



Additional Documents

Finance, Policy, Operations and Legislation

Wednesday 14 November 2018, 6:00 pm

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FPOL1811-1 Consideration of Tender FCC519/18 Construction of Fremantle Park Sports and Community Hub

Proposed amendment submitted by Mayor, Brad Pettitt

Proposed amendment

To amend part 5 of the officer's recommendation, to remove the words in red and insert the words in bold italics, as follows;

5. Requests that if the City's negotiations with McCorkell Constructions (WA) Pty Ltd for a construction contract for tender FCC519/18 Construction of Fremantle Park Sports and Community Hub cannot be reached that ~~all tenders are rejected~~ ***an item is to be referred back to Council for further consideration.***

Reason for change

To allow council to consider appropriate options available if negotiations are unsuccessful.

FPOL1811-3 26 Montreal Street, Fremantle Lease

Additional officer's comment

On 12 November 2018 the City received an e-mail notification from the Department of Water and Environmental Regulation (DWER) stating that the Environmental Protection Agency (EPA) had determined to assess the High Street Upgrade proposal.

The level of the assessment stipulated is a Public Environmental Review.

The correspondence to the City included two notices:

1. Notice of Decision to Assess Proposal – the effect of the notice being that:
 - a. The (High Street) proposal may not be implemented by any person until a statement is published or notification given; and
 - b. Decision making authorities cannot make a decision which would allow or cause the proposal to be implemented (unless a decision is in relation to minor or preliminary work).
2. Notice of Nomination as Proponent – confirming MRWA as the person responsible for the works and clarifying that the CEO, City of Fremantle is listed as a relevant decision making Authority.

In light of the implications of the notification, Officers have developed an amended recommendation to Council which may potentially allow the City to progress with the original proposal (to serve notice to FERN and demolish/clear the site) subject to EPA approval accepting this being minor or preliminary works (s 41 of the EP Act).

Officers amended recommendation

That Council:

1. **Request Officers write to the Environmental Protection Agency (EPA) and seek formal consent (under section 41A(3) of the Environmental Protection Act 1986) to allow the City to make a decision and progress minor / preliminary works by terminating the holding tenancy arrangement and clearing the site at 26 Montreal Street, Fremantle, in preparation for the High Street Upgrade proposal; and**
2. **Subject to the formal approval by the EPA in item 1:**
 - a. **Authorise the serving of notice to FERN in December 2018, with the intention that the current holding tenancy arrangement at 26 Montreal Street, Fremantle be terminated.**
 - b. **Approve the demolition and site clearance of the vacated Community Facility on 26 Montreal Street, Fremantle.**

AMENDED ITEM

The following item has been amended by officers, as outlined below.

FPOL1811-3 26 Montreal Street, Fremantle Lease

Meeting Date: 14 November 2018
Responsible Officer: Manager Asset Management
Decision Making Authority: Council
Agenda Attachments: Nil

SUMMARY

Main Roads Western Australia (MRWA) is progressing design and planning of the upgrading the intersection at High Street and Stirling Highway between Carrington Street and Marmion Street.

To facilitate the project progressing in a timely manner the City is required to demolish the Community Facility and clear the site at 26 Montreal Street, Fremantle.

In order to facilitate this, the existing lease of the Community Facility must be terminated to allow enough time to clear the site for handover to MRWA.

This report outlines the steps that need to be taken to formally terminate the current monthly tenancy arrangement with the Fremantle Environmental Resource Network (FERN) at 26 Montreal Street. It also proposes to demolish and clear the existing Community Facility site **and** dispose of any residual property. ~~and agree to a short term lease arrangement with MRWA.~~

This report recommends that Council:

1. Authorise the serving of notice to FERN in December 2018, with the intention that the current holding tenancy arrangement at 26 Montreal Street, Fremantle be terminated.
2. Approve the demolition and site clearance of the vacated Community Facility on 26 Montreal Street, Fremantle.

BACKGROUND

In May 2017, the State and Commonwealth Governments announced a road and rail infrastructure package for WA. The Government, through MRWA, committed to upgrade High Street from Carrington Street to Stirling Highway as part of this package. The project would redesign the road layout to improve safety, capacity and freight efficiency along High Street between Carrington Street and Stirling Highway. Following the public unveiling of the project on 6 March 2018 by Premier Mark McGowan and Transport Minister

Rita Saffioti, MRWA have been developing the design in consultation with the City of Fremantle, Stakeholders and the Community.

In August 2018 Council endorsed MRWA's proposal as per the latest concept plan and consented to the excision of a portion of A Class land from Reserves 6638 and 8860, for the land to be dedicated as a road under MRWA's control.

The process to excise and reclassify the A Class land is underway and expected to be complete in mid-2019.

The Community Facility site at 26 Montreal Street is situated in the section of A Class reserve that will be excised for the road reserve to facilitate the project, the Community Facility is currently occupied by FERN.

The City entered into a lease with FERN for three years on the 1st of May 2006 expiring 31st of March 2009. The lease has been holding over through a monthly tenancy arrangement since the expiry of the lease.

The design of the road upgrade is progressing and construction of the project is currently scheduled to commence in June 2019.

The City have been informed that MRWA have scheduled demolition and clearing of the neighbouring properties on High Street (owned by MRWA) in February 2019 with an aim to have the construction contractor on site and beginning site preparation works in June 2019.

Given the above timeframes, it is proposed that the City commence the process to clear the site at 26 Montreal Street.

In order for the upgrade works to progress in a timely manner the City will also propose to enter into a lease agreement with MRWA for 26 Montreal Street for the permitted use of carrying out preparation for High Street widening and associated purposes. The term will be one year with an option of a further year, if required.

This report outlines the steps that need to be taken to terminate the lease with FERN, demolish and clear the existing Community Facility site **and** manage the property left on site. ~~and agree to a short term lease with MRWA so that the construction work can progress in a timely manner.~~

FINANCIAL IMPLICATIONS

The cost of demolition and clearing of 26 Montreal Street site will be approximately \$70,000. The City will be reimbursed of these costs by MRWA as part of the High Street Upgrade project.

LEGAL IMPLICATIONS

There are minimal legal implications with the proposed termination of a monthly tenancy arrangement. The City may at any stage provide 30 days' notice in writing to FERN to vacate the premises.

CONSULTATION

The City and MRWA have engaged all key stakeholders about the High Street Upgrade project and the implications to all associated infrastructure.

The City has also met with representatives of FERN to confirm the timeframes and extent of the proposed works and also clarify the process with respect to the end of the current monthly tenancy arrangement.

OFFICER COMMENT

Project Progress

City of Fremantle officers have been progressing discussions with MRWA in relation to the scope and timing of the High Street Upgrade project. In order for the construction works to progress in accordance with the schedule the City will need to arrange for demolition and clearing works at the Community Facility site to be complete by early February 2019.

Timing of the demolition and site clearance works needs to align with MRWA demolition schedule for the neighbouring properties on High Street. Officers have negotiated that all demolition and clearing costs will be reimbursed by MRWA as part of the project.

FERN Lease Termination

The City entered into a lease with FERN for three years 1 May 2006 expiring 31 March 2009. The lease has been holding over (monthly tenancy) since the expiry of the lease.

Under a holding over arrangement the City may at any stage provide 30 days' notice in writing to FERN to vacate the premises. Prior to Termination, FERN must restore the premises to a condition consistent with the time of occupation and remove all of their property.

If FERN does not remove their property in line with lease conditions, the City retains ownership of the items upon possession of the premises. The current intention would be to dispose of any residual items or property left following site vacation. An opportunity can be granted to FERN at a nominated time for access to the premises to remove the items but this is at the discretion of the City.

Main Roads WA Lease

~~The process to excise and reclassify the portion of land is underway and expected to be complete in mid-2019. In order for the upgrade works to progress in a timely manner MRWA will need to take possession of the site as soon as possible.~~

~~In order for the City to grant possession of site to MRWA the City will need to enter into a lease agreement with MRWA for 26 Montreal Street for the permitted use of~~

~~carrying out preparation for High Street widening and associated purposes. The term will be one year with an option of a further year, if required.~~

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

That Council:

- 1. Authorise the serving of notice to FERN in December 2018, with the intention that the current holding tenancy arrangement at 26 Montreal Street, Fremantle be terminated.**
- 2. Approve the demolition and site clearance of the vacated Community Facility on 26 Montreal Street, Fremantle.**