



# Agenda

## Finance, Policy, Operations and Legislation Committee

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Wednesday, 14 July 2021, 6.00pm

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

Elected Members

A Finance, Policy, Operations and Legislation Committee meeting of the City of Fremantle will be held on **Wednesday, 14 July 2021** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read 'M. Hammond', with a period at the end.

Matt Hammond  
**A/Director City Business**

9 July 2021

## Table of Contents

Contents	Page
1. Official opening, welcome and acknowledgement	1
2. Attendance, apologies and leaves of absence	1
3. Disclosures of interests by members	1
4. Responses to previous questions taken on notice	1
5. Public question time	1
6. Petitions 1	
7. Deputations	1
7.1 Special deputations	1
7.2 Presentations	2
8. Confirmation of minutes	2
9. Elected member communication	2
10. Reports and recommendations	3
10.1 Committee delegation	3
FPOL2107-1 TENDER FOR WALYALUP CIVIC CENTRE – MANAGING CONTRACTOR	3
FPOL2107-2 FCC566/21 - CLEANING SERVICES PUBLIC TOILETS	10
FPOL2107-3 FREMANTLE ARTS CENTRE CONSERVATION MANAGEMENT PLAN	15
10.2 Council decision	19
FPOL2107-4 PUBLIC BUILDINGS ASSESSMENT POLICY	19
FPOL2107-5 SPARE PARTS PUPPET THEATRE FUNDING REQUEST	22
FPOL2107-6 UNDERTAKING TO JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION – LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021	24
10.3 Deferred item	28
FPOL2106-4 ADOPTION OF THE CITY OF FREMANTLE PARKING LOCAL LAW 2021	ERROR! BOOKMARK NOT DEFINED.
11. Motions of which previous notice has been given	43

<b>12. Urgent business</b>	<b>43</b>
<b>13. Late items</b>	<b>43</b>
<b>14. Confidential business</b>	<b>43</b>
<b>15. Closure</b>	<b>43</b>

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CITY OF FREMANTLE

**Finance, Policy, Operations and Legislation Committee**

**Agenda**

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**1. Official opening, welcome and acknowledgement**

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

**2. Attendance, apologies and leaves of absence**

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

**3. Disclosures of interests by members**

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

**4. Responses to previous questions taken on notice**

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

**5. Public question time**

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

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

**6. Petitions**

Petitions to be presented to the committee.

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

**7. Deputations**

**7.1 Special deputations**

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

There are no special deputation requests.

## **7.2 Presentations**

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

## **8. Confirmation of minutes**

### **OFFICER'S RECOMMENDATION**

**The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 9 June 2021.**

## **9. Elected member communication**

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

## 10. Reports and recommendations

### 10.1 Committee delegation

#### FPOL2107-1 TENDER FOR WALYALUP CIVIC CENTRE – MANAGING CONTRACTOR

<b>Meeting date:</b>	14 July 2021
<b>Responsible officer:</b>	Project Director / Director of Infrastructure
<b>Decision making authority:</b>	Committee
<b>Attachments:</b>	1. CONFIDENTIAL – Tender pricing matrix update
<b>Additional information:</b>	Nil

### SUMMARY

The purpose of this report is to consider tender number FCC927/21 for a Managing Contractor to oversee the completion of the construction works at the Walyalup Civic Centre.

This report recommends that Committee accepts the tender submitted by the CDI Group in accordance with the tender evaluation undertaken as per the selection criteria included in the tender document.

### BACKGROUND

On 19 May 2021, the City of Fremantle (City) became aware that the Contractor Pindan Constructions Pty Ltd (Pindan), contracted to construct the Walyalup Civic Centre (WCC), had been placed under official management as a result of it being placed in external administration and having a liquidator appointed.

The City has subsequently issued the relevant notices to Pindan and Ernst and Young and has now formally taken over the site and will take responsibility to complete the work.

At a Special Council Meeting on 8 June 2021 Council adopted the following recommendation:

#### *Council*

1. *Note the City's legal advice in respect to the direct engagement of contractors, previously contracted to Pindan Ltd PTY, as Sole Source suppliers.*
2. *Note the advice from the probity auditor in respect to the City's approach and engagement of contractors for the completion of Walyalup Civic Centre construction contract.*
3. *As a result of the unique nature and current status of the project, approve Sole Source supply arrangements under Regulation 11 (2)(f) of the Local Government (Function and General) Regulations 1996, for the engagement of contractors as*

*detailed in confidential Attachment 1, to complete the project works as the City has good reason to believe that no other contractor would be prepared to assume the obligations to carry out and complete the works of any current subcontractor, assuming liability for what has been done, at the price that remains payable under the terms of the existing subcontract and taking over existing warranties required under the existing contract.*

4. *Approve CEO delegation to formally terminate the Construction Contract with Pindan Pty Ltd at the appropriate time.*
5. *Approve CEO delegation to authorise project expenditure to complete the project works up to the available value of the retained performance bonds (\$3,673,056.40).*
6. *Approve officers progress with a Managing Contractor arrangement for the oversight of completion of the project works and to immediately commence the tender process on this basis.*
7. *Request that the Walyalup Civic Centre project continue to be monitored through regular updates to the City's Audit and Risk Committee.*

In accordance with the above resolution, the City's inhouse Project Team have novated all the existing (novation deed) contractors to the City of Fremantle and have reviewed and agreed the remaining scope of works to be completed. The team have also liaised with all non-novated contractors (x23) – who would typically execute lower value works – and have received commitment from all to progress and complete the works as agreed.

In addition to this the team have been active on site through labourers and certain licensed contractors – mainly to execute fit out assembly works and to clean and clear the building / site in preparation for the final stages of work. The team have also progressed some urgent works to the building to protect it from damage from the weather.

The main remaining substantial works include:

- External façade / building envelop works.
- Roofing works and PV array installation.
- General interior fit out works, inc carpet installation, painting, cabinetry works and cleaning.
- Exterior works, i.e. paving installation works, soft landscaping works, cleaning, defect inspections.
- Final testing, witnessing, and commissioning works.

To facilitate the progression and completion of the remaining works the City have now been to market to seek Tenders from a suitable Managing Contractor.



## FINANCIAL IMPLICATIONS

The table below summarises the available budget, current expenditure and the recommended tender price by the CDI group for the Managing Contractor role to facilitate completion of the works including associated expenses:

Description	Expenditure	Budget
Current contract sum - Construction ( <i>inc. variations to date</i> )		\$42,616,834
<b>Expenditure</b>		
Expenditure incurred to date – (May 21):	\$39,362,778	
<b>Remaining Project Budget (May 2021)</b>		<b>\$3,635,075</b>
<b>Recovered - Façade Insurance Bond Money</b>		\$1,600,000
<i>This Bond was provided by Pindan prior to the City making payment for offsite façade materials to facilitate prioritised shipping and assembly works (COVID delays).</i>		
<b>Recovered – 1# Project Security Insurance Bond (2.5%)</b>		\$1,036,528
<b>Recovered – 2# Project Security Insurance Bond (2.5%)</b>		\$1,036,528
Tender FCC 927.21 Managing Contractor (Walyalup Civic Centre)	\$208,600	
<b>Total Insurance Bond Value</b>		<b>\$3,673,056</b>

Officers pre-Tender estimate for Managing Contractor works was \$222,860. An estimated mark-up of 10% was assumed on any extra works required to be procured and managed directly.

There are still negotiations and remaining procurement activity to be completed, following this, the Project Team will provide a more detailed cost summary in respect to costs to complete the construction contract.

Officers are satisfied that there is funding provision within the remaining contract sum, contingencies and the insurance bonds to cover costs associated with the delivery of the remaining project within budget and provide appropriate financial protection for the defects period.

## LEGAL IMPLICATIONS

Tenders were invited in accordance with section 3.57 of the *Local Government Act 1995* and the tendering procedures and evaluation complied with part 4 of the *Local Government (Functions and General) Regulations 1996*.

The City has received legal advice in respect to the most suitable delivery model for managing the remaining contract works. The City has subsequently Tendered for a

suitable Managing Contractor using AS 4916 – 2002 (Construction Management – General Conditions).

## CONSULTATION

Nil

## OFFICER COMMENT

### Detail

Tender FCC 927/21 for a Managing Contractor at the Walyalup Civic Centre was advertised on 10 June 2021 and closed on 28 June 2021.

Essential details of the contract are outlined below:

Contract type	Lump Sum Price (plus on cost for additional works)
Contract duration	4 months (or until Practical Completion is reached) with a 12-month Defect Liability Period (from Practical Completion).
Commencement date	On or about 19 July 2021
Completion date	Estimated – 18 November 2021

## Tender evaluation

Tender submissions were received from the following contractors and evaluated by the tender evaluation panel:

- Byte Construction;
- CDI Group;
- Crothers Construction; and
- Northerly Group.

The tender evaluation panel establishes whether the tender submissions conform to the conditions for tendering and selects a suitably qualified and experienced contractor.

The tender evaluation panel comprised:

Job Title	Organisation	Voting / Non-Voting Member
Project Director / Director Infrastructure	CoF	V
A/Director City Business	CoF	V
Project Manager	CoF	V
Project Manager	CoF	V
<i>Manager Asset Management</i>	<i>CoF</i>	<i>NV</i>
<i>Project Superintendent</i>	<i>TPM</i>	<i>NV</i>
<i>Project Quantity Surveyor</i>	<i>RBB</i>	<i>NV</i>
<i>Project Lead Architect</i>	<i>KHA</i>	<i>NV</i>
<i>Probity Auditor</i>	<i>Stantons</i>	<i>NV</i>

Tenderers were required to disclose information that might be relevant to an actual or potential conflict of interest and disclose if they had any relationship with City of

Fremantle employees involved in the tender process. Members of the tender evaluation panel are required to disclose any actual or perceived interest with any of the tenderers. No disclosures were made.

To obtain the broadest possible comparison base, each of the tenders was evaluated against the following tender selection criteria and was in turn graded in the tender evaluation matrix.

Item No	Description	Weighting
1	Methodology for Management of the remaining scope of works to complete the project.	35%
2	Previous experience with finishing high quality and complex construction projects.	25%
3	Local Economic benefit.	10%
4	Price	30%

Four (4) tender submissions received were deemed as conforming, and none (0) of the tender submissions received were non-conforming.

It was noted however, that Crothers Construction had not provided financial statements and details of current litigation, it was agreed that they would still be evaluated, and clarification sought if they were the preferred tenderer.

### Tender Evaluation Matrix

Overall Weighted Score - Including Pricing	Methodology	Previous Experience	Local Economic Benefit	Price	Total Score
<b>Tenderer</b>	<b>35</b>	<b>25</b>	<b>10</b>	<b>30</b>	<b>100</b>
Byte Construct	18	13	6	9	45
CDI Group	25	20	6	17	68
Crothers Construction	21	13	5	14	52
Northerly Group	18	13	6	30	66

The tender submitted by the CDI Group scored the highest rating with 68 points, followed by the Northerly Group with 66 points. The remaining tender submissions received lower scores.

The CDI Group, the recommended tenderer, was assessed as having the capacity, resources, experience and management systems to safely undertake the works and deliver the scope of services described in the specification, in accordance with the terms of the tender document.

The evaluation process determined that the tender from the CDI Group is a conforming tender. Reference checks indicate that the CDI Group have provided satisfactory service delivery to their customers on similar projects and will be a suitable supplier to the City of Fremantle.

## **Environmental considerations**

The building has been designed to operate with a high level of environmental and sustainable services. The delivery of the remaining works and services shall continue to include all environmental considerations and controls as included in the original contract.

The CDI Group have their own Environmental Management Policy which is benchmarked and aligned with ISO 14001:2015 standards.

## **Risk consideration**

An assessment undertaken by Illion indicates that the CDI Group have the financial capacity to undertake the contract.

There are strategic and corporate risks included within the City's existing risk registers which relate to the risks and control measures relating to the completion of works for this project. The risks continue to be reported and updated regularly to the City's Executive Team and the Audit and Risk Committee.

The engagement of a Managing Contractor is one risk mitigation strategy in respect to the efficient management of the remaining works.

## **Comment**

The CDI Group have been assessed and a particularly suitable managing Contractor to help and assist the City by facilitating the completion of the remaining works for the Walyalup Civic Centre project.

It is anticipated that subject to Council approval, the City will be able to progress to establish a formal contract with the CDI Group and move to re-commence main construction works quickly, this will help minimise cost uncertainty and any unnecessary and prolonged delay.

Upon reaching practical Completion, the CDI Group will also provide access to their in-house maintenance team to provide support through the defect liability period.

Subject to acceptance of the tender, the proposed implementation program is scheduled below:

Award contract:	16 July 2021
Commence construction:	(estimated) W/C 19 July 2021
Completion:	(estimated) – PC or 18 November 2021

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

### **Council:**

- 1. Accept the tender from the CDI Group for Managing Contractor services to facilitate the completion of works at the Walyalup Civic Centre (FCC927/21) at the tendered Lump Sum of \$208,600 for a period of 4 months commencing on or around 19 July 2021.**
  
- 2. Approve, at the discretion of the Chief Executive Officer:**
  - a. The option to extend this contract on a pro-rata basis (\$52,150 / month or part thereof) should additional time be required to attain Practical Completion.**
  
  - b. Expenditure of any additional trade package works required to complete the works on the basis that they are:**
    - i. Within the remaining available budget and relate the original contract works.**
  
    - ii. As per the tendered cost-plus mark-up (10% on packages under \$100,000 and 5% on packages over \$100,000).**

**FPOL2107-2 FCC566/21 - CLEANING SERVICES PUBLIC TOILETS**

**Meeting date:** 14 July 2021  
**Responsible officer:** Manager Facilities and Environmental Management  
**Decision making authority:** Committee  
**Attachments:** 1. Confidential - Pricing Evaluation Matrix  
**Additional information:** Nil

**SUMMARY**

The purpose of this report is to consider tender number FCC566/21 for Cleaning Services Public Toilets.

This report recommends that Council accepts the tender submitted by The Trustee for Bellrock Cleaning Services Trust trading as Bellrock Cleaning Services in accordance with the tender evaluation undertaken as per the selection criteria included in the tender document.

**BACKGROUND**

The City of Fremantle issued a request for tender for a suitably qualified and competent Contractor to supply labour and materials to deliver cleaning services to the City of Fremantle’s 19 Public Toilets, Change Room, Showers and Universal Access Facilities, through the Tenderlink Tender Portal.

As part of the service, the successful Contractor is required to unlock and lock all facilities.

It is proposed that the facilities at South Beach, Port Beach and Leighton Beach adopt seasonal operating hours in keeping with sunrise to sunset to meet public demand.

**FINANCIAL IMPLICATIONS**

The table below summarises the available budget, current expenditures, recommended tender price by Bellrock Cleaning Services for the Cleaning services of public toilets, and associated expenses:

Description	Expenditure	Budget
<b>Budget</b>		
Allocated budget for 2021/2022		\$399,100
<b>Expenditure</b>		
Expenditure incurred to date:	\$28,315	
Activities		
<ul style="list-style-type: none"> <li>Tender number Tender number FCC566/21 (forecast expenditure for 2021/ 2022 financial year)</li> </ul>	\$361,866	
<b>Total expenditure (estimated)</b>	\$390,181	
<b>Balance</b>		\$8,919

Sufficient funding provision has been allocated in the 2021 /2022 budget to deliver the cleaning of the City's public toilets within budget.

This contract spans multiple years therefore a commitment to suitable budget provision for future years must be considered.

## LEGAL IMPLICATIONS

Tenders were invited in accordance with section 3.57 of the *Local Government Act 1995* and the tendering procedures and evaluation complied with part 4 of the Local Government (Functions and General) Regulations 1996.

## CONSULTATION

Nil

## OFFICER COMMENT

### Detail

Tender FCC566/21 for cleaning Service Public Toilets was advertised on 21<sup>st</sup> April 2021 on the tenderlink portal and in the West Australian newspaper and was closed on 10<sup>th</sup> May 2021

Essential details of the contract are outlined below:

Contract type	Schedule of Rates
Contract duration	Duration of 2 years + 1year + 1year
Commencement date	On or about the 19 <sup>th</sup> July 2021
Completion date	On or about the 23 <sup>rd</sup> July 2023 (Extendable)

Tenderers were required to provide prices on per location on a per clean and per annum basis, they were also required to provide the same information for the City's Periodicals Requirements. In addition, Tenderer's were required to provide a Schedule of Rates for any adhoc work required.

Pricing was requested for the following three schedules for the beach facility locations (South Beach, Port Beach, Leighton Beach) :

<b>Schedule A</b>	Set Hours: opened between 5am and 7pm daily
<b>Schedule B</b>	Seasonally Adjusted: seasonally adjusts beach location opening hours to align with daylight hours and demand:  <b>Summer</b> 0500 - 2100 (Nov, Dec, Jan, Feb, Mar)  <b>Autumn/Spring</b> 0600 – 1900 (Apr, May – Sep, Oct)

	<p><b>Winter</b> 0630 – 1800 (Jun, Jul, Aug)</p>
<b>Schedule C</b>	<p>As schedule B and costed the inclusion of a male and female cleaner at beach locations in response to the difficulty's associated with gaining access during busy times.</p>

Tenderer's were evaluated against Schedule B. The Evaluation Panel believes that this option provides the City with the best value, it is also anticipated that closing earlier during periods of low activity will reduce contract cost and reduce antisocial behaviour/vandalism.

### Tender evaluation

Tender submissions were received from the following contractors and evaluated by the tender evaluation panel:

- Bellrock Cleaning Services PTY LTD;
- Brigade Facilities Management;
- Brightmark PTY LTD;
- ISG Cleaning PTY LTD;
- DMC Cleaning;
- OCE Corporate Cleaning; and
- Yidarra Group PTY LTD.

The tender evaluation panel establishes whether the tender submissions conform to the conditions for tendering and selects a suitably qualified and experienced contractor.

The tender evaluation panel comprised:

- Manager Facilities and Environmental Management;
- Team Leader Facilities Management;
- Facility Officer; and
- Procurement Team Leader.

Tenderers were required to disclose information that might be relevant to an actual or potential conflict of interest and disclose if they had any relationship with City of Fremantle employees involved in the tender process. Members of the tender evaluation panel are required to disclose any actual or perceived interest with any of the tenderers. No disclosures were made.

To obtain the broadest possible comparison base, each of the tenders was evaluated against the following tender selection criteria and was in turn graded in the tender evaluation matrix.



Item No	Description	Weighting
1	Tender price	30%
2	Relevant experience	15%
3	Key personnel skills and resources	25%
4	Demonstrated understanding	20%
5	Sustainability and local economic benefit	10%

Six (6) tender submissions received were conforming, and one (1) tender submissions received was non-conforming.

The non-conforming submission from Yidarra Group Pty Ltd was not evaluated as it did not include financial information, referees and project information.

The Evaluation Panel requested clarification from Brightmark Group Pty Ltd with regards to the hours provided in their submission. However, when the Evaluation Panel investigated further and compared the hours provided by Brightmark Group Pty Ltd against the Tender specification and cleaning requirements it was evident that their offer does not meet the Specification. As a result Brightmark were removed from evaluation.

#### Tender Evaluation Matrix

Overall Weighted Score - Including Pricing	Relevant Experience	Key Personnel Skills & Resources	Demonstrated Understanding of the Project	Sustainability	Price	Total Score
<b>Tenderer</b>	<b>30</b>	<b>15</b>	<b>20</b>	<b>10</b>	<b>25</b>	<b>100</b>
Bellrock	23	10	16	5	21	75
Brigade Facilities	11	6	9	2	25	54
ISG Cleaning	12	7	8	3	10	40
DMC	10	2	4	2	18	36
OCE Corporate	20	11	13	5	23	72

The tender submitted by Bellrock Cleaning Services Pty Ltd scored the highest rating with 75 points, followed by OCE Corporate Cleaning Pty Ltd with 72 points. The remaining tender submissions received lower scores.

Bellrock Cleaning Services Pty Ltd, the recommended tenderer, was assessed as having the capacity, resources, experience and management systems to safely undertake the cleaning and deliver the level of service described in the specification, in accordance with the terms of the tender document.

The evaluation process determined that the tender from Bellrock Cleaning Services PTY LTD is a conforming tender. They have undertaken cleaning services for the City and provided good services that met the City's needs. Reference checks indicate that Bellrock Cleaning Services PTY LTD have provided satisfactory service delivery to their customers on similar projects, and will be a suitable supplier to the City of Fremantle

#### Environmental considerations

In line with the Purchasing Policy, respondents to the tender were required to provide, and were assessed by the City, evidence of the use of sustainable business practices

and how engaging with the supplier would benefit the local economy. Bellrock Cleaning Services PTY LTD are certified to ISO14001:2015 Environmental Management System Requirements and will utilise environmentally preferred cleaning products

### **Risk consideration**

An assessment undertaken by Illion indicates that Bellrock Cleaning Services Pty Ltd have the financial capacity to undertake the contract.

There are no strategic or corporate risks within the City's existing risk registers which relate to the issues contained in this report.

### **Comment**

Bellrock Cleaning Services Pty Ltd are the incumbent cleaning contractor of the City's public toilets since January 2021 following contractual adjustment with the previous contractor and have an established workforce to undertake the works.

Subject to acceptance of the tender, the proposed implementation program is scheduled below:

Award contract:	Date 16 July 2021
Commence service:	Date 19 July 2021
Completion:	Date 23 July 2023

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

### **OFFICER'S RECOMMENDATION**

#### **Council:**

- 1. Accept the tender for Cleaning Services Public Toilets (FCC566/21) at the rates tendered, from Bellrock Cleaning Services Pty Ltd for a period of two years, commencing on or around 19 July 2021.**
- 2. Approve the option to extend the contract for up to a further 2 years (one year plus one year) at the discretion of the Chief Executive Officer.**

**FPOL2107-3 FREMANTLE ARTS CENTRE CONSERVATION MANAGEMENT PLAN**

<b>Meeting date:</b>	14 July 2021
<b>Responsible officer:</b>	Manager Asset Management
<b>Decision making authority:</b>	Committee
<b>Attachments:</b>	1. Fremantle Arts Centre Conservation Management Plan – <i>Recommendations</i>
<b>Additional information:</b>	1. Fremantle Arts Centre Conservation Management Plan ( <i>electronic copy only</i> ) 2. Fremantle Arts Centre Conservation Management Plan – <i>Engagement Report</i> 3. Fremantle Arts Centre Conservation Management Plan – <i>Cost Plan</i>

**SUMMARY**

The Fremantle Arts Centre has considerable cultural heritage significance and was included on the State Register of Heritage Places in 1993. As well as an important heritage asset, the building is also home to the City of Fremantle’s arts program and a number of major events.

Due to its age, complexity of the construction of the place, its many stages and the impact of cumulative change the building is now in need of some important conservation works.

The conservation of the Fremantle Arts Centre is currently guided by the Fremantle Museum & Arts Centre Conservation Plan from 2001 and Fremantle Museum and Arts Centre Conservation Works Strategy from 2004. Due to the significance of the site and the need to keep up with current and future uses of the building, an in-depth investigation and analysis was required and included in the new Fremantle Arts Centre Conservation Management Plan.

This report provides an overview of the issues facing the conservation of the building and the recommended response proposed in the new conservation plan. The report recommends that Council adopt the Fremantle Arts Centre Conservation Management Plan and continue to plan for conservation works in the City’s long term financial plan.

**BACKGROUND**

Character, Culture & Heritage is one of the seven key focus areas of the City’s Strategic Community Plan. “*Fremantle celebrates its history and built heritage through active renewal and adaption*” is listed as a specific outcome in the Plan. In an effort towards helping the City to deliver on this outcome, a Conservation Management Plan has been developed for one of the City’s and Western Australia’s most iconic buildings, the Fremantle Arts Centre.

The Fremantle Arts Centre is one of this State’s most significant heritage buildings since 1972 the building has operated as the Fremantle Arts Centre. The building is open every

day to the public except for Christmas Day, Boxing Day New Years Day and Good Friday and is one of the biggest attractions in Fremantle with over 500,000 persons per year visiting the building annually to attend exhibitions, events, courses, café and gift shop.

The Fremantle Arts Centre is included on the State Register of Heritage Places as Museum and Arts Centre, Fremantle (Heritage Place no 00875). It has exceptional significance for the following reasons:

- It has historic significance as a major demonstration of the building program undertaken in the colony during the convict era;
- The site curtilage and first phase of development was conceived and designed by the Establishment, built by Imperial convicts and constructed for the Imperial and Colonial criminally insane and is closely linked with the Imperial Convict Establishment that had a significant impact on the development of the Swan River Colony.
- The Imperial Convict Establishment at Fremantle is one of six sites in Australia that have been inscribed in the World Heritage List, as an 'outstanding example in which conventional forced labour and national prison systems were transformed in major European nations in the 18th and 19th centuries, into a system of deportation and forced labour forming part of the British Empire's vast colonial project. They (and their associated sites) illustrate the variety of the creation of penal colonies to serve the many material needs created by the development of a new territory. They bear witness to a penitentiary system which had many objectives, ranging from severe punishment used as a deterrent.
- It has strong associations with the treatment of mental health and women in 19th century colonial society;
- It is an outstanding local example of colonial gothic architecture, demonstrating the design capabilities of E.Y.W. Henderson and George Temple Poole;
- It has social significance as the first major restoration project in Western Australia; and,
- The place is held in high regard for its colonial architecture and its more recent use as a focal point for cultural activities in Fremantle.

The land is owned by the State through the Department of Lands and is vested in the City of Fremantle under a management order. The City is responsible for the place, its conservation, and the routine management. The management of the site is currently informed by the Fremantle Museum & Arts Centre Conservation Plan prepared by Palassis Architects in 2001. The review of the Conservation Management Plan includes additional information, recognises the passage of time, works completed in the intervening period, and inconsistent practices across the conservation projects since the place was saved from demolition.

There has been regular conservation work carried out at the site over the last 50 years with the last major conservation works undertaken in 2016 with the partial roof replacement. Since then smaller amounts of maintenance work have been carried out each year under the City's building maintenance budget.

Due to its age, exposed environment, variety of uses and building work over its history and the demands placed on the facility with ongoing public use, the building is now in need of some important conservation works.

As part of the City's focus on asset management and conservation of its heritage assets, the City engaged a consultant heritage architect to prepare a Conservation Management Plan for the Fremantle Arts Centre. This document will help record the important history of the building and guide its conservation and its ongoing management.

The purpose of this report is to submit for adoption the Conservation Management Plan prepared for the Fremantle Arts Centre.

## FINANCIAL IMPLICATIONS

The identified conservation works deal with a multitude of building fabric issues, these works are very detailed and have been itemised at an elemental level as per additional information – attachment 3.

The works cover a range of aspects of the building including work and repairs to the roof, walls, structure, fit out, fixtures and surrounding infrastructure on site.

The estimated cost of all the works identified in the Conservation Management Plan is \$4,950,000, these have been reviewed and are recommended in the following priority order:

Priority 1 – Immediate	\$1,585,000
Priority 2 – Essential	\$2,375,000
Priority 3 – Desirable	\$660,000
Priority 4 – Optional	\$330,000
<b>Total</b>	<b>\$4,950,000</b>

Officers will coordinate the conservation works identified with other adaptation works that have been identified and include in the City's long-term financial plan.

## LEGAL IMPLICATIONS

Nil

## CONSULTATION

A programme of public consultation was carried out to assist with the preparation of the Fremantle Arts Centre Conservation Management Plan. In the first stage the public was asked to contribute stories, memories and photos associated with the place and in the second stage they were asked to comment on the draft version of the report.

The Conservation Management Plan preparation has incorporated community consultation as outlined in the Fremantle Arts Centre Conservation Management Plan Engagement Report attached to this item in Additional Information - attachment 2.

## OFFICER COMMENT

Fremantle Arts Centre is included in the State Register of Heritage Places as Museum and Arts Centre, Fremantle and the database recognises its current title as well as past names, including Asylum for the Criminally Insane, Lunatic Asylum and Old Women's

Home. As the past names suggest, its use has changed several times over its 150+ year history. As a result of the changing uses, age, complexity of the construction of the place, its many stages and the impact of cumulative change the building is now in need of some important conservation works.

In addition to the conservation works, there is also a desire from the community to improve access to the building and a need to ensure that the building can operate safely. The Conservation Management Plan will help to guide any future development in a way that considers the significance of the place.

As well as providing analysis of significance, the Conservation Management Plan contains a set of 118 recommendations, which focus on the conservation and enhancement of the place and form part of a range of considerations, which will be applicable to its future management, possible further development and ongoing use.

The recommendations of the Conservation Management Plan need to be balanced with other requirements, including sensitive adaptation if required, upgrade of facilities, disability access, and change to ensure suitability for its intended purpose. Maintenance requirements that recognise the need to replace material from time to time is a matter also considered in this plan. The Conservation Management Plan also considers reversing some past ill-advised maintenance measures and some re-thinking in respect to the landscape.

The identified works align with issues that officers are aware of through the City's asset management practices and have been prioritised and sequenced to be carried out in stages subject to available funding.

Officers will strive to progress all the recommended actions (as detailed in attachment 1) subject to available funding and capacity.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

### **Council:**

- 1. Note the submissions received during the consultation period.**
- 2. Note the City of Fremantle Arts Centre Conservation Management Plan as shown in additional documents - attachment 1.**
- 3. Accept the recommendations as detailed in attachment 1 of this report.**
- 4. Continue to plan to progress the recommended works as detailed in the Fremantle Arts Centre Conservation Management Plan in the City's long term financial plan.**

## 10.2 Council decision

### FPOL2107-4 PUBLIC BUILDINGS ASSESSMENT POLICY

<b>Meeting date:</b>	14 July 2020
<b>Responsible officer:</b>	Manager Field Services
<b>Decision making authority:</b>	Council
<b>Agenda attachments:</b>	1. Proposed Public Buildings Assessment Policy
<b>Additional information:</b>	Nil

#### SUMMARY

The purpose of the report is to consider a policy to guide assessment of public buildings, which can be an event or gathering, under the *Health (Miscellaneous Provisions) Act 1911* and the *Health (Public Buildings) Regulations 1992*.

This report recommends that council adopt the Public Buildings Assessment Policy in the interest of removing red tape and streamlining the process whilst maintaining an acceptable level of public safety and health.

#### BACKGROUND

There have been some recent queries regarding the application of the *Health (Miscellaneous Provisions) Act 1911* (Health Act) and the *Health (Public Buildings) Regulations 1992* (Regulations) and the way the City assesses temporary public buildings (events and gatherings), particularly those of a small scale. The Health Act provides the following definition of 'public building':

***“public building means —***

- a. *a building or place or part of a building or place where persons may assemble for*
  - i. *civic, theatrical, social, political or religious purposes; and*
  - ii. *educational purposes; and*
  - iii. *entertainment, recreational or sporting purposes; and*
  - iv. *business purposes; and*
- b. *any building, structure, tent, gallery, enclosure, platform or other place or any part of a building, structure, tent, gallery, enclosure, platform or other place in or on which numbers of persons are usually or occasionally assembled, but does not include a hospital.”*

The definition captures buildings and events where private social uses occur, however, personal events, such as privately organised weddings and birthdays, were not intended to be captured. The Department of Health advises that “*The general intent of the Regulations is to assist in the protection of the health, safety and amenity of persons in and about buildings and places where, generally, large numbers of the public gather*” for entertainment, religious, social, or business purposes as described above.

In the absence of a succinct clarification of a Public Building, officers have informally determined that private events, such as birthday parties, weddings in a private dwelling and small gatherings in public places, and where no money is charged, are not Public Buildings.

The Department does indicate, in its Guidelines for concerts, events and organised gatherings (Guidelines), that small concerts, events and organised gatherings can be assessed by risk, in accordance with the same Department of Health Guidelines. Those that fall into the low risk category, according to the assessment tool provided in the Publication, may be approved and inspected in accordance with local government policy, so long as the guidance notes are provided to the operator/owner to advise them on building limitations and capacity.

Establishment of a policy to clarify the position of the City in this matter, and the method the City uses to assess those activities captured by the definition of the Regulations is highly recommended.

### **FINANCIAL IMPLICATIONS**

Fees will still apply to applications to Construct, Extend or Alter a Public Building however won't apply under this Policy for low risk events.

### **LEGAL IMPLICATIONS**

The proposed Policy assists in interpretation of the Health Act and uses the management tools proposed in the Guidelines.

### **CONSULTATION**

No consultation is considered necessary in this matter.

### **OFFICER COMMENT**

This proposed policy (provided in Attachment 1) specifies that... *'It provides clarification of a public building definition interpretation and is intended to increase clarity and consistency of interpretation, reduce risk and reduce the regulatory burden on event holders within the City of Fremantle while ensuring that community safety is upheld and relevant legislation adhered to'*.

It aligns with the desire to be... *'A compassionate city that cares for the wellbeing of our people and the environment we share, to operate as a transparent and responsive organisation'* and to provide *'effective leadership where people are responsible for outcomes, and are empowered, structured and resourced to act effectively and efficiently within a clear framework'*.

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

Simple majority required



**OFFICER'S RECOMMENDATION**

**Council adopts the Public Buildings Assessment Policy, provided in Attachment 1.**

**FPOL2107-5 SPARE PARTS PUPPET THEATRE FUNDING REQUEST**

**Meeting date:** 14 July 2021  
**Responsible officer:** Manager Communications and Events  
**Decision making authority:** Council  
**Attachments:** 1. Spare Parts Puppet Theatre Proposal – May 2021  
**Additional information:** Nil

**SUMMARY**

**Spare Parts Puppet Theatre (SPPT) are celebrating 40 years in 2021. SPPT have submitted a funding application to the City in order to support the celebrations which include a free community event this November 2021.**

**This report recommends Council contribute \$5,000 to support the November 2021 event in acknowledgement of the value the event will bring to Fremantle and of the contribution SPPT have made to the City over 40 years.**

**BACKGROUND**

SPPT are a Fremantle-based puppetry company dedicated to the development and creation of the art form. Through puppetry, they engage with timeless and universal issues, exploring and celebrating what it is to be human, unifying audiences across generations, communities and cultures. SPPT's annual artistic program includes performances at their home theatre in Fremantle, touring to schools, theatres and festivals across Australia and internationally. They also provide puppetry workshops for children, adults and professional artists.

To celebrate their 40th birthday, SPPT are presenting a series of programs and events. These are detailed in Attachment 1: Spare Parts Puppet Theatre Proposal. As per the proposal, SPPT are seeking a contribution of \$30,000 cash plus additional in-kind marketing support from the City of Fremantle.

In response to the request, the City advised SPPT officials that while very supportive of the organisation and the proposed celebrations, it was felt that a contribution of \$5,000 cash was appropriate. SPPT subsequently requested that the item be brought to Council for further consideration.

**FINANCIAL IMPLICATIONS**

Officer recommendation can be accommodated under existing base operating budget. The City's total budget allocation for its community events sponsorship program is \$50,000. This program is open year-round and responds to requests on application. Under the program guidelines, the maximum contribution for an event of this nature is \$5,000 which provides the ability to support up to 10 events each year. While Council can determine an alternative amount if it is deemed appropriate to provide a greater level of support, the amount requested by SPPT represents 60% of the City's total annual budget for sponsorship of community events.

## **LEGAL IMPLICATIONS**

The request for funding falls within the community events program criteria of the Grants and Sponsorship Policy which supports activities, initiatives and events that deliver a community benefit to Fremantle.

## **CONSULTATION**

The City's Manager Arts and Culture has met with Spare Parts Puppet Theatre officials to discuss their request.

## **OFFICER COMMENT**

The Strategic Community Plan objective to retain diverse quality arts organisations and artists in Fremantle is in part met by SPPT having its home in the central business district (CBD). SPPT have been an important part of the cultural fabric of Fremantle for 40 years. They've contributed to visitation, engagement with all ages, employment and the arts and culture sector.

The proposed November 2021 event and other celebratory programs will bring audience to Fremantle and present an opportunity for our community to celebrate the role SPPT have played in many of our resident's lives and the history of our City.

While the funding amount recommended is considerably lower than what is being sought, it is considered in line with other support provided to other organisations by the City for comparable events.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute majority required.

## **OFFICER'S RECOMMENDATION**

**Council:**

- 1. Contribute \$5,000 cash sponsorship towards SPPT's free community event taking place November 2021, to be funded from the Community Events Program.**
- 2. Authorise the Chief Executive Officer to enter into a sponsorship agreement with the Spare Parts Puppet Theatre, that sets out the terms of funding, including benefits to the City of Fremantle.**

**FPOL2107-6 UNDERTAKING TO JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION – LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021**

<b>Meeting date:</b>	14 July 2021
<b>Responsible officer:</b>	Manager Governance
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Confidential Attachment – Privileged communication from Joint Standing Committee on Delegated Authority</li><li>2. Disposal of inconsequential, surplus and lost property items Policy</li></ol>
<b>Additional information:</b>	Nil

**SUMMARY**

**For council to respond to a request from the Joint Standing Committee on Delegated Legislation (JSCDL) that the City undertake to amend and explain sections of its Local Government Property Amendment Local Law 2021 and consider adopting a policy outlining a formal process for the disposal of inconsequential and lost property items by the City.**

**BACKGROUND**

Following Councils resolution to make the City of Fremantle Local Government Property Amendment Local Law 2021 (27 January 2021) the City was required to publish the local law in the Government Gazette (12 February 2021), provide a copy to the Minister for Local Government (01 December 2020) and to give local public notice that the local law had been made (18 February – 5 March 2021).

In addition, the City was required to provide a copy of the local law and explanatory memorandum, prepared in accordance with the Minister's Local Laws Explanatory Memoranda Directions 2010, to the State Government's Joint Standing Committee on Delegated Legislation JSCDL (23 February 2021).

On 15 June 2021 the JSCDL advised the City that they would like the Council to make undertakings relating to its City of Fremantle Local Government Property Amendment Local Law 2021, as follows:

1. Correct the typographical error in clause 9.3(1) of the City of Fremantle Local Government Property Amendment Local Law 2021 when the Local Law is next reviewed.
2. Ensure any consequential amendments arising from the above correction are made.
3. Ensure that a copy of the undertaking accompanies the Local Law wherever it is made publicly available by the City, whether in hard copy or electronically.
4. Provide feedback on the City of Fremantle practises relating to the operation of clause 9.3(1).

### **Typographical error - clause 9.3(1)**

Clause 9.3(1) of the City of Fremantle Local Government Property Amendment Local Law 2021 makes reference to an outdated version of the Associations Incorporations Act, which was amended in 2015. The local law should state Associations Incorporations Act 2015.

### **Feedback on the operation of clause 9.3(1).**

Clause 9.3 of the local law states the following:

#### ***“9.3 Disposal of lost property***

- (1) *An article left on any local government property, and not claimed within a period of 1 month, may be disposed of by the CEO or an authorised person-*
- (a) *if the value of the property is reasonably believed to exceed the amount prescribed by regulation 30(3) of the Local Government (Functions and General Regulations 1996, using the process under section 3.58 of the Act for the sale of the article as if it was property referred to in that section;*
  - (b) *the article is reasonably believed to be of a negligible or little value or likely to be of no interest to a not for profit body, in any manner they think fit or*
  - (c) *in any other case, by donation to a not for profit body incorporated under the Association Incorporations Act 1987.”*

This clause effectively outlines that the City can dispose of items of lost property valued up to \$20,000, (regulation 30(3) of the Local Government (Functions and General Regulations 1996).

The JSCDL have asked that the City provide them with a copy of the process by which the City will process these disposals, given the possibility that property of significant value (such as, for example, a diamond ring) but below \$20,000 may not covered by either clause 9.3(1)(a) or (1)(b) or of no interest to a not for profit body.

Prior to receiving the letter from the JSCDL officers were already in the process of developing a policy for the disposal of items of low value that are no longer of use to the City, in anticipation of moving into a new building and the likelihood that the City will need to dispose of excess furniture and equipment.

In response to the JSCDL’s request for feedback, on the City of Fremantle practises relating to the operation of clause 9.3(1), reference to the disposal of lost property has been included into the draft policy which is recommended for adoption in this report.

### **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Part 3, Division 2 of the *Local Government Act 1995*.

## **CONSULTATION**

Nil

## **OFFICER COMMENT**

The error in Clause 9.3(1) of the City of Fremantle Local Government Property Amendment Local Law 2021 is a simple typographical error and can be easily corrected when this local law is next considered for amendment.

If Council determines to make this undertaking, officers will ensure a copy of the undertaking accompanies the local law until it is amended.

The draft policy outlines the process by which low value items can be disposed of by the City including lost property items and sets the monetary value of what the City considers to be low value. The City values its 'minor assets' at \$5000 and above and disposes of those in accordance with legislation, this policy is intended to address the disposal of any items below this value.

A copy of the policy, if adopted, will be provided to the JSCDL to address the request for feedback on the City of Fremantle practises relating to the operation of clause 9.3(1)

The city was not able to comply with the original committee requested response date however, officers have liaised with a representative of the JSCDL who advised that an amended deadline of 30 July 2021 is approved.

The letter from the JSCDL is attached under confidential cover as the information contained within the letter is considered to be confidential and privileged information that the City is not authorised to disclose.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

### **Council:**

- 1. Adopt the Disposal of inconsequential, surplus and lost property items policy, shown in Attachment 2.**
- 2. Undertake the changes recommended by the Joint Standing Committee on Delegated Legislation to:**
  - a. Correct the typographical error in clause 9.3(1) of the City of Fremantle Local Government Property Amendment Local Law 2021 when the Local Law is next reviewed.**
  - b. Ensure any consequential amendments arising from the above correction are made.**
  - c. Ensure that a copy of the undertaking accompanies the Local Law wherever it is made publicly available by the City, whether in hard copy or electronically.**
  - d. Provide feedback on the City of Fremantle practises relating to the operation of clause 9.3(1).**

### 10.3 Deferred item

#### FPOL2106-4      **ADOPTION OF THE CITY OF FREMANTLE PARKING LOCAL LAW 2021**

<b>Meeting date:</b>	9 June 2021
<b>Responsible officer:</b>	Director City Business
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Community feedback submissions</li><li>2. Revised Parking Local Law 2021 (with track changes)</li><li>3. Proposed Parking Local Law 2021</li><li>4. Proposed amendment to Clause 5.18 Verges</li></ol>
<b>Additional information:</b>	Nil

#### **SUMMARY**

**The purpose of this report is to present the feedback received during the public submission period for the proposed Parking Local Law 2021. It also recommends that Council approve to make the City of Fremantle Parking Local Law 2021, with inclusion of minor amendments, for the purpose and effect as follows:**

**Purpose:**      **To enable the City to regulate the parking of vehicles within the district and provide for the management and operation of parking facilities under the City's care, control and management.**

**Effect:**      **A person parking a vehicle within the parking region is to comply with the provisions of the local law.**

#### **BACKGROUND**

Council at its meeting held on 11 December 2019, resolved to determine that the Parking Local Law 2006 be amended and brought back - for consideration. Following this decision, officers undertook a comprehensive review of the - local law. During the review there were various improvements identified to provide improved controls and to reflect current best practice - of parking within the district, whilst also providing more flexibility for patrons and residents.

A key improvement considered in the proposed parking local law was to incorporate the use of electronic parking technology to enable more convenient payment options and parking permits. In addition, provisions that enable the City to set zones where parking fees are paid by electronic means only, via a mobile device through an app such as 'PayStay' which provides flexibility in instances where access to physical infrastructure is difficult or cost prohibitive. This would enable the City to introduce pay by phone only parking zones in areas such as Marine Terrace, without the need to install ticket machines. Another consideration included, is to provide residents (in residential areas) the ability to permit parking on the verge at the front of their own property with their consent.



Due to the complex nature of the parking local law and the changes required, the City's solicitors were engaged to write the proposed local law, to ensure it meets the standards required by the Joint Standing Committee. The proposed local law has been rewritten to remove repetition, update relevant sections in accordance with current legislation and to include additional improvements identified during the review process.

At the Finance, Policy, Operations and Legislation (FPOL) Committee meeting held 20 January 2021, the committee endorsed the proposed Parking Local Law 2021 provided in the additional information attachment 1, and approved to advertise the local law for public comment, as part of the local law adoption process required by the *Local Government Act 1995*.

## FINANCIAL IMPLICATIONS

The proposed local law includes prescribed penalties. A full list of the proposed penalties is shown parking local law under Schedule 1: Prescribed Penalties. Should Council adopt the prescribed penalties as proposed, they will be taken into account in the 2021/22 budget.

## LEGAL IMPLICATIONS

The process for making a Local Government local law, is set out in section 3.12 of the *Local Government Act 1995*, as summarised in the table below.

<b>Local Government Act 1995</b>	
Section 3.12: Procedure for making local laws	
3.12(2)	Council to initiate the process and give notice to repeal the 2006 local law and make a new local law - <i>Completed</i>
3.12(3)(a)	Local public notice to be given - <i>Completed</i> The City will advertise its intent to repeal the 2006 local law and to make the proposed 2021 local law, calling for public comment over a 6-week public submission period.
3.12(3)(b)	Notification of above, to be sent to the Minister - <i>Completed</i>
3.12(4)	<b><i>Current stage in the process</i></b> Consideration of public submissions - a report will be brought back to Council to consider any public submissions received and seek approval to make the local law as proposed or consider further changes.
3.12(5)	New local law to be published in the Gazette.
3.12(6)	Local public notice to be given of the new local law and commencement date.
3.12(7)	Explanatory memoranda to be submitted.
3.14	Commencement of local law.

**Local Government Act 1995**

Section 3.12: Procedure for making local laws

3.17	Review by Government (Joint Standing Committee on Delegated Legislation).
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Legal advice provided on the proposed amendments outlined in this report, advises that for the purposes of section 3.12(4) of the *Local Government Act 1995*, the revised version of the proposed local law is not significantly different to the first version of the Parking Local Law 2021, that was endorsed by Council on 20 January 2021 and advertised. Therefore, the process for making the proposed local law may continue as outlined above.

**CONSULTATION**

Consultation has been undertaken in accordance with the relevant provision of the Local Government Act including, A local public notice published in the Fremantle Herald on Saturday, 20 February 2021, advertising the City’s intent to make the proposed Parking Local Law and seek feedback from the community. The public submissions period was open for eight (8) weeks and closed on Sunday, 18 April 2021.

The parking local law was available to view on the City’s website or in person at the City’s Library and Administration building. Members of the public were able to make submissions through the City’s My Say Freo page, via email or in writing by post. There were 510 total visits to the My Say Freo page and a total of 61 submissions were received. These submissions have been provided in Attachment 1.

**OFFICER COMMENT**

Of the 61 submissions received during the public submission period, there were two main areas of concern in the feedback received. These -concerns were in relation to the proposed changes to parking on verges and pay-by-phone only payment option.

A summary of the public submissions is provided below and a response to the main areas of concern taken from the public submissions have been provided, and where possible, a proposed amendment is recommended for Council consideration.

Summary of Public Submissions	Officers response
<p><b>Clause 5.18 – Verges</b></p> <ul style="list-style-type: none"> <li>• 28 respondents strongly disagreed with this clause</li> <li>• 1 respondent agreed with this clause.</li> <li>• 2 respondents agree with allowing residents to control their verge</li> </ul> <p>Provided below is a summary of the concerns raised in relation to this clause:</p>	<p>In response to the feedback received, this clause has been re-written as follows:</p> <p><b>5.18 Verges</b></p> <p>(1) <i>In this clause, long or heavy vehicle means a vehicle that –</i></p> <ul style="list-style-type: none"> <li>(a) <i>is more than 6.5m long;</i></li> <li>(b) <i>is more than 2.2m wide;</i></li> <li>(c) <i>is more than 2.4m high; or</i></li> <li>(d) <i>exceeds a GVM of 3.5 tonnes.</i></li> </ul> <p>(2) <i>A person must not –</i></p>

Summary of Public Submissions	Officers response
<ul style="list-style-type: none"> <li>• Residents will not be able to park their caravan, boat or trailer on their own verge.</li> <li>• Residents will have nowhere to park their trailers, boat and caravans on their properties because of lack of space.</li> <li>• No one should be restricted from parking on the verge as it is public property and should not be controlled by any one individual.</li> <li>• Preventing parking on the verge will force caravans, boats and trailers to be parked on the road.</li> <li>• Prevent vehicles attached to trailers, boats and caravans from parking on the street long term.</li> <li>• A time limit of 72 hours should be introduced to prevent vehicles parking long term on the street.</li> </ul>	<p>(a) <i>stop or park a bus on any part of any verge;</i></p> <p>(b) <i>stop or park a long or heavy vehicle on any part of any verge – except when it is being loaded or unloaded, with reasonable expedition, with goods or materials collected from or delivered to the premises adjacent to the portion of verge on which the long or heavy vehicle is parked, provided that no obstruction is caused to the passage of any vehicle or person using a carriageway or footpath; or</i></p> <p>(c) <i>stop or park a vehicle (except for a bus, a long or heavy vehicle, or a bicycle) –</i></p> <p style="padding-left: 20px;">(i) <i>on a verge that is adjacent to a grouped or multiple dwelling; or</i></p> <p style="padding-left: 20px;">(ii) <i>on a verge that is not adjacent to a grouped or multiple dwelling unless the person –</i></p> <p style="padding-left: 40px;">(A) <i>is the owner or occupier of the premises adjacent to the verge; or</i></p> <p style="padding-left: 40px;">(B) <i>is authorised by the owner or occupier of those premises to stop or park the vehicle so that any portion of it is on the verge.</i></p> <p>The revised clause (above) is intended to provide the following:</p> <ol style="list-style-type: none"> <li>1. Allow owners/occupiers of the premises adjacent to the verge, or a person who is authorised by the owner/occupier of that premises, to stop or park a 'vehicle' on the verge. The term 'vehicle' as defined under the <i>Road Traffic (Administration) Act 2008</i> includes a car, trailer, boat or caravan.</li> <li>2. Prohibit any long or heavy vehicle, as defined in part (1) of the clause, from stopping or parking on the verge, except when being loaded or unloaded.</li> <li>3. Prohibit a 'vehicle' from stopping or parking on verges adjacent a grouped or multiple dwelling. A new definition to define a grouped or multiple dwelling is recommended for inclusion, as outlined in the 'other amendments' section of this report.</li> </ol> <p>Other comments:</p> <p>a) The revised local law allows vehicles which are attached to trailers to remain parked on the street as long as they abide by the time restrictions in</p>

Summary of Public Submissions	Officers response
	<p>place and are no more than 7.5 metres in length or exceed a GVM of 4.5 tonnes or are deemed by an authorised person to be abandoned or obstructing the street.</p> <p>b) Clause 7.11(b) in the revised local law allows for vehicles to be dealt with if an authorised officer believes it appears to be abandoned and has been in the same position for more than 24 hours.</p>
<p><b>Clause 4.2 - Payment of fees, in particular part (d) pay-by-phone</b></p> <ul style="list-style-type: none"> <li>• 12 respondents did not want the City to introduce pay-by-phone only areas.</li> <li>• 3 respondents were in support of this clause.</li> </ul> <p>Summary</p> <p>Provided below is a summary of the concerns raised in relation to this clause:</p> <ul style="list-style-type: none"> <li>• Concerns that elderly patrons, those without a smart phone, patrons who don't have access to a credit card, or underprivileged patrons will be discriminated against.</li> <li>• Some indicated that they do not agree with the principal of pay-by-phone parking in general.</li> </ul>	<p>No further changes have been made to this clause from the advertised version of the proposed Parking Local law 2021.</p> <p>It is intended that the pay by phone only payment option will used in areas where appropriate parking infrastructure cannot be installed or the costs to install parking infrastructure is considered significant; or be used on a temporary basis.</p> <p>The City's current pay-by-phone provider (PayStay) allows new customers to register for parking via their App, on their website or by calling a hotline. They may purchase an electronic ticket via the App, on their website or over the phone. Parking sessions can also be started by sending an SMS.</p> <p>The City will ensure appropriate signage is clearly visible onsite and provides users with clear instructions on how to use the payment method.</p>
<p><b>Schedule 1 – Prescribed offences</b></p> <ul style="list-style-type: none"> <li>• 7 respondents did not agree with the proposed increases to parking infringements.</li> <li>• 1 respondent agreed with the proposed increase to parking infringements however suggested a discount on the infringement if paid within a certain time.</li> </ul> <p>Summary</p> <p>Provided below is a summary of the key concerns raised in relation to prescribed penalties:</p> <ul style="list-style-type: none"> <li>• Infringement increases are not in line with inflation.</li> </ul>	<p>No further changes have been made to the prescribed offences from the advertised version of the proposed Parking Local law 2021.</p> <p>The City's parking penalties have remained unchanged for eight years. A comparison of parking penalties was undertaken with other similar local government authorities, which identified that the City's penalties are considerably lower than other similar local governments. The proposed parking penalties were increased to a level that is considered relative to other similar local governments.</p> <p>As parking penalties can only be prescribed within a local law, any further changes to the parking penalties (post this amendment) will require a local law review process to be undertaken.</p>

Summary of Public Submissions	Officers response
<ul style="list-style-type: none"> <li>• Fines should not be increased during the period of the COVID 19 pandemic.</li> <li>• Fines should not be increased at all.</li> <li>• Parking infringements dissuade people from coming to Fremantle.</li> </ul>	
<p>1 respondent did not agree with any changes to the local law.</p> <p>1 respondent agreed with all changes to the local law.</p> <p>18 respondents provided general feedback in relation to parking in Fremantle, as summarised below:</p> <ul style="list-style-type: none"> <li>• The City should not change for motorcycle parking.</li> <li>• The City should introduce 1-hour free parking.</li> <li>• The City should maintain parking signs better.</li> <li>• There should be free parking for electric vehicles.</li> <li>• The City should provide more bays for ride share and food delivery vehicles.</li> <li>• The City should provide free parking everywhere.</li> <li>• The local law should have a provision for parking two wheels of a car on a footpath where there is a purpose built mountable kerb.</li> </ul>	<p>Nil</p>

### **Response from the Department of Local Government, Sport and Cultural Industries**

In response to the City's notification of the proposed Parking Local Law 2021, the Department of Local Government, Sport and Culture Industries provided feedback and recommended changes to the local law. A summary of this feedback and officer response is provided below.

Summary of feedback from the DLGSCI	Officers response
<p><b>1. Minor edits</b></p> <ul style="list-style-type: none"> <li>• <b>Contents page:</b> Remove the page numbers, as they may be inconsistent with the page system used in the Gazette. Provided the contents has the clause titles and clause numbers, this is sufficient for readers to navigate the document.</li> <li>• <b>Clause 1.5:</b> In the definition for <b>parking region</b> change “1.4” to “1.3”.</li> <li>• <b>Clause 3.2(1):</b> Delete the bracketed text after the first full stop.</li> <li>• <b>Schedule 1:</b> In item 86 remove the underscore in the second column.</li> </ul>	<p>The removal of the page numbers from the content’s pages will be done for the purposes of the gazettal version of the local law.</p> <p>The proposed amendments have been made to the definition of <b>parking region</b> in clause 1.5 and to clause 3.2.1, and also to item 91 of Schedule 1 (not item 86 as referred to by DLG)</p>
<p><b>2. Clause 2.3 – Determinations</b></p> <p>Does not follow the WALGA model. We suggest replacing ‘Council’ with ‘local government’. We also suggest amending 2.3(1) from ‘The Council may determine’ to ‘The council may by resolution determine’.</p>	<p>The City’s solicitor advised that although, as pointed out by DLG, clause 2.3 does not follow the WALGA model because it refers to ‘the Council’, rather than ‘the local government’ making determinations, the City’s approach in the draft local law is preferable because –</p> <ul style="list-style-type: none"> <li>(a) it clarifies that these functions are to be exercised by the Council (unless they are delegated by the Council to the CEO), rather than use the vague expression ‘local government’ where it is not clear whether the function should be exercised by the Council or by the CEO, on behalf of the City of Fremantle;</li> <li>(b) in any event, the references to ‘the Council’ in clause 2.3 are consistent with other references to the Council in clauses 2.1, 2.2, 2.4 and 2.5; and</li> <li>(c) it is unnecessary to include ‘by resolution’ in clause 2.3(1) because the Council has no other way of making a decision otherwise than ‘by resolution’ and, in any event, there is no similar references to ‘by resolution’ in clauses 2.1, 2.2, 2.4 and 2.5</li> </ul>
<p><b>3. Clause 4.13 - Event Parking</b></p> <p>The Joint Standing Committee on Delegated Legislation has previously</p>	<p>The City’s solicitor advised that the Joint Standing Committee’s ‘Report 44’ referred to by DLG was its 2010 Annual Report. In relation to a similar clause dealing with special event parking in the <i>Town of</i></p>

Summary of feedback from the DLGSCI	Officers response
<p>found issue with clauses that relate to special event parking.</p> <p>The primary concerns of the Committee relate to sufficient public notice. In the event that the Town wishes to retain the clause, it should consider the Committee's 44th Report. The Town should also anticipate that the Committee may make further inquiries regarding this clause.</p>	<p><i>Claremont Parking Local Law</i>, the Joint Standing Committee sought undertakings that the clause be amended –</p> <ol style="list-style-type: none"> <li>(1) 'to include some reasonable, defined limits to the possible dates that may be used for a special event'; and</li> <li>(2) 'to include a provision whereby sufficient local public notice of the special event is to be given' (paragraphs 3.21-3.22).</li> </ol> <p>Despite this, the Joint Standing Committee did not object to an event parking provision in a subsequent local law in 2017. That local law included a description of what an 'event' may be and a similar approach has been taken in the amended version of clause 4.13 of the City of Fremantle's draft Local Law.</p> <p>The suggested revised Clause 4.13, is provided below:</p> <p><b>4.13 Special event parking</b></p> <ol style="list-style-type: none"> <li>(1) <i>In this clause, <b>special event</b> means a function or activity characterised by all or any of the following –</i> <ol style="list-style-type: none"> <li>(a) <i>formal organisation and preparation;</i></li> <li>(b) <i>its occurrence is generally advertised or notified in writing to particular persons;</i></li> <li>(c) <i>organisation by or on behalf of a club or a body corporate;</i></li> <li>(d) <i>payment of a fee to attend; and</i></li> <li>(e) <i>systematic recurrence in relation to the day, time and place.</i></li> </ol> </li> <li>(2) <i>The local government may, by the use of a sign –</i> <ol style="list-style-type: none"> <li>(a) <i>set aside for the period specified on the signs a parking station for the parking of vehicles by those attending a special event; or</i></li> <li>(b) <i>establish additional parking facilities on a reserve or local government property, for any period specified on the sign, for the parking of vehicles by those attending a special event.</i></li> </ol> </li> <li>(3) <i>A person must not stop or park a vehicle –</i></li> </ol>

Summary of feedback from the DLGSCI	Officers response
	<p>(a) <i>in a parking station set aside under subclause (2) during the period for which it is set aside; or</i></p> <p>(b) <i>on a reserve or local government property established as a parking facility under subclause (2) during the period for which it is established,</i></p> <p><i>unless a permit obtained from the local government with respect to the special event is–</i></p> <p>(c) <i>in the case of a printed permit, displayed inside the vehicle and is clearly visible to, and able to be read by, an authorised person from outside the vehicle at all times while the vehicle is stopped or parked in the parking station; or</i></p> <p>(d) <i>in the case of an electronic permit, the person (using the parking app) has obtained notification that the required fee has been paid or that the permit has been issued.</i></p>
<p><b>4. Clause 7.11 – Vehicle obstructing public place</b></p> <p>The Department has identified two potential issues with this clause:</p> <p>(a) The clause prohibits an unlicensed vehicle from being left in a public place. The fact that a vehicle is unlicensed does not necessarily mean the vehicle is being obstructive. It also appears that the fining of unlicensed vehicles is already addressed in State parking legislation and enforced by the WA police.</p> <p>(b) The clause prohibits a vehicle being abandoned or giving the appearance of being abandoned. The term “abandoned” is vague and could potentially be subject to various interpretations. The City may wish to define the term in further detail.</p>	<p>Each of DLG’s points are addressed in the redrafted version of clause 7.11 which sets out factors that an authorised person is to take into account in determining whether a vehicle is abandoned or appears to have been abandoned.</p> <p>The suggested revised clause is provided below, with the amended shown in green italics:</p> <p><b>7.11 Vehicles not to obstruct a public place</b></p> <p>Unless permitted under this local law, or unless authorised under any other written law, a person must not leave a vehicle, or any part of a vehicle, in a public place if it –</p> <p>(a) obstructs the use of any part of the public place; or</p> <p>(b) <i>appears to an authorised person to have been abandoned, having regard to factors such as –</i></p> <p style="padding-left: 40px;"><i>(i) whether there are any number plates on the vehicle;</i></p> <p style="padding-left: 40px;"><i>(ii) the extent of any damage to the vehicle;</i></p>



Summary of feedback from the DLGSCI	Officers response
	<p>(iii) <i>whether the vehicle has been in the same position for more than 24 hours; and</i></p> <p>(iv) <i>whether the vehicle appears to be inoperable.</i></p>
<p><b>5. Boxed Notes</b></p> <p>The draft local law currently contains a large number of boxes containing extracts from the Local Government Act 1995.</p> <p>The Delegated Legislation Committee has raised concerns with this practice in the Committee’s 23<sup>rd</sup> Report. This is because:</p> <ul style="list-style-type: none"> <li>• The references have no legal effect in themselves; and</li> <li>• The references will become misleading if the part of the Act is amended;</li> </ul> <p>It is suggested that the boxed references should be deleted from the gazette version of the local law. In the event that the City chooses to maintain a public version of the local law in hard copy or electronic format, the City can choose to retain the references for the benefit of readers.</p> <p>The Shire should also ensure that all references and cross references are checked, particularly if any changes are made as a result of the Department’s comments.</p>	<p>It was intended that all boxed notes will be removed in the final version of the local law before it is gazetted.</p>

**Other amendments**

In response to the additional changes to the proposed local law (outlined above), it is recommended that the following definitions and clauses be included:

- a) Inclusion of the following new definitions:
- i. *grouped or multiple dwelling means either a grouped dwelling or a multiple dwelling*
  - ii. *grouped dwelling means a dwelling that is one of a group of 4 or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above or below another, except where special conditions of*

*landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property;*

- iii. **multiple dwelling** means a dwelling in a group of 4 or more dwellings on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio area of any other but –
- (a) does not include a grouped dwelling; and
  - (b) includes any dwellings above the ground floor in a mixed use development;

- b) Inclusion of a new definition for a class of vehicle:

**electric vehicle** means a vehicle that uses one or more electric motors or traction motors for propulsion and includes a motorbike, scooter and moped.

- c) Inclusion of a new clause 7.13 for urgent, essential or official functions. This clause has been included in a response to the changes in clause 4.13 and allows an authorised person to close off parking facilities for urgent, essential or official functions at short notice or without a formal application for the closure having been received.

**7.13 Urgent, essential or official functions**

- (1) Where –
  - (a) in a parking facility, a sign prohibits the stopping or parking of a vehicle, or permits the stopping or parking of a vehicle for a limited time; and
  - (b) a person needs to carry out a function that is considered by an authorised person to be urgent, essential or official in nature and that would be facilitated by stopping or parking a vehicle in the parking facility, the person may be permitted, by an authorised person, to stop or park the vehicle in the parking facility for a period that may exceed any applicable limited time.
- (2) Where permission is given under subclause (1), an authorised person may, by a sign, prohibit for the duration of the permission the use by any other vehicle of the portion of the parking facility to which the permission relates.
- (3) Permission given under subclause (1) may –
  - (a) allow the stopping or parking of the vehicle continuously for a specified period or periods, between specified times or from time to time during a specified period; and
  - (b) be revoked or suspended at any time by an authorised person.
- (4) A person must not stop or park a vehicle in respect of which permission has been given under subclause (1) other than in accordance with the terms of the permission.

- d) Minor amendments have been made to ‘Schedule 1 – Prescribed Offences’, to combine offences related to the same clause and renumber ‘item numbers’ where appropriate.

It is recommended that Council approve the above-mentioned minor amendments and adopt the revised City of Fremantle Parking Local Law 2021 as provided in Attachment 3.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute majority required

## **OFFICER'S RECOMMENDATION**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

**Council:**

- 1. Consider the public submissions received, as provided in Attachment 1.**
- 2. Approve the minor amendments to the City of Fremantle Parking Local Law 2021 as outlined (with track changes) in Attachment 2.**
- 3. Adopt the City of Fremantle Parking Local Law 2021, as shown in Attachment 3, for the purpose and effect as follows:**

**Purpose:** To enable the City to regulate the parking of vehicles within the district and provide for the management and operation of parking facilities under the City's care, control and management.

**Effect:** A person parking a vehicle within the parking region is to comply with the provisions of the local law.

- 4. Agree that the revised version of the City of Fremantle Parking Local Law 2021, is not considered to be significantly different from what was first proposed and advertised by the City.**

## **PROCEDURAL MOTION**

The following procedural motion was moved:

## **COMMITTEE DECISION**

**Moved: Cr Doug Thompson**

**Seconded: Cr Jenny Archibald**

**The item be deferred to the next Finance, Policy, Operations and Legislation Committee meeting to allow officers to seek further legal advice on the matters raised by committee.**

**Carried: 6/0**

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

### Additional officer comment

In response to feedback received at the Finance, Policy, Operations and Legislation Committee meeting held Wednesday, 9 June 2021, a proposed amendment to the verges clause (5.18), is provided in Attachment 4 for Council consideration.

The table below provides a summary of the suggested changes discussed at Committee with a response by officers, based on a further review of the verges clause (5.18) and legal advice sought.

Suggested change	Officer response
<p>Restrict/allow verge parking depending on the size of the verge.</p> <p>Allow longer vehicles, such as a caravan or boat, to be parked on a verge, if the size of the verge is large enough.</p>	<p>The proposed amendment includes a new subclause (4), which aims to address this matter by including the following restrictions for long or heavy vehicles:</p> <p><i>(4) A person may stop or park a long or heavy vehicle on a verge provided that –</i></p> <p><i>(a) the vehicle does not exceed a GVM of 4.5 tonnes;</i></p> <p><i>(d) no part of the vehicle is less than 1.5m from the nearest kerb; and</i></p> <p><i>(e) no obstruction is caused to the passage of any vehicle or person using a carriageway, driveway or footpath.</i></p> <p>This subclause will allow larger vehicles to be parked on a verge providing it does not exceed 4.5 tonnes and is parked on a verge that is large enough to provide a reasonable line of sight along the kerb line.</p> <p>The above subclause will not apply to vehicles that are <u>not</u> considered a long or heavy vehicle.</p>
<p>Allow a drawbar to be excluded from the total size of a vehicle that can be parked on a verge.</p>	<p>To remain consistent with the Road Traffic Act, this change is not recommended. However, the proposed amendment will allow a larger vehicle to be parked on a verge, providing it does not exceed 4.5 tonnes and is parked on a verge that is large enough to allow 1.5m between the vehicle and the kerb.</p>
<p>Verge parking restrictions by zones</p>	<p>To ensure a consistent approach to verge parking across the municipality, zones for verge parking has not been recommended in the proposed amendment for clause (5.18).</p>
<p>Consider a registration/application process for large vehicles such as</p>	<p>Legal advice sought, recommended against this approach. It was advised that the Joint Standing Committee on Delegated Legislation has taken a strong stance against provisions in a local law that</p>

Suggested change	Officer response
caravans and give the ability to assess applications on a case by case basis	seek to enable executive action (whether by the CEO or the Council) to override provisions in a local law. Therefore, this change has not been recommended in the proposed amendment for this clause (5.18).

Following the FPOL Committee meeting a minor amendment has been made to the definition of an Electric Vehicle, to clarify that an Electric Vehicle is a vehicle that is charged via a plug and does not include a bicycle whether powered by an electric motor or not, as follows:

***Electric Vehicle** means vehicle (EV) is a vehicle that uses one or more electric motors or traction motors for propulsion and which is charged via ‘plug in’ connection to an external power source and includes a car, truck, scooter, moped and motorbike but does not include a bicycle.*

This minor amendment has been included in Attachment 2.

If Council accepts the minor amendments, it is recommended that part 2 of the officer’s recommendation be amended to include the words shown in green italics. Alternatively, this may be removed, and the proposed local law will remain the same, as provided in Attachment 2 (excluding the additional minor amendment provided in Attachment 4).

If the additional amendment is accepted by Council, no further public consultation will be required, as it is not considered to be significantly different from the proposed local law originally advertised by the City.

### Amended officer’s recommendation

#### Council:

1. Consider the public submissions received, as provided in Attachment 1.
2. Approve the minor amendments to the City of Fremantle Parking Local Law 2021, as outlined (in track changes) in Attachment 2, *with inclusion of a further amendment to clause 5.18 Verges, provided in Attachment 4.*
3. Adopt the City of Fremantle Parking Local Law 2021 *(as amended in part 2)* provided in Attachment 3, for the purpose and effect as follows:

**Purpose:** To enable the City to regulate the parking of vehicles within the district and provide for the management and operation of parking facilities under the City’s care, control and management.

**Effect:** A person parking a vehicle within the parking region is to comply with the provisions of the local law.

4. **Agree that the revised version of the City of Fremantle Parking Local Law 2021, is not considered to be significantly different from what was first proposed and advertised by the City.**

**11. 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.

Nil

**12. Urgent business**

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

Nil

**13. Late items**

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

Nil

**14. Confidential business**

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

**15. Closure**