



Agenda

Finance, Policy, Operations and Legislation Committee

Wednesday, 10 February 2021, 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, 10 February 2021** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

Please note: Transitional lockdown restrictions will apply. All attendees will be required to wear a face mask and complete a contact tracing register or register via the SafeWA app, before entering this meeting.

A handwritten signature in black ink, appearing to read 'Glen Dougall', written in a cursive style.

Glen Dougall
Director City Business

5 February 2021

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CITY OF FREMANTLE

Finance, Policy, Operations and Legislation Committee

Agenda

1. Official opening, welcome and acknowledgement

We acknowledge the Whadjuk people as the traditional owners of the greater Fremantle/Walyalup area and we recognise that their cultural and heritage beliefs are still important today.

2. Attendance, apologies and leaves of absence

[Insert any known apologies or previously approved leaves of absence OR]
There are no previously received apologies or approved leave of absence.

3. Disclosures of interests by members

Elected members must disclose any interests that may affect their decision-making. They may do this in a written notice given to the CEO; or at the meeting.

4. Responses to previous questions taken on notice

**The following questions were taken on notice from Andrew Luobikis item:
FPOL2101-16 PIONEER PARK FREMANTLE CAMP OUT**

1. With regard to the congregation of homeless people on Pioneer Park in Fremantle, who/ which Elected Members/ staff were first contacted by Jesse Noakes
 - a. What was the exact request made by Jesse Noakes?
 - b. Did Jesse Noakes contact any Elected Members directly by phone or email with his request?
 - c. When did Jesse Noakes contact any Elected Members with his request?
 - d. Who/ which personnel/ elected members agreed to the establishment of the congregation of homeless people known as Tent City? Under what authority did they do this?
 - e. What day/ time did that agreement take place?
 - f. Does the City of Fremantle have a standing arrangement and provide money on behalf of ratepayers, to St Patrick's to provide bono fide support and assistance to homeless people?
 - g. Was Jessie Noakes request for help directed to the representatives of St Patrick's for their professional assistance? If not, why not?
 - h. The Sergeant in charge of WAPOL Fremantle says that she was contacted directly by Mayor Pettit and Councillor Pemberton and told not to carry out her Covid 19 Protocols at the Tent City on Pioneer Park.

- i. How do Mayor Pettit and Councillor Pemberton account for the discrepancies in the accounts of this issue?
 - j. Did the Mayor and Councillor contact the Sergeant?
 - k. Under what authority did the Mayor, and Councillor Pemberton have, as Elected Members, to interfere/ intervene with the lawful duties conferred on WAPOL?
 - l. Why and under what authority did the Elected members/ and/ or the City Administrative staff ignore its own Risk Management Policy in preventing WAPOL in carrying out its lawful function to administer the Protocols on Pioneer Park?
2. Under the Local Government Act, it is the function of, and role of, the elected Council and Elected Members under the Local Government Act to make policy decisions:
- a. Under the Local Government Act, 2.8, the Mayor does not have the authority to make executive decisions, without the endorsement of the City's Council, which is elected to make Policy and decisions on behalf its constituents. The Mayor has a leadership role and speaks on behalf of the Council.
 - b. Under the Local Government Act, the Council has the absolute function of policy making, not the CEO or City administrators:
 - c. The Mayor, has the authority to call a special meeting of Council in an emergency. Why didn't this occur?
 - d. And the CEO can, under the Council's Meeting Procedures Part 2- Meetings of Council 2018, "where, in the opinion of the Mayor or at least 1/3 of the members, there is a need to meet URGENTLY, ...give a lesser period of notice of a special council meeting", to assist in this function of correct and good governance.
 - e. Why did the Mayor, and/ or Councillor Pemberton make unilateral decisions contradicting State Government Policy and directives and responsibility to convene the Council, to deal with the issues and follow the requirements of the City's Risk Management Policy?

The above questions and all other questions taken on notice in relation to Pioneer Park, will be responded to, in the Ordinary Meeting of Council Agenda for the meeting to be held on 24 February 2021.

5. Public question time

Members of the public have the opportunity to ask a question or make a statement at council and committee meetings during public question time.

Further guidance on public question time can be viewed [here](#), or upon entering the meeting.

6. Petitions

Petitions to be presented to the committee.

Petitions may be tabled at the meeting with the agreement of the presiding member.

7. Deputations

7.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

There are no special deputation requests.

7.2 Presentations

Elected members and members of the public may make presentations to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

8. Confirmation of minutes

OFFICER'S RECOMMENDATION

The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 20 January 2021.

9. Elected member communication

Elected members may ask questions or make personal explanations on matters not included on the agenda.

10. Reports and recommendations

10.1 Committee delegation

The following item is provided under section 14. Confidential business (page 25)

**FPOL2102-5 CONFIDENTIAL REPORT – REVIEW OF TENDERS RECEIVED
FOR THE PROPOSED SALE OF 7-15 QUARRY STREET,
FREMANTLE**

10.2 Council decision

FPOL2102-1 ADOPTION OF THE CIVIC COLLECTIONS POLICY

Meeting date:	10 February 2021
Responsible officer:	Manager Governance
Decision making authority:	Council
Attachments:	1. Civic collections policy
Additional information:	Nil

SUMMARY

This report discusses the care and management of memorabilia and historic items donated or gifted to the City of Fremantle and recommends the attached Civic Collections policy be adopted.

BACKGROUND

The City of Fremantle recognises the social and cultural significance of the historical items and sister city gifts that have been collected over the years. Many of the items stored by the City have historical and cultural value and represent the city's social, military and civic functions and history.

These items enrich Fremantle's character and define it as a special and unique place. Fremantle contains the main port of Western Australia and has a rich maritime history. Many of the gifts reflect the relationships that have been built with visiting ships and visitors from overseas cities, and from where many of Fremantle's citizens originated.

FINANCIAL IMPLICATIONS

The City has budgeted to store archived materials.

By implementing this policy, the costs associated with storing memorabilia and civic gifts may be reduced as the City will be able to dispose of items that no longer have any civic value to the City.

LEGAL IMPLICATIONS

The City must procure and dispose of assets in accordance with the *Local Government Act 1995* and any other legislation or City policies.

CONSULTATION

No consultation was undertaken as a result of this report.

OFFICER COMMENT

As the administration prepares to move in to the Walyalup Civic Centre the City is considering the storage and display of the City's collection of memorabilia and civic gifts.

While the Local History Centre and the Art collections have policies on the management, care and disposal of items in those collections, the City does not currently have a policy related to the management of memorabilia and civic gifts that do not fit into the category for the Art collection or the History collection. The attached policy sets out criteria for an item to be considered for inclusion in the City's civic collection, and criteria for when an item may be disposed of.

The City is given civic gifts by our Sister Cities and other visiting dignitaries, offered donations of memorabilia and occasionally items are bequeathed to the City. There may also be items that come up for sale the City wishes to purchase due to the civic significance or value it has to the City.

The management of the Civic Collection will be managed ethically and in accordance with the *Local Government Act 1995* asset management requirements and Australian Museums and Galleries Association values, however this policy will provide further guidance on the accession and care of items or the deaccession and disposal of items that become irrelevant, are given in duplicate, or are dangerous or damaged beyond reasonable repair.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council adopt the Civic Collections policy, as provided in Attachment 1.

FPOL2102-2 NEW LEASE – BAKPAK FREO PTY LTD – 18 PHILLIMORE STREET, FREMANTLE

Meeting date: 10 February 2021
Responsible officer: Manager Economic Development and Marketing
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

The purpose of this report is to seek Council approval for a lease term of ten (10) years with a further option of five (5) years for Bakpak Freo Pty Ltd T/A Old Fire Station Backpackers at 18 Phillimore Street, Fremantle.

Bakpak Freo Pty Ltd have been an existing lessee of the City for approximately fifteen (15) years. Due to COVID's impact on the tourism industry, the lessee proposes to redevelop the ground floor into a bar/restaurant. The proposed redevelopment is estimated at \$450,000.

BACKGROUND

The Old Fire Station, 18 Phillimore Street, Fremantle is a 1900's two story brick heritage registered building, with an area of 941m². It was originally constructed as a fire station and was redeveloped into hostel accommodation. There are two smaller rear buildings also fitted out for this purpose.

The City entered a lease with Brett Wariedor Neville for a term of five (5) years effective 26 August 1999 with a further term of five (5) years expiring 25 August 2009. Mr Neville assigned the Lease to Maria and Bruce Luck, Directors of Bakpak Freo Pty Ltd effective from 31 July 2005. Prior to the expiry of the Lease the City approved a further term of five years effective from 26 August 2009 expiring 26 August 2014.

At the time, the property was used for hostel accommodation and a restaurant with a partial section of the ground floor occupied by the Bengal Indian Restaurant. In 2012, due to an increase in demand for accommodation facilities the lessee closed the restaurant and converted the area into additional hostel accommodation. To allow time to recoup the lessee's financial investment Council approved a further lease term of ten years effective 26 August 2012 expiring 25 August 2024.

Due to the impact of COVID-19 Bakpak Freo Pty Ltd's current business model is not sustainable. The lessee proposes a reinvention of their business model to include a bar/restaurant on the ground floor using the street frontage of Phillimore Street. They will continue to maintain the hostel accommodation on the first floor and rear of the premises.

To enable the investment of approx. \$450,000 the lessee has requested a further term of ten (10) years with a further option of five (5) years from their current expiry being 25 August 2024.

FINANCIAL IMPLICATIONS

Bakpak Freo pay a rent of \$100,000pa + GST. This rent was determined by a market valuation in August 2019.

While some sectors are starting to perform better since the easing of initial restrictions in 2020, the COVID restrictions relating to interstate and international travel continue to impact accommodation businesses.

For the initial period of COVID, Bakpak Freo Pty Ltd saw a 53.7% decrease in revenue between April – June 2020. Many patrons made emergency arrangements to return home, while those that stayed were obligated to isolate at the backpackers.

When intrastate travel was resumed after the initial lock down, this saw the remaining patrons travel north to warmer weather. The July – September 2020 and October – December 2020 quarters saw a 75% and 72% reduction in revenue respectively.

The City, in line with the *Commercial Tenancy (COVID-19) Response Act 2020*, has provided waivers and deferral options in line with revenue loss. The current arrangement provided is 25% of normal rent (\$25,000pa + GST) being payable up until 31 March 2021, in line with the current end date of the COVID Act.

With no international travel in the foreseeable future, the lessee has requested that the arrangement of 25% normal rent continue beyond 31 March 2021, subject to the opening of the bar/restaurant.

The lessee has continued to maintain payment for all outgoings for the property.

LEGAL IMPLICATIONS

The lease must comply with the requirements of Section 3.58 of the *Local Government Act 1995*. Officers will ensure that this occurs.

Under the Leasing of City property in a competitive manner policy, a property is exempt from a competitive leasing process if a property is leased to a tenant that:

1. Is paying full commercial market rent or above, and
2. Adds significant value to Fremantle's overall tenancy mix and appeal for visitors.

This proposed lease is considered to be exempt from a competitive leasing process due to it aligning with the criteria above.

CONSULTATION

Officers have continued to liaise with Bakpak Freo Pty Ltd throughout the COVID period and in negotiation with the proposed terms within this item.

All consultation in relation to the proposed redevelopment of 18 Phillimore Street will be completed through the Development Application process.

OFFICER COMMENT

The lessee has maintained their lease conditions throughout their tenancy with no arrears or defaults. They have traded under an existing liquor licence since 2005 (restaurant until transferred to special facilities in 2012) with no incursions. It is proposed the existing special facilities liquor licence will be adapted to purpose for the proposed bar/restaurant (subject to approval by the Department Government, Sport and Cultural Industries). If not, the liquor licence would be changed to a hotel liquor licence which would remain consistent with the current lease's permitted use.

The Old Fire Station Backpackers is one of the highest rating backpackers in Fremantle based on online reviews. This status is assisted by the operator assisting international visitors with securing local employment.

Throughout their tenure the lessee has continually adapted their business in line with supply and demand to remain relevant. Their current proposal shows a similar willingness to adapt given the current climate created by COVID-19 and its impact to their existing business model.

Under the Leasing of City property in a competitive manner policy, a property is exempt from a competitive leasing process if a property is leased to a tenant that:

1. Is paying full commercial market rent or above, and
2. Adds significant value to Fremantle's overall tenancy mix and appeal for visitors.

This proposed lease is considered to be exempt from a competitive leasing process due to it aligning with the criteria above.

While COVID-19 and the City's compliance with the *Commercial Tenancy (COVID-19) Response Act 2020* has reduced the rent charged in the interim. The full rent payable under the lease is in line with current market value.

Due to ongoing impact from COVID-19 the Lessee has requested that Council consider extending the COVID rent assistance until they are able to redevelop and operate the bar/restaurant. Under the existing arrangement the lessee would pay 25% of the normal rent payable = \$25,00pa + GST. Currently this arrangement is due to expire 31 March 2021.

The building is ideally suited to hostel or low-cost accommodation – a large level of investment would be required to utilise this building for any other purpose. The lessee has developed a strong business model in this industry.

The lessee's proposal of activating the street frontage on Phillimore Street would create an activation on Phillimore Street that is currently not occurring in this location.

The lessee has requested a term of ten (10) years with a further option of five (5) years. Officers proposed that the further term of five (5) years be subject to the following conditions:

1. The lessee carries no outstanding arrears associated with the initial 10-year term
2. The lessee is not in breach of any lease terms
3. The nature of the lessee's business remains predominantly as backpacker hostel accommodation

The lease would be subject to the lessee securing all required approvals for the proposed redevelopment.

The current lease is due to expire 26 August 2024. It's proposed that the current lease be surrendered and a new lease be considered based on the following essential terms and conditions;

Land Description	
Premises	18 Phillimore Street, Fremantle
Lessor	City of Fremantle
Lessee	Bakpak Freo Pty Ltd
Site Area	941m ²
Lease Commencement Date	TBA
First Term	Ten (10) years
Second Term	Five (5) years The further term will be subject to the following conditions being met by the lessee; <ol style="list-style-type: none"> 1.The lessee carries no outstanding arrears associated with the initial 10-year term 2.The lessee is not in breach of any lease terms 3.The nature of the lessee's business remains predominantly as backpacker hostel accommodation
Annual Rent	\$100,000 per annum + GST
Rent Review	Rent will be determined by Consumer Price Index annually on the Lease Commencement Date. A market rent review will occur every third year of the lease terms (including options).
Outgoings	Outgoings on demand will include but not be limited to; <ul style="list-style-type: none"> • Council Rates • Emergency Service Levy • Land Tax • Statutory fees and charges • Building Services, repairs and maintenance.

Legal Fees	Each party will be responsible for their own costs.
Public Liability	Minimum of \$20 million
Permitted Use	Hostel Accommodation, Bar and Restaurant
Condition Precedent	<p>The lease will be subject to:</p> <ol style="list-style-type: none"> 1. Surrender of the existing Lease agreement between the City of Fremantle and Bakpak Freo Pty Ltd 2. The lessee to gain all relevant approvals for the proposed works, including but not limited to landlord approval, development and building permit approvals. 3. The lessee to gain approval for the change of liquor licence consistent with the proposed bar/restaurant.
Special Conditions	<p>1. Lessee's Works</p> <p>Lessee's works definition:</p> <ol style="list-style-type: none"> (a) Any alternation, improvement or development of the Premises including but not limited to the erection of any building, structure, or fixture on the Premises (including tenancy fit out). (b) The excavation or demolition of any part of the Premises: (c) The removal, sale, or disposal of any materials from the Premises. <p>(1) The Lessee must not undertake works unless:</p> <ol style="list-style-type: none"> (a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works. Consent may be granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor. (b) Planning approval under the local planning scheme and; (c) A building permit under the <i>Building Act 2011</i>. <p>(2) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:</p> <ol style="list-style-type: none"> (a) an application for planning consent; (b) an application for a building permit;

	<p>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</p> <p>(d) construction or installation of the Lessee's Works; and</p> <p>(e) Installation or upgrade of any services.</p> <p>(3) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</p> <p>(4) The Lessee will provide certification and public liability for all the Lessee contractors undertaking the Lessee Works at the Premises.</p> <p>(5) The parties acknowledge and agree that any Lessee's Works comprising structural improvements shall vest to the Lessor upon Termination of the Lease without cost.</p> <p>2. Assignment or Sub Letting</p> <p>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if:</p> <p>(a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease.</p> <p>(b) All accounts are paid in full up until the date of the assignment or sub lease.</p> <p>(c) The Lessee pays all costs associated with an assignment or sublease.</p> <p>(d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST.</p> <p>3. State of Emergency Clause</p> <p>The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.</p>
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	<p>4. Use of Confidential Information</p> <p>“Confidential Information” means any information relating to the Lease, including but not limited to the provisions of the Lease.</p> <p>(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease.</p> <p>(b) The obligations of confidentiality in paragraph (a) will not apply to information which:</p> <ul style="list-style-type: none">(i) is generally available in the public domain except where such availability is as a result of a breach of this agreement; or(ii) is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order. <p>(c) The obligations imposed will survive the termination of the Lease.</p> <p>5. Parties to act in good faith</p> <p>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</p> <p>6. End of Lease</p> <p>At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee will be advised of this process not more than 12 months, no less than 6 months prior to the expiry of the last lease term. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.</p>
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VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

- 1. Approve a Lease between the City of Fremantle and the Bakpak Freo Pty Ltd for 18 Phillimore Street, Fremantle and authorise the Chief Executive Officer to negotiate the terms and conditions of the lease based on the following:**
 - a. Lease area: 941m²**
 - b. Lease commencement date: TBA**
 - c. First term: ten years**
 - d. Second term: five years subject to;**
 - a. The lessee carries no outstanding arrears associated with the initial 10-year term**
 - b. The lessee is not in breach of any lease terms**
 - c. The nature of the lessee's business remains predominantly as backpacker hostel accommodation**
 - e. Rent: \$100,000 per annum + GST**
 - f. Rent Review: Consumer Price Index annually on the Lease Commencement date. Market rent review every third year.**
 - g. Permitted use: Hostel accommodation, bar and restaurant.**
 - h. Condition precedent: The lease is subject to;**
 - a. Surrender of the existing lease between the City of Fremantle and Bakpak Freo Pty Ltd**
 - b. The lessee gaining all planning and building approvals.**
 - c. The lessee gaining liquor license approvals.**

FPOL2102-3 CITY OF FREMANTLE WASTE PLAN

Meeting Date:	10 February 2021
Responsible Officer:	Manager Facilities and Environmental Management
Decision Making Authority:	Council
Agenda Attachments:	1. Draft Waste Plan (including DWER Template)
Additional Information:	1. Waste Plan Guidance 2. Notice to Prepare a Waste Plan 3. Division 3 of the <i>Waste Avoidance and Resource Recovery Act 2007</i> 4. City of Fremantle Waste Minimisation Policy

SUMMARY

Waste reduction (ultimately to zero) is a goal of the City's Strategic Community Plan and has also been prioritised by the state government. The Department of Water and Environmental Regulation (DWER) recently provided Notice to CEOs to prepare a Waste Plan under Section 40(4) of the *Waste Avoidance and Resource Recovery Act 2007* and provided guidance on the content and format of this.

The purpose of the Waste Plan is to outline how the City's waste services will be managed and improved in pursuit of Council's objectives and to ensure consistency with the Waste Avoidance and Resource Recovery Strategy 2030 (WARR Strategy) targets. It is based on three main categories, Avoid, Recover and Protect, and outlines current status, achievements to date, and a series of actions to achieve the targets within the Implementation Plan section.

The Waste Plan once endorsed and approved by DWER will provide future direction for the City's waste avoidance and resource recovery activities. Accordingly, on endorsement of the Waste Plan the existing SG2 Waste Minimisation Policy can be deleted and the Strategic Community Plan target for waste reduction can be amended.

This report recommends that Council:

1. Endorse the City of Fremantle Waste Plan (Attachment 1).
2. Authorise submission of the City of Fremantle Waste Plan for final approval by the Department of Water and Environmental Regulation before the 31 March 2021 deadline.
3. Endorse deletion of SG2 Waste Minimisation Policy.
4. Update the Strategic Community Plan 'measure of success' for waste reduction to 70% in recognition that this reflects a more clearly defined and mapped target within the plan horizon.

BACKGROUND

Waste management is a core service of local government. Reduction of waste and its diversion and re-use is identified as one of the key Environmental Responsibility goals within the Strategic Community Plan.

Environmental concerns and rising costs and management challenges have also led the state government to take a pro-active role in waste minimisation and management.

In February 2019, the Waste Authority released the Waste Avoidance and Resource Recovery Strategy 2030 (WARR Strategy). One of the eight headline strategies of the WARR Strategy is the implementation of local government Waste Plans, which align local government waste planning processes with the WARR Strategy.

Following an initial consultation period from June to September 2019, the Department of Water and Environmental Regulation (DWER) released the Local Government Waste Plans Guidance Document (Additional Information 1). DWER simultaneously released the Waste Plan Template to be completed by all local governments in Western Australia.

These documents were included with the Notice to the City of Fremantle CEO under Section 40(4) of the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) to prepare a Waste Plan (Additional Information 2).

Due to COVID-19 the deadline for Waste Plan final submissions was postponed to 31 March 2021.

Purpose of the Waste Plan

As per the Notice to the CEO, *the purpose of waste plans is to:*

- *align local government waste management activities with the Waste Strategy;*
- *map current performance and establish a benchmark to achieve Waste Strategy targets;*
- *monitor progress on local government achievement of Waste Strategy targets; and*
- *design programs and activities which will support the implementation of waste plans.*

The Waste Strategy targets are divided in to three broad categories:

Avoid - Western Australians generate less waste.

Avoidance of waste generation is the preferred waste management option in the waste hierarchy.

2025: Reduction in Municipal Solid Waste (MSW) generation per capita by 5%,

2030: Reduction in MSW generation per capita by 10%.

Recover - Western Australians recover more value and resources from waste.

Where waste generation is unavoidable, efforts should be made to maintain the circulation of materials within the economy.

2020: Increase MSW material recovery to 65% in the Perth and Peel regions, 50% in major regional centres³

2025: Increase MSW recovery to 67% in the Perth and Peel regions, 55% in major regional centres

2030: Increase MSW material recovery to 70% in the Perth and Peel regions, 60% in major regional centres

Protect - Western Australians protect the environment by managing waste responsibly.

Objective 3 of the Waste Strategy is to protect the environment by managing waste responsibly, with targets for achieving better practice, reducing litter and illegal dumping.

2030: Move towards zero illegal dumping

2030: Move towards zero littering

These objectives align with the City’s strategic waste objectives (albeit with a lower target than the ambitious 80% recycling / reuse target Council set itself 5 years ago).

Key Dates

As per the Key dates page of the Guidance Document, the City of Fremantle sent a draft of the plan for review by the DWER Waste Plans team prior to the 1 April 2020 deadline.

Feedback provided by the DWER has been included into the current version of the Waste Plan presented to Council for endorsement. The extended deadline for submission of the Waste Plans for final approval by DWER is 31 March 2021.

Structure of the Waste Plan

The DWER Waste Plan template has been presented as a working document using an Excel spreadsheet. The spreadsheet consists of tabs. There are two main parts:

Part 1 – Background Information

Part 2 – Implementation Plan

Some of the background information was pre-populated by DWER using information from the annual waste census submitted by the City of Fremantle. In other instances, to complete the tables, data was collated in consultation with internal stakeholders from different teams.

To improve comprehensibility, the City has incorporated the template into its standard action plan template, providing a clearer explanation of its purpose and integration into the Council’s strategic documents framework.

Summary of the analysis and direction

Table 20 of the Waste Plan (copied below) summarises the key points of the Plan.

<p>Waste management achievements (for example, performance/achievement against Waste Strategy targets or objectives or where particular waste management objectives have already been met)</p>	<p>Roll-out of FOGO services. Tonnes diverted through the Recycling Centre drop-off facility and use by the community. Asbestos drop-off day organised in 2018-19. Reduced illegal asbestos dumping experienced in 2019-20. Introduction of sustainable procurement measures. Engagement of a Waste Education Officer. Provisional approval as a HHW collection facility. Provisional approval as a Container Deposit Scheme Refund Point. Better data from waste vehicles through use of fleet management systems inclusive of City and kerbside collection contractor vehicles. Appointment of verge-side bulk waste recycling processor.</p>
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<p>Opportunities for improvement (for examples, where performance against Waste Strategy targets or objectives could be improved or where waste management objectives have not been met)</p>	<p>Data management. Expansion of FOGO service to currently excluded MDDs. Broader reaching waste education and minimisation activities. Improved alignment the City's waste plans with the City's strategic direction.</p>
<p>Priority areas for action in Part 2 – Implementation plan</p>	<p>Ongoing (activities currently under way and/or continuously undertaken) - Waste education and minimisation activities. Improved data management. Maintain levels and standards of service provision. Improvements to the Recycling Centre.</p>
	<p>Short term (within the next 1-2 years) - Expansion of FOGO service to currently excluded MDDs. Improved alignment the City's waste plans with the City's strategic direction. Container Deposit Scheme refund point set-up and operation. Solid waste licence for Depot.</p>
	<p>Medium term (within the next 3-5 years) - Expansion of commercial waste services provision. Review of bulk waste collection methodology.</p>
	<p>Long term (more than five years) - Best practice drop-off facility.</p>

FINANCIAL IMPLICATIONS

The Implementation Plan lists existing and new actions for completion. Most actions (and all short term actions) can be managed using existing budgets.

However, some larger scale actions or projects in years 3-5 of the Waste Plan will need to be budgeted for prior to the applicable financial year and also in the Long-Term Financial Plan. The Implementation Plan requires individual consideration, business case and Council approval for any such actions.

LEGAL IMPLICATIONS

Division 3 of the *Waste Avoidance and Resource Recovery Act 2007* (provided in Additional Information 3) provides legislative requirements in relation to local government waste plans.

CONSULTATION

Consultation undertaken in the preparation of the Strategic Community Plan identified protecting and enhancing the natural environment as a key issue for the Fremantle community. The City's weekly rubbish collection service was well rated in the 2017 Community Perceptions Survey, and feedback on the FOGO residential scheme has also been positive. No specific consultation has been undertaken in the preparation of this plan.

OFFICER COMMENT

The former Waste Strategy targets set by the Waste Authority, including that of 65% waste diversion by 2020, have not been able to be achieved by all local governments. In part, this is due to the lack of consistency in local government waste planning that focused on the state waste targets.

The introduction of the new Waste Plan template by DWER is a step in the right direction. It clearly outlines the WARR strategy targets and assists local governments to evaluate the current position, the identifiable gaps, and provides an opportunity for local government to strategically plan ahead to achieve the targets.

By introducing a 3-bin food organics and garden organics collection system, operating a community recycling centre, signing up for container deposit scheme operations and delivering a vast array of environmental measures, the City of Fremantle has become one of the leaders in WA in meeting and in some instances exceeding the targets of the new WARR Strategy.

The Waste Plan highlights these achievements, helps identify gaps and where the City can improve. It also provides an action plan for the City to work with to make further improvements.

Most actions can be achieved using existing budgets. Where capital is required for longer-term projects, these will be brought to Council or further consideration.

It is therefore recommended that Council note the statutory requirement for the plan, its broad alignment with Council's pre-existing strategic direction and activities and endorse the City of Fremantle Waste Plan for submission to DWER.

The report also recommends deletion of Waste Minimisation Policy (additional Information attachment 4) given that this is effectively superseded by the Waste Plan.

Finally, it is recommended that the Strategic Community Plan 'measure of success' for waste reduction (currently 80% reduction by 2020) be updated to reflect the more realistic target of 70% by 2025 proposed in the draft Action Plan.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER RECOMMENDATION

Council:

- 1. Endorse the City of Fremantle Waste Plan (Attachment 1).**
- 2. Authorise submission of the City of Fremantle Waste Plan for final approval by the Department of Water and Environmental Regulation before the 31 March 2021 deadline.**
- 3. Endorse deletion of SG2 Waste Minimisation Policy.**
- 4. Update the Strategic Community Plan ‘measure of success’ for waste reduction to ‘70% by 2025’ in recognition that this reflects a more firmly defined and mapped target.**

**FPOL2101-4 DELEGATION TO APPOINT A COMPLAINTS OFFICER AND
ADOPTION OF A COMPLAINTS FORM**

Meeting date:	10 February 2021
Responsible officer:	Manager Governance
Decision making authority:	Council
Attachments:	1. Delegation to appoint persons to receive and withdrawals of complaints 2. Complaint About Alleged Breach Form
Additional information:	1. Nil

SUMMARY

Local governments must implement requirements of new legislation.

This report seeks to delegate to the Chief Executive Officer the power to appoint persons to receive and withdraw complaints and approve a complaints lodgement form in accordance with the *Local Government (Model Code of Conduct) Regulations 2021*.

BACKGROUND

The *Local Government (Model Code of Conduct) Regulations 2021*, *Local Government (Administration) Amendment Regulations 2021* and *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021* (collectively the New Regulations) were gazetted on Tuesday 2 February 2021 and took effect on 3 February 2021.

New sections of the *Local Government Act 1995* (the Act) that provided for the New Regulations were proclaimed concurrently and are also now in effect.

Following the gazettal of these New Regulations an implementation phase of up to three months has been provided, during which time Local Governments must undertake a series of actions to operationalise the New Regulations.

Two such tasks, due to be completed by the 24 February 2021, are that Local Governments must:

1. appoint an officer[s] for the purposes of receiving complaints and withdrawals of complaints, in accordance with cl. 11(3)
2. approve a complaint lodgement form in accordance with cl. 11(2)(a).

FINANCIAL IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

Local Government (Model Code of Conduct) Regulations 2021

11. Complaint about alleged breach

- (1) A person may make a complaint, in accordance with subclause (2), alleging a breach of a requirement set out in this Division.
- (2) A complaint must be made —
 - (a) in writing in the form approved by the local government; and
 - (b) to a person authorised under subclause (3); and
 - (c) within 1 month after the occurrence of the alleged breach.
- (3) The local government must, in writing, authorise 1 or more persons to receive complaints and withdrawals of complaints.

CONSULTATION

Nil

OFFICER COMMENT

Local governments may delegate the power of this appointment to the CEO, which is what the city of Fremantle have traditionally done, allowing the CEO to react quickly to any changes in employment conditions. Hence the recommendation that council delegate this power to the CEO.

If a complaints officer is not appointed (by 24 February 2021) under the provisions of the regulations, a complaint made on or soon after the date of effect (3 February 2021) may lapse before it can be formally lodged.

This would be considered inconsistent with the principles of procedural fairness and community expectations of local government.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

OFFICER'S RECOMMENDATION

Council in accordance with cl. 11(3) and cl. 11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*:

- 1. delegate to the Chief Executive Officer the power to appoint 1 or more persons to receive and withdraw complaints. (attachment 1); and**
- 2. approve a complaints lodgement form (attachment 2).**

11. Motions of which previous notice has been given

In accordance with the City of Fremantle Meeting Procedures Policy, the following Motion was referred to the Finance, Policy, Operations and Legislation Committee, at the Ordinary Meeting of Council held on Wednesday, 27 January 2021.

C2101-5 ELECTED MEMBER MOTION – ISSUES RELATING TO PIONEER PARK – COUNCILLOR MARIJA VUJCIC

Meeting date: 27 January 2021
Responsible officer: Chief Executive Officer
Decision making authority: Council
Agenda attachments: Nil

ELECTED MEMBER SUMMARY

The systematic failures of the Council's own procedures and governance in the incident known as Pioneer Park Tent City has seriously impacted the local business community, the ratepayers and residents and the reputation of the City of Fremantle.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

OFFICER COMMENT

As this Notice is being presented to Council in the first instance the section of City's Meeting Procedures that apply are as follows:

4.3 Notices of motions

- (7) A motion presented in the first instance to an ordinary meeting of council, is to be referred to the appropriate committee for consideration before final determination by council.
- (a) The presiding member may determine that the notice of motion may be presented directly to council if they consider the subject of the motion to be time sensitive.

Additional Officer Comment

In order to enable officers to action the requests outlined in the Elected Member Motion, the following clarification is sought:

1. As final consideration of this Motion will be at the February Ordinary Council Meeting, it will be impossible to present a full report to that meeting. It is recommended that the month of February be amended to allow time for the preparation of the report.
2. Is it the intention of the Motion for the CEO to determine the investigation terms of reference, as it is not clear in the Motion? For any investigation to take place, terms of reference would be required relating to the type and scope of the

investigation being requested in order to allow the City to seek appropriate quotes in line with procurement policy.

3. If Council were of the view to adopt this Motion, it is not recommended that part 1b be adopted, as the Acting CEO is of the view that Council should see the report before allocating additional resources.

MOTION

1. **An immediate independent investigation to be undertaken by the City to examine the root causes that resulted in the pioneer park tent city incident; and**
 - a. **that a full report with recommendations is presented for consideration at the next Ordinary Council Meeting in February for further urgent action.**
 - b. **that the City allocates sufficient resources to ensure that the recommendations of that report are immediately implemented to support the principles of continuous improvement and good governance.**

12. Urgent business

In cases of extreme urgency or other special circumstances, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.

Nil

13. Late items

In cases where information is received after the finalisation of an agenda, matters may be raised and decided by the meeting. A written report will be provided for late items.

Nil

14. Confidential business

Members of the public may be asked to leave the meeting while confidential business is addressed.

FPOL2102-5 CONFIDENTIAL REPORT – REVIEW OF TENDERS RECEIVED FOR THE PROPOSED SALE OF 7-15 QUARRY STREET, FREMANTLE

Meeting date: 10 February 2021
Responsible officer: Manager of Economic Development and Marketing
Decision making authority: Committee
Attachments: 1. 7-15 Quarry Street EOI Summary of Offers
Additional information: 1. Nil

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

15. Closure