds haven't changed, whilst the clients become familiar with the new staff and the continuation of already established friendships.

The City will continue to investigate other options to facilitate the inclusion of adults with disability in mainstream social and recreational activities in Fremantle. This action would support the City of Fremantle 2016-2020 Access and Inclusion Plan (Attachment 1) initiatives to facilitate and encourage the inclusion of adults with disability in the City's mainstream social and recreational activities.

## **RISK AND OTHER IMPLICATIONS**

### **Financial**

The DSC block funding for Freo Club in the current financial year was \$21,096 against account number 32.32110.4311.00.00.18016.

### **Legal**

The *Disability Services Act 1993* (amended 2004) requires State Government authorities and Local Governments to develop and implement a Disability Access and Inclusion Plan. The recently adopted City of Fremantle 2016 - 2020 Access and Inclusion Plan outlines the ways the City will ensure that people with disabilities have equal access to its mainstream information, services and facilities.

Like many Local Governments, the City has previously also recognised the specific needs of some of their community members by also providing specialist services such as the Freo Club. The *Disability Services Act 1993* (amended 2004) states that 'Wherever possible, services are to be integrated with services generally available to members of the community.'

### **Operational**

Community Development would be responsible for co-ordinating with the DSC to transition members across to other service providers as required and investigating other initiatives to encourage inclusion of adults with disability in mainstream social and recreational activities.

### **Organisational**

A communication plan would be developed to ensure community members are kept aware of any opportunities to engage with external service providers, such as not-for-profit organisations who can deliver a suite of recreational activities within the City of Fremantle.

## **STRATEGIC AND POLICY IMPLICATIONS**

The City is committed to making continual improvements to ensure that buildings, facilities, services, events, information and employment opportunities are available to community members who have a disability.

## **COMMUNITY ENGAGEMENT**

Due to the sensitive nature of this decision, community engagement has involved a discussion with the clients to determine what other programs and services they currently receive. Further discussions will need to occur with each member to transition to other preferred providers that suit the individual recreational needs.

## **CONCLUSION**

The DSC block funding for the Freo Club will cease and no longer be available after 30 June 2016. Although the City has been running Freo Club for several years, this change to individualised funding represents an opportunity for the City and clients to transition to service providers who have recreational programs as their core business. The City would need to work with providers and clients to minimise the impact on individuals whilst attempting to maintain the current strengths of the established friendships within the group.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**The City Co-ordinates with DSC to transition Freo Club members across to alternative service providers as appropriate by 1 July 2016.**

**FPOL1603-10 INFORMATION REPORT - CLEAN ENERGY FINANCE  
CORPORATION (CEFC) LOAN EXPRESSION OF INTEREST**

**ECM Reference:** 078/026  
**Author:** Nicki Ledger, Sustainability Officer  
**Agenda Attachments:** Attachment 1. Project update report – Clean Energy  
Finance Corporation Eol  
Attachment 2. CEFC Loan Eol / Application

A project update report for the special projects Clean Energy Finance Corporation (CEFC) Expression of Interest is attached for your information.

In January 2016 a request was made by Council to investigate the possibility of applying for a Clean Energy Finance Corporation loan to support the City's work towards meeting our One Planet target of 100% renewable energy by 2025.

The Executive Leadership Team considered this request on January 6, 2016 and a decision was made to develop and submit an Expression of Interest (EOI) to the CEFC to take advantage of this loan, which can be drawn down over three years, with loan terms of ten (10) years.

An EOI was submitted by the City on 24th February 2016. The EOI process is designed to collect basic information regarding potential projects or programs of works to enable the CEFC to undertake initial discussions with councils. Any determination as to a Council's eligibility for the finance program is subject to formal investment approval, due diligence and documentation satisfactory to the CEFC. The timeframes to finalise the loans is typically 3-4 months from initial assessment to final contracts, although this may vary.

No obligation or contract is entered into without significant further consideration and development.

**OFFICER'S RECOMMENDATION**

**The project update report(s) as shown in attachments one (1) and two (2) of the Finance, Policy, Operations and Legislation Committee Information Report for 16 March 2016 be received.**

**FPOL1603-11 MONTHLY FINANCIAL REPORT - FEBRUARY 2016**

<b>ECM Reference:</b>	087/002
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	23 March 2016
<b>Previous Item:</b>	SGS1511-13 of 18 November 2015
<b>Responsible Officer:</b>	Glen Dougall, Director City Business
<b>Actioning Officer:</b>	Wayne Wright, Manager Business Support
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Statement of Comprehensive Income Statement of Financial Activity by Nature and Type Statement of Net Current Assets Statement of Financial Position Schedule of Accounts Paid Investment Report Debtors Outstanding Report Payment Report (EFT & Cheque) (viewed electronically) Payment Report (Purchasing Cards) for January 2016 (viewed electronically)

**EXECUTIVE SUMMARY**

This report provides an analysis of year to date financial performance and **forecasts** based on

- Statement of Comprehensive Income;
- Statement of Financial Activity; and
- Statement of Financial Position

An analysis of financial performance based on The Statement of Comprehensive Income (Attachment 1) indicates no change in the current end of year budgeted operating deficit of \$264,250.

The following comments are provided on the key elements of Council's year to date financial performance as at 29 February 2016 and forecast to 30 June 2016.

**1. Statement of Comprehensive Income (Attachment 1)**

## Actual Financial Performance to 29 February 2016

- Actual operating income of \$62.71M is \$80,230 more than the year-to-date budgeted income of \$62.63M (refer explanation within the report).
- Actual operating expenditure of \$45.75M is \$1.37M less than the year-to-date budgeted expenditure of \$47.11M (refer explanation within the report).
- Actual operating surplus of \$16.96M is \$1.45M more than the year-to-date budgeted operating surplus of \$15.51M.

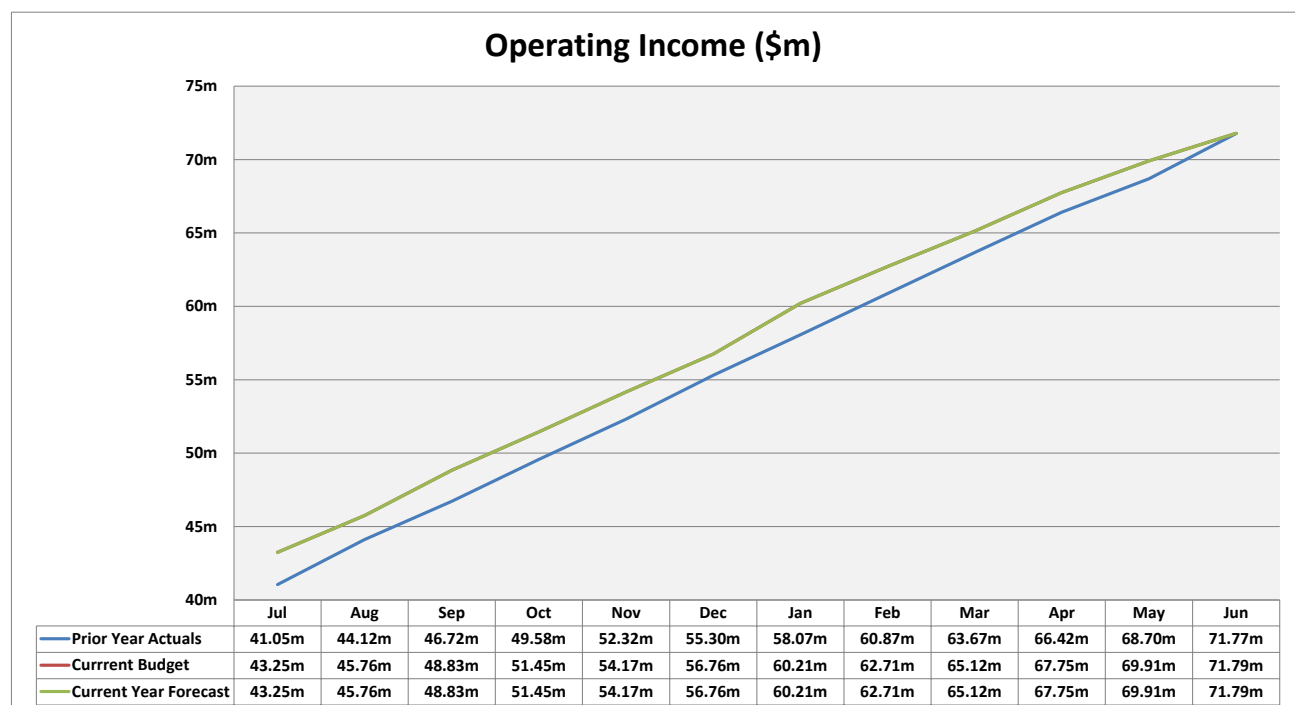
## 2. Capital Works

- Actual capital works of \$7.07M (excluding committed expenditure) is \$1.04M less than the year-to-date budgeted capital works of \$8.11M (refer explanation within report).
- Total capital expenditure is forecast to be \$17.331M as approved by the council at the mid-year budget review.

### OFFICER COMMENT

Operating Income, Operating Expenditure and Capital Expenditure graphs provide a comparison of how forecast income/expenditure is tracking to budget and the previous financial year. Comments are provided on each graph regarding current year to date financial position.

#### Operating Income (excluding profit on disposal of assets)

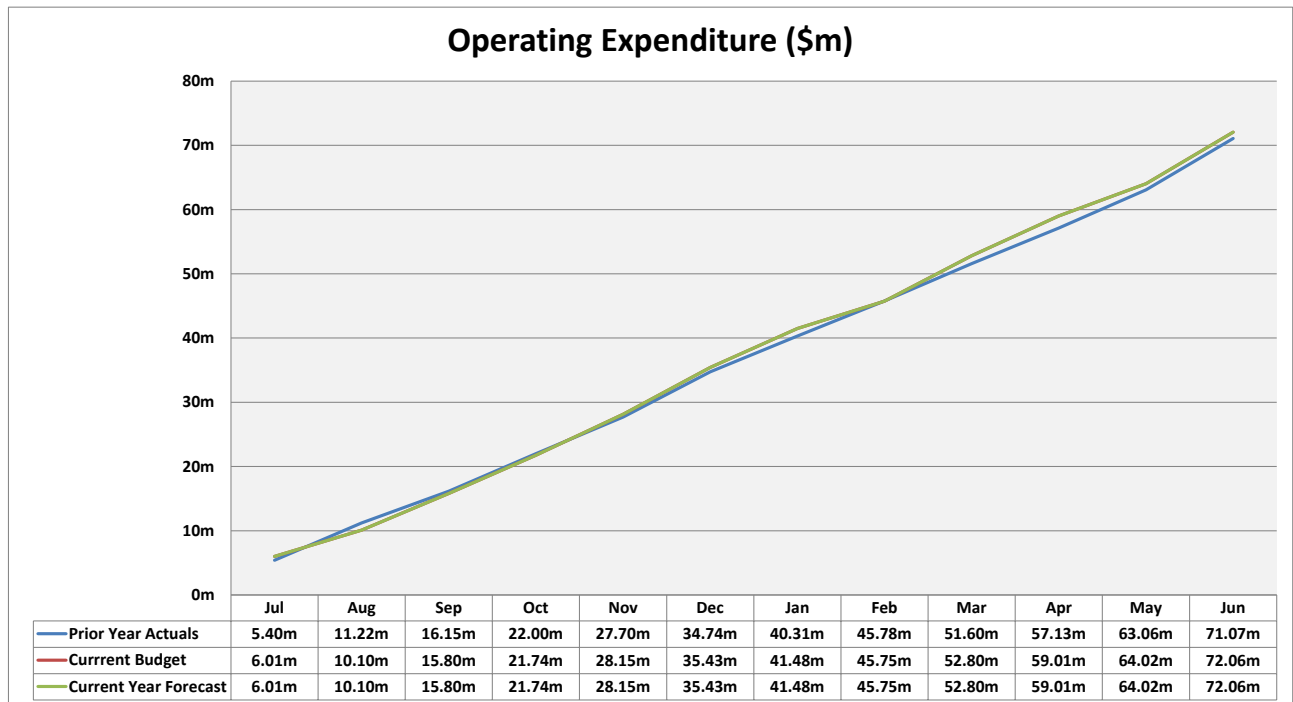


Note: Operating income includes: rates, service charges, operating grants, subsidies and contributions, fees and charges, interest earnings and other revenue. Non-operating (Capital Grant) income has been excluded for operating income.

Actual operating income of \$62.71M is \$80,230 greater than the year-to date budgeted income of \$62.63M.

Total forecast operating income of \$71.71M is able to be achieved as budgeted.

Operating Expenditure (excluding loss on disposal of assets)



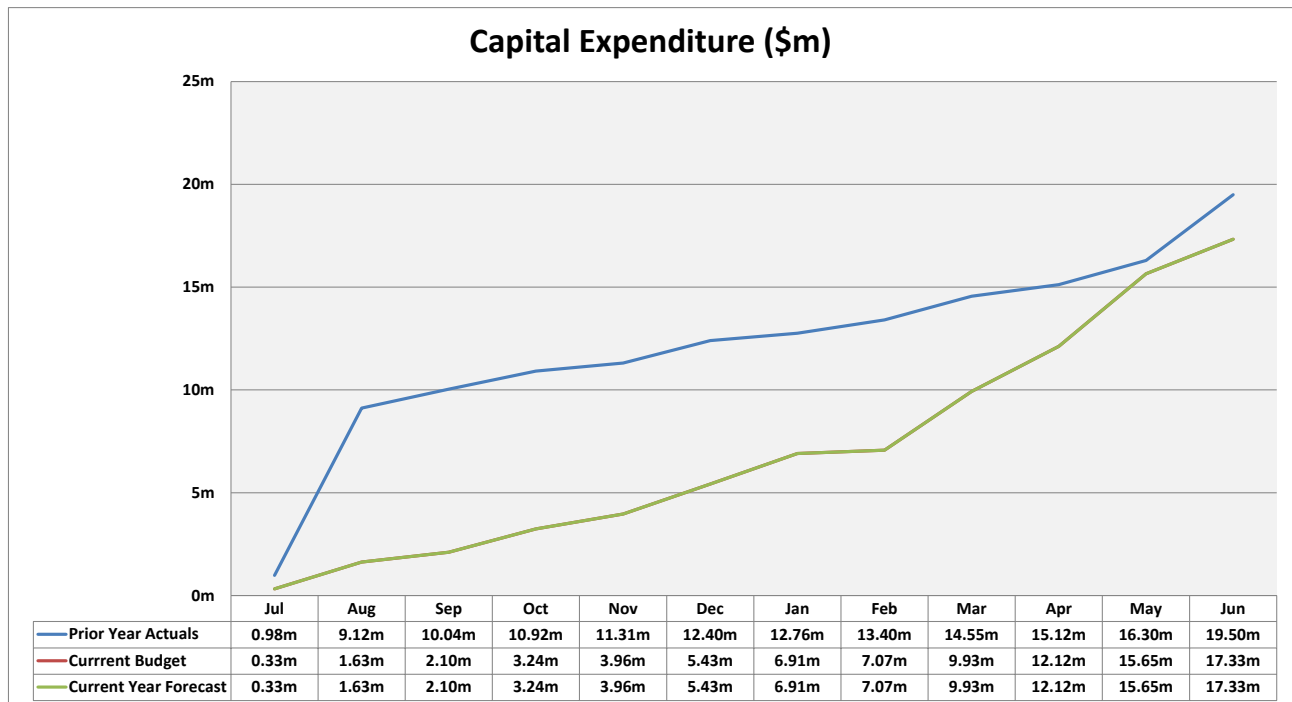
Note: Loss on sale of assets has been excluded from the Operating expenditure.

Actual operating expenditure of \$45.75M is \$1.37M less than the year-to date budgeted expenditure of \$47.11M.

Total forecast operating expenditure is consistent with February 2016 amended budget.

Capital Expenditure

The following graph highlights that capital expenditure to date is significantly under budget.



Notes: August 2014 Purchase of New Depot land for \$7.8M

Note: Actual capital expenditure of \$7.07M is \$1.04M less than the year-to date budgeted expenditure of \$8.11M.

Total capital expenditure is forecast to be \$17.33M for this financial year.

**MAJOR VARIANCE ANALYSIS**

At its meeting on 29 July 2015 (Item SGS1507-9 refers), Council adopted nature and type as the preferred reporting format with 2.5% and \$300 000 threshold as the levels for explanation of variances.

The following is an explanation of significant Operating and Capital variances identified in the Statement of Comprehensive Income and Statement of Financial Activity:

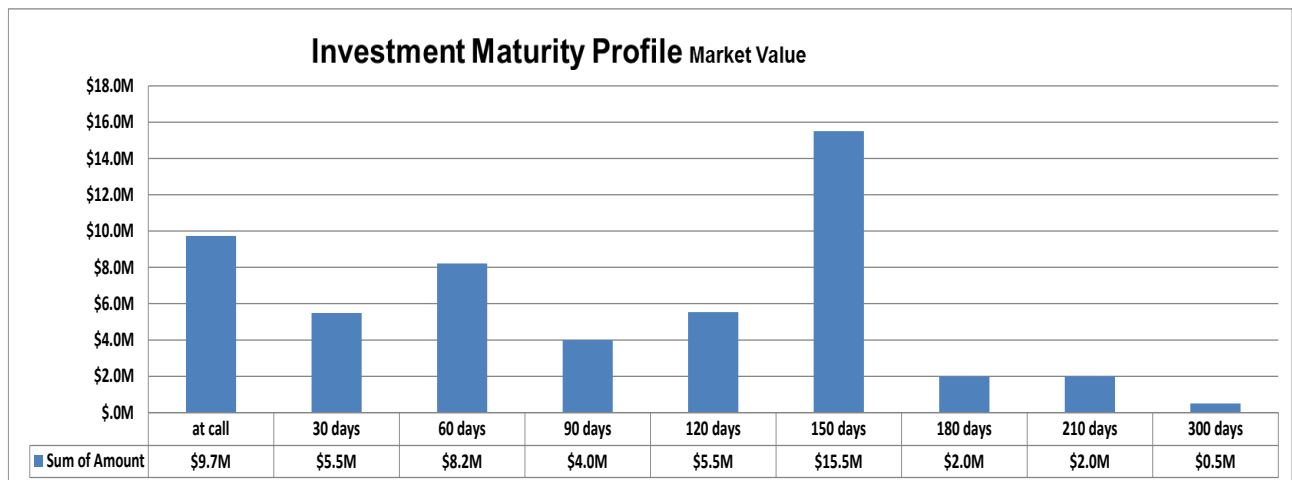
Major Variance Items	YTD Actual to Budget Variance
<p><b>Employee Cost</b></p> <p>Employee costs are \$889K under year to date budget mainly due to unfilled positions in a number of areas. However, agency labour (included under Materials and Contracts) is \$87K over year to date budget and effectively reduces year to date employment cost savings to \$802K.</p>	<p>Favourable \$889K Under budget 3.72%</p>

<p><b>Materials and Contracts</b></p> <p>Materials and Contracts are \$484K under year to date budget mainly due to:</p> <ul style="list-style-type: none"> <li>• Software licence fee expense is \$115K under the budget due to the invoice for payment hasn't been received as budgeted.</li> <li>• Consultant cost savings of \$44K;</li> <li>• \$600k cost savings in Contracted Services area are offset \$50K overspendings of legal cost, \$52K overspending of trading stock and other minor overspendings.</li> </ul>	<p>Favourable \$484K Under budget 3.23%</p>																																
<p><b>Capital Grants and Subsidies</b></p> <p>Capital Grants and Subsidies are \$425K greater than year to date budget mainly due to a timing difference in the receipt of grants funding for the following projects:</p> <ul style="list-style-type: none"> <li>• \$175k joint contribution from Town of East Fremantle for the road works at East Street.</li> <li>• \$208K funding from Main Road WA for National Black Spot Program and Road Project Grant Program at Queen Victoria Street.</li> </ul>	<p>Favourable \$425K Over budget 5%</p>																																
<p><b>Capital Works</b></p> <p>Actual capital expenditure of \$7.072M is \$1.042M less than the year-to date budgeted expenditure of \$8.115M.</p> <p>Conservation and Compliance Works at the Fremantle Boys School Stage 3, 92 Adelaide Street Fremantle (FCC462/16) will require an additional budget of \$76,656. The shortfall of \$76,656 in funds for this project will be sourced from other municipal budget savings as listed below.</p> <table border="1" data-bbox="177 1384 1233 1794"> <thead> <tr> <th>Project</th> <th>Budget</th> <th>Forecast</th> <th>Surplus (Deficit)</th> </tr> </thead> <tbody> <tr> <td>Boys School Stage 3</td> <td>\$ 704,801</td> <td>\$ 781,457</td> <td>(\$ 76,656)</td> </tr> <tr> <td>Boys School Stage 2</td> <td>\$ 55,511</td> <td>\$ 32,194</td> <td>\$ 23,317</td> </tr> <tr> <td>Fremantle Arts Centres Projects</td> <td>\$ 487,771</td> <td>\$ 463,771</td> <td>\$ 24,000</td> </tr> <tr> <td>Gil Fraser Fencing - Residence</td> <td>\$ 19,500</td> <td>\$ 11,743</td> <td>\$ 7,757</td> </tr> <tr> <td>Gil Fraser Fencing - John Street</td> <td>\$ 21,800</td> <td>\$ 18,343</td> <td>\$ 3,457</td> </tr> <tr> <td>To fund from other savings</td> <td></td> <td></td> <td>\$ 18,125</td> </tr> <tr> <td><b>Total Surplus (Deficit)</b></td> <td></td> <td></td> <td><b>\$ 0</b></td> </tr> </tbody> </table>	Project	Budget	Forecast	Surplus (Deficit)	Boys School Stage 3	\$ 704,801	\$ 781,457	(\$ 76,656)	Boys School Stage 2	\$ 55,511	\$ 32,194	\$ 23,317	Fremantle Arts Centres Projects	\$ 487,771	\$ 463,771	\$ 24,000	Gil Fraser Fencing - Residence	\$ 19,500	\$ 11,743	\$ 7,757	Gil Fraser Fencing - John Street	\$ 21,800	\$ 18,343	\$ 3,457	To fund from other savings			\$ 18,125	<b>Total Surplus (Deficit)</b>			<b>\$ 0</b>	<p>Unfavourable \$1.042M Under budget 12.85%</p>
Project	Budget	Forecast	Surplus (Deficit)																														
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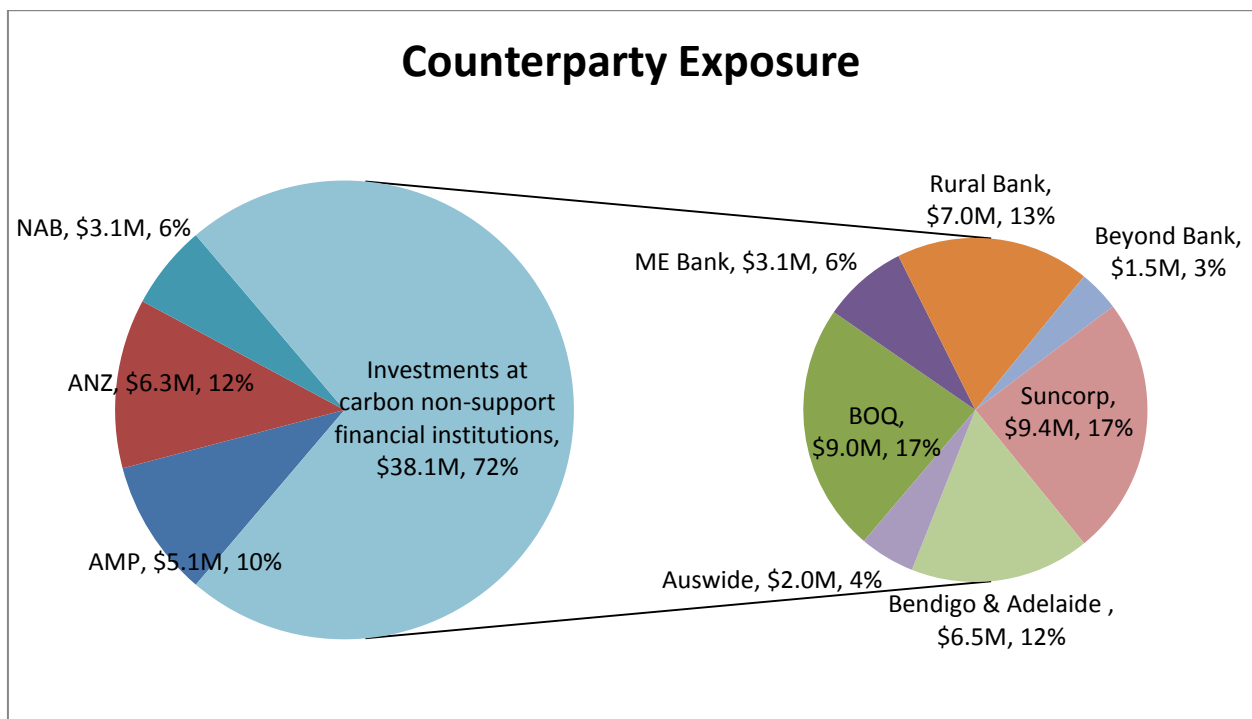
Cash Investments



The graph below summarise the maturity profile of the City's investments at market value as at 29 February 2016.



The chart below is showing the cash investments at the carbon support/non-support position financial institutions at 29 February 2016. There are \$38.1M investments with financial institutions listed as not supporting unlocking of carbon, representing 72% of the total investments.



Note: Reference for financial institutions not supporting the unlocking of carbon is (<http://www.marketforces.org.au/>).

Purchase Card Expenditure Reports

February 2015 purchase card transaction reports will be provided at the next meeting.  
risk and other implications

**Financial**

This report is provided to enable Council to assess how revenue and expenditure is tracking against the budget. It is also provided to identify any budget issues which Council should be informed of.

### **Legal**

Local Government (Financial Management) Regulation 34 requires a monthly financial activity statement along with explanation of any material variances to be prepared and presented to an ordinary meeting of council.

Under section 6.10 of the *Local Government Act 1995* and *Local Government (Financial Management) Regulation 12(1)*;

- a) Council has delegated authority to the CEO under item 3.2, Accounts for Payment - Authorisation Of, to make payments from the municipal fund and trust fund.

The lists of accounts paid are presented in accordance with *Local Government (Financial Management) Regulations 13(1) and (3)*

### **Operational**

This report is provided to Council to assess operational issues affecting the implementation of projects and activities in the 2015/16 adopted budget.

### **Organisational**

No direct impact but results year to date may highlight matters that have arisen or may need to be addressed in the future.

### **CONCLUSION**

The financial statements as attached for further review of payments made during February 2016, plus cash deposits at the end of February 2016. Also attached is the year to date statement of financial activity and statement of financial position for information.

### **STRATEGIC AND POLICY IMPLICATIONS**

Nil.

### **COMMUNITY ENGAGEMENT**

Nil.

### **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

### **OFFICER'S RECOMMENDATION**

- 1. The City of Fremantle Financial Report including the Statement of Comprehensive Income, Statement of Financial Activity, Statement of Financial Position and Statement of Net Current Assets for the period ended 29 February is received,**
  
- 2. Council receives the payments authorised under delegated authority and detailed in the list of invoices for February 2016, presented as per the summaries set out in the attached schedules and include creditors that have been paid in accordance with the Local Government (Financial Management) Regulations 1996.**

## **CONFIDENTIAL MATTERS**

### **FPOL1603-12 OFFER TO PURCHASE - 73 HAMPTON ROAD, FREMANTLE**

<b>ECM Reference:</b>	159/004, 161/006, 049/004 Property 73 Hampton Road
<b>Disclosure of Interest:</b>	Nil
<b>Meeting Date:</b>	16 March 2016
<b>Previous Item:</b>	SGS1312-11, SGS1404 – 5; SGS1606-20; SGS1505-1; SGS 1509-17
<b>Responsible Officer:</b>	Tom Griffiths, Manager of Economic Development and Marketing
<b>Actioning Officer:</b>	Nadine Weller, Property Services Administrator
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	Contract for Land Sale – Offer and Acceptance – 73 Hampton Road, Fremantle

## **REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the Local Government Act 1995 which permits the meeting to be closed to the public for business relating to the following:

- (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

## **SUMMARY GUIDE TO CITIZEN PARTICIPATION AND CONSULTATION**

The Council adopted a Community Engagement Policy in December 2010 to give effect to its commitment to involving citizens in its decision-making processes.

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

Effective community engagement 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 council appointed working groups, its community precinct system, and targeted community engagement 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 bi-ennial 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. 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

<b>How consultative processes work at the City of Fremantle</b>	
	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 policy and procedures</b>	11. The City’s community engagement policy identifies nine principles that apply to all community engagement processes, including a commitment to be clear, transparent, responsive, inclusive, accountable and timely. City officers are responsible for ensuring that the policy and any other relevant procedure is fully complied with so that citizens are not deprived of their rights to be heard.

<b>How consultative processes work at the City of Fremantle</b>	
<b>Community engagement 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, community engagement 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 community input is involved, the Council is the decision-maker and this affords community members the opportunity to make input after the cut-off date via personal representations to individual Elected Members and via presentations to Committee and Council Meetings.
<b>Citizens need to check for any changes to decision making arrangements made</b>	13. The City will take initial responsibility for making 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 the City's website, checking the Fremantle News in the Fremantle Gazette or inquiring at the Customer Service Centre by phone, email or in-person.
<b>Citizens are entitled to know how their input has been assessed</b>	14. In reporting to decision-makers, City officers will in all cases produce a community engagement outcomes report that summarises comment and recommends whether it should be taken on board, with reasons.
<b>Reasons for decisions must be transparent</b>	15. Decision-makers must provide the reasons for their decisions.
<b>Decisions posted on the City's website</b>	16. Decisions of the City need to be transparent and 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 the City's website under 'community engagement' or at the City Library or Service and Information Centre.

## 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.