



Agenda

Ordinary Meeting of Council

Wednesday, 27 November 2019, 6.00pm

CITY OF FREMANTLE
NOTICE OF AN ORDINARY MEETING OF COUNCIL

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday, 27 November 2019** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.



Paul Garbett
Acting Chief Executive Officer

22 November 2019

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CITY OF FREMANTLE

Ordinary Meeting of Council

Agenda

1 Official opening, welcome and acknowledgement

We would like to acknowledge this land that we meet on today is the traditional lands of the Whadjuk people and that we respect their spiritual relationship with their country. We also acknowledge the Whadjuk people as the Traditional Owners of the greater Walyalup area and that their cultural and heritage beliefs are still important to the living Whadjuk people today.

2. Attendance, apologies and leaves of absence

Mayor, Brad Pettitt is on a leave of absence.
Chief Executive Officer, Philip St John is an apology.

3. Applications for leave of absence

_____ requests a leave of absence from _____ to _____ inclusive.

4. Disclosures of interest 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.

5. Responses to previous public questions taken on notice

There are no responses to public questions taken on notice at a previous meeting.

6. 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.

7. Petitions

Petitions to be presented to council.

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

8. Deputations

8.1 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.

8.2 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.

- a. Cr Rachel Pemberton will present the Planning Institute Australia WA award the City received for Freo Alternative. The award was for 'Best Planning Idea – Small Project'.
- b. Deputy Mayor, Cr Andrew Sullivan will present the LG Professional 2019 Partnership and Collaboration award received by the City for the Dance Hall Days program.

9. Confirmation of minutes

Officer's recommendation

1. **That the minutes of the Ordinary Meeting of Council dated 16 October 2019 be confirmed as a true and accurate record.**
2. **That the minutes of the Ordinary Meeting of Council dated 23 October 2019 be confirmed as a true and accurate record, with the following amendment to item C1910-5:**

Appoint Cr Doug Thompson to the Audit and Risk Management Committee, and update the Council: Committees and groups register.

(Absolute majority decision required)

10. Elected member communication

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

11. Reports and recommendations from committees

11.1 Planning Committee 6 November 2019

PC1911-3 TYDEMAN ROAD, NO 26 (LOT 24), NORTH FREMANTLE - CHANGE OF USE TO INDUSTRY SERVICES (BAKERY) AND ADDITIONS AND ALTERATIONS TO EXISTING BUILDING (TG DA0263/19)

Meeting Date:	6 November 2019
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1: Amended development plans
Additional information:	1: Site visit photos 2: Summary of submissions

SUMMARY

Approval is sought for a change of use to industry service and retail outlet (bakery), with associated additions and alterations to the existing buildings at 26 Tydeman Road, North Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against Local Planning Scheme No. 4 (LPS4). These discretionary assessments include the following:

- Land use (Industry Service).
- On site car parking provision.
- Boundary wall (west).

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use, associated works, and signage to establish a bakery at existing buildings at 26 Tydeman Road, North Fremantle. The proposal comprises the following:

- Industry Service land use is proposed to be carried out on site, comprising a bakery and retail outlet.
- Demolition of existing onsite toilet facilities and the establishment of a new toilet block to the western site boundary.
- The enclosure of the existing paved area between the two buildings on site to ensure compliance with the *Environmental Health (Noise) Regulations 1997*.
- Works to provide additional door and window openings in existing walls.

The business details are as follows:

Staffing levels

- Bakery – 5 staff (3 bakers, 2 pastry chefs).
- Retail shop front – 6-7 staff (1 manager, 1 barista, 2 cashiers, 1/2 chefs, 1 kitchen hand).

Trading hours

- Bakery – 7 days per week with operations typically occurring from 10pm onwards.
- Retail shop front – 7 days per week, 6am to 10pm.

Deliveries and collections

- Recyclable waste collected 2 times per week.
- General waste collected 2 times per week.
- Fresh food and vegetables daily.
- Milk 3 times per week.
- Meat, dry goods, small goods, coffee, eggs, butter daily

On 13 September 2019 amended plans were submitted removing roof signage from consideration and providing additional seating detail in addition to a waste management plan, acoustic report, and staff parking details.

On 15 October 2019 the applicant submitted amended plans depicting the enclosure of the onsite courtyard and toilet area in accordance with the recommendations of the acoustic consultant report.

The amended development plans are included as attachment 1.

Site/application information

Date received:	19 July 2019
Owner name:	J & J Vitali
Submitted by:	P Miller/ L Bisset
Scheme:	Mixed Use Zone
Heritage listing:	North Fremantle Heritage Area (Not individually listed)
Existing land use:	Existing Showroom (antiques sales) and Industry General (panel beater)
Use class:	Industry Service
Use permissibility:	D



CONSULTATION

External referrals

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 1. FP has advised that they have no objection to the proposal subject to compliance with the standard built form requirements for Port Buffer Area 1. These matters can be dealt with as relevant conditions and advice notes.

Main Roads Western Australia (MRWA)

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. MRWA have advised that they have no objection to the proposal.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved discretionary land use(s) and works which had the potential to impact adjoining properties. The advertising period concluded on 15 August 2019, and 41 submissions were received, 14 of which raised objections or concerns in relation to the proposal and 29 of which expressed support for the proposal. A list of the concerns raised during the consultation is provided as additional information item 2. It is noted that some submissions expressed support for the proposal with some concerns also expressed. The following comments were raised (summarised):

In support of the proposal:

- The business will enhance community cohesion.
- The business will provide services for the North Fremantle town centre that are not otherwise provided in the immediate area.
- Submitters supported the proposed business on the basis of their experience with another location run by the same operators.
- The business was considered to be in keeping with the character of the North Fremantle town centre.
- The business would attract visitors from across Perth to visit North Fremantle.

- The business operating on a short-stay model for customers was supported in consideration of the existing car parking availability issues in North Fremantle.
- The proposed development will enhance a site in the North Fremantle town centre.

Objecting to or raising concerns in relation to the proposal:

- Concerns in relation to noise pollution from patrons, music, 24 hour on site activities, mechanical plant and equipment. It was requested that an alternative entrance directly into the building be provided for use after 6pm to limit noise.
- That the business would generate litter in the locality.
- Waste collection would impede access on Jewell Parade.
- Roof signage would be unnecessary and out of character with the locality.
- Light pollution from the premises may impact neighbouring residential properties.
- Concerns in relation to the impact of the business upon parking availability in the locality including the increased need for staff parking.
- Additional vehicle movements may impact the safety of pedestrians along Jewell Parade.
- Customers may park in Jewell Parade blocking access to driveways.
- Control of delivery times will be required to ensure that residents are not unduly impacted.
- Concerns in relation to the premises attracting potentially inebriated patrons.
- Concerns that up to 120 persons could be accommodated on site at maximum capacity based on the number of toilets provided.
- The applicant may provide more onsite seating than shown on their plans.
- Patrons may spill over into the street blocking the footpath on Jewell Parade.
- The proposal plans do not align with the proposed business model, being a business where patrons do not spend a great deal of time. The provision of seating on site will result in patrons spending more time at the premises.
- The operation of the business may unduly impact adjoining property values.
- Objection to an additional hospitality venue in North Fremantle.
- The proposed tree will impact light access for the adjoining property.

In response to the concerns raised, the applicant submitted revised plans and additional commentary detailing how potential traffic, noise, and waste impacts can be managed. These reports are discussed in the Officer Comments below where applicable.

In response to the above, the following comments are provided by officers:

- All development must comply with the Environmental Protection (Noise) Regulations 1997 (as amended) and this is a matter which is subject to ongoing compliance. The applicant has submitted an Acoustic Report demonstrating that the proposal can comply with the relevant regulations if the courtyard were to be appropriately enclosed as per the amended plans.
- The applicant advised that only low level music will be played on site.
- The Applicant's acoustic report also contained recommendations in relation to the placement and nature of mechanical equipment which are addressed as recommended conditions of approval.
- The applicant advised that on site baking operations are generally silent.
- The applicant advised that all deliveries would be undertaken between 7am and 7pm. It is a recommended condition of approval that the applicant submits a final delivery plan for approval by the City which is to be adhered to for the life of the business if approved.

- Conditions of development approval are recommended to ensure that waste management is carried out in accordance with the City's requirements. The applicant's preliminary waste management plan indicates two collections per week from in front of the proposed bin store which is considered to be consistent with waste collections which could occur for the existing businesses on site.
- As discussed in the parking assessment below, traffic and parking impacts are considered to be acceptable and/or manageable to minimise the impact on the immediate locality.
- Traffic issues such as crossovers being blocked exist today and can only ever be dealt with on an ongoing basis through policing and monitoring by the City.
- The behaviour of motorists in the area cannot be controlled through a planning application, however the impact of increased visitation to the area is considered below.
- Littering by individual members of the public cannot be controlled through a planning application. The applicant advised that current waste management practices undertaken at their Cottesloe store would be replicated in North Fremantle if approved, including a staff rubbish pickup around the immediate area of the store.
- The applicant proposes a small number of seats (22) on site and does not intend to encourage on site dining. It is a recommended condition of approval that the business be limited to these 22 seats only.
- Signage to the roof of the premises was removed from consideration in response to submissions.
- The premises are not currently proposed to serve alcohol.
- Following the enclosure of the courtyard, the proposed tree is no longer considered as a part of this application.
- The impact of a proposed development on property values is beyond the scope of the development application process to consider.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. Where a proposal does not meet the specified Scheme or policy requirements, an assessment is made against the relevant discretionary criteria. In this particular application the areas outlined require discretionary consideration:

- Land use.
- On site car parking.
- Boundary wall (west).

The above matters are discussed below.

Background

The subject site is located on the northern side of Tydeman Road at the corner with Jewell Parade. The site has a land area of approximately 481m² and is currently improved by two buildings being used as a panel beater and antiques showroom. The site is zoned Mixed Use and has a density coding of R25. The site is not individually heritage listed but is located within the North Fremantle Heritage Area. The site is located directly across Jewell Parade from the City's public car park at 209 Queen Victoria Street.

The site is generally flat and currently contains two buildings which are built up to site boundaries and intended to be retained.

A search of the property file has revealed that there is no relevant planning history for the site.

The North Fremantle Local Centre (Queen Victoria Street, between Jackson Street and Tydeman Road) is typically characterised by commercial properties being of retail, dining and/or entertainment purposes. The Local Centre has developed over the years with the addition of numerous hospitality premises. Only a few premises on Queen Victoria Street have exclusive on-site car parking, with a number of the premises relying on the available street parking for staff and customers. To provide some context in relation to the car parking assessment detailed in the Officer Comment below, the list below outlines the on-site car parking requirements and provision for a number of the existing hospitality premises in the immediate locality that rely on the availability of on-street public parking bays during evenings, when the proposed business intends to operate.

222 Queen Victoria St (Propeller and Guildhall)

Development Approval was approved in 2011 for partial change of use to Small bar and Restaurant, additions and alterations to the existing building. There are 7 communal on-site bays and Officers have assessed there to be an on-site car parking shortfall of approximately 48 bays.

229A Queen Victoria St (Piggy Food Co.)

City records show that a restaurant use has existed and operated since at least 1988. Piggy Food Co is understood to have taken over the premises in approximately 2015. After retrospective approval was granted to remove the three on-site bays for an outdoor dining area, Officers have assessed there to be an on-site car parking shortfall of approximately 17 bays.

237 Queen Victoria Street (Mojo's)

This site has long-standing use as a Tavern. Officers have assessed there to be an on-site car parking shortfall of approximately 60 bays.

241 and 245 Queen Victoria St (Mrs Brown's/ Flip Side)

Development Approval was approved in 2007 for change of use to Small bar including use of 25 car parking bays on an adjoining site. On this basis the proposal was considered to comply with LPS4 parking standards.

1 Harvest Rd (Harvest Restaurant)

This site has long-standing use as Café/Restaurant. Records indicate that a parking arrangement was reached with an adjoining property.

229 Queen Victoria Street (Deus Ex Machina)

In 2019 the Planning Committee approved an application for a change of use to small bar, additions, alterations and signage to the existing building at this site. This application considered an onsite car parking shortfall of 21 bays.

Land Use

The land use Industry Service is a 'D' use in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. In considering a 'D' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

- (a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development*
- (n) The amenity of the locality including the following:*
 - (i) Environmental impacts of the development*
 - (ii) The character of the locality*
 - (iii) Social impacts of the development*
- (y) Any submissions received on the application.*

The proposed use is considered to address the above matters for the following reasons:

- The proposed bakery would make a positive contribution to the local centre, providing a service for residents not otherwise offered in the immediate locality.
- It is considered that the proposed use would not be significantly detrimental to the amenity of adjacent residential properties as:
 - the premises provides seating for a maximum of 22 seated patrons at any one time, and
 - the applicant has detailed management practices which encourage rapid turnover of clientele and otherwise how the operation of the business will be managed to limit its impact.
- It is acknowledged that the proposal may increase traffic in the locality and the demand for on-street and public parking however the increase is not considered to be significantly greater than the existing situation in North Fremantle. Further discussion of this matter is included below.

- With regards to generally amenity, social impacts and noise matters, separate legislation must be adhered to for the development ensuring compliance and the additional information provided by the applicant demonstrates that any potential impacts can be appropriately managed.

It is noted that the proposed business includes some seating for patrons on site (22 seats). The applicant has requested that these seats be considered incidental to the proposed Industry Service land use on the basis that it is reasonable for a small amount of seating to be provided for persons waiting for orders or if neighbours meet for a short period. The application was initially considered to include a Restaurant land use on the basis that additional detail regarding seating numbers and location had not been confirmed. Following the applicants explanation of the proposed land use, the most appropriate use in this case is considered to be Industry Service. A condition of approval is recommended to ensure that additional on-site seating is not provided to ensure that the proposed business aligns with this land use.

On site car parking

Element	Requirement	Proposed	Extent of Variation
Existing uses Showroom (antiques sales) Industry general (panel beater)	Showroom – 4 bays Industry general – 5 bays (4.54 bays) Approximately 225m ² GLA	0 bays	9 bays
Proposed use Industry Service (Bakery)	1: 50m ² GLA 10 bays (9.4 bays) Approximately 470m ² GLA.	0 bays	10 bays
	Delivery bay – 1: service/storage area	Nil	1 bay
	Bicycle parking Class 1: 1	Nil class 1 x 4 class 3	1 x class 1 rack

While it is noted that in accordance with the above statutory assessment the change of use results in an increase to the existing onsite parking shortfall of one bay, it is considered that the proposed use may result in much higher visitation rates to the site than either of the current uses. Accordingly, consideration is to be given to parking availability in the immediate area and whether the proposed use is appropriate in this context in the interests of orderly and proper planning.

Clause 4.7.3.1 – Relaxation of Car Parking Requirements Assessment, states that Council may reduce or waive the standard parking requirements specified in table 2 subject to the applicant satisfactorily justifying a reduction due to one or more of the following reasons:

- (i) *the availability of car parking in the locality including street parking*
- (ii) *the availability of public transport in the locality*
- (iii) *any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*
- (iv) *any car parking deficiency or surplus associated with the existing use of the land,*
- (v) *legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
- (vi) *any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
- (vii) *the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*

A majority of the objections and concerns raised during the community consultation period raised concerns in relation to the impact of the business operations upon car parking availability in the immediate locality.

A total of 64 off-street public car parking bays are available in the North Fremantle Local Centre as detailed in the table below. A site inspection undertaken by City officers has confirmed the accuracy of these calculations.

Location of car parking	Distance from site	No. car bays
Corner of Tydeman Road and Queen Victoria Street	75m south	19
North Fremantle Bowling Club Car Park / Gordon Dedman Reserve	200m north east	45
		Total – 64 bays

Table 1: Table indicating the number of public car parking bays available in the North Fremantle Local Centre, including their approximate distance from the subject site.

In addition to these off street public car parking facilities, there are a total of approximately 38 on-street (kerb side) car parking bays in Queen Victoria Street (between Jackson Street and Tydeman Road) and Harvest Road available for the North Fremantle Local Centre. Six parking bays are also provided in Jewell Parade (reduced from 7 bays should the change of use and development of No. 229 Queen Victoria Street be pursued).

A two week survey (conducted by City officers) of the availability of on street car parking bays in Queen Victoria Street and the surrounding streets demonstrated that on Friday to Sunday (inclusive) the demand for on street parking bays are at their highest, with between 70 to 88% of the available bays on surrounding streets being occupied on these days (inspection times being 3.30pm and 7pm during the respective days). Outside of these last surveyed times, during the day and evening periods (Monday to Thursday) there was a lower demand for on street parking with the number of occupied bays being approximately 45% to 60%.

The City has carried out an additional survey over two weekends in August 2019. This recent survey showed similar results to the previous survey being 70 to 80% of the available bays being occupied in the evening times.

It is still considered that even at the busiest time, there is some availability of the existing on street car parking bays in the immediate locality. Although it is acknowledged that the proposed use may increase the demand on these bays during the peak periods of Friday to Sunday, it is not considered to result in a parking and traffic impact that is significantly greater than the current demand for on street parking.

The subject site is also located across Jewell Parade from the City's car park which contains several 15 minute parking bays which are considered to accommodate some of the proposed business' parking demand, in that visitation to the premises is intended to be sporadic and brief mainly occurring the morning and midday periods of a typical trading day. Currently the 15 minute restriction on length of stay applying to these bays ends at 5pm. Should Planning Committee approve the current application as recommended, once the bakery business is operational the City could monitor parking turnover and if appropriate modify time restrictions on the 15 minute bays so that this length of stay applies until later into the evening.

The applicant has outlined how the business will accommodate parking for staff as follows:

- *"Similar to North Street Store, staff are intended to be employed from the local communities. It is intended staff will walk or use active modes of transport, public transport or if they must drive, requested to avoid parking in adjoining residential areas."*

Based on the availability of parking in the locality outlined above, this staff parking management strategy is considered appropriate.

With reference to Clause 4.7.3 of Local Planning Scheme No. 4, which allows Council to relax or waive car parking requirements, the proposed change of use is considered appropriate for the following reasons:

- The proposed use has limited seating (22 seats) for patrons and the applicant has detailed business management arrangements which are intended to limit the time spent by customers on site, resulting in a higher turnover of patrons.
- There is a public car park of 19 parking bays immediately to the east across Jewell Parade and this car park includes 15 minute restricted parking bays which are considered to support the proposed business which incorporates measures to encourage high turnover of patrons.
- Approximately 38 on-street parking bays are provided in the immediate area of the subject site.
- The subject site is in close proximity to train and bus public transport routes.

In accordance with the above considerations, the increase in parking demand in the locality associated with this change of use is not considered to be unduly detrimental to adjoining businesses or adjacent residential properties.

Boundary Wall (west)

Element	Requirement	Proposed	Extent of Variation
Boundary wall	1.5m setback	Boundary wall (0m setback)	1.5m

The initial proposal involved an extension to the existing boundary wall to the western site boundary to accommodate a new toilet block. This boundary wall was subsequently increased in size to accommodate the acoustic enclosure recommended by the applicant's noise consultant. The boundary wall adjoins a lot zoned Mixed Use which is currently used for residential purposes. The proposed boundary wall is considered to comply with the Design principles of Local Planning Policy 2.4 (Boundary Walls in Residential Development) for the following reasons:

- The wall is located between two existing boundary walls and involves an extension above the existing wall on site.
- The development has been designed so that no overlooking from customers will impact the adjoining property.
- The boundary wall for the development will not cast undue winter shade to adjoining property due to the lot orientation resulting in most shade cast by the development falling over the subject site.
- It is a recommended condition of development approval that the wall be finished to match the existing boundary wall, resulting in a consistent appearance.
- The walls will not be readily visible from the street and boundary walls of this nature are common in the immediate locality.

Other matters

Noise Management

The applicant submitted a noise management plan which detailed the measures required in order to satisfy the Environmental Protection (Noise) Regulations. The report concludes that the premises will be able to satisfy the relevant regulations if an appropriate enclosure were to be provided to the courtyard on site and measures were introduced to address mechanical noise from plant, equipment, and deliveries. The recommendations of this report have been incorporated into the recommended conditions of development approval.

Waste Management

The applicant proposes that waste be collected from in front of the premises adjacent to the proposed bin store. This collection location has been reviewed by the City' and supported on the basis that these collections will be limited in frequency (two collections per week is indicated in the submitted business plan) and sufficient space will be provided behind a collection truck to accommodate any vehicles which turn Jewell Parade.

It is a recommended condition of development approval that a waste management plan be submitted to, and approved by the City prior to the issue of a building permit for the premises.

CONCLUSION

The proposal is considered to meet the applicable requirements of Local Planning Scheme No. 4 and Council's relevant local planning policies. Potential impacts from the operation of the venue including noise and parking are considered to be acceptable and can be appropriately managed on an ongoing basis. The proposal is considered to contribute to the activation of the North Fremantle Local Centre Area and to provide services for surrounding residences. As such, the application is recommended for approval, subject to the conditions included in the officer's recommendation below.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people working in North Fremantle
- Increase the number of visitors to North Fremantle
- Increase the net lettable area of retail space

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of Use to Industry Service (Bakery) and Additions and Alterations to existing building at No. 26 (Lot 24) Tydeman Road, North Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 15 October 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. Prior to the occupation of the development hereby approved, any redundant crossover and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.
4. Prior to the issue of a Building Permit, One, Class 1 bicycle rack shall be provided, to the satisfaction of the City of Fremantle.

5. The approved development shall be wholly located within the cadastral boundaries of the subject site (26 Tydeman Road), including and footing details of the development.
6. A maximum of twenty two (22) seats shall be provided onsite at all times, to the satisfaction of the City of Fremantle.
7. Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:
 - Delivery Management Plan;
 - Parking Management Plan
 - Hours of operation for the business;
 - The maximum number of employees for the business; and
 - Parking arrangements for customers and staff.

The business shall operate in accordance with the approved business management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

8. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The approved Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle. Onsite waste storage and disposal shall comply with the City's Local Laws and not create a nuisance.

9. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.

10. Prior to the issue of a Building Permit, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.
 - Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.
 - Roof insulation in accordance with the requirements of the Building Codes of Australia.
11. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all air conditioning systems which are to be installed in the development shall comply with the built form requirements for Area 1 of the Fremantle Port Buffer.
12. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.
13. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City’s solicitors at the expense of the owner and be executed by all parties prior to occupation.
14. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western boundary shall be of a clean, face brick finish and be thereafter maintained to the satisfaction of the City of Fremantle.
15. The pedestrian access and / or vehicle gate, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.
16. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice note

- i. The applicant is advised that additional information in relation to the City's waste management requirements can be found here:

<https://www.fremantle.wa.gov.au/residents/waste-and-recycling>

- ii. With regards to condition (4), Bicycle parking facilities are to be provided in accordance with the following standards:

- a. Class 1 – High security level – Fully enclosed individual locker;
- b. Class 2 – Medium security level – Lockable compound fitted with class 3 facilities with communal access using duplicated keys;
- c. Class 3 – Low security level – Rails or racks to which both the bicycle frame and wheels can be locked.

For more information refer to 'Austroads Cycling Aspects to Austroads Guides'

- iii. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999.

- iv. Any works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, requires a separate approval from the City of Fremantle's Infrastructure Business Services department who can be contacted via info@fremantle.wa.gov.au or 9432 9999.

- v. Further to condition (n), the recommendations of the LGA Environmental Noise Assessment dated 13 September 2019 shall be incorporated into the design of the mechanical plant, to the satisfaction of the City of Fremantle:

- All plant shall be selected to be as quiet as reasonably practicable;
- All plant shall be located as far from residences as practicable (e.g. east boundary) and be as low on the roof as practicable;
- All exhaust fans shall be variable speed;
- Exhaust fan discharges shall preferably be horizontal and face away from the residences;
- Exhaust fans to be axial type, contained inside the building and fitted with attenuators on the outside air side of the fan;
- Air-conditioning and refrigeration plant shall have a low noise mode to be engaged during the night period;

- All equipment shall be vibration isolated to avoid structure borne noise. Mounts/hangers shall be anti-vibration type, sufficient to achieve 97% isolation efficiency, selected by a supplier such as Embelton's taking into account equipment weight and operating frequency.
 - The applicant is advised that any signage shall be subject to a separate application for planning approval.
- vi. The proponent must make application during the Building Permit application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- vii. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- viii. Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.
- ix. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- x. The Industrial Waste department at the Water Corporation must be consulted for provision of grease traps (passive grease arrestors). Most food premises where food preparation occurs will require a grease trap to be installed.
- xi. With regards to condition (7) the Parking Management Plan shall provide detail measures that the operator will take to inform staff and customers of available car parking and alternative transport options to the satisfaction of the City of Fremantle.

AMENDMENT

Moved: Cr Rachel Pemberton

Seconded: Cr Geoff Graham

Add the following condition 17 as follows

- 17. Notwithstanding condition 7, the retail component of the Industry Service (Bakery) hereby permitted shall have opening hours not exceeding Monday to Sunday 7.00am to 7.00pm.**

Amendment carried: 4/2

For

**Cr Bryn Jones, Cr Geoff Graham
Cr Rachel Pemberton, Cr Frank Mofflin**

Against

Cr Su Groome, Cr Andrew Sullivan

Reason for change:

A reduction in the proposed opening hours of the retail component of the Bakery will assist in reducing the potential amenity impacts on the adjoining neighbours and the increase in demand for on-street and public car parking bays in the evening.

COMMITTEE RECOMMENDATION ITEM PC1911 - 3

Moved: Cr Bryn Jones

Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of Use to Industry Service (Bakery) and Additions and Alterations to existing building at No. 26 (Lot 24) Tydeman Road, North Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 15 October 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, any redundant crossover and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 4. Prior to the issue of a Building Permit, One, Class 1 bicycle rack shall be provided, to the satisfaction of the City of Fremantle.**

5. The approved development shall be wholly located within the cadastral boundaries of the subject site (26 Tydeman Road), including and footing details of the development.
6. A maximum of twenty two (22) seats shall be provided onsite at all times, to the satisfaction of the City of Fremantle.
7. Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:
 - Delivery Management Plan;
 - Parking Management Plan
 - Hours of operation for the business;
 - The maximum number of employees for the business; and
 - Parking arrangements for customers and staff.

The business shall operate in accordance with the approved business management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

8. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The approved Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle. Onsite waste storage and disposal shall comply with the City's Local Laws and not create a nuisance.

9. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.
10. Prior to the issue of a Building Permit, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.
 - Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.

- **Roof insulation in accordance with the requirements of the Building Codes of Australia.**

- 11. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all air conditioning systems which are to be installed in the development shall comply with the built form requirements for Area 1 of the Fremantle Port Buffer.**
- 12. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.**
- 13. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.**
- 14. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western boundary shall be of a clean, face brick finish and be thereafter maintained to the satisfaction of the City of Fremantle.**
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- 16. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**
- 17. *Notwithstanding condition 7, the retail component of the Industry Service (Bakery) hereby permitted shall have opening hours not exceeding Monday to Sunday 7.00am to 7.00pm.***

Advice note

i. The applicant is advised that additional information in relation to the City's waste management requirements can be found here:

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regards to condition (4), Bicycle parking facilities are to be provided in accordance with the following standards:

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- x. The Industrial Waste department at the Water Corporation must be consulted for provision of grease traps (passive grease arrestors). Most food premises where food preparation occurs will require a grease trap to be installed.
- xi. With regards to condition (7) the Parking Management Plan shall provide detail measures that the operator will take to inform staff and customers of available car parking and alternative transport options to the satisfaction of the City of Fremantle.

Cr Bryn Jones used his casting vote FOR the recommendation resulting in it being CARRIED.

Carried: 4/3

For

Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan

Against

Cr Rachel Pemberton, Cr Frank Mofflin, Cr Su Groome,

The above item is referred to the Ordinary Meeting of Council for determination in accordance with the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

**PC1911-8 SOUTH TERRACE, NO.240 & 242 (LOTS 30 & 31), SOUTH
FREMANTLE - PARTIAL CHANGE OF USE TO RESTAURANT AND
SMALL BAR TO EXISTING BUILDING (TG DA0349/19)**

Meeting Date: 6 November 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1: Development Plans
Additional information: 1: Site Photos

SUMMARY

Approval is sought for a change of use for two existing shop tenancies at 240/242 South Street, South Fremantle. These tenancies are currently under construction in accordance with an approved development for the site comprising a mixed use development.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) and Local Planning Policies. These discretionary assessments include the following:

- Land use (Restaurant and Small Bar).
- On site car parking provision.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use for two under construction tenancies at 240/242 South Terrace, South Fremantle. As potential tenants for the proposed Restaurant and Small bar have not been found, final details of building fit out, business operation, and signage are not proposed in this application. The proposal includes:

- The change of use of the northern ground floor tenancy (70m²) from Shop to a Restaurant (Café).
- The change of use of the southern ground floor tenancy (90m²) from Shop to a Small Bar.

The applicant submitted additional indicative details in relation to the proposal on 8 October 2019 which are as follows:

Hours of Operation

Restaurant: 11:30am-9pm.

Small Bar: 3pm-10pm.

Staffing

1-2 staff for each tenancy.

Patronage

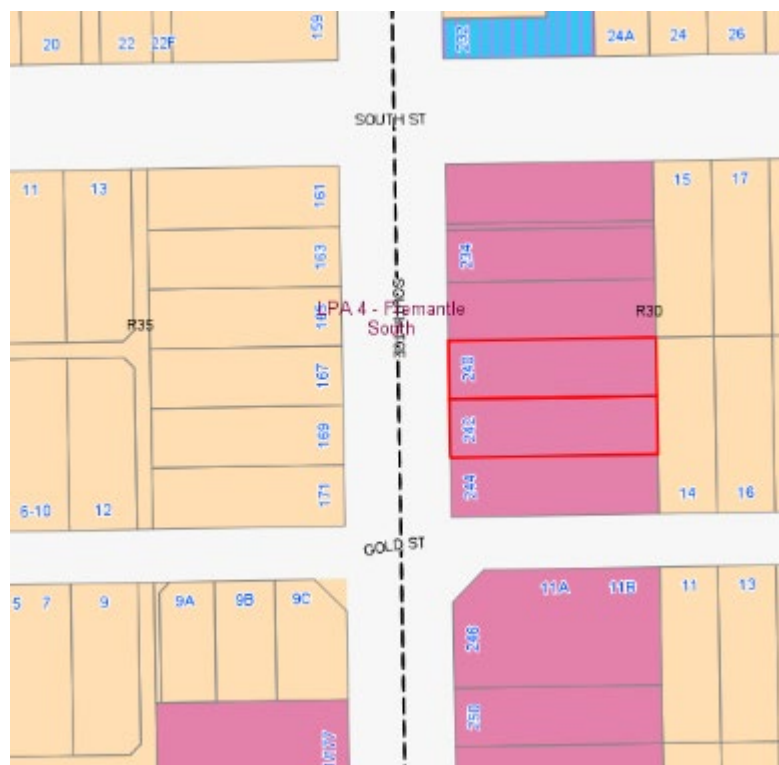
Restaurant: 20-30 patrons (subject to health approvals).

Small bar: 20-50 patrons (subject to health approvals).

Development plans are included as attachment 1.

Site/application information

Date received: 16 September 2019
 Owner name: Lemeg Ventures Pty Ltd
 Submitted by: As above
 Scheme: Mixed Use
 Heritage listing: South Fremantle Heritage Area
 Existing land use: Shop and Multiple dwellings
 Use class: Restaurant and Small Bar
 Use permissibility: A, A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed land use was required to be advertised in accordance with Local Planning Scheme No. 4 and discretion was requested to be exercised in relation to onsite car parking provision for the proposed uses. The advertising period concluded on 3 October 2019, and one submission was received. The following issues were raised (summarised):

- Concerns in relation to the lack of car parking in the area.
- Queries in relation to the inclusion of additional onsite parking.
- Concerns in relation to patrons, traffic flow and safety due to the proximity of the subject site to the intersection of South Terrace and South Street.
- Noise pollution concerns.

- Concerns with regard to hours of operation.

In response to the above, the applicant submitted the following response (summarised):

- Parking availability is a Council issue for the immediate locality
- The application does not provide any extra bays on site and no parking is provided for visitors to the restaurant and café, accordingly no additional traffic in and out of the site is proposed.
- Additional onsite car parking may not be required in the future.
- The development provides greater onsite car parking for the commercial tenancies than the majority of businesses in the immediate locality, some of which have no effective car parking on site.

It is noted that the applicant also provided supporting justification in relation to onsite parking provision in their original application.

In response to the above, the following comments are provided by officers:

- The development will be required to comply with the relevant requirements of the *Environmental Protection (Noise) Regulations 1997* and if the premises are found to be in breach of these requirements in their operation, modifications will be required in order to comply. It is a recommended condition of approval that the applicant prepares and complies with a noise assessment from a suitably qualified acoustic consultant prior to the occupation of the tenancies by the uses hereby recommended for approval.
- A future internal fitout of the tenancies will be subject to a separate planning application and any such noise attenuation measures identified could be incorporated into this future application.
- The applicant has provided indicative hours of operation which are considered consistent with the usual operation of land uses of this nature. In order to consider potential changes in the future a condition of approval is recommended requiring the submission and approval of business management plans for the land uses hereby approved. This permits the applicant to confirm the final details of the proposed uses to the City's satisfaction prior to their occupation and operation of the uses hereby approved.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4 and relevant Council local planning policies. Where a proposal does not meet the relevant Scheme or policy assessment criteria, an assessment is made against the relevant discretionary criteria. In this particular application the areas outlined below do not meet the Scheme or policy requirements and require a discretionary assessment:

- Land use (Restaurant and Small Bar).
- Onsite parking

The above matters are discussed below.

Background

The subject site is located on the eastern side of South Terrace, close to the intersection with South Street. The site has a land area of approximately 876m² and is currently occupied by an under construction two storey mixed use development. The site is zoned Mixed Use and has a density coding of R30. The site is not individually heritage listed however is located within the South Fremantle Heritage Area.

A search of the property file has revealed the following history for the site:

- DA0238/17 – Two storey mixed use development.
- DAP004/17 – Two storey mixed use development.
- DAPV003/19 – Change of use to Restaurant and Small Bar.

It is noted that DAPV003/19 was not accepted by the Development Assessment Panel as a variation application as the proposed change was considered to be too substantial to form a variation to the original approval. The applicant was advised to lodge the change of use development application which is the subject of this report.

Land Use

A Restaurant and Small Bar are 'A' uses in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice (advertising) in accordance with clause 64 of the Regulations. In considering an 'A' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) *The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development*
- (n) *The amenity of the locality including the following:*
 - (i) *Environmental impacts of the development*
 - (ii) *The character of the locality*
 - (iii) *Social impacts of the development*
- (y) *Any submissions received on the application.*

It is considered that the proposed use of Small bar and Restaurant is consistent with the objectives of the Mixed Use zone for the following reasons:

- The proposed Small Bar and Restaurant could make a positive contribution to the local centre, complementing existing uses, adding vitality to the centre and providing entertainment/recreation venues for the locality, accessible to the local and broader community.
- It is considered that the proposed uses would not be significantly detrimental to the amenity of adjacent residential properties. The proposed uses will cater for a limited number of patrons at any one time per the applicant's submission. In light of the modest size of both tenancies and the stated nature of the proposed businesses, it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.

- In relation to the proposed Small Bar land use, it is noted that in accordance with Local Planning Policy 1.7 - Development Exempt from Approval under Local Planning Scheme No. 4 a change of use from Restaurant to Small Bar is exempt from requiring planning approval in an existing building. Accordingly the applicant would have been capable of applying for two restaurant tenancies.

Onsite parking

Element	Requirement	Proposed	Extent of Variation
Restaurant (70m ²)	14 bays	2 bays	12 bays
Small Bar (90m ²)	18 bays	3 bays	15 bays
Multiple Dwellings (8)	8 bays	8 bays	Nil
Visitor bays	2 bays	2 bays	Nil
Total shortfall			27 bays

Previous approval

Element	Requirement	Proposed	Extent of Variation
Shop tenancies (2)	11 bays	5 bays	6 bays
Multiple dwellings (8)	8 bays	8 bays	Nil
Visitor bays	2 bays	2 bays	Nil
Total shortfall			6 bays

Per the above assessment it is considered appropriate to utilise the Restaurant car parking standard when assessing the applicable requirement for the tenancy due to the similarity in the two uses. It is noted that a change of use is not required when changing from a Restaurant use to a Small Bar for existing buildings in the Mixed use zone.

It is noted that the proposal plans do not take into account the eventual fit out of the premises which will reduce the available dining/seating area of the tenancy, resulting in a lesser car parking requirement under LPS4.

It is considered that the relaxation of parking requirements under clause 4.7.3 of LPS4 is appropriate for the following reasons:

- A review of on street car parking availability in the immediate locality is included below. Based on this assessment, it is considered that sufficient on street car parking is available in the area to support the proposed uses.
- The subject site is well serviced by public transport. A Blue CAT bus stop is located in the immediate area of the subject site and multiple bus services stop within 100m of the subject site.
- Staff parking demand for the tenancies can be accommodated in the assigned bays for these tenancies.
- The proposal plan does not show final fit out detail for either premises and it is considered that the overall parking requirement for the tenancies would be significantly reduced through the inclusion of essential services (bar and commercial kitchen etc.) for the operation of the tenancies.

- It is considered that there may be a degree of reciprocity between the Restaurant and Small Bar land uses as visitors may attend both tenancies while waiting to be seated for a meal or they may visit the small bar after a meal. There also may be some reciprocal use of on street parking bays between the subject site and surrounding land uses.



Approximate area of parking assessment

Street	Bays available
South Street east of South Terrace before Francisco Street (southern side only)	10 bays
South Street west of South Terrace before Coral Street	6 bays
Gold Street east of South Terrace	11 bays
Gold Street west of South Terrace	11 bays
South Terrace east side before Silver Street	4 bays (one half hour)
South Terrace west side before Silver Street	8 bays
Silver Street east of South Terrace	11 bays
Silver Street west of South Terrace	9 bays
Coral Street	15 bays
Francisco Street	15 bays
Total	Approximately 100 bays

In relation to the above assessment, it is noted that the bay numbers are approximate as a number of the parking areas are not individually marked. A number of these bays are restricted to a 2 hour stay limitation which is considered to be consistent with the potential time spent at a Restaurant or Small Bar land use. It is noted that some of the above streets are marked for Local Traffic Only however the parking bays are not restricted to residential permit use.

Delivery Bays

Element	Requirement	Proposed	Extent of Variation
Small bar	1 bay (1 per store area)	0 bays	1 delivery bay

The lack of specified onsite delivery bays for the tenancies is considered to be appropriate due to the small area of the subject sites.

In relation to deliveries for the proposed tenancies, it is a recommended condition of development approval that a delivery management plan be imposed to ensure that carrying out of deliveries for the premises does not unduly impact the immediate locality. It is considered that the onsite bays assigned to these uses may also provide for parking for deliveries.

Bicycle Parking

Bicycle racks are required for both the Restaurant and Small Bar tenancies in accordance with Table 2 of Local Planning Scheme No. 4. Clause 4.7.3.3 of Local Planning Scheme No. 4 permits Council to waive the bicycle rack requirements of Table 2 for a minor change of use. In this case it is considered that sufficient bicycle parking has been provided on site in accordance with the previous approval for Shop uses in the subject tenancies and additional bicycle parking is provided in the road reserve which is considered to be sufficient to service the proposed uses.

Noise

In relation to the impact of noise from the proposed land uses, it is noted that the premises will be subject to the *Environmental Health (Noise) Regulations 1997* and will be required to comply with these requirements. As the final tenant and fitout details are yet to be confirmed for the tenancies, it is considered that a condition requiring the submission of an acoustic report demonstrating compliance with these regulations should be required as a condition of development approval.

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of the Scheme and Council policy. Accordingly, the proposal is recommended for approval, subject to conditions. It is considered that the final detail of the proposed land uses can be appropriately managed through a management plan required as a recommended condition of approval.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, partial change of use to Restaurant and Small Bar at No. 240 (Lots 30 and 31) South Terrace, South Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 16 September 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. Prior to the issue of a Building Permit for the development hereby approved, a report shall be submitted by a suitably qualified acoustic engineer certifying that the proposal incorporates sufficient sound attenuation measures to limit noise impact on adjoining properties to within the requirements of the Environmental Protection (Noise) Regulations 1997. Any noise attenuation measures identified in the submitted report shall be installed and maintained for the life of the development hereby approved to the satisfaction of the City of Fremantle.
3. Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved for both approved land uses to the satisfaction of the City of Fremantle, including the following:
 - Hours of operation for the businesses;
 - The maximum number of employees for the businesses;
 - Delivery management plan, and
 - Parking arrangements for customers and staff.

The businesses shall operate in accordance with the approved business management plans thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

4. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan to the satisfaction of the City of Fremantle, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.

5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice notes

- i) The applicant is advised that any signage may be subject to a separate application for planning approval.
- ii) The proponent must make application during the Building Permit application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- iii) The applicant is advised that additional information in relation to the City's waste management requirements can be found here:
<https://www.fremantle.wa.gov.au/residents/waste-and-recycling>
- iv) The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- v) Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.
- vi) All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).
- vii) It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at health@fremantle.wa.gov.au.

- viii) A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.

Lost: 0/6

Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Rachel Pemberton, Cr Frank Mofflin, Cr Su Groome

PROCEDURAL MOTION

At 8.45pm the following procedural motion was moved:

COMMITTEE DECISION ITEM PC1911 - 8

Moved: Cr Andrew Sullivan

Seconded: Cr Rachel Pemberton

The item be referred to the Ordinary Council Meeting on 27 November 2019 with direction to the administration to prepare a recommendation for refusal

Carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Rachel Pemberton, Cr Frank Mofflin, Cr Su Groome

ADDITIONAL OFFICER COMMENT

As requested by the Planning Committee at the meeting held on 6 November 2019, officers have drafted the following alternative recommendation for refusal:

ALTERNATIVE OFFICER RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the partial change of use to Restaurant and Small Bar at No. 240 and 242 (Lots 30 and 31) South Terrace, South Fremantle, as detailed on plans dated 16 September 2019, for the following reasons:

- 1. The proposal is inconsistent with the parking requirements (clause 4.7.2) of Local Planning Scheme No. 4.**
- 2. The proposal would be detrimental to the amenity of the area under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015 by reasons of vehicle parking and traffic.**

11.2 Finance, Policy, Operations and Legislation Committee 13 November 2019

FPOL1911-5 NEW LEASE AND SUB LEASE AT 123 BEACH STREET, FREMANTLE

Meeting date: 13 November 2019
Responsible officer: Manager Economic Development and Marketing
Decision making authority: Council
Agenda attachments: 1. Nil
Additional information: 1. Nil

SUMMARY

This report recommends that council approve a lease between the City and the Minister for Lands for 123 Beach Street, Fremantle (Portion of Lot 1941 on Plan 123981 Volume LR30307 Folio 561) and approve a sub-lease between the City and Albarossa Pty Ltd for 123 Beach Street, Fremantle.

BACKGROUND

Albarossa Pty Ltd trading as 'the Kiosk' has a lease with the City of Fremantle for 123 Beach Street, Fremantle that expires 16 March 2028. Albarossa requested in 2017 that council consider the following changes to the lease:

1. Change of the lease permitted use from 'café' to 'restricted tavern'
2. A variation of the current lease area by approximately 217m² from 240m² to 457m².
3. Extension of the current lease term from 2028 to 2038.

The property is located on a Crown Land Reserve 4720 vested to the City by a management order with the permitted use of 'Parks and Recreation'. The City is entitled to lease or licence any portion of the reserve for a term not exceeding 21 years subject to the approval of the Department of Planning, Lands and Heritage (DPLH).

The permitted use change from 'café' to 'tavern' would allow the lessee to apply for a change in liquor licence from 'restaurant' to 'restricted tavern'. This would enable the lessee to expand their business, extend trading hours and accommodate small groups and functions that are currently restricted by the table service requirement of the restaurant liquor licence. However, it is not within the City's power to grant the first request due to the nature of the management order on the Land.

The lease permitted use of 123 Beach Street is 'café' which DPLH interpret as complementary to the reserve's permitted use 'Parks and Recreation'. The change of lease permitted use to 'tavern' is interpreted by DPLH as a commercial operation outside of the reserve management order and will not be approved by the Minister for Lands. DPLH will allow approval if the leased land is excised from the reserve and leased directly to the City – the City would then sub-lease to Albarossa with the permitted use of 'restricted tavern'

At Ordinary Council dated 12 July 2017 council resolved the following;

1. Support the concept put forward for the lease area by Albarossa Pty Ltd in the agenda report to the Finance, Policy, Legislation and Operations Committee dated 12 July 2017.
2. Support the intention of Albarossa Pty Ltd to apply for a change from a 'restaurant' liquor licence to 'restricted tavern' liquor licence at 123 Beach Street, Fremantle, as long as it does not include the sale of take-away packaged liquor, and includes a requirement for the venue to operate as a 'best practice' venue where alcohol is served as an accompaniment to food/entertainment.
3. In regards to property 123 Beach Street, Fremantle (Portion of Lot 1941 on Plan 123981 Volume LR30307 Folio 561), request that officers apply to the Department of Lands to excise the portion of Reserve 4720 shown in the agenda attachments to the Finance, Policy, Legislation and Operations Committee dated 12 July 2017.
4. Request that officers negotiate with Department of Lands on the terms of the City's lease for the excised portion of land.
5. Request that officers negotiate with Albarossa Pty Ltd on the terms of their sub-lease with the City for the excised portion of land.
6. Request that officers present at the next appropriate council meeting, the proposed lease terms with Department of Lands and the proposed sub-lease terms with Albarossa Pty Ltd.

FINANCIAL IMPLICATIONS

All costs associated with the new lease and sub lease, including but not limited to legal, survey fees, document preparation, lodgement and legal fees, will be the financial responsibility of Albarossa. This also includes reimbursing the City for any rent incurred from the lease in addition to normal annual market rental amount it pays under the sub lease to the City.

An independent market valuation has determined the market rent for the sub lease to be \$23 000 pa + GST.

Historically in other scenarios where land has been excised due to the lease permitted use being outside of the permitted use of a reserve, DPLH have determined an annual rental of 25% of market rate. This was granted by DPLH given the City's annual expenditure on the entire reserves management where the leased area, regardless of being excised from the reserve, was located.

However, DPLH have advised in this case, that unless the City can show its planned annual expenditure to the excised area of 457m² the annual rent for the lease will be 100% market rate. DPLH has determined the lease rent to be \$23 000 pa + GST.

As the City will be sub leasing the excised portion of land, and not be financially responsible for any annual expenditure, the cost of the annual rent charged by DPLH will be passed to Albarossa.

Albarossa has accepted that they will be paying a market rent to the City under the sub lease in addition to reimbursing the City for the rent incurred by lease which will be 100% market rate.

Sub lessee costs

Lease rent: \$23 000 pa + GST

Sub lease rent: \$23 000 pa + GST plus outgoings

Outgoings: sub lessee responsibility

Costs associated with lease and land being excised: sub lessee responsibility

The City will not incur any costs from entering into a lease with the Minister of Lands or sub lease with Albarossa Pty Ltd.

LEGAL IMPLICATIONS

If the recommendations of this report are approved, the process will be as follows:

1. DPLH will be required to finalise the leased area to be excised from the reserve.
2. The City will then enter into a lease directly with the Minister for Lands for the excised area with the permitted use of 'restricted tavern' and at the same time,
3. The City will finalise a sub-lease with Albarossa

The lease and sub lease will comply with Section 3.58 of the *Local Government Act 1995* and the *Commercial (Retail) Tenancy Act 1985*.

CONSULTATION

Should Council approve the sub lease, details of the updated agreement will be advertised in a state newspaper in accordance with Section 3.58 of the *Local Government Act 1995*. This will provide members of the community with 14 days to submit any objections in the writing to the City.

OFFICER COMMENT

Council's consideration of the application from Albarossa and resolution dated 12 July 2017 was outside of the City's Leasing of City Property in a competitive manner policy as the current lease with Albarossa does not expire until 2028. However, as Albarossa's request aims to add visitors to the area by further activation and redevelopment of the premises the application was deemed worthy of consideration.

Currently the Kiosk operates between 7.00 am and 3.00 pm on weekdays and 7.00 am and 4.30 pm on weekends serving breakfast and lunch. A change of the liquor licence from restaurant to restricted tavern will allow an expansion of the Kiosk's operating hours with the option to cater for small groups and functions providing a tapas style dinner menu.

The restricted tavern licence permits the sale of alcohol for consumption without the requirement it be served with food and without the requirement for the patron to be seated. Special conditions have been included in the sub lease terms to reasonably restrict the approval of a tavern licence in line with the lessee's proposal.

Albarossa have received development approval (dated 15 June 2018) from the Department of Biodiversity, Conservation and Attractions who are the approving body for the Beach Street Reserve. The approvals are for a change of land use to restricted tavern, and alterations to the existing building with the proposed development valued at approximately \$350 000 - \$400,000.

Works include the addition of a decking and toilets to the rear of the building, installation of a new bar and service counter, extended dry store and office space, and new finishes, fittings and furniture.

Albarossa have also received conditional liquor license approval from the Department of Racing, Games and Liquor for a restricted tavern liquor licence subject to the sub lease being finalised and all redevelopment works being completed.

DPLH have proposed the following terms for a Lease between the City and the Minister for Lands for 123 Beach Street, Fremantle;

Property Description	123 Beach Street, Fremantle
Annual Rental	\$23 000 plus GST
Lease commencement date	1 July 2020
Payment	Six monthly
Market rent review	Biennially
Lease permitted use	Restricted Tavern
First Term	Five years
Second Term	Five years
Third Term	Five Years

Based on the Lease terms Officers have negotiated the following terms for the sub lease between the City and Albarossa Pty Ltd;

Property Description	123 Beach Street, Fremantle
Sub Lessee	Albarossa Pty Ltd
Property Owner	Minister of Lands
Head Lessee	City of Fremantle
Site Area	457m2
Sub Lease Commencement Date	1 July 2020
Lease Term	Five (5) years
Further Term	Five (5) years
Second Further Term	Five (5) years
Annual Rent	\$23 000 plus GST
Head Lease Rent	\$23 000 plus GST
	The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister for Lands, each year of the lease term.

Rent Review	<p>CPI – Annually on the anniversary of the lease commencement date based on the Consumer Price Index.</p> <p>Market – by an independent market valuation at the commencement of each further term. The market valuation will be based on the existing infrastructure at the commencement of the lease and will not include any improvements or developments by the Lessee.</p>
Outgoings/Variable Outgoings	<p>To include but not be limited to;</p> <ul style="list-style-type: none"> • Council Rates • Emergency Service Levy • Land Tax • Building Insurance • Water Rates/Usage • Electricity • Gutter Cleaning • Building Insurance • Air Conditioning maintenance/servicing • Pest Control • General maintenance
Lease Associated Fees	<ol style="list-style-type: none"> 1. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to; <ol style="list-style-type: none"> a) All Solicitor fees associated with the both the lease and sub lease. b) All contractor and consultant fees in association with the agreement including any survey and valuation services. c) All stamp duty and lodgement fees 2. The sub lessee will reimburse the City, the total amount of rent charged to the City by the State, each year of the lease term. 3. The sub lessee will be financially responsible for all development to the property required complying with the sub leases permitted use.

<p>Special Conditions</p>	<ol style="list-style-type: none"> 1. In regards to the liquor licence; <ol style="list-style-type: none"> a) The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern restricted licences. b) The sale of packaged liquor for consumption off the licensed premises is prohibited. c) Seating for a minimum of 150 seats for the use of patrons is to be provided on the licensed premises at all times except in the case of a private function or special event. d) Food shall be available to patrons during all trading hours. e) The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'. f) No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater. g) A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours. h) A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director. i) Entertainment and music on the licensed premises is to be maintained at a volume that complies with the <i>Environmental Protection Act 1986</i> at all times. 2. The sublessee must have DA approval prior to commencement of the lease.
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	<ol style="list-style-type: none"> 3. A list of all proposed works to the building and additions will be required as an annexure to the sub Lease document. 4. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease. 5. The applicant will advise the City within 48 hours of the liquor licence being approved or denied. 6. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted. 7. The City will approve the Sub Lessee connecting the additional toilets to the existing pump subject to; <ol style="list-style-type: none"> a) The Lessee is financial responsibility for 50% of maintenance, repair and servicing costs associated with the pump. b) Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.
Condition Precedent (Lease will be terminated)	<ol style="list-style-type: none"> 1. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands. 2. The sub lease is subject to approval by the Minister for Lands. 3. The sub lease is subject to the unconditional approval of the liquor licence.

Should Council approve the Lease and Sub Lease terms, DPLH will then finalise 123 Beach Street, Fremantle to be excised from the Reserve to enable both the lease and sub lease to be finalised.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

1. Approve the lease between the City of Fremantle and Minister for Lands, 12 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years
 - f. Rent: \$23 000 per annum + GST
 - g. Market rent review: Biennially
 - h. Permitted use: Restricted Tavern
2. Approve the sub lease between the City of Fremantle and Albarossa Pty Ltd, 123 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years
 - f. Rent: \$23 000 per annum + GST
 - g. Permitted use: Restricted Tavern
 - h. Condition precedent:
 - i. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands for 123 Beach Street, Fremantle
 - ii. The sub lease is subject to approval by the Minister for Lands.
 - i. Special conditions;
 - i. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to;
 - i. Solicitor fees for both lease and sub lease.
 - ii. All stamp duty and lodgment fees
 - ii. All contractor and consultant fees in association with the agreement including any survey and valuation services.
 - iii. The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister of Lands, each year of the lease term.
 - iv. The sub lessee will be financially responsible for all development of property required complying with the sub leases permitted use.
 - j. In regards to the restricted tavern liquor license;
 - i. The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern restricted licences.

- ii. The sale of packaged liquor for consumption off the licensed premises is prohibited.
 - iii. Seating for a minimum of 150 seats for the use of patrons are to be provided on the licensed premises at all times except in the case of a private function or special event.
 - iv. Food shall be available to patrons during all trading hours.
 - v. The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', 'shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'.
 - vi. No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater.
 - vii. A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours.
 - viii. A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director.
Entertainment and music on the licensed premises is to be maintained at a volume that complies with the *Environmental Protection Act 1986* at all times.
- k. The sublessee must have DA approval prior to commencement of the lease.
- l. A list of all proposed works to the building and additions will be required as an annexure to the sub lease document.
- m. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease.
- n. The applicant will advise the City within 48 hours of the liquor licence being approved or denied.
- o. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted.
- p. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;
- i. The Lessee is financial responsibility for 50% of maintenance, repair and servicing costs associated with the pump.

- ii. Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.

AMENDMENT 1

Moved: Cr Doug Thompson Seconded: Cr Sam Wainwright

Amend part p. i. of the recommendation to change 50% to 100%, to read as follows;

- p. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;**
- i. The Lessee is financial responsibility for ~~50~~100% of maintenance, repair and servicing costs associated with the pump.**

Amendment carried: 6/0

**Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan**

COMMITTEE RECOMMENDATION ITEM FPOL1911-5

Moved: Cr Hannah Fitzhardinge Seconded: Cr Jenny Archibald

Council:

- 1. Approve the lease between the City of Fremantle and Minister for Lands, 12 Beach Street, Fremantle based on the following:**
 - b. Lease area: 123 Beach Street, Fremantle**
 - c. Lease commencement date: 1 July 2020**
 - d. First term: Five years**
 - e. Second term: Five years**
 - f. Third term: Five years**
 - g. Rent: \$23 000 per annum + GST**
 - h. Market rent review: Biennially**
 - i. Permitted use: Restricted Tavern**
- 2. Approve the sub lease between the City of Fremantle and Albarossa Pty Ltd, 123 Beach Street, Fremantle based on the following:**
 - a. Lease area: 123 Beach Street, Fremantle**
 - b. Lease commencement date: 1 July 2020**
 - c. First term: Five years**
 - d. Second term: Five years**
 - e. Third term: Five years**
 - f. Rent: \$23 000 per annum + GST**
 - g. Permitted use: Restricted Tavern**

h. Condition precedent:

- i. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands for 123 Beach Street, Fremantle**
- ii. The sub lease is subject to approval by the Minister for Lands.**

i. Special conditions;

- i. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to;**
 - a) Solicitor fees for both lease and sub lease.**
 - b) All stamp duty and lodgment fees**
- ii. All contractor and consultant fees in association with the agreement including any survey and valuation services.**
- iii. The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister of Lands, each year of the lease term.**
- iv. The sub lessee will be financially responsible for all development of property required complying with the sub leases permitted use.**

j. In regards to the restricted tavern liquor license;

- i. The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern restricted licences.**
- ii. The sale of packaged liquor for consumption off the licensed premises is prohibited.**
- iii. Seating for a minimum of 150 seats for the use of patrons are to be provided on the licensed premises at all times except in the case of a private function or special event.**
- iv. Food shall be available to patrons during all trading hours.**
- v. The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'.**
- vi. No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater.**
- vii. A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours.**

viii. A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director.

ix. Entertainment and music on the licensed premises is to be maintained at a volume that complies with the *Environmental Protection Act 1986* at all times.

- k. The sublessee must have DA approval prior to commencement of the lease.
- l. A list of all proposed works to the building and additions will be required as an annexure to the sub lease document.
- m. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease.
- n. The applicant will advise the City within 48 hours of the liquor licence being approved or denied.
- o. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted.
- p. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;
 - i. The Lessee is financial responsibility for **100%** of maintenance, repair and servicing costs associated with the pump.
 - ii. Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.

Carried: 6/0

Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

FPOL1911-6 BUDGET AMENDMENTS - OCTOBER 2019

Meeting date: 13 November 2019
Responsible officer: Manager Finance
Decision making authority: Council
Agenda attachments: Nil
Additional information: Nil

SUMMARY

To adopt various budget amendments to the 2019/2020 budget account numbers as detailed below in accordance with the Budget Management Policy. The budget amendments have nil effect to the overall budget.

This report recommends that Council approves the required budget amendments to the adopted budget for 2019/20 as outlined in the report.

BACKGROUND

In accordance with the Budget Management Policy this report provides details of proposed amendments to the 2019/2020 budget on a monthly basis to Council (via FPOL) to adopt budget amendments to:

1. Consider an additional purpose, or grant acceptance or release of quarantined funds.
2. Reflect any expenditure above the budget amount agreed by the CEO in the previous month, and to adjust other accounts to accommodate the value of these.
3. Make amendments to the carried forward budget to reflect the final position at the end of financial year.

FINANCIAL IMPLICATIONS

The financial implications are detailed in this report.

LEGAL IMPLICATIONS

Local Government Act 1995:

Section 6.2 (1)

The Council is required to prepare and adopt, by Absolute Majority, an annual budget for its municipal fund by 31st August each year.

Section 6.8 (1) and (2)

The Council cannot incur expenditure from its municipal fund for a purpose for which no expenditure estimate is included in the annual budget (known as an 'additional purpose') except where the expenditure —

- (a) is incurred in a financial year before the adoption of the annual budget by the local government;
- (b) is authorised in advance by resolution by Absolute Majority; or
- (c) is authorised in advance by the mayor or president in an emergency.

Where expenditure has been incurred;

- (a) under S 6.8 (1) (a) it is required to be included in the annual budget for that financial year; and
- (b) under S 6.8 (1) (c), it is to be reported to the next ordinary meeting of the council

Local Government (Financial Management) Regulations 1996:

Regulation 33A

A formal review of the annual budget is to be presented and adopted by Council, by Absolute Majority, between 1st January and 31st March each year.

CONSULTATION

There are no community engagement implications as a result of this report.

OFFICER COMMENT

The following amendments to budget account numbers to the adopted budget for 2019/2020 are submitted to Council for approval as outlined below.

1. Budget amendments for proposed expenditure for an additional purpose

The proposed budget amendments below are for expenditure for an additional purpose to be determined by Council as required by S6.8 (1) (b) of the Act. The decision will amend the budget by creating a new budget account number to accommodate that proposed expenditure, and by transferring the required funds from one or more existing accounts to the new account.

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
1.1	New capital project for renovation of Fremantle Netball clubrooms, kiosk and toilet fully grant funded from Fremantle Netball Association.					
	300XXX.1606	P----- Renovation Fremantle Netball Club Buildings	0		(140,000)	140,000
	300XXX.4222	P----- Renovation Fremantle Netball Club Buildings	0	140,000		(140,000)
1.2	Replacement of the current agenda and minutes management system, funded from savings of other activities and end of year municipal surplus for 2019-20 (year ending 30 June 2020)					
	100012.6824	Maintain business systems - Other	(10,000)		10,000	0
	100077.6824	Maintain corporate GIS system	(10,000)		10,000	0
	100079.6823	Maintain and develop spatial data sets	(20,000)		20,000	0
	XXXXXX.3915	End of financial year municipal surplus	(30,000)		30,000	0
	XXXXXX.6823	Maintain Council Agenda and Minutes System	0		(70,000)	70,000

2. Budget amendments for proposed expenditure for a purpose identified within the budget for which there are insufficient funds allocated

CEO has the delegated authority under the Budget Management Policy to incur expenditure for a purpose identified within the budget for which there is insufficient funds allocated, where:

- The proposed expenditure is a maximum of 5% or \$50,000 (whichever is the lesser) above the budgeted amount, and
- There are sufficient funds equivalent to the value proposed to be sent allocated to other budget line items within the overall budget, and which, in the opinion of the CEO, are not expected to be spent during that financial year.

The budget amendments below are to reflect any expenditure above the budget amount agreed by the CEO during the previous month, and to adjust other accounts to accommodate the value of those.

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
N/A						

3. Carried forward projects estimate budget amendments

The budget amendments below are to adjust the carried forward project estimates and to amend the carried forward budget to reflect the final position at the end of financial year.

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
N/A						

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1911-6 (Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

Council approve the required budget amendments to the adopted budget for 2019/2020 as outlined below:

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
1.1	New capital project for renovation of Fremantle Netball clubrooms, kiosk and toilet fully grant funded from Fremantle Netball Association.					
	300XXX.1606	P----- Renovation Fremantle Netball Club Buildings	0		(140,000)	140,000
	300XXX.4222	P----- Renovation Fremantle Netball Club Buildings	0	140,000		(140,000)
1.2	Replacement of the current agenda and minutes management system, funded from savings of other activities and end of year municipal surplus for 2019-20 (year ending 30 June 2020)					
	100012.6824	Maintain business systems - Other	(10,000)		10,000	0
	100077.6824	Maintain corporate GIS system	(10,000)		10,000	0
	100079.6823	Maintain and develop spatial data sets	(20,000)		20,000	0
	XXXXXX.3915	End of financial year municipal surplus	(30,000)		30,000	0
	XXXXXX.6823	Maintain Council Agenda and Minutes System	0		(70,000)	70,000

Carried: 6/0

**Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan**

FPOL1911-7 CONSIDERATION OF RENT REDUCTION - FREMANTLE PUBLIC GOLF COURSE

Meeting date: 13 November 2019
Responsible officer: Manager of Economic Development and Marketing
Decision making authority: Council
Agenda attachments: Nil
Additional information: Nil

SUMMARY

Main Roads Western Australia (MRWA) is now preparing to progress their proposal for upgrading the intersection at High Street and Stirling Highway between Carrington Street and Marmion Street.

To accommodate the proposed road alignment along High Street and retain existing significant trees, a portion of the Class A and Class C reserves were required to be vested to MRWA for the purpose of road reserve. This has impacted the City's former community facility at 26 Montreal Street, Fremantle Public Golf Course and Booyeembara Park.

Officers are progressing with a project for the golf course redesign and new building facilities to cater to the golf course and community facility. This includes a program of works for the golf course design being actioned. Officers aim to work where possible to maintain options for the golf course to continue to operate in some capacity whenever possible.

Given the public knowledge that the City will be progressing with the redesign of the course in the New Year and the demolition of the community facility at 26 Montreal Street Evergreen Golf Pty Ltd has already occurred the City's lessee is already seeing a considerable drop in patronage to the course.

This report is for Council to consider a reduction of 50% in rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course, effective from 1 December 2019, for the remainder of the current lease, expiring 7 November 2022, or until the new redesigned golf course and facilities are delivered, whichever occurs first. This report also recommends that no annual rent increases occur during the same period.

BACKGROUND

The City entered into a Lease with Evergreen Golf Pty Ltd for a term of seven years effective 8 November 2001 expiring 7 November 2008 with two further terms of seven years' each. The last of these terms has been exercised with the Lease expiring 7 November 2022.

Mr Billingham was originally an employee of Evergreen Golf Pty Ltd at the commencement of this Lease, becoming a partner in 11 July 2008, and sole Director in 23 December 2016.

Mr Billingham has a proven track record with the City as a Lessee and operator of a public facility which caters to 12 regular golf clubs. Under the terms of the current Lease the Lessee is responsible for all maintenance of the course and grounds, including upgrading fairways and greens as required. This has been proactively scheduled by the Lessee.

At the Special Meeting of Council 29 August 2018 Council resolved that as part of the primary concept objectives the golf course objectives would be;

1. *Retain 9 holes*
2. *Retain par 34*
3. *Minimum impact on trees.*
 - a. *Lost trees replaced through landscape strategy.*

The new road alignment has a significant impact on the northern section of the golf course, the impact results in the loss of two holes (#3 and #6). To maintain the function of the golf course, MRWA and the City engaged the services of golf course architects to evaluate the impact and provide a number of options for an effective redesign of the golf course.

The scope for this work was based upon providing a golf course with similar functionality, accommodating:

- A 9 hole golf course.
- Minimum par 34.
- Maximised course length – minimum >2000m (currently 2465m).
- Similar sized driving range facility (including an equivalent number of bays).
- Comparable practice facilities including putting green.
- Similar size / function of clubhouse facility.
- Full irrigation system.
- Minimal tree removal - offset by new tree planting.
- Safety compliance.
- Suitable car parking and access.
- Minimal impacts on Booyeembara Park (see below).

While Council has endorsed a scope for the golf course redevelopment, Mr Billingham has advised that he would like the opportunity to consider financially contributing for additional features in the course design. These items potentially include;

- Floodlighting to the driving range to allow for night usage.
- Cover to the driving range to cater for weather conditions.
- Simulator golf.
- Pro shop/buggy bays.

These items are subject to the final costings and consideration by officers within the design of the course and facilities.

At the meeting dated 26 June 2019 Council considered the option of an offer to Lease with Evergreen Golf Pty Ltd and resolved the following;

1. "Approve Evergreen Golf Pty Ltd as qualifying for an exemption under city policy "leasing of City Property in a competitive manner" in accordance with clause 1.1 a) where it states 'A property is leased to a tenant that is paying full commercial market rate or above, and adds significant value to Fremantle's overall tenancy mix and appeal for visitors'.
2. Approve an offer to lease between Evergreen Golf Pty Ltd and City of Fremantle, based on the following;
 - a. Evergreen Golf Pty Ltd agreement to vary the current lease to allow the requirements for land resumption of the Fremantle Public Golf Course land in accordance with the requirements for land resumption to facilitate the proposed road widening works on High Street, Fremantle.
 - b. This offer for lease and preferred future golf course design including any financial contribution from the lessee being accepted by the Lessee no later than 30 days from formal offer by the City. Extension of this time frame will be at the discretion of the City.
 - c. Reasonable endeavours, but no guarantee of inclusion, of Lessee design conditions being provided by the City.
 - d. The Lessee is responsible for any development costs associated with any lessee requested additions to the public golf course design outside of the City's scope.
 - e. Ministerial agreement being provided for the proposed lease.
 - f. Permitted use: public golf course.
 - g. Rent: to be determined by an independent market valuation excluding any financial contribution by the lessee.
 - h. Lease term: ten years with any further term subject to council approval prior to the lease being finalised.

Evergreen Golf has finalised the variation of the current lease to allow for the land to be excised by MRWA. The offer to lease has also been finalised between Evergreen Golf and the City.

The City aims to provide a formal offer of the design plans for redevelopment to Evergreen Golf by the end of 2019.

FINANCIAL IMPLICATIONS

The current Lease receives a rent of \$90,829.34 + GST per annum plus outgoings. 2018/19 Council Rates and State Government Emergency Services Levy for the premises is \$17,271.61.

A reduction of the rent by 50% will equate a revised annual rent of \$45,414.67.

The City is acting as a conduit for compensation discussions between MRWA and Mr Billingham due to the impact of the High Street widening to his business. This will include but not be limited to financial loss during the redevelopment of the golf course, closure of Montreal Street during High Street works and retention of staff. Officers also intend to use best endeavours to recover the loss of income from the 50% reduction of rent for Evergreen Golf from MRWA, should Council approve the rent reduction.

LEGAL IMPLICATIONS

There are no legal implications for this item.

CONSULTATION

The City is continuing to engage with Evergreen Golf (and its internal stakeholders) in respect to the redesign of the golf course and associated works.

OFFICER COMMENT

Independent Golf Clubs must nominate their courses for next year and to-date Evergreen Golf has been notified by 5 clubs with a combined total of 158 members, that they will be utilising alternate courses in the New Year. It is expected that all clubs that regularly operation out of the Fremantle Public Golf Course will do the same. Evergreen Golf has advised that clubs represent 40% of their total turnover. Evergreen Golf has also not been able to offer vouchers for Christmas this year given the impending works. The vouchers normally equates to \$6k to \$7k in gross revenue.

While the City will work with Evergreen Golf to allow levels of operation during the redevelopment the lack of a full course and works onsite will deter patronage.

The works on High Street will close down Montreal Street for a period of time. While Main Roads have indicated they will accommodate signage stating that the course is still open; this will still impact traffic to the course and act as a further deterrent.

It is expected that MRWA will commence the High Street project shortly which will result in the golf course losing holes 3 and 6. There is scope in the golf course consultant's brief to develop an interim golf course design to maintain a functional golf course for the period before the commencement of construction of the new golf course.

While discussions are occurring with MRWA regarding compensation to Evergreen Golf due to the High Street widening, an agreement is subject to negotiation and in part reliant on actual financials after all works are completed to the High Street widening and course redevelopment. Evergreen Golf need to manage and operate a business in the interim and will be heavily impacted without a fully operational course and less patronage.

To accommodate the courses interim operation Officers are recommending a reduction in the current rent by 50% effective from 1 December 2019. Officers propose to make best efforts to pursue MRWA for the loss of income to the City, from this rental deduction during the current compensation discussions regarding the financial impact to the Fremantle Public Golf Course.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

1. Approve;
 - a. A reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, by 50%, reducing the annual rent to \$45,414.67 per annum plus GST, effective from 1 December 2019.
 - a. The 50% reduction of rent will be effective until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.
 - b. No rental increases will occur between 1 December 2019 until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.
2. Note the City will make best efforts to pursue reimbursement of the 50% loss of income from Main Roads Western Australia.

AMENDMENT 1

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

Amend part 1 a. of the officer's recommendation to remove the words in red strikethrough and insert the words in green italics, to read as follows;

1. Approve;
 - a. *Officers negotiate* a reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, *by up to 50%,* ~~reducing the annual rent to \$45,414.67 per annum plus GST,~~ *subject to evidence of financial loss as a result of the proposed works,* effective from 1 December 2019.

Carried: 6/0

**Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan**

COMMITTEE RECOMMENDATION ITEM FPOL1911-7

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

1. Approve;

- a. *Officers negotiate* a reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, *up to 50%, subject to evidence of financial loss as a result of the proposed works*, effective from 1 December 2019.
- b. The 50% reduction of rent will be effective until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.
- c. No rental increases will occur between 1 December 2019 until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.

2. Note the City will make best efforts to pursue reimbursement of the 50% loss of income from Main Roads Western Australia.

Carried: 6/0

**Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan**

11.3 Strategic Planning and Transport Committee 20 November 2019

**SPT1911-2 CLIMATE CHANGE IN WESTERN AUSTRALIA ISSUES PAPER -
PROPOSED SUBMISISON**

Meeting date:	20 November 2019
Responsible officer:	Manager Strategic Planning
Decision making authority:	Strategic Planning and Transport Committee
Agenda attachments:	1. Proposed Climate Change Issues in Western Australia Paper Submission 2. Proposed Extended Response to Climate Change in Western Australia Issues Paper
Additional information:	1. Climate Change in Western Australia Issues Paper

SUMMARY

The state government has released a Climate Change in Western Australia Issues Paper and invited public comment on this.

The purpose of this report is to establish the basis of the City's response to the Issues Paper, drawing on the direction established through its One Planet Strategy and subsidiary documents and policy directions, and the Climate Change Policy Statement and draft submission prepared by the Western Australian Local Government Association. Key points include:

1. Acknowledgement that climate change represents one of the most crucial issues affecting the community and future generations.
2. Local governments and local communities have been active in seeking to address the matter.
3. Leadership and the establishment of clear targets and supporting policy direction from state (and federal) governments are vital to advance a coordinated and effective effort to mitigate climate change. This should include identification of sectors generating most emissions and, therefore, where greatest gains could be made.

The need for ongoing research and the use of robust evidence basis for policy directions and initiatives is also proposed.

This report recommends that Council note the release of the Issues Paper for public and endorse Attachments 1 and 2 as the basis of its submission on the document.

BACKGROUND

The state government has released a Climate Change in Western Australia Issues Paper, as part of a request for submissions that will inform the development of the state government's Climate Policy.

Environmental responsibility and addressing climate change represent strategic objectives of Council's, as outlined in the Strategic Community Plan, the One Planet Strategy, the Climate Change Adaption Plan and the recent declaration of climate emergency (refer Item C1905-1).

The purpose of this report is to consider the issues paper and determine the City's response.

Draft responses have been prepared in both the format sought by the Department of Water and Environmental Regulation, and in an extended response which seeks to address the matter more coherently from a metropolitan local government perspective (refer attachments 1 and 2).

Consultation on the issues paper closes on 27 November 2019.

OFFICER COMMENT

The issues paper is relatively brief with input sought on the challenges and how the state might best respond to climate change within different spheres / activities.

Fundamental components of the City's proposed response are that:

1. Climate change represents one of the most crucial issues affecting the community and future generations.
2. Local governments and local communities have been active in seeking to address the matter.
3. Leadership and the establishment of clear targets and supporting policy direction from state (and federal) governments are vital to advance a coordinated and effective effort to mitigate climate change. This should include clear identification of sectors generating most emissions and, therefore, where greatest gains could be made.
4. Policy directions, initiatives and strategies should be based on robust information and take an evidence-based approach in response.

Key issues for Fremantle proposed to be flagged in the submission include:

1. The need to address regulatory issues that limit the ability of local government authorities to purchase renewable energy.
2. The need to resolve infrastructure issues that limit the current capacity of the grid to support renewable energy uptake.
3. The need for the state to establish clear and robust renewable energy targets and a coherent approach to shifting the grid to renewable energy.
4. The need for greater investment to transition mobility away from car dependence, to support the use of public transport, walking, cycling and other sustainable transport modes, and to establish sustainable mode share targets to guide this.
5. The need to more effectively address the heat island effect by supporting the conservation and expansion of urban tree canopy.
6. The need for greater support for vulnerable people, such as those experiencing mobility disabilities, ill-health or limited access to shelter, who are at greater risk during and after extreme weather events, fire and natural disasters.
7. The need to be more proactive to address the risks of coastal erosion and inundation due to sea level rise and increased severity and frequency of storms.
8. The desirability of amending the Local Government Act to clarify liability in relation to climate-related events as flagged by WAGLA.

9. Greater support for conservation of remnant vegetation.
10. Stronger more effective promotion of sustainable and energy efficient development, including urban design and construction standards.

The proposed submissions seek to draw on the conclusions the City has reached in developing its strategic response to this matter through the One Planet Strategy and subsidiary documents and policies, and the policy statement and draft submission prepared by the Western Australian Local Government Association.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil. The report proposes a submission on a state government document available for public consultation. The submission draws on the direction established by Council through its strategic documents which have been prepared in consultation with the community.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority

OFFICER'S RECOMMENDATION

That Council note the release of the Climate Change Issues Paper for public comment by the state government and endorse Attachments 1 and 2 as the basis of its submission on the document.

COMMITTEE RECOMMENDATION ITEM SPT 1911-2
(Amended officer's recommendation)

Moved: Cr Su Groome

Seconded: Cr Bryn Jones

That

- 1. Council note the release of the Climate Change Issues Paper for public comment by the state government and strongly endorses the following commentary at the beginning of the Issues Paper:**

"While a nationally consistent policy framework which we can rely on to deliver the commitments of the Paris Agreement is urgently needed, Western Australia won't wait on the Australian Government"(Foreword)

"A clear State Government policy and roadmap for action will ensure we manage the low carbon transition in a considered way." (Foreword)

"The government of WA has committed to working with all sectors of the economy to achieve net zero by 2050. The Government's aspiration creates the overarching framework for the State Climate Policy." (p3)
- 2. Council indicate strong support for a State Climate Change Policy with policy measures and changes that are consistent with a credible trajectory to net zero by 2050, and recommend that the planned State Climate Change policy must set out in workable detail the trajectory to this target and how WA will achieve it.**
- 3. Council endorse Attachments 1 and 2, incorporating the following changes, as the basis of its submission on the document:**
 - a. Inclusion of explicit reference to limitation of urban sprawl and promoting more compact efficient urban structure as a contributing measure to protecting biodiversity.**
 - b. Correction of submission point numbering**
 - c. Include reference to the Western Australian Local Government Association submission under all items to which no direct City of Fremantle response is proposed.**

Carried: 7/0

**Cr Sam Wainwright, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Bryn Jones, Cr Su Groome, Cr Adin Lang, Cr Marija Vujcic**

**Cr Bryn Jones requested the item be referred to the Ordinary Meeting of Council.
Seconded by Cr Andrew Sullivan**

ADDITIONAL OFFICER COMMENT

In order to address additional comments made during discussion of this item at the Strategic Planning and Transport Committee meeting on 20 November 2019, officers have prepared the following amended recommendation.

AMENDED OFFICER RECOMMENDATION

That

1. Council note the release of the Climate Change Issues Paper for public comment by the state government and strongly endorse the following commentary at the beginning of the Issues Paper:

“While a nationally consistent policy framework which we can rely on to deliver the commitments of the Paris Agreement is urgently needed, Western Australia won’t wait on the Australian Government” (Foreword)

“A clear State Government policy and roadmap for action will ensure we manage the low carbon transition in a considered way.” (Foreword)

“The government of WA has committed to working with all sectors of the economy to achieve net zero by 2050. The Government’s aspiration creates the overarching framework for the State Climate Policy.” (p3)
2. Council **reiterate its declaration of climate emergency**, indicate strong support for a State Climate Change Policy with policy measures and changes that are consistent with a credible trajectory to net zero by 2050, and recommend that the planned State Climate Change policy must set out in workable detail the trajectory to this target and how WA will achieve it.
3. Council endorse Attachments 1 and 2, incorporating the following changes, as the basis of its submission on the document:
 - a. Inclusion of explicit reference to limitation of urban sprawl and promoting more compact efficient urban structure as a contributing measure to protecting biodiversity.
 - b. Correction of submission point numbering
 - c. Include reference to the Western Australian Local Government Association submission under all items to which no direct City of Fremantle response is proposed **within Attachment 1.**
 - d. **Inclusion of further reference to the Council’s May 2019 declaration of climate emergency within the introduction of Attachment 1.**
 - e. **Inclusion of further detail around the Council’s May 2019 declaration of climate emergency and the basis for this within the introduction of Attachment 2.**
 - f. **Inclusion of further reference to the need for a clear state government climate change policy incorporating a credible trajectory to net zero by 2050 and associated policy measures for achievement of this target within the introduction of Attachment 2.**
 - g. **Modification of the 6 headings under which action should be taken included within the introduction of both documents to include specific reference to walking as a mode of transport, and to biodiversity.**
 - h. **Inclusion of further references to the need to include fugitive emissions in carbon accounting.**
 - i. **Inclusion of further emphasis on the potential role of financial incentives / levers (including taxation schemes, market based mechanisms and purchasing policies) to promote the transition to low carbon at both the state and federal level.**

- j. Inclusion of further emphasis on the need to promote clean industries and transition away from fracking and other activities known to contribute significant emissions.
- k. Inclusion of explicit reference to the potential to transition the public transport fleet to electric.
- l. Inclusion of reference to the need to allow energy trading between sites via a virtual network alongside references to rigidity of the grid within Attachment 1.
- m. Inclusion of specific reference in Attachment 2 to the priority public transport links identified within the City of Fremantle, and the City's desire to see these projects designed, scheduled and commenced within the near future as part of the Metronet program.
- n. Inclusion of specific reference to the Council's support for a wind farm on the north quay of Fremantle Port within Attachment 2.
- o. Inclusion of further emphasis on the need to reduced or better designed packaging as well as better recycling methods and potential to incentive and regulate this.

**SPT1911-3 PROPOSED SCHEME AMENDMENT NO. 79 - OMNIBUS
AMENDMENT - OUTCOMES OF ADVERTISING AND FINAL
ADOPTION**

Meeting Date:	20 November 2019
Responsible Officer:	Manager Strategic Planning
Decision Making Authority:	Council
Agenda Attachments:	1. Amendment to the Scheme Map
Additional Information:	1. Previous Council Report 2. Schedule of Submissions

SUMMARY

The City has undertaken community consultation on a proposed standard scheme amendment (No. 79) to Local Planning Scheme No. 4 (LPS4). The amendment proposes changes in four broad categories:

1. Updates to amend references to the Residential Design Codes (R-Codes) in order to reflect changes introduced via State Planning Policy 7.3 – Residential Design Codes Volume 2 – Apartments (Design WA)
2. Administrative fixes to correct minor errors and reflect current legislation
3. Minor changes to amend some land use permissibility
4. Minor Scheme map changes to align with changes to the region scheme and correct unzoned land and misaligned zones.

The changes are administrative and / or minor in nature and so have been bundled into an omnibus amendment for the sake of efficiency.

Community consultation on the amendment was undertaken from 12 September to 24 October 2019, during which period 6 public and one agency submissions were received. These were generally supportive, though with several queries and suggestions made, particularly in relation to density potential at the Rose Hotel site.

It is recommended that the amendment proposal be endorsed by Council and referred to the Western Australian Planning Commission with a recommendation for final approval by the Minister for Planning.

BACKGROUND

The *Planning and Development Act 2005* provides for local governments to prepare local planning schemes to guide the use and development of land in their area. These are to be maintained through periodic review and amendment.

As part of this maintenance program, a series of minor issues were identified as in need of update. These include: references to obsolete legislation, typographical errors, updates to the scheme map to reflect minor changes in the regional reserve along Stirling Highway and several other minor zoning anomalies. Changes arising from gazettal of State Planning Policy 7.3 - Residential Design Codes Volume 2 (SPP 7.3) have also been identified (refer item SPT1905-4). Finally, some changes to correct historical land use definitions and update minor items within the land use zoning table were suggested.

These were compiled into an omnibus amendment which was initiated by Council on 26 June 2019, and consequently processed and advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulation 2015*. For further detail, refer to the original June 2019 report provided as Additional Information 1 to this report.

The purpose of this report is to consider submissions received during the consultation period and determine the recommendation to be made to the Western Australian Planning Commission.

OFFICER COMMENT

The City undertook public consultation for 42 days as required for a standard scheme amendment in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City's Local Planning Policy 1.3. Consultation took the form of:

- signs on site to the three properties undergoing major rezoning (101 Stirling Highway, North Fremantle; 82-84 Stirling Highway, North Fremantle; 25 Amherst Street, Fremantle),
- letters to owners and residents within 100m of the above sites and sites adjoining 42-52 Paget Street, Hilton,
- Advertising in the local paper
- Advertising via the City's MySay website.

The proposal was advertised from 12 September to 24 October 2019, during which six submissions were received; one fully in support, with the balance providing comments and queries but not significant objection. Submissions received are outlined in the attached Schedule of Submissions (Additional Information 2) and summarised below:

- Generally supportive after having the proposal at the Rose Hotel site explained. Initial concern was that the trend for apartment buildings along Stirling Highway would continue into the future without Councillors being able to protect residents from their adverse effects such as parking and traffic problems.
- Supportive of Rose Hotel rezoning provided it only reflects the existing use and density rather than introducing higher density, and is reflective of the adjoining uses.
- Development within DA 15 area (Rose Hotel site) should not need to use section 4.2.5 of the Scheme as the subject area exceeds a density of R60 and is closer to R80. We are concerned the R35 density will result in the building contravening Local Planning Scheme No. 4. This creates future uncertainty in the face of any disaster or destruction of the building and it also has the potential to affect property value. It is important to note valuers and future purchasers will be less satisfied to have a lower density zoning than what actually exists. It will create confusion as to the reason why should Council down zone existing approved development. I feel that this issue would concern all home owners within the DA 15 zone.

- The Rose Hotel site should have a density closer to R80, rather than R35, as it is located near a train station, public open space and amenities and shops. The WAPC's *Development Control Policy 1.6 – Planning to Support Transit Use and Transit Orientated Development* encourages higher density in locations such as this.
- Support the changes to Paget Street on condition that any activity is low scale and does not impact amenity of adjoining residential units. No obtrusive advertising signage is permitted on the exterior of buildings or changes permitted to the exterior fabric of the building. That there is a limit to the number of people that can be working in a unit (i.e. small enterprises consisting of 2 - 3 people). The type of work is restricted to 'clean' activities e.g. commercial, consultancies. No hazardous enterprises to take place e.g. hazardous medical. No food or drink to be sold if categorised as a 'shop'. No commercial food production to take place on premises. Not to be used as a B&B. Outdoor sheds not to be used as extra office space or as extra bedrooms (they are non-habitable rooms). Extra client parking which may be generated to be controlled e.g. parking on the grass verge should be prohibited.

In regards to the above, City officers provide the following comments:

- Amendments to the Rose Hotel and surrounding sites provide clearer development control by bringing the land into a zoning and density covered by scheme requirements, and consistent with surrounding sites.
- The density of the Rose Hotel site would only potentially be an issue if there were substantial redevelopment of the site involving demolition of the Grouped and/or Multiple dwellings at the rear of the site and a wholly new development. Clause 5.1.1, C1.4 (ii) of the R-Codes exempts existing, WAPC-approved development from having to comply with the minimum and average site area requirements of Table 1 of the R-Codes. As the Rose Hotel has been subdivided under an approved strata plan, this clause would apply and would therefore not prevent any existing buildings destroyed to be rebuilt within their current lot boundaries.
- Under Volume 2 of the R-Codes, the plot ratio of a R60 development is 0.8, and may be varied subject to compliance with the element objectives. (*Note: plot ratio excludes the Grouped dwellings and their associated land area*) The plot ratio of the existing multiple dwellings and commercial development on the site is approximately 0.84, which is generally consistent with the R60 density.
- It may well be desirable to increase density in locations close to rail stations and amenities as a general principle; however, such a density increase is outside the scope of this amendment, which is seeking to 'normalise' a completed development. Any major increase in density should be considered as part of a more complex scheme amendment following a strategy review for the wider precinct.
- The Paget Street amendments only apply to the existing built form, which will ensure all development remains low scale. Substantial redevelopment will cause the site to revert back to the base residential zoning. Potential non-residential land uses must comply with the definition of 'Shop' or 'Office' (or another normally allowable use within a residential zone), and any variations such as parking shortfalls will be assessed at the development stage and advertised for comment in accordance with the City's policies. A Bed and Breakfast or a Short Stay Dwelling are allowable uses within a residential zone and this amendment does not alter that for this site.

External Agencies

Department of Planning, Lands and Heritage (DPLH) – State Heritage

DPLH provided the following comment:

“It is noted that Amendment no 79 – Sheet 5 of 8 – proposes the zoning of Lot 511 Stirling Highway, which is included on the State Register of Heritage Places as North Fremantle Primary School (fmr), to Mixed Use R25. It is recommended that an additional requirement for a Local Development Plan is included in the event of any future development.”

The existing building takes up the majority of the site and is a Level 1A state heritage registered building: retention of the building is effectively required under the City's scheme and the Heritage Act, limiting redevelopment opportunities. Any development proposal would need to consider impact on heritage significance, and demonstrate its suitability. It is not considered necessary to create a Local Development Plan specifically for this site, though one could be considered (with WAPC support) in the future if any complex redevelopment proposal were contemplated, or as part of a broader precinct planning exercise.

The departments of Education, Biodiversity, Conservation and Attractions and Main Roads WA all advised of no objection.

It is recommended that Council approve of the standard amendment for submission to the WAPC for final determination from the Minister for Planning.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The process for a scheme amendment is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

CONSULTATION

Consultation on the Amendment was undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and Local Planning Policy 1.3.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM SPT 1911-3
(Officers recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Geoff Graham

Council:

- 1. Note the submissions received on Amendment 79 to Local Planning Scheme No.4 as detailed in the Officer's report and Schedule of Submissions.**
- 2. Resolve pursuant to regulation 41(3) of the Planning and Development (Local Planning Schemes) Regulations 2015 to adopt Amendment 79 to the City of Fremantle Local Planning Scheme No. 4 as follows:-**
 - a) Updating references to superseded Residential Design Codes terminology and provisions, as follows:**
 - i. Clause 4.3.3.2: Delete the words '...clause 6.2.3...' and replace with "...clause 5.2.3..."**
 - ii. Clause 4.5.1: delete "...the provisions Part 5 and Part 6..." and replace with "...the provisions of Volumes 1 and 2..."**
 - iii. Correct discrepancies and anomalies within Schedule 8 relating to the introduction of Volume 2 – Apartment Design Codes, as follows:**
 - Sub Area 1.3.2 (j) – insert "...of Volume 1 and Table 2.1 of Volume 2 of the..." after "Table 4".**
 - Sub Area 2.3.1 –**
 - Subclause i) - insert after "Table 4" the following "...of Volume 1 and Table 2.1 of Volume 2 of the..."**
 - Subclause m) – delete "...R-AC code..."**
 - Sub Area 2.3.4 (1.) – insert "...Volume 1 of..." after "...Table 3 of..."**
 - Sub Area 4.3.6 – South Street/Hampton Road Sub Area**
 - Clause 11 – Insert at beginning: "Where buildings are assessed under Volume 1 of the R-Codes,..."**
 - Clause 13 – delete and replace with:**
 - In assessing development against design elements 5.4.2 (Solar access for adjoining sites) of Volume 1 or Acceptable Outcomes 3.2.3 (Orientation) of Volume 2 of the Residential Design Codes and irrespective of the dwelling or lot type on adjoining southern boundary, development shall not be assessed against C2.1 and C2.2 of the Deemed-to-comply requirements of Volume 1, or A 3.2.3 and A 3.2.4 of Volume 2, but shall only be assessed against the design principles of clause 5.4.2 or Element Objective O3.2.2, respectively.**

- **Sub Area 5.3.1 –**
 - Additional development standards c) - Delete “...Table 4 and part 6.1.2...” Replace with “...Table 2.1 and Clause 2.2 of Volume 2...”
 - ‘Criteria to be met’ part (h) – insert at start “Where buildings are assessed under Volume 1 of the R-Codes,...”.
 - **Sub Area 6.3.1 -**
 - ‘Additional Development Standards’ part (c) - Delete “...Table 4 and part 6.1.2...” replace with “...Table 2.1 and Clause 2.2 of Volume 2...”
 - Criteria to be met h) - insert at start “Where buildings are assessed under Volume 1 of the R-Codes,...”
 - **Sub Area 7.3.1**
 - Subclause i) – delete “...the Deemed-to-comply standard of clause 6.3.1...” replace with “part 4.4 of Volume 2...”
- b) Delete all references to Small Secondary Dwellings, specifically:**
- i. Delete Small Secondary Dwelling from Table 1 – Zoning, and the note at the bottom of the page
 - ii. Delete clauses 4.3.5.1 through 4.3.5.7
 - iii. Amend clause number 4.3.5.8 to be number 4.3.5.
 - iv. Amend the Note under clause 4.3.5.7 to read:
As of 6 December 2016 Clause 4.3.5 applies and the Small Secondary Dwelling provisions have been deleted from the Scheme.
 - v. Delete Clause 4.4.1(b)
 - vi. Delete Small Secondary Dwelling from Table 2 – Vehicle Parking
 - vii. Delete clause 5.7.5
 - viii. Delete Schedule A, Clause 61 (m)
 - ix. Delete Schedule A, Clause 78E
- c) Amend the definition of ‘Building Envelope’ to insert the word ‘authority’ after the word ‘responsible’.**
- d) Amend the definition of Family Day Care to read: *means premises where a family day care service as defined in the Education and Care Services National Law (Western Australia) is provided.***
- e) Amend the definition of Land by replacing reference to “Town Planning Regulations 1967” with “Planning and Development Act 2005”.**
- f) Renumber Burt Street Sub Area in Schedule 8 to Sub Area 5 (2.3.5)**
- g) Delete all references to Area A within sub area 6.3.1 of Schedule 8.**
- h) Amend the note under clause 1.7.1 to refer to clause 4.2 instead of 3.2.**
- i) Fix the bike racks typo of Table 2 – Tertiary School by changing the second instance of “Class 2” to “Class 3”.**
- j) Schedule A, clause 8 – Replace with “The places included in the Fremantle Municipal Heritage Inventory are deemed to be included on the Heritage List, excepting those classified as ‘Heritage Record Only’.**

- k) Add the following land uses and permissibility to Table 1:**
- i. Ancillary dwelling: P in Residential zone and D in City Centre, Local Centre, Neighbourhood Centre, Mixed Use and Commercial zones.
 - ii. Single bedroom dwelling: D in Residential zone, City Centre, Local Centre, Neighbourhood Centre, Mixed Use and Commercial zones.

- l) Add the following Additional Uses to Schedule 2 clause 6.2:**

No.	Description of Land	Additional Use	Conditions
2	Nos 42-52 (Lots 1-4 SP4901) Paget Street, Hilton	Shop, Office	1. The additional uses are 'A' uses. 2. These additional uses only apply to the built form approved as part of DA190/05. The additional uses hereby permitted will not apply to any increase in floor area or substantial redevelopment.

- m) Amend Table 1 to make Fast Food Outlet a 'D' use in the City Centre.**
- n) Amend Schedule 7 of the Scheme to delete DA15 and the associated area description and provisions.**
- o) Amend the Scheme map as follows and shown in Attachment 1:**
- i. Nos. 100, 106, and 108 (Lots 50-52) Stirling Highway, North Fremantle: Extend Mixed use zone to street boundary.
 - ii. Nos. 111A (Lot 82), 111F (Lot 701), 111 (Lot 172) Stirling Highway, North Fremantle: Extend Mixed Use zone to street boundary.
 - iii. No. 101 (Lot 511) Stirling Highway, North Fremantle: Zone Mixed Use.
 - iv. Nos. 1-27/78-80 (Lot 700), No. 2 (Lot 4 SSP 60487), and No. 72 (Lot 3) Stirling Highway, and No. 1A (Lot 2 SSP 60487) White Street, North Fremantle: Change from Development zone to Mixed Use zone with a density of R35 and remove from Development Area DA15.
 - v. No. 25 (Lot 1001) Amherst Street, Fremantle: Change from Public Utilities Reserve to Development zone and include as part of Development Area DA4.
 - vi. Sallentina Ridge Public Open Space Reserve 48211, No. 11-23 Moran Court, Beaconsfield: Change from Residential zone to Open Space Reserve.
 - vii. Minim Cove road reserves: Change all land within road reservations from Residential to unzoned.

- viii. Reserve 2 Tyrone Street (Lot 8002), North Fremantle: Align Parks and Reserve to cadastral boundaries
 - ix. No. 4 (Lot 218) Tyrone Street, North Fremantle: Remove Parks and Reserve reservation from lot and make entirety of lot Residential R25.
 - x. Align R20 density to follow the lot boundaries of No. 15 (Lot 8 SSP 45668) and No. 15A (Lot 5 SSP 45668) Simper Crescent, White Gum Valley.
-
- 3. Authorise the Mayor and the Chief Executive Officer to execute and affix the common seal of the City of Fremantle to the Amendment No. 79 to Local Planning Scheme No. 4 documentation as referred to in (2) above.
 - 4. Refer the executed Amendment No. 79 to Local Planning Scheme No. 4 documentation to the Western Australian Planning Commission with a request that the Minister for Planning grant it final approval.

Carried: 7/0

Cr Sam Wainwright, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Bryn Jones, Cr Su Groome, Cr Adin Lang, Cr Marija Vujcic

SPT1911-4 CAR SHARE POLICY SG57 - REVIEW

Meeting Date:	20 November 2019
Responsible Officer:	Manager Strategic Planning
Decision Making Authority:	Council
Agenda Attachments:	1. Proposed (revised) Car Share policy SG57
Additional Information:	1. Current Car Share policy SG57 2. Previous Council Report

SUMMARY

In line with the aims of the City of Fremantle Integrated Transport Strategy (ITS) and One Planet Strategy, the Car Share policy SG57 aims to promote an increase in the uptake of car sharing options and operations and therefore to reduce private vehicle use across the City. Adopted in 2014, the policy was prepared to support *an initial two year car share policy trial*. The policy states *the City will work to facilitate a fleet of at least 50 viable car share vehicles in the municipality by 2020*.

In order to advance this objective, in 2017 Phillip Boyle & Associates were engaged by the City to prepare a report on how a car share network might feasibly operate in Fremantle. As a result of the report, Council resolved to call for Expressions of Interest (EOI) to gauge the willingness of car share operators to establish a scheme in Fremantle and the level of support (if any) they might require to do so. The Philip Boyle report and the EOI responses indicated that whilst the support for a scheme offered by the current Car Share policy is positive, some of the obligations which go with it are not conducive to the establishment of a scheme in the current market. In September 2018 the Finance, Policy, Operations and Legislation Committee resolved not to proceed to tender and to review the Car Share policy SG57 to provide greater flexibility to support the initial establishment of a car share scheme in the future.

The purpose of this report is to outline the findings of the review of Car Share policy SG57. The review recommends modifications to the policy to:

1. Maintain the statement of support.
2. Reduce onerous booking and reporting requirements as recommended by the Phillip Boyle and Associates report.
3. More clearly define the support the City is prepared to offer an initial scheme operator to help establish a scheme (namely waiver of parking fees for up to 8 bays for up to 5 years).
4. Confirm that fees chargeable for bays will otherwise be based on estimated loss of revenue as recommended by the Phillip Boyle and Associates report.
5. Update expectations in relation to the scale and timing of the scheme to reflect the conclusions of the Phillip Boyle and Associates report.

The potential to consider e-scooter share schemes under the policy has also been clarified.

BACKGROUND

In line with the City of Fremantle's Integrated Transport Strategy (ITS) and One Planet Strategy, the City is committed to encouraging more sustainable forms of transport including walking, cycling and use of public transport. The ITS includes a recommendation (10.2.1) that *"Council supports car share schemes as a transport innovation that can help reduce car dependency."*

In July 2014 Council adopted a detailed Car Share Policy SG57 (Additional Information 1). The policy sets out the City's commitment to an initial two year car share policy trial, promoting car share schemes and incentivising the set-up of such schemes. Through the Car Share Policy, the City proposed to work to facilitate a fleet of 50 viable car share vehicles in the municipality by 2020. Intended outcomes for Fremantle were:

- More efficient use of street parking
- Reducing community greenhouse gas emissions
- Support for economic growth
- Reducing congestion
- Slowing growth in private vehicle ownership

In order to advance Council's car share objectives, in 2017 Phillip Boyle & Associates were engaged by the City to prepare a report to establish how a car share network might feasibly operate in Fremantle. The findings of this investigation were reported to Council 28 on March 2018 (refer Item FPOL1803-7). The report indicated that whilst the support for a scheme offered by the current Car Share Policy is positive, some of the obligations which go with it are not conducive to the establishment of a scheme in the current market, and that a smaller scheme (commencing with 4 nodes of 2 vehicles each) would present a more feasible option at this early stage of industry establishment.

As a result of the report, Council resolved to call for Expressions of Interest (EOI) to gauge the willingness of car share operators to establish a car share scheme in Fremantle based on the model identified as most feasible by Phillip Boyle. An EOI was sought between 9 and 25 May 2018, at the close of which four submissions were received.

The outcomes of the EOI were considered at Finance, Policy, Operations and Legislation Committee on 12 September 2018, following which Council:

1. *Noted the submissions received through Expression of Interest FCC517/18*
2. *Resolved not to seek tenders for the establishment of a car share scheme in Fremantle at that time given the apparent absence of sufficient market demand to sustain this without substantial subsidisation.*
3. *Requested that the current Car Share policy SG57 be reviewed to provide greater flexibility to support the initial establishment of a car share scheme in the future, based on the findings of the Phillip Boyle report submitted to Council on 28 March 2018.*
4. *Requested that discussion with other interested local governments, WALGA and other potential stakeholders continue to indicate the City's interest in establishing a car share scheme and preparedness to work cooperatively with partners to facilitate this, should a viable model emerge.*
5. *Thanked all those who made submissions on Expression of Interest FCC517/18 and invite them to continue to monitor the market and to inform the City if and when establishment of a scheme in accordance with the terms of Council's revised policy appears viable. (Refer Item FPOL1809-26).*

The purpose of this paper is to address the third resolution, being to outline the findings of the review of Car Share policy SG57. The aim of the review is to provide greater flexibility to support the initial establishment of a car share scheme.

OFFICER COMMENT

The discussion below explores the implications of the findings from the Phillip Boyle report as they apply to the policy provisions set out under the following headings:

- Policy aims
- Intended outcomes
- Provision of car share spaces
- Management of car share providers
- Competition and new entrants
- Promotion
- Enforcement

Policy aims and intended outcomes

Through the Car Share policy the City initially proposed to work to facilitate a fleet of 50 viable car share vehicles in the municipality by 2020. Intended outcomes for Fremantle were:

- More efficient use of street parking
- Reducing community greenhouse gas emissions
- Support for economic growth
- Reducing congestion
- Slowing growth in private vehicle ownership

The Phillip Boyle & Associates report indicated the 50 vehicle target was not feasible within the remaining timeframe. It suggests that establishment of an 8 car scheme based around the 4 nodes followed by market-responsive growth represents a more viable approach, and most likely to support the successful establishment of a scheme. Modification of the policy to reflect this is recommended.

Provision of car share spaces

With regard to on-street spaces the policy states: *The City will provide a number of dedicated /exclusive on-street spaces for authorised car share vehicles* and that these will be in convenient locations.

The Phillip Boyle report suggests broad locations however stipulating these or detailed bay allocation in the policy is not recommended as it is likely to prove overly inflexible. Negotiation of appropriate bays (taking into account the Phillip Boyle recommendations but also the City's experience of other parking demands) with any proponent if and when a scheme establishes is preferred.

The policy also states *Car share operators will be required to make a contribution to annual fees for allocated parking spaces as the allocation of the spaces significantly impacts the City's revenue base*. However no contribution rates or formulas are specified in the policy itself.

The Phillip Boyle report suggests the loss of revenue from car bays represents a component of the cost of establishing a scheme and that this cost would need to be borne by the City initially, until the scheme is established and profitable. The report goes on to suggest that if a fee is to be enforced, it should be based on lost revenue (factoring in average vacancy rates), not standard charges. In seeking the EOI for the 8 bay initial scheme proposed by Phillip Boyle, the City estimated the lost revenue from these bays to be \$23,000 p.a. and indicated that this cost could be borne by the City for the initial period of the scheme (3 years). Even with this level of subsidy, the EOI responses suggested that a scheme remained unviable at that time. Enquiries have, however, been ongoing and it is consequently recommended that the policy be updated to provide some clearer direction with regards to the level of subsidisation contemplated by the City, and the principles upon which this is based. It is recommended that an establishment period of 5 years be stated to provide an outer frame for the period of subsidisation the City would support. This can be revisited at the next review of the policy, should no scheme establish prior to then.

For (private) off street spaces the policy states: *the City will encourage on site car share spaces where feasible, safe and accessible and on agreement with the owners corporation.* The Phillip Boyle Report suggests reviewing parking policies including waivers for parking supply in new developments. A review of parking standards has already been identified as desirable and is very likely to form a recommendation of the Parking Action Plan currently under development. Acknowledgement of the potential role of car share in future mobility and the establishment of clearer guidelines for when and to what degree allocated parking might be reduced or waived in private development on the basis of the availability of such schemes can form a component of that work. In the interim, any development proposal seeking variation of parking provision on the basis of car share (of which the City has received only 1 to date), can be assessed under the current provisions of the planning scheme, which allow discretion on parking. Retention of a generic statement in this policy is proposed in the interim.

Management of car share providers

The policy requires operators to enter into a legal agreement with the City governing the terms of use of the allocated spaces. The policy sets out the standards an operator needs to demonstrate to 'qualify.' While most of these cover accessibility for users, the Phillip Boyle report suggests some of the booking restrictions could be seen as onerous or inflexible as discussed below:

Ensure that no on-street space is booked for longer than four days unless a replacement vehicle is provided for the space; and: Prohibit the routine long-duration reservation or exclusive use, including overnight use, of an on-street vehicle by any one nearby member, either individual or business. The report suggests the pricing structure of car share schemes makes them an unattractive option for multiple day reservations; however, given the apparent marginality of a scheme, it is recommended that this option be made available to users in case it helps underpin revenue. Additionally, if nodes are required to consist of at least two vehicles, then it is likely another vehicle may be available at the same location. Should a routine, long-duration reservation continue, a third vehicle could be added to the node. Removal of this restriction is consequently recommended. Inclusion of a more general statement confirming that use of public bays by conventional car hire firms will not be support is, however, proposed for the removal of any doubt.

Whilst scooter share schemes are not synonymous with car share (and may have a different impact on travel behaviours), they nevertheless have potential (depending on operation) to reduce car ownership, travel and to provide an alternative mode of transport. Regulatory requirements to govern the future use of e-scooters in WA are currently being considered by the Department of Transport. A line has consequently been included in the policy clarifying that e-scooter schemes can be considered under the policy where they demonstrate alignment with its intended outcomes.

Carbon reporting – Car share providers must provide an aggregated quarterly carbon emissions report and must ensure that the car share fleet is carbon neutral by engaging in a carbon offset program. The report notes that car share schemes are generally recognised as having environmental benefits. The inclusion of reporting and carbon neutral management, whilst desirable, could further undermine the viability of an initial scheme. It is recommended that requirement be generalised and made optional for the present.

Withdrawal of spaces: The report suggests this provision would need to be addressed in detail in any agreement reached between the City and an operator on use of its bays. Deletion of the detail on penalties for non-compliance with the policy is consequently recommended, enabling its negotiation as part of any scheme seeking to establish.

Competition and new entrants.

The policy was prepared in the expectation of rapid establishment and uptake. In the Perth market, this has not eventuated, and EOI responses suggest that it may yet take a while. Rewording of the policy has consequently been proposed providing clarity on how the City will consider unsolicited proposals to establish a car share scheme (and the level of support it will provide an initial investor to support this) and then to make more generic reference to review and potential EOI following this initial trial period. This provides some additional flexibility to allow a longer period of initial support, whilst still maintaining the principles of a fair and open market and a potential competitive process once the market is established.

Promotion

The opening policy statement says - *the City will actively promote car share options to new commercial developers and new hotel/tourism related developers.* In line with this, the Philip Boyle report suggests encouraging the City and other large local organisations such as Notre Dame University and Fremantle Hospital to *use the service, sign up all employees as members and replace some or their car fleet with cars from (car share) service(s).*

Discussions with these entities have not borne fruit. However retention of the more generic commitments to promotion is proposed.

Enforcement

Under the policy the City commits to monitoring allocated car share spaces during regular parking patrols and issuing infringement to non-car share vehicles. This remains a reasonable commitment and practice.

Conclusion

In conclusion, the original aim of the policy was to facilitate the establishment of a car share scheme or schemes as a trial. To this end the policy underpinned the call for Expressions of Interest (EOI) in 2018. Even though the policy trial and EOI did not result in the establishment of a car share scheme, they have provided a mechanism through which the City could state its support for the establishment of a scheme in Fremantle, and to refine the parameters it is prepared to go to, to facilitate this.

Update of the policy is recommended to:

1. Maintain the statement of support.
2. Reduce onerous booking and reporting requirements as recommended by the Phillip Boyle and Associates report.
3. More clearly define the support the City is prepared to offer an initial scheme operator to help establish a scheme (namely waiver of parking fees for up to 8 bays for up to 5 years).
4. Confirm that fees chargeable for bays will otherwise be based on estimated loss of revenue as recommended by the Phillip Boyle and Associates report.
5. Update expectations in relation to the scale and timing of the scheme to reflect the conclusions of the Phillip Boyle and Associates report.
6. Clarify potential to consider e-scooter schemes under the policy.

FINANCIAL IMPLICATIONS

The policy review clarifies the extent of parking fee waiver the City would considered under the policy (which is currently undefined), being up to 5 years waiver of up to 8 bays at an estimated loss of revenue of \$23,000 pa.

LEGAL IMPLICATION

A competitive process would need to apply to any scheme which the City considers subscribing to.

CONSULTATION

Given the nature of the revisions which refine current policy directions and incorporate market feedback, consultation on the revised policy is considered unnecessary.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority

COMMITTEE RECOMMENDATION ITEM SPT 1911-4
(Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Adin Lang

That Council adopt the revised Car Share policy as provided in Attachment 1.

Carried: 6/1

For:

**Cr Sam Wainwright, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Bryn Jones, Cr Su Groome, Cr Adin Lang,**

Against:

Cr Marija Vujcic

11.4 Audit and Risk Management Committee 12 November 2019

ARMC1911-1 OVERDUE DEBTORS REPORT AS AT 30 SEPTEMBER 2019

Meeting date:	12 November 2019
Responsible officer:	Manager Finance
Decision making authority:	Council
Agenda attachments:	1. Summary of Overdue Debts above Threshold (<i>Confidential attachment under separate cover</i>)
Additional information:	Nil

SUMMARY

This debtors report with a confidential attachment is provided to the Audit and Risk Management Committee together with details of overdue debts that exceed a threshold value of \$10,000.

This report recommends that Council receive the overdue debtors report and acknowledge the overdue debts exceeding ninety (90) days with the combined value exceeding \$10,000 as at 30 September 2019.

BACKGROUND

The report provides details to the Audit and Risk Management Committee on overdue debtors. The following information is provided on a quarterly basis:

- The amount of total debtors outstanding for the period aged from current to over 90 days overdue with a comparison to the same period for the previous year.
- The value of debt that is in excess of ninety (90) days overdue and the combined value of those debt(s) which exceed \$10,000.
- All records of the uses of delegated authority, to waive or write off debts valued at \$1,000 or above per debtor, must be reported to the audit and risk management committee.
- A confidential report containing the individual debtor information in relation to the outstanding debtors exceeding 90 days with a combined value exceeding \$10,000 with comments, background and a comparison to the previous quarters report.
- Debtor day ratio - the average number of days required for the City to receive payment from its customers for invoices issued to them.

FINANCIAL IMPLICATIONS

It is a requirement that annual financial statements include an allowance for impairment of receivables owed to the local government to be recognised as a cost to the budget in the year in which the impairment is made.

As at year ending 30 June 2019 an amount of \$144,907 was held as an allowance for impairment of receivables. As at the 30 September 2019 the current allowance held as impairment is \$124,690.

During this financial year the following reportable write-offs and waivers have been processed against this account:

Total Write-offs	\$20,217 + GST
Total Waivers	\$NIL

LEGAL IMPLICATIONS

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

In accordance with section 5.42 and 5.44 of the *Local Government Act 1995* the following delegated authority applies:

- The Chief Executive Officer has delegated authority to write off debts (not including rates or infringement) considered unrecoverable up to \$100,000 per account where in the opinion of the Chief Executive Officer all other reasonable avenues of recovery have been exhausted.
- Directors and Managers have various sub-delegated authority to write off debts (not including rates or infringement) considered unrecoverable up to \$20,000 per account where in the opinion of the Director or Manager all other reasonable avenues of recovery have been exhausted.

All records of the uses of this delegated authority, to waive or write off debts valued at \$1,000 or above per debtor, must be reported to the Audit and Risk Management Committee.

Any amount in excess of \$100,000 is to be written off by Council resolution. A council resolution authorising the write off of any bad debt does not prevent Council from reinstating the debt if the future circumstances change and the debt becomes collectable.

CONSULTATION

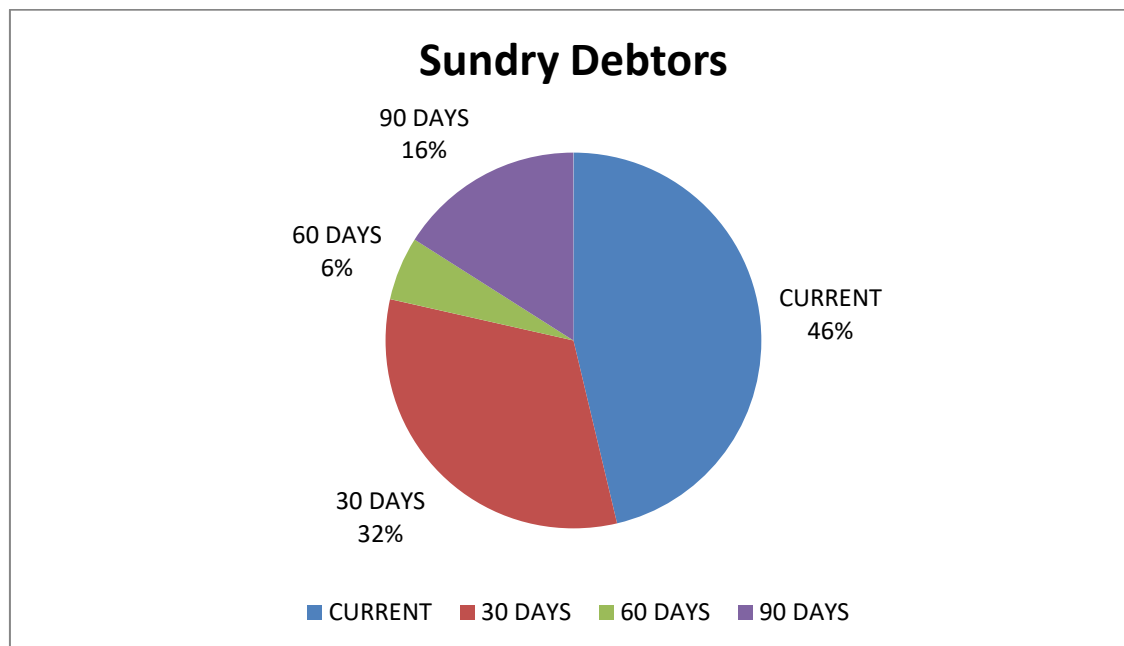
Nil

OFFICER COMMENT

The total of debtors outstanding as at 30 September 2019 is \$935,662. A breakdown of aged debt for the current period compared to prior year for the same period is tabled below.

Period Ending March	Current	30 Days	60 Days	90+ Days	Total
July 19 – September 19	46%	32%	6%	16%	100%
	432,911	301,939	51,254	149,558	935,662
July 18 – September 18	416,331	107,912	37,116	133,552	694,911

Of the total debt balance, the amount outstanding for 90+ days is \$149,558 or 16%. Below is a graph of the aged debt balances as at 30 September 2019.



Compared to the report of overdue debtors as at 30 June 2019, presented to Audit and Risk Management Committee at the 14 August 2019 meeting, the total value of outstanding debtors has increased by \$206k.

Outstanding debt over 90 days has decreased from \$175k at the end of the previous quarter to \$150k. The number of overdue debtors above reporting threshold is 2 with a total value of \$117,525.

Since the last report, 1 occurrence of delegated authority to waive or write off debts valued at \$1,000 or above per debtor by officers has occurred. Currently \$74k has been identified for potential write-off.

Summary of Sundry Debtor's Debts Written-off

Debtor No.	Name	Amount	Business Unit	Delegated Officer or Council
2092379	The Event Agency	4,367	Waste Management	Director Infrastructure and Project Delivery
2092585	Fly By Night Musicians Club Ltd	15,850	Economic Development	Council
	TOTAL	20,217		

Summary of Sundry Debtor's Debts Waived

Debtor No.	Name	Amount	Business Unit	Delegated Officer or Council
	TOTAL	NIL		

In accordance with delegated authority, any debts over \$100,000 will be submitted to Audit and Risk Management Committee for approval and all recorded use of delegated authority by Chief Executive Officer, Directors and Managers will be reported to Audit and Risk Management Committee.

The confidential attachment contains debtor information in relation to the \$117,525 of outstanding debtors exceeding 90 days with a combined value exceeding \$10,000 with comments and background.

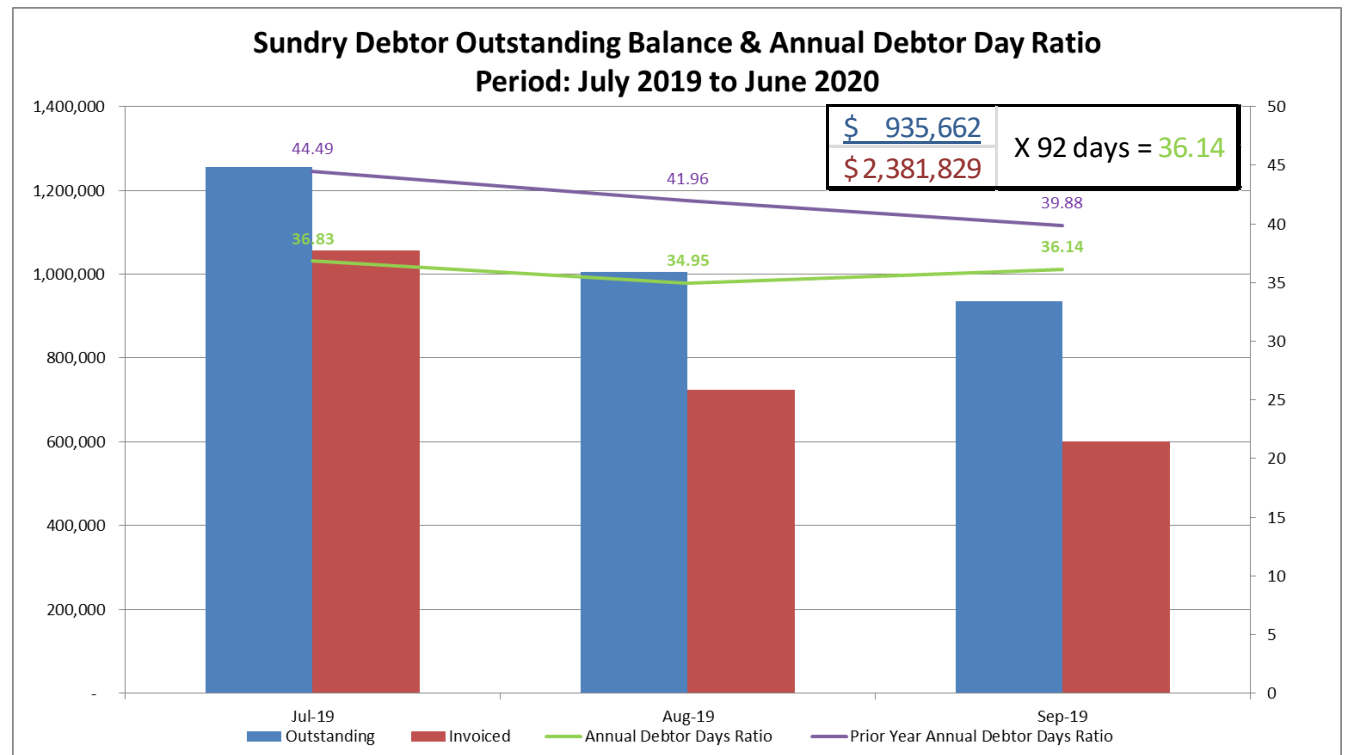
Debtors Outstanding

The debtor day ratio measures how quickly cash is being collected from debtors. The longer it takes for an organisation to collect, the greater the number of debtor days.

The calculation of the ratio considers the total amount outstanding at the end of the period over the total amount invoiced to that period for the financial year by the total number of days from 1 July to the end of the period. See calculation in graph below.

Prior financial year information is presented together with the current financial year as a comparative to demonstrate the City's ability to collect funds owed to the City when due.

At 1 July 2019, \$318,284 of invoices raised in 2018/19 was outstanding resulting in outstanding debt exceeding the amount invoiced during July 2019. Identified write-offs amount to \$74k and have resulted primarily from the City's commercially leased properties.



At reporting date, the debtor day ratio was 36.14 a decrease from the prior reporting period. Of outstanding debt, 46% related to current invoices that were not yet due.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM ARMC1911-1 **(Officer's recommendation)**

Moved: Mr Phillip Draber

Seconded: Cr Andrew Sullivan

Council receive the overdue debtors report and acknowledge the overdue debts exceeding ninety (90) days with the combined value exceeding \$10,000 as at 30 September 2019.

Carried: 5/0

**Cr Adin Lang, Cr Frank Mofflin, Cr Andrew Sullivan
Cr Hannah Fitzhardinge, Mr Phillip Draber**

ARMC1911-2 PURCHASING POLICY EXEMPTIONS AUGUST - OCTOBER 2019

Meeting date: 12 November 2019
Responsible officer: Manager Finance
Decision making authority: Council
Agenda attachments: 1. Purchasing Policy Exemption details August to October 2019 (*Confidential attachment under separate cover*)
Additional information: Nil

SUMMARY

The purpose of this report is to inform Council of purchases made by the City that were exempt to the requirements of the Purchasing policy, during the period August to October 2019.

This report recommends that Council receive the Purchasing Policy Exemptions for August, September and October 2019 report.

BACKGROUND

At the Ordinary Council Meeting of 27 February 2019, Council adopted a new purchasing policy. The policy contains a list of tender exemptions (exempt under Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*) and policy exemptions. Under this policy all exemptions used by the City are to be reported to the Audit and Risk Management committee.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil

OFFICER COMMENT

August 2019

The total value of exemptions from the City of Fremantle Purchasing Policy is \$15,894.00 for the month of August 2019.

The value of exemptions by category is:

Exemption Category	Value
Specialist Consultancy / Legal Services Exemptions	\$9,394.00
Artists Exemptions	\$6,500.00
Total	\$15,894.00

Details regarding individual exemptions can be found in the confidential attachment.

The process for requesting Artist exemptions was amended to require exemptions before contracts or Purchase orders are awarded. This has resulted in sponsorship and artistic fees required for the Preppers Exhibit at Fremantle Arts Centre, the Print Award at Fremantle Arts Centre and Perth Festival 2020 exhibits being agreed and paid for in advance. All costs were budgeted and approved at the 26 June 2019 Council meeting.

September 2019

The total value of exemptions used under the City of Fremantle Purchasing Policy is \$41,622.00 for the month of September 2019.

The value of exemptions by category is:

Exemption Category	Value
Specialist Consultancy / Legal Services Exemptions	\$41,622.00
Total	\$41,622.00

Details regarding individual exemptions can be found in the confidential attachment.

October 2019

The total value of exemptions used under the City of Fremantle Purchasing Policy is \$4,500.00 for the month of October 2019.

The value of exemptions by category is:

Exemption Category	Value
Specialist Consultancy / Legal Services Exemptions	\$4,500.00
Total	\$4,500.00

Details regarding individual exemptions can be found in the confidential attachment.

VOTING AND OTHER SPECIAL REQUIREMENTS

Information only no decision required

COMMITTEE RECOMMENDATION ITEM ARMC1911-2
(Officer's recommendation)

Moved: Mr Phillip Draber

Seconded: Cr Frank Mofflin

Council receive the Purchasing Policy Exemptions for August, September and October 2019 report.

Carried: 5/0

**Cr Adin Lang, Cr Frank Mofflin, Cr Andrew Sullivan
Cr Hannah Fitzhardinge, Mr Phillip Draber**

ARMC1911-3 TENDERS AWARDED UNDER DELEGATION JULY 2019 - OCTOBER 2019

Meeting date: 12 November 2019
Responsible officer: Manager Finance
Decision making authority: Committee (*reporting requirement of the CEO's Delegation 2.11*)
Agenda attachments: Nil
Additional information: Nil

SUMMARY

The purpose of this report is to summarise tenders awarded under delegation by various delegated Officers and Committee's, during the period July to October 2019.

This report recommends that Council receive the report on tenders awarded under delegation for July 2019 to October 2019.

BACKGROUND

Tenders awarded by the City are awarded under the following delegations, approved at Council on 26 June 2019:

Delegated Authority	Amount of Delegation
Finance, Policy Operations and Legislation Committee (FPOL)	\$500,000+ (if within budget)
Chief Executive Officer (CEO)	Up to \$500,000
Directors of the City of Fremantle (Director)	Up to \$500,000

Items identified under 'Officer Comment' of this report detail tenders awarded under delegation.

FINANCIAL IMPLICATIONS

All tenders were awarded within budget approved at Council on 26 June 2019.

LEGAL IMPLICATIONS

All tenders awarded met the requirements of Regulations 11A – 24AJ of the Local Government (Functions and General) Regulations 1996 and S3.57 of the *Local Government Act 1995*.

Under delegation 2.11 Expressions of interest and tenders or the City's Delegated Authority Register, the Chief Executive Officer is required to report the use of this delegation to the Audit and Risk Management Committee.

CONSULTATION

Nil

OFFICER COMMENT

Below is a list of Tenders awarded under delegation between July 2019 and October 2019.

July 2019

Tender Description	Awarded By	Contractor(s)	Contract Value
FCC916/19 Provision of Civil Works in Kings Square	FPOL (10 July 19)	Menchetti Consolidated Pty Ltd T/As MG Group WA	\$1,527,304
FCC917/19 Architectural Services for Interior of Old Town Hall	CEO (2 July 2019)	Griffiths Architects	\$117,500
FCC539/19 Plumbing Services	CEO (12 July 2019)	Finestone Investments Pty Ltd T/As ACE+	\$374,966
FCC541/19 Fremantle Public Golf Course – Design Consultant	CEO (16 July 2019)	Aspect Studios Pty Ltd	\$185,400
FCC542/19 Hilton Park South Sports Lighting	CEO (18 July 2019)	Stiles Electrical and Communication Services Pty Ltd	\$95,118

August 2019

Tender Description	Awarded By	Contractor(s)	Contract Value
FCC540/19 Electrical Services	FPOL (14 August 19)	Northlake Electrical Services Pty Ltd	Schedule of Rates
FCC538/19 Maintenance Services Tender	FPOL (14 August 19)	Rockingham Glass AE Hoskins & Sons Maxwell Robinson & Phelps ARA Fire Protection Services	Schedule of Rates
WFCC 53/19 Asphalt Surfacing and Profiling	FPOL (14 August 19)	Roads 2000 Pty Ltd	Schedule of Rates
FCC532/19 Security Services	CEO (2 August 2019)	MA Services Group Satellite Security	\$315,840

September 2019

Tender Description	Awarded By	Contractor(s)	Contract Value
FCC534/19 Irrigation Services	FPOL (11 Sep 19)	Think Water Perth Pty Ltd	Schedule of Rates

October 2019

Tender Description	Awarded By	Contractor(s)	Contract Value
WFCC51/19 Supply of Premix Concrete	FPOL (9 October 19)	Boral	Schedule of Rates
FCC544/19 EOI – Alternative Transportation Trial	Director Delegation (11 Oct 2019)	Geniux Go	\$4,800

VOTING AND OTHER SPECIAL REQUIREMENTS

Information only no decision required

COMMITTEE RECOMMENDATION ITEM ARMC1911-3
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Mr Phillip Draber

Council receive the report on tenders awarded under delegation for July 2019 to October 2019.

Carried: 5/0

**Cr Adin Lang, Cr Frank Mofflin, Cr Andrew Sullivan
Cr Hannah Fitzhardinge, Mr Phillip Draber**

ARMC1911-4 INFORMATION REPORT - NOVEMBER 2019

PROGRESS REPORT OF COUNCIL MOTIONS - JANUARY 2019 TO 30 SEPTEMBER 2019

Responsible officer: Manager Governance
Agenda attachments: 1. Motions Register - January 2019 to 30 September 2019.
Additional information: Nil

Best practice principles support the recording and reporting of actions taken on Council decisions to ensure they are implemented and actions are completed in a timely manner.

When possible, Council decisions are actioned as soon as practicable after a Council meeting; however there are projects or circumstances that mean some decisions take longer to implement than others.

Attachment 1 provides a list of the decisions made by Committee and Council between January 2019 to 30 September 2019 and a summary of the actions that have been undertaken and an indication if the actions have been finalised.

NEWLY ADOPTED INTERNAL REVIEW ADMINISTRATION POLICY

Responsible officer: Manager Governance
Agenda attachments: Nil
Additional information: Nil

The Executive Leadership Team recently adopted an Internal Review Administration Policy.

The Executive Leadership Team is committed to maintaining efficient and effective internal systems and procedures in a transparent and accountable manner. The City of Fremantle (the City) will undertake a program of internal auditing of its systems and procedures in alignment with those required by legislation.

The City is required by legislation to carry out a number of review/audit functions and these have been listed in the administration policy for clarity. In alignment with the legislated auditing and reviewing requirements, the City will more closely examine internal procedures and outcomes, particularly for areas of high risk, providing the administration with opportunities for continual improvement.

REGULATION 17 REVIEW

Responsible officer: Manager Governance
Agenda attachments: Nil
Additional information: Nil

In accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996*, the City is required to review the appropriateness and effectiveness of its systems and procedures in relation to:

- a. risk management
- b. internal control

c. legislative compliance.

Following the receipt of several quotes in accordance with the City's procurement procedures, the City has engaged Civic Legal to undertake the audits required to meet its compliance responsibilities under Regulation 17 over the next three years.

Progress reports and outcomes will be brought to the Audit and Risk Management Committee as they are made available.

OFFICER'S RECOMMENDATION

Moved: Cr Andrew Sullivan

Seconded: Cr Frank Mofflin

Council receive the following information reports for November 2019:

1. Progress report of Council motions - January 2019 to 31 July 2019.
2. Newly adopted Internal Review Administration Policy.
3. Regulation 17 review.

AMENDMENT

Moved: Cr Andrew Sullivan

Seconded: Mr Phillip Draber

To add the additional wording to part 3 as follows:

3. **Note the appointment of the auditor to undertake the** regulation 17 review.

Amendment carried: 5/0

Cr Adin Lang, Cr Frank Mofflin, Cr Andrew Sullivan
Cr Hannah Fitzhardinge, Mr Phillip Draber

Reason for change:

To clarify that Council are noting the appointment of Civic Legal to undertake the regulation 17 review.

COMMITTEE RECOMMENDATION ITEM ARMC1911-4

Moved: Cr Andrew Sullivan

Seconded: Cr Frank Mofflin

Council receive the following information reports for November 2019:

1. Progress report of Council motions - January 2019 to 31 July 2019.
2. Newly adopted Internal Review Administration Policy.
3. ***Note the appointment of the auditor to undertake the*** Regulation 17 review.

Carried: 5/0

Cr Adin Lang, Cr Frank Mofflin, Cr Andrew Sullivan
Cr Hannah Fitzhardinge, Mr Phillip Draber

12. Reports and recommendations from officers

C1911-1 MONTHLY FINANCIAL REPORT - OCTOBER 2019

Meeting date: 27 November 2019
Responsible officer: Manager Finance
Decision making authority: Council
Agenda attachments: 1. Monthly Financial Report – 31 October 2019
Additional information: Nil

SUMMARY

The Monthly Financial Report for the period ending 31 October 2019 has been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996.

This report provides an analysis of financial performance for October 2019 based on the following statements:

- Statement of Comprehensive Income by Nature & Type and by Program;
- Rate Setting Statement by Nature & Type and by Directorate; and
- Statement of Financial Position with Net Current Assets

BACKGROUND

The following table provides a high level summary of Council's year to date financial performance as at 31 October 2019.

Description	2019-20 YTD Budget	2019-20 YTD Actual	Variance Amount	Variance %	
	(A)	(B)	(C) =(B)-(A)	(D) =(C)/(A)	
OPERATING					
Revenue	\$57.00M	\$57.02M	\$0.02M	0.03%	●
Expenses	(\$23.96M)	(\$22.44M)	\$1.52M	6.34%	●
Operating Surplus/Deficit	\$33.04M	\$34.58M	\$1.54m	4.64%	●
CAPITAL					
Revenue	\$1.74M	\$4.95M	\$3.21M	184.98%	●
Expenses	(\$8.51M)	(\$5.91M)	\$2.6M	30.57%	●
Overall Surplus/Deficit	\$34.39M	\$37.50M	\$3.11M	9.03%	●

As detailed in the Statement of Comprehensive Income by Nature and Type operating income and expenses have mainly varied to the anticipated budget in the following categories:

Income	Variance	
Interest Earnings	(\$80,240)	●
Insurance Expense	(\$324,199)	●
Employee Costs – Agency Labour	(\$167,766)	●

Expenses	Variance	
Materials and Contracts	\$1,541,853	●
Employee Costs	\$234,060	●
Utility Charges	\$168,499	●

Further explanation of material variances are included under officers comments.

FINANCIAL IMPLICATIONS

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 IMPLICATIONS

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

CONSULTATION

Nil

OFFICER COMMENT

The overall performance for the City of Fremantle for the period ended 31 October 2019 resulted in an additional \$3,105,511 surplus being identified than anticipated to date, which is mainly as a result of :-

Reduction in anticipated surplus

- Decreased operating revenue (excluding general rates) of \$33,019
- Decrease net transfer to/from reserve of \$4,645,532
- Decrease general rates income of \$47,935

Increase in anticipated surplus




- Increased carried forward surplus of \$390,373
- Increased capital revenue of \$3,211,314
- Decreased capital expenditure of \$2,602,185
- Underspending of operating expenditure to date of \$1,520,066

It should be noted that processing of 30 June 2019 is still occurring as part of finalising end of financial year which may change the end of year surplus for 2018-19 financial year.






Explanation of Material Variances



In accordance with regulation 34(5) of the Local Government (Financial Management) Regulations 1996 and AASB 1031 Materiality, Council adopted the level to be used in statements of financial activity in 2019-2020 for reporting material variances as 10% or \$100,000, whichever is greater (Item C1906-2 refers Council meeting on 26 June 2019).

The material variance thresholds are adopted annually by Council as an indicator of whether the actual expenditure or revenue varies from the year to date budget materially. The following is an explanation of significant operating and capital variances as identified in the Rate Setting Statement by Nature and Type:

Category	Variance \$	Var. %	Var .	Explanation of Variance
<i>Operating Revenue</i>				
Operating Grants	183,716	16%		<p><u>Budget phasing</u> Variance of \$345k relates to actual grant income being more than anticipated due to budget timing. The revenue remains within the annual budget. Budget phasing will be adjusted next month to reflect the actual timing.</p> <p>The most significant increases in revenue (>\$25k) are:</p> <ul style="list-style-type: none"> • MOU Notre Dame \$96k • P-10848 Program-In Cahoots art exhibition \$139k • P-11728 Program-FAC Revealed 2019 \$30k • P-11729 Program-FAC Revealed 2020 \$75k <p><u>Grants to be claimed</u> Variance of (\$161k) relates to grants yet to be invoiced. Most significant (>\$25k) are:</p> <ul style="list-style-type: none"> • Infrastructure and project delivery directorate (\$145k) for Fremantle public golf course remediation design to be claimed from Main Roads
Reimbursement Income	(133,034)	(29%)		<p><u>Invoices to be issued</u> Variance mostly relates to reimbursement income yet to be invoiced. Most significant (>\$25k) are:</p> <ul style="list-style-type: none"> • P-11821 Demolition - 26 Montreal Street (\$70k) • Tenant Recoverable (\$38k)
<i>Operating Expenditure</i>				
Material and Contract	1,541,853	17%		<p><u>Invoices to be received</u> Variance of \$637k relates to the actual year to date expenditure being less than anticipated. Works or services are in progress and the funds are committed. Payment will be made once invoices are received.</p> <p>The most significant under expenditures (>\$25k) are:</p> <ul style="list-style-type: none"> • P-10994 Design-Corporate website \$66k • 100734 - Maintain business systems – HR \$27k • 100687 - Participate in South West Group \$42k • 100244 - Prepare asset management plans \$33k • 100010 - Maintain business systems – CAMMS \$49k

			<ul style="list-style-type: none"> • 100406 - Operate Fremantle arts centre – (\$58k) • 100746 - Maintain Street Lighting (\$26k) • 100011 - Maintain business systems - Technology One (\$40k) • 100012 - Maintain business systems – Other (\$35k) • 200458 - P-10003 Purchase-Software Rostering and costing system (\$55k) <p><u>Offset within overall budget</u> A variance of (\$20k) relates to the actual year to date expenditure being more than anticipated. These are being monitored as part of the overall budget and will be addressed at midyear budget review if required.</p> <p>The most significant under expenditures (>\$25k) are:</p> <ul style="list-style-type: none"> • Nil <p><u>Reactive budgets</u> A variance of \$194k relates to the actual year to date expenditure being less than anticipated due to reactive works or services. The budget will be utilised throughout the year as required.</p> <p>The most significant under expenditures (>\$25k) are:</p> <ul style="list-style-type: none"> • 100357 - Maintain Irrigation - Recreation Reserves \$39k • 100099 - Operate and maintain parking ticket machines \$54k • 100364 - Maintain roads \$33k <p><u>Budget phasing</u> A variance of \$174k relates to the actual year to date expenditure being more than anticipated due to budget timing. The expenditure remains within the annual budget. Budget phasing will be adjusted next month to reflect the actual timing.</p> <p>The most significant over expenditures >\$25k are:</p> <ul style="list-style-type: none"> • 100241 - Maintain Civic Administration Buildings \$116K • 100314 - Maintain natural areas \$80K • 100624 - Maintain Hard Landscaping \$39K • 100217 - Administer the emergency services levy (ESL) \$145k • 200478 - P-11674 Fees-Kings Square leasing \$30k • 100400 - Conduct Fremantle festival \$95k • 100419 - Conduct arts centre marketing activities \$30k • 100500 - Statutory Planning services \$27k • 100571 - Dispose of MSW at Regional Resource Recovery Centre (RRRC) \$152k
Agency Labour	(167,766)	(58%)	<p><u>Offset within budget:</u> Over expenditure for agency labour to cover vacancies is offset from savings in employee costs</p> <ul style="list-style-type: none"> • Infrastructure and Strategic Projects Leadership (\$51k) • Parks and Landscapes Team (\$38k) • Waste Collection Team (\$24k) • Environmental Health Team (\$15k)

				<p>Additional costs related to the City's indigenous traineeship program is offset from savings in employee costs and income reimbursement</p> <ul style="list-style-type: none"> • People and Culture Executive Leadership (\$33k)
Utility Charges	168,499	25%		<p><u>Invoices to be received</u> Variance relates to the actual year to date expenditure being less than anticipated. Budget funds are committed, payment will be made once invoices are received for:</p> <ul style="list-style-type: none"> • Electricity (\$51k) • Gas (\$20k) • Water (\$97k)
Insurance Expense	(324,199)	(64%)		<p><u>Budget phasing</u> A variance of \$324k for insurance relates to the actual year to date expenditure being more than anticipated due to budget timing. The expenditure remains within the annual budget. Budget phasing will be adjusted next month to reflect the actual timing.</p>
Capital Revenue				
Capital Grants and Subsidies	823,214	47%		<p><u>Grant claim to be processed:</u></p> <ul style="list-style-type: none"> • P-11853 Resurface MRRG-Sainsbury Rd (\$60k) <p><u>Budget phasing</u> Variance of \$880k relates to actual grant income being more than anticipated due to budget timing. The revenue remains within the annual budget. Budget phasing will be adjusted next month to reflect the actual timing.</p> <p>The most significant variances (>\$25k) are:</p> <ul style="list-style-type: none"> • P-10350 Design and construct-Fremantle Park Sport and Community Centre (\$145k) • P-11838 Design and construct-Kings Square change facility (\$150k) • P-11796 CCTV Project (\$570k)
Capital Expenditure				
Purchase Community Land and Buildings	2,074,094	28%		<p><u>Projects currently under expended than anticipated in budget:</u></p> <ul style="list-style-type: none"> • 300075 - P-10350 Design and construct-Fremantle Park Sport and Community Centre (\$250k) Under expenditure has resulted in an extension in time for grant claim, project is on track. • 300000 - P-10297 Construct- Council Admin Offices (\$1.9m) Cash flow currently behind as contract was extended by 3 months. The project is on track to this extension Budget phasing to be adjusted.
Purchase Infrastructure Parks	399,623	75%		<p><u>Invoices to be received</u></p> <ul style="list-style-type: none"> • 300051 - P-11680 Design and construct-Kings Square Play space (\$12k) <p><u>Project completed with budget surplus.</u></p> <ul style="list-style-type: none"> • 300081 - P-10412 Design and construct-Booyeembara Park (\$10k)

				<u>Projects currently under expended than anticipated in budget:</u> Budget phasing to be reviewed and adjusted. <ul style="list-style-type: none"> • 300085 - P-10295 Design and construct-Kings Square Public Realm Newman (\$267k) Contract commencement delayed to accommodate staging of works • 300142 - P-11862 Design and construct-Arthur Head lighting (\$48k) Contract commencement delayed to heritage reviews and approvals • 300143 P-11858 – Program Parks Cabinets (\$15k) – Contract commencement due to start winter 2020 • 300144 P-11859 – Program Parks Irrigation (\$58k) Contract commencement due to start after summer season
Purchase Plant and Equipment	138,489	65%		<u>Invoices to be received</u> <ul style="list-style-type: none"> • 300098 – P11825 – Waste – Fleet Management System (\$90k) • 300010 - P-11794 Purchase-Software parking application (\$35k)
Reserve Transfers				
Transfer from Reserve - Capital	(2,202,207)	39%		<u>Reserve transfer less than anticipated due to project under expenditure:</u> Budget phasing to be adjusted in line with new time frames for construction. <ul style="list-style-type: none"> • 300000 - P-10297 Construct- Council Admin Offices (\$1.9m) • 300085 - P-10295 Design and construct-Kings Square Public Realm Newman (\$267k)

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council receive the City of Fremantle Monthly 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 31 October 2019.

C1911-2 INVESTMENT REPORT - OCTOBER 2019

Meeting date: 27 November 2019
Responsible officer: Manager Finance
Decision making authority: Council
Agenda attachments: 1. Investment Report – 31 October 2019
Additional information: Nil

SUMMARY

This report outlines the investment of surplus funds for the month ending 31 October 2019 and provides information on these investments for Council consideration.

This report recommends that Council receive the Investment Report for the month ended 31 October 2019.

The investment report provides a snapshot of the City's investment portfolio and includes:

- **Portfolio details as at October 2019;**
- **Portfolio counterparty credit framework;**
- **Portfolio liquidity with term to maturity;**
- **Portfolio fossil fuel summary;**
- **Interest income earned for the month;**
- **Investing activities for the month;**

BACKGROUND

In accordance with the Investment Policy adopted by Council, the City of Fremantle (the City) invests its surplus funds, long term cash, current assets and other funds in authorised investments as outlined in the policy.

Due to timing differences between receiving revenue and the expenditure of funds, surplus funds may be held by the City for a period of time. To maximise returns and maintain a low level of credit risk, the City invests these funds in appropriately rated and liquid investments, until such time as the City requires the money for expenditure.

The City has committed to carbon neutrality, and will review and manage its investment portfolio to identify financial institutions which support fossil fuel companies (either directly or indirectly) and has limited these investments to the minimum whilst maintaining compliance with the investment policy.

FINANCIAL IMPLICATIONS

To date actual investment interest earned is \$370,350 against a year to date budget of \$440,000 which represents a marginal negative variance of \$69,650. This negative variance is due to the interest rate cuts.

Future interest earnings will be determined by the cash flows of the City's surplus cash and the movements in interest rates on term deposits. At its October meeting, the Reserve Bank of Australia made the widely expected decision to drop the rate to 0.75 per cent — the third time it has wiped 25 basis points off since June. Under the current conditions it is hard for the City to meet the interest income target for 2019-20 as the interest earnings projection was based on rates before the rate cuts. It will continue to be monitored throughout the year and the interest income will be estimated and revised at the budget review for Council approval.

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 1.94 % (refer report point 8), which compares favourably to the benchmark Bloomberg AusBond Bill Index reference rate of 1.68% as at the end of October 2019.

LEGAL IMPLICATIONS

The following legislation is relevant to this report:

- *Local Government (Financial Management) Regulations 1996* Regulation 19 – Management of Investments; and
- *Trustee Act 1962* (Part 3)

Authorised Deposit-taking Institutions are authorised under the *Banking Act 1959* and are subject to Prudential Standards oversight by the Australian Prudential Regulation Authority (APRA).

CONSULTATION

Nil

OFFICER COMMENT

A comprehensive Investment Report for the month ending 31 October 2019 can be viewed in Attachment 1 of this agenda item. A summary of the investment report is provided below.

1. Portfolio details as at 31 October 2019

At month end the City's investment portfolio totalled \$59.7m. The market value was \$60.03m; this value takes into account accrued interest.

The investment portfolio is made up:

At call account	\$5.5m
Term Deposits	\$54.2m
TOTAL	\$59.7m

Of which:

Unrestricted cash	\$29.9m
Restricted cash (Reserve Funds)	\$28.4m
Restricted cash (Trust Funds)	\$ 1.4m
TOTAL	\$59.7 m

The current amount of \$29.9m held as unrestricted cash represents 39.19% of the total adopted budget for operating revenue (\$76.28m).

2. Portfolio counterparty credit framework (as at 31 October 2019)

The City's Investment policy determines the maximum amount to be invested in any one financial institution or bank based on the credit rating of the financial institution. The adopted counterparty credit framework is as below:

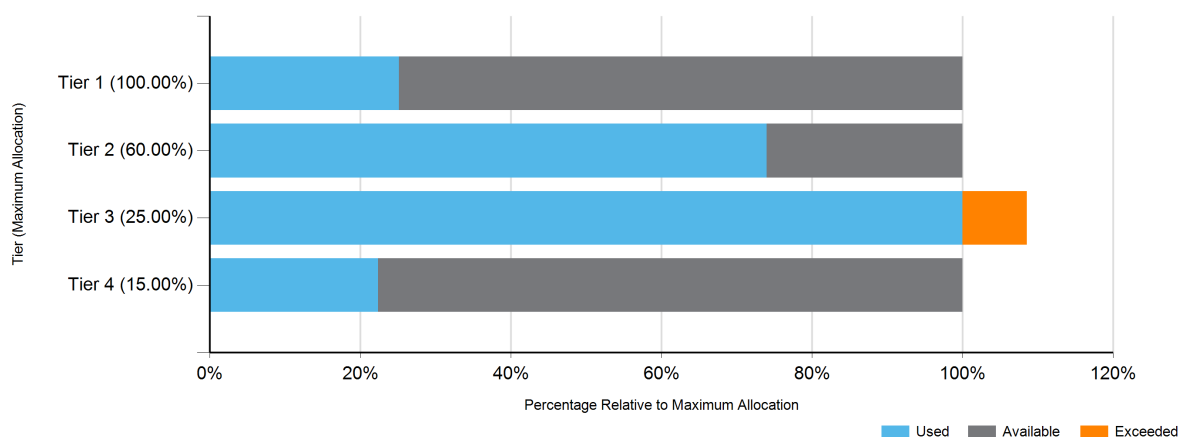
Counterparty credit framework

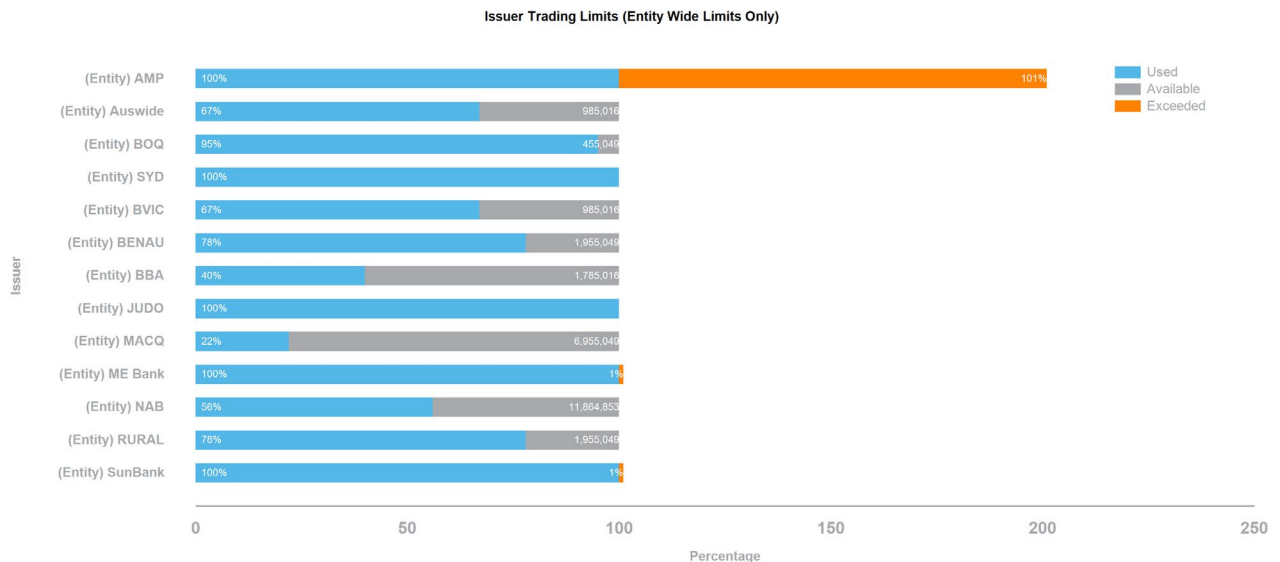
Investments are not to exceed the following percentages of average annual funds invested with any one financial institution or managed fund and consideration should be given to the relationship between credit rating and interest rate.

Credit quality	Maximum % of total investments
Tier 1 (excl. AAA government)	45%
Tier 2	15%
Tier 3	5%
Tier 4	(\$1m)

The following graphs provide details of the funds invested this at the end of this month as per the City's investment portfolio relative to the threshold allowed by the investment policy as below:

Portfolio Credit Framework Amounts Relative to Maximum Allocations





As reported in the above graph at the end of this month, Tier 3 investments are over the maximum threshold by 8.56% and AMP bank is over the maximum threshold by 101%. This is due to a recent downgrading of AMP bank long term credit rating from Tier 2 (S&P A2) to Tier 3 (S&P BBB+). At the time of investing with AMP bank the investment was compliant with the investment portfolio thresholds.

As term deposits mature with AMP the City will reallocate the funds to ensure compliance within investment policy trading limits. It should be noted the final maturity date for AMP bank extends to February 2020.

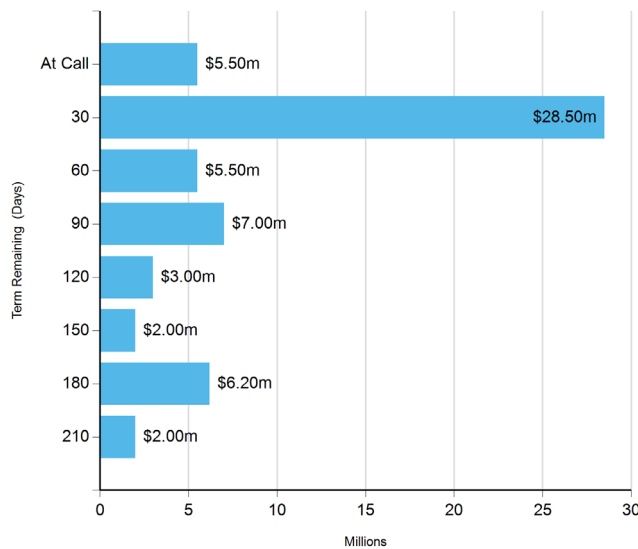
This month ME Bank and Suncorp went slightly outside of their thresholds. This is due to a reduction in the total investment portfolio. At the time of investing with both banks the investment was compliant with the investment portfolio thresholds. This will be rectified as term deposits mature.

3. Portfolio Liquidity Indicator (as at 31 October 2019)

The below graph provides details on the maturity timing of the City's investment portfolio. Currently all investments will mature in one year or less.

Investments are to be made in a manner to ensure sufficient liquidity to meet all reasonably anticipated cash flow requirements, without incurring significant costs due to the unanticipated sale of an investment.

Face Value by Term Remaining



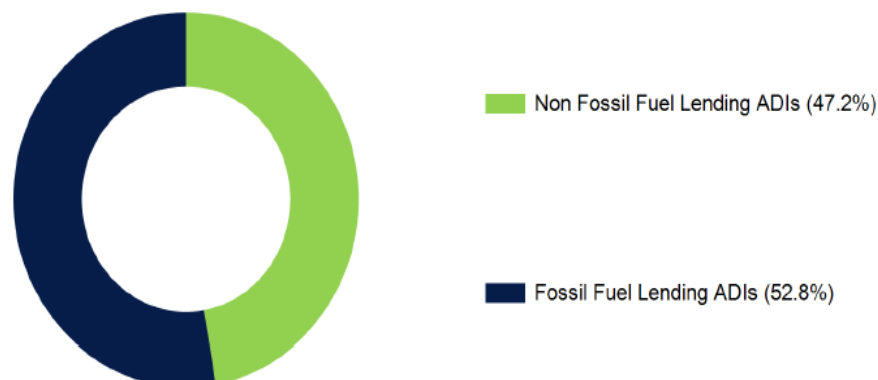
4. Portfolio Summary by Fossil Fuels Lending ADIs (As at 31 October 2019)

At the end of this month \$28.2m (47.2%) of the portfolio was invested in “Green Investments”; authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels (Non Fossil Fuel lending ADI’s).

The current conditions and the institution limits in the investment policy are affecting the City’s ability to invest in non-fossil fuel institutions. Presently a large number of banks and in particular the small non-fossil fuel lending banks are not taking new deposits. The others are at their maximum limit for investment.

City officers are undertaking a review of the Investment Policy. The review will analyse the limits placed on financial institutions and overall credit ratings with a view to increase the City’s investment in “Green Investments”, whilst taking into account risk. Once completed the outcomes and recommendations of the Investment Policy review will be presented to Council for consideration.

Fossil Fuel vs
Non Fossil Fuel
Lending ADI



5. Interest Income for Matured Investments (For 1 October 2019 to 31 October 2019)

During month of October \$75,797 in interest was earned from matured investments.

6. Investing Activities (For 1 October 2019 to 31 October 2019)

During this month 2 term deposits were acquisitioned with a total value of \$3m invested.

Full details of the institution invested in, interest rate, number of days and maturity date are provided in the attached report.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council receive the Investment Report for the month ending 31 October 2019.

C1911-3 SCHEDULE OF PAYMENTS OCTOBER 2019

Meeting date: 27 November 2019
Responsible officer: Manager Finance
Decision making authority: Council
Agenda attachments: 1. Schedule of payments and listing
 2. Purchase Card Transactions
Attachments viewed electronically
Additional information: Nil

SUMMARY

The purpose of this report is to present to Council a list of accounts paid by the Chief Executive Officer under delegated authority for the month ending October 2019, as required by the *Local Government (Financial Management) Regulations 1996*.

BACKGROUND

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the City's municipal or trust fund. In accordance with regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid under delegation for the month of October 2019, is provided within Attachment 1 and 2.

FINANCIAL IMPLICATIONS

A total of \$8,773,662.97 in payments were made this month from the City's municipal and trust fund accounts.

LEGAL IMPLICATIONS

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* states:

13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*
 - (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*
 - (a) *the payee's name; and*
 - (b) *the amount of the payment; and*
 - (c) *the date of the payment; and*
 - (d) *sufficient information to identify the transaction.*
 - (2) *A list of accounts for approval to be paid is to be prepared each month showing*
 - (a) *for each account which requires council authorisation in that month —*
 - (i) *the payee's name; and*
 - (ii) *the amount of the payment; and*
 - (iii) *sufficient information to identify the transaction; and*
 - (b) *the date of the meeting of the council to which the list is to be presented.*

- (3) *A list prepared under sub-regulation (1) or (2) is to be —*
- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
 - (b) *recorded in the minutes of that meeting.*

CONSULTATION

Nil

OFFICER COMMENT

The following table summarises the payments for the month ending October 2019 by payment type, with full details of the accounts paid contained within Attachment 1.

Payment Type	Amount (\$)
Cheque / EFT / Direct Debit	\$6,070,297.66
Purchase card transactions	\$40,368.50
Salary / Wages / Superannuation	\$2,662,967.06
Other payments <i>(as outlined in Attachment 1)</i>	\$29.75
Total	\$8,773,662.97

Contained within Attachment 2 is a detailed listing of the purchase card transactions for the month ending October 2019.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

- 1. Accept the list of payments made under delegated authority, totalling \$8,773,662.97 for the month ending October 2019, as contained within Attachment 1.**
- 2. Accept the detailed transaction listing of credit card expenditure, for the month ending October 2019, as contained within Attachment 2.**

13. Motions of which previous notice has been given

A member may raise at a meeting such business of the City as they consider appropriate, in the form of a motion of which notice has been given to the CEO.

14. 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.

15. 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.

16. Confidential business

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

ARMC1911-5 EMERGING RISKS REPORT - NOVEMBER 2019

Meeting date:	12 November 2019
Responsible officer:	Director City Business
Decision making authority:	Council
Agenda attachments:	Nil
Additional information:	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:

- (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

FPOL1911-8 COAST CAFE

Meeting date: 13 November 2019
Responsible officer: Manager Parks and Landscape, Manager Economic Development and Marketing
Decision making authority: Council
Agenda attachments: Nil
Additional information: 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

17. Closure