



Minutes

Finance, Policy, Operations and Legislation Committee

Wednesday, 20 January 2021, 6.00pm

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FINANCE, POLICY, OPERATIONS AND LEGISLATION COMMITTEE

Minutes of the Finance, Policy, Operations and Legislation Committee
held in the North Fremantle Community Hall
on **Wednesday, 20 January 2021** at 6.00 pm.

1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00 pm.

2.1. Attendance

Dr Brad Pettitt	Mayor
Cr Hannah Fitzhardinge	Presiding Member/Beaconsfield Ward
Cr Jenny Archibald	Deputy Presiding Member/East Ward
Cr Andrew Sullivan	Deputy Mayor/South Ward
Cr Doug Thompson	North Ward
Cr Adin Lang	City Ward
Cr Sam Wainwright	Hilton Ward
Cr Rachel Pemberton	City Ward/Observing only
Cr Frank Mofflin	Hilton Ward/Observing only
Mr Paul Garbett	Acting Chief Executive Officer
Mr Graham Tattersall	Director Infrastructure
Mr Matt Hammond	Acting Director City Business
Mr Paul Dunlop	Acting Director Community Development
Ms Charlie Clarke	Manager Governance
Mr Mark Donnelly	Manager Field Services
Mr Beverley Bone	Manager Community Development
Mr Kevin Porter	Acting Manager Finance
Mr Luke McGuirk	Engineering Team Leader
Ms Melody Foster	Meeting Support Officer

There were approximately 10 members of the public and 1 member of the press in attendance.

2.2. Apologies

Nil

2.3. Leave of absence

Nil

3. Disclosures of interests by members

Cr Andrew Sullivan declared a impartiality interest in item number FPOL2101-16, as he sublets an office space with one of the organisers of the Freo Street Kitchen and advised that he will leave the chamber for this item.

4. Responses to previous questions taken on notice

Nil

5. Public question time

The following member/s of the public spoke in relation to item FPOL2101-14:

Louis DeVilliers

Stephanie Poly

Vania Andreoli

Marcel Teschendorff

Kate Thresher

Mark Huthison

Kavi Gupta

Hadie

Andrew Luobikis provided the following questions in relation to item FPOL2101-16, to be taken on notice:

1. With regard to the congregation of homeless people on Pioneer Park in Fremantle, who/ which Elected Members/ staff were first contacted by Jesse Noakes.

What was the exact request made by Jesse Noakes?

Did Jesse Noakes contact any Elected Members directly by phone or email with his request?

When did Jesse Noakes contact any Elected Members with his request?

Who/ which personnel/ elected members agreed to the establishment of the congregation of homeless people known as Tent City? Under what authority did they do this?

What day/ time did that agreement take place?

Does the City of Fremantle have a standing arrangement and provide money on behalf of ratepayers, to St Patrick's to provide bono fide support and assistance to homeless people?

Was Jessie Noakes request for help directed to the representatives of St Patrick's for their professional assistance? If not, why not?

The Sergeant in charge of WAPOL Fremantle says that she was contacted directly by Mayor Pettit and Councillor Pemberton and told not to carry out her Covid 19 Protocols at the Tent City on Pioneer Park.

How do Mayor Pettit and Councillor Pemberton account for the discrepancies in the accounts of this issue?

Did the Mayor and Councillor contact the Sergeant?

Under what authority did the Mayor, and Councillor Pemberton have, as Elected Members, to interfere/ intervene with the lawful duties conferred on WAPOL?

Why and under what authority did the Elected members/ and/ or the City Administrative staff ignore its own Risk Management Policy in preventing WAPOL in carrying out its lawful function to administer the Protocols on Pioneer Park?

2. Under the Local Government Act, it is the function of, and role of, the elected Council and Elected Members under the Local Government Act to make policy decisions:

Under the Local Government Act, 2.8, the Mayor does not have the authority to make executive decisions, without the endorsement of the City's Council, which is elected to make Policy and decisions on behalf its constituents. The Mayor has a leadership role and speaks on behalf of the Council.

Under the Local Government Act, the Council has the absolute function of policy making, not the CEO or City administrators:

The Mayor has the authority to call a special meeting of Council in an emergency. Why didn't this occur?

And the CEO can, under the Council's Meeting Procedures Part 2- Meetings of Council 2018, "where, in the opinion of the Mayor or at least 1/3 of the members, there is a need to meet URGENTLY, ...give a lesser period of notice of a special council meeting", to assist in this function of correct and good governance.

Why did the Mayor, and/ or Councillor Pemberton make unilateral decisions contradicting State Government Policy and directives and responsibility to convene the Council, to deal with the issues and follow the requirements of the City's Risk Management Policy?

Cr Hannah Fitzhardinge accepted the questions be taken on notice.

6. Petitions

Cr Andrew Sullivan presented a petition containing 244 signatures, requesting the following:

The South Fremantle community calls on the City of Fremantle, Main Roads WA, and WA State Government to install safer pedestrian crossing signals at the intersection of Scott Street and Marine Terrace. This intersection is the only formal crossing into South Beach, with vehicle traffic turning in and out of the public car park, as well as the Fremantle Sailing Club. We propose that the traffic lights incorporate a clearly designated walking phase, and subsequent right turn for exiting vehicle traffic.

Cr Adin Lang presented a petition containing approximately 1300 signatures, requesting the following:

Increase funding for more trees, shade and wildlife in Fremantle by turning our city into an Urban Forest!

7. Deputations

7.1 Special deputations

Nil

7.2 Presentations

Nil

8. Confirmation of minutes

COMMITTEE DECISION
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 11 November 2020.

Carried: 7/0

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

9. Elected member communication

Nil

10. Reports and recommendations

FPOL2101-14 ELECTED MEMBER MOTION – INCREASING CANOPY COVER AND BIODIVERSITY IN THE CITY OF FREMANTLE – COUNCILLOR ADIN LANG

Meeting date: 20 January 2021
Responsible officer: Chief Executive Officer
Decision making authority: Council
Attachments: Nil
Additional documents: Nil

ELECTED MEMBER SUMMARY

The aims of this motion are to:

- Increase budget to support the implementation of the Green Plan and Urban Forest Plan
- Deliver more trees and biodiversity through tree planting, natural areas planting program and green corridors
- Involve community in ownership of street/public trees more.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER COMMENT

Officers are supportive of investigating the actions proposed in the Motion. The proposals will help support the implementation and reporting against targets in the Urban Forest Plan, improve greening and biodiversity across the City and further support community involvement.

Officers confirm they can provide a return report to the FPOL meeting on 14 April 2021 responding to the individual points and providing a response, or if a longer timeframe is required, a proposal as to how the recommendation can be addressed. Officers can also prepare budget submissions where required for consideration in the 2021/22 financial year or future budget processes.

MOTION

Moved: Cr Adin Lang Seconded: Cr Andrew Sullivan

With the objective of increasing canopy cover and biodiversity, the City of Fremantle should investigate the following and return a report to FPOL on 14 April 2021:

1. Review and update the existing Street and Reserve Tree Policy.
2. Provide an update on the actual number of trees planted annually against the annual planting targets in the Urban Forest Plan.
3. Review the Local Law regarding damage to City Property in relation to damage or removal of trees.

4. Suggest new planting targets based on a review to achieve the Urban Forest Plan targets.
5. Suggest how the Green Corridors in the City can be improved.
6. Review the existing Verge Garden Scheme and suggest how the scheme can be reinstated and expanded following Covid budget reduction.
7. Suggest how 'Friends of' groups can access and utilise more financial support
8. Review the types of tree species planted, with a view to plant more endemic and local species
9. Review reporting methods for tree planting and revegetation planting to simplify data presentation. E.g., note more accurate numbers on how many trees and shrubs are planted each year.

AMENDMENT 1

Moved: Cr Adin Lang

Seconded: Mayor, Brad Pettitt

To include an additional part 10 and 11, to read as follows:

10. ***Increasing protection and support for Clontarf Hill as an important public open space, noting the City of Fremantle's previous resolution in August 2018 that the loss of A Class from the High Street reserve be offset for Main Roads land on Clontarf Hill.***
11. ***Liaise with 'Friends of' groups to identify their needs to maximise success of bush care activities.***

Amendment carried: 7/0

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

AMENDMENT 2

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

To include an additional part 12, to read as follows:

12. ***Engage with other significant landholders in Fremantle to engage them with initiatives and aspirations to increase local canopy cover and biodiversity.***

Amendment carried: 7/0

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

COMMITTEE RECOMMENDATION ITEM FPOL2101-14
(Motion, as amended)

Moved: Cr Adin Lang

Seconded: Cr Andrew Sullivan

With the objective of increasing canopy cover and biodiversity, the City of Fremantle should investigate the following and return a report to FPOL on 14 April 2021:

- 1. Review and update the existing Street and Reserve Tree Policy.**
- 2. Provide an update on the actual number of trees planted annually against the annual planting targets in the Urban Forest Plan.**
- 3. Review the Local Law regarding damage to City Property in relation to damage or removal of trees.**
- 4. Suggest new planting targets based on a review to achieve the Urban Forest Plan targets.**
- 5. Suggest how the Green Corridors in the City can be improved.**
- 6. Review the existing Verge Garden Scheme and suggest how the scheme can be reinstated and expanded following Covid budget reduction.**
- 7. Suggest how 'Friends of' groups can access and utilise more financial support**
- 8. Review the types of tree species planted, with a view to plant more endemic and local species**
- 9. Review reporting methods for tree planting and revegetation planting to simplify data presentation. E.g., note more accurate numbers on how many trees and shrubs are planted each year.**
- 10. *Increasing protection and support for Clontarf Hill as an important public open space, noting the City of Fremantle's previous resolution in August 2018 that the loss of A Class from the High Street reserve be offset for Main Roads land on Clontarf Hill.***
- 11. *Liaise with 'Friends of' groups to identify their needs to maximise success of bush care activities.***
- 12. *Engage with other significant landholders in Fremantle to engage them with initiatives and aspirations to increase local canopy cover and biodiversity.***

Carried: 7/0

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

Cr Andrew Sullivan having declared an interest in item number FPOL2101-16 and left the meeting at 6.51 pm.

FPOL2101-16 PIONEER PARK FREMANTLE CAMP OUT

Meeting date: 20 January 2021
Responsible officer: Chief Executive Officer
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

A camp for homeless and disadvantaged people has been operating at Pioneer Park, Fremantle, since Boxing Day without approval.

The City has been working with care agencies, the State Government and other key stakeholders on finding long-term solutions to camp inhabitants' ongoing care and accommodation needs. The City's position is that, despite the best intentions of camp volunteers and donations from the broader community, the camp is not delivering the long-term assistance and care that its inhabitants need and is undermining the work of professional service providers.

There are also increasing concerns about public safety, both for the inhabitants of the camp, and for the broader community who are impacted by its ongoing presence in Pioneer Park. The City is working with care agencies, the State Government and WA Police to provide a compassionate and welfare-focused approach to resolving the camp and returning the park to the broader public.

OFFICER'S COMMENT

The City was approached on 21 December 2020 by a group under the banner Freo Street Kitchen with a plan to deliver a short-term food service for people in need over Boxing Day.

At the time it was purported to be a 24-hour food service but without any approvals from Council, this has become a campsite and a focal point for people from around Perth and country WA, with an estimated 80 people sleeping at the park. At the time, no indication was given of the intent to camp at the site and the City has received no indication that the occupants are prepared to leave.

The camp has been supported by volunteers who have donated food and other supplies.

Notwithstanding that the camp is not approved, the City's primary focus has been to try to safeguard the wellbeing of people within the camp and the broader community. While the camp has provided short-term support for vulnerable people, a temporary

set-up in a public park is not a viable long-term safe solution, or an appropriate use of the park.

The City has taken action in relation to the operation of the camp to protect the health of occupants. This action includes daily emptying of bins and toilet cleaning. The City has also continued to provide electricity and security services including daily visits to the camp by Community Safety officers and ongoing CCTV surveillance.

An internal working group has been formed with service providers including St Patrick's Community Support Centre, Uniting, RUAH, the Department of Communities, WA Police and Wungening Aboriginal Corporation to discuss how this situation can be resolved.

Discussion at the working group is ongoing and continues to focus on how to wind up the activities at the park in a manner that is as compassionate as possible and provides maximum support to the vulnerable people congregating there.

St Patrick's outreach staff attending Pioneer Park have undertaken assessments using the VI-SPDAT (vulnerability indicator) to assess the individual needs and vulnerabilities of those staying at the camp.

The assessment indicates:

- 23% identify as being at risk of being attacked or beaten
- 42% have legal issues
- 88% have AOD indicators, with 58% having tried treatment before but returned to using
- 58% have mental health indicators (this appears low and will be reviewed), with 27% having been hospitalised for this against their will. Of those that indicated they had mental health issues, almost third had not seen a mental health professional in the past 6 months
- 66% indicate some form of disability most of these are serious head trauma or brain injury.
- Total number of people 70 tents about 100 people
- Estimated that the people in the park are 50% local and 50% from Perth and surrounds.

Inhabitants of the camp include a cohort of elderly people aged over 55 years, and approximately 20 single women. At least two families with young children presented at the camp and have since been engaged with support services for alternative accommodation as a matter of priority. The Department of Communities facilitated one family's return to country.

WA Police have reported increasing instances of violence within the camp, including assaults with weapons. Camp organisers have made it clear they would prefer to manage security issues inhouse, although Police and Community Safety officers have continued to be an ongoing visible presence at the camp.

The City has received several complaints from nearby businesses about noise and unsocial behaviour emanating from the camp. There have also been increasing

complaints from residents and community members regarding the camp, the ongoing presence of the camp in the park and the perceived growth of the camp.

The City remains concerned about the impact the use of homeless and disadvantaged people to make a political point may ultimately have on the welfare and wellbeing of the inhabitants of the camp.

The City aims to bring the camp to compliance and to return the park to its normal use. The occupants of the camp are not there lawfully, and the park is unable to be used for its intended purpose while the camp continues. Clearly this is a sensitive and complex issue involving many people who are in need of sustained support and housing solutions. Any solution will have to give consideration to this sensitivity.

FINANCIAL IMPLICATIONS

The cost to the City of providing basic hygiene services (waste collection and toilet cleaning) is approximately \$986.80 per fortnight for waste collection and \$1,136 per fortnight for toilet cleaning).

The City is also doing pressure washing and hosing around the area at a fortnightly cost of \$1,210.

A further \$8,910 has been spent to date on additional Community Safety patrols in and around the camp.

LEGAL IMPLICATIONS

The two relevant pieces of legislation that control camping are the Caravan Parks and Camping Grounds Act (1997) and City of Fremantle Local Government Property Local Law (2002).

Under the City's Local Government Property Law, a person shall not without a permit "camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property", or "erect any tent, camp, hut or similar structure".

Under the Caravan Parks and Camping Grounds Act, a person cannot camp on land other than in a caravan park or camping ground without written approval.

CONSULTATION

The City is in daily contact with service providers, WA Police and care agencies regarding the welfare of people within the camp and options for immediate short-term and ongoing support. The City has also met regularly with the Department of Communities and other state agencies. City staff have had regular contact with camp organisers, and made it clear the camp is not authorised and that it is not considered a viable solution to the very real issues of homelessness and disadvantage in Fremantle.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council adopt the following position in relation to the camp at Pioneer Park:

1. The camp has not been approved by the City of Fremantle and the City does not support the camp remaining at the park.
2. The camp is occupied by a number of vulnerable and disadvantaged people. Council is greatly concerned for their welfare and does not consider that remaining in the camp is in their long-term best interests. Council believes the needs of the occupants can best be addressed through engagement with the professional support agencies who have the skills, knowledge and experience to tailor appropriate solutions to each individual situation.
3. Council is greatly concerned by the largely uncontrolled nature of the camp and is also concerned about the impacts of the camp on nearby businesses and other users of Pioneer Park.
4. Council is seeking the closure of the camp and return of Pioneer Park to its intended purpose and will work constructively and collaboratively with the State Government and service agencies to seek a closure that prioritises the welfare needs of the occupants. A timeframe and process for this will be developed in collaboration with other key stakeholders. The target timeframe for this will be within two weeks of this resolution.
5. Council acknowledges the work of volunteers at the camp and recognises their community spirit. Council now calls on the camp organisers and supporters to work with the City to return the site to its intended use and to channel their efforts into supporting existing service agencies.
6. Council will:
 - (a) Continue to provide waste collection and toilet cleaning services in the interests of maintaining basic hygiene at the camp, however it recognises there will be a time when these services are discontinued as part of the camp closure process; and
 - (b) Support and provide full cooperation with WA Police in their efforts to ensure community safety and legal compliance at the camp.

AMENDMENT 1

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

Amend the recommendation to annotate points 1-6 as part A, and add an additional part B, to read as follows:

B) Council reiterates its support for the Housing First model at the centre of All Paths Lead to a Home: Western Australia's 10-Year Strategy on Homelessness 2020–2030 and as applied in successful projects like 20 Homes 20 Lives and sees expanding this approach as central to ending homelessness in Fremantle and beyond. Further it reaffirms as a matter of urgency the following points that were adopted at the October 2020 FPOL meeting that Council:

- 1. Support a Common Ground in Fremantle, which delivers a housing first approach and wrap around services to support tenants with complex needs by providing a permanent home.*
- 2. Authorise the CEO to explore opportunities for discussion on other or shared models, in consultation with the State Government and the affordable housing sector.*
- 3. Acknowledge the chronic homelessness in Fremantle, noting the significant increase of people sleeping rough in the past 6 months.*
- 4. Advocate for well-resourced and funded service provision to address housing and homelessness issues in Fremantle.*
- 5. Notes the net decrease in public housing, which has reduced the number of affordable housing options in Fremantle.*

Amendment carried: 6/0

Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Doug Thompson, Cr Adin Lang, Cr Sam Wainwright

AMENDMENT 2

Moved: Mayor, Brad Pettitt

Seconded: Cr Hannah Fitzhardinge

Amend part 4 of the recommendation, to include the words shown in green italics, to read as follows:

4. Council is seeking the closure of the camp and return of Pioneer Park to its intended purpose and will work constructively and collaboratively with the State Government and service agencies to seek a closure that prioritises the welfare needs of the occupants. A timeframe and process for this will be developed in collaboration with other key stakeholders. The target timeframe *for development of this process* will be within two weeks of this resolution *being adopted by the full Council.*

Amendment carried: 6/0

Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Doug Thompson, Cr Adin Lang, Cr Sam Wainwright

AMENDMENT 3

Moved: Cr Doug Thompson

Seconded: Mayor, Brad Pettitt

Amend part 4 of the recommendation, to include the words shown in green italics and remove the words in red strikethrough, to read as follows:

4. Council ~~is seeking~~ *seeks* the closure of the camp and return of Pioneer Park to its intended purpose and will *continue to* work constructively and collaboratively with the State Government and service agencies to seek a closure that prioritises the welfare needs of the occupants. A timeframe will be developed in collaboration with other key stakeholders. The target timeframe *for development of this process* will be within two weeks of this resolution *being adopted by the full Council*.

Amendment carried: 6/0

Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Doug Thompson, Cr Adin Lang, Cr Sam Wainwright

Cr Hannah Fitzhardinge moved part A) and part B) of the amended recommendation separately, as follows:

COMMITTEE RECOMMENDATION ITEM FPOL2101-16

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

A) Council adopt the following position in relation to the camp at Pioneer Park:

1. The camp has not been approved by the City of Fremantle and the City does not support the camp remaining at the park.
2. The camp is occupied by a number of vulnerable and disadvantaged people. Council is greatly concerned for their welfare and does not consider that remaining in the camp is in their long-term best interests. Council believes the needs of the occupants can best be addressed through engagement with the professional support agencies who have the skills, knowledge and experience to tailor appropriate solutions to each individual situation.
3. Council is greatly concerned by the largely uncontrolled nature of the camp and is also concerned about the impacts of the camp on nearby businesses and other users of Pioneer Park.
4. Council *seeks* the closure of the camp and return of Pioneer Park to its intended purpose and *will continue to* work constructively and

collaboratively with the State Government and service agencies to seek a closure that prioritises the welfare needs of the occupants. A timeframe will be developed in collaboration with other key stakeholders. The target timeframe *for development of this process* will be within two weeks of this resolution *being adopted by the full Council*.

5. Council acknowledges the work of volunteers at the camp and recognises their community spirit. Council now calls on the camp organisers and supporters to work with the City to return the site to its intended use and to channel their efforts into supporting existing service agencies.
6. Council will:
 - (a) Continue to provide waste collection and toilet cleaning services in the interests of maintaining basic hygiene at the camp, however it recognises there will be a time when these services are discontinued as part of the camp closure process; and
 - (b) Support and provide full cooperation with WA Police in their efforts to ensure community safety and legal compliance at the camp.

Carried: 5/1

For

Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Doug Thompson, Cr Adin Lang

Against

Cr Sam Wainwright

COMMITTEE RECOMMENDATION ITEM FPOL2101-16

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

B) Council reiterates its support for the Housing First model at the centre of All Paths Lead to a Home: Western Australia's 10-Year Strategy on Homelessness 2020–2030 and as applied in successful projects like 20 Homes 20 Lives and sees expanding this approach as central to ending homelessness in Fremantle and beyond. Further it reaffirms as a matter of urgency the following points that were adopted at the October 2020 FPOL meeting that Council:

1. **Support a Common Ground in Fremantle, which delivers a housing first approach and wrap around services to support tenants with complex needs by providing a permanent home.**
2. **Authorise the CEO to explore opportunities for discussion on other or shared models, in consultation with the State Government and the affordable housing sector.**

- 3. *Acknowledge the chronic homelessness in Fremantle, noting the significant increase of people sleeping rough in the past 6 months.***
- 4. *Advocate for well-resourced and funded service provision to address housing and homelessness issues in Fremantle.***
- 5. *Notes the net decrease in public housing, which has reduced the number of affordable housing options in Fremantle.***

Carried: 6/0

**Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Doug Thompson, Cr Adin Lang, Cr Sam Wainwright**

Cr Sullivan re-entered the meeting at 7.45 pm.

**FPOL2101-4 PROPOSED LEASE FOR WALYALUP CIVIC CENTRE –
RETAIL SPACE**

Meeting date: 20 January 2021
Responsible officer: Manager Economic Development and Marketing
Decision making authority: Committee
Attachments: 1. Selection Criteria Matrix – Confidential Attachment (under separate cover)
Additional information: Nil

SUMMARY

This purpose of this report is to seek Council approval for the proposed lease terms that have been negotiated with an applicant for the retail space within the Walyalup Civic Centre.

The applicant proposes a retail clothing store in a 220m² portion of the new civic building. The space would be located on the corner of William Street and Newman Court.

BACKGROUND

In accordance to Council's Leasing of City Property in a competitive manner policy the City is obligated to advertise commercial properties in an open and competitive manner when they become available for lease.

The following is the approved weighted selection criteria used to assess expressions of interest for the retail premises.

Financials (Weighting 30%)

- a. Pay market rent.
- b. Proposed incentives requests if applicable.
- c. Requested lease term.
- d. Size of preferred retail space to max of 405m².
- e. Financial investment of tenant fit out.
- f. Demonstration of financial sustainability.
- g. Completion of the Financial Assessment in the EOI Form.

Suitability of Business (Weighting 30%)

- a. Operating days and hours per day.
- b. Proposed look and feel of the concept including brand values and visuals.
- c. Customer demographics and demographics.
- d. Any initiatives or intentions to align and/or add value to the existing business mix.

- e. Design and fit out of the space.

Experience & Personnel (Weighting 30%)

- a. Information on retail locations which you have been and/or currently involved.
- b. Provide information on your role and length of time at each location.
- c. Provide an overview on how you intend to staff the offering.
- d. Are you an investor, independent operator or franchisee?

Environmental Considerations (Weighting 10%)

- a. Waste management
- b. Water consumption
- c. Energy consumption
- d. Materials used in plant operation, cleaning and general operations.
- e. Management, assessment and implementation of environmental initiatives.

Officers released a Tender for the leasing of the retail spaces in Walyalup Civic centre in late August 2020. The Tender closed 7 October 2020 with the City receiving no Tender submissions.

With the closing of the Tender, the City then advertised the property by Expression of Interest (EOI). The City has received a submission from Mr Jeremy Wild which meets the selection criteria of the EOI.

The process was carried out in accordance with section 3.58 of the Local Government Act.

FINANCIAL IMPLICATIONS

The proposed rent for the premises is \$39,600 per annum + GST. This is calculated at a rate of \$180m² per annum +GST.

Outgoings for the property have been estimated at \$31,900 for the first year. This equates to approx. \$146m².

The fit-out contribution from the City requested by the prospective tenant for the lease includes:

- Lessor contribution of up to \$120,000 towards lessee fit out.

There is no rent-free period so rent will be payable from the commencement of the lease.

The requested lease term is three years, with two further terms of three years each. The lease will also include a bank guarantee of \$18,000.

Rent reviews would occur annually based on Consumer Price Index (CPI) with market rent reviews to occur every three years.

The fit-out contribution payment of up to \$120,000 towards lessee fit out has been requested as a contribution from the City. This includes basic fit out to floors, ceiling and walls, electrical and plumbing installation as well as air conditioning.

Payment of the fit-out contribution will be paid upon completion of the works subject to the lessee providing paid invoices for reimbursement or alternatively directly to the contractor who is completing the works. Milestone payment amounts are still subject to the lessee finalising a detailed design.

Ownership of any works delivered via the \$120,000 fit-out contribution will be retained by the City at the conclusion of the lease. The applicant will undertake fit out within 60 days from commencement of the lease.

The fit-out contribution is currently budgeted for in the approved FY2020/21 budget.

Officers forecast that the net income for the terms of the lease, including council rates and factoring in the fit-out contribution, will be in the vicinity of \$703,000.

LEGAL IMPLICATIONS

Two documents are required to be finalised as part of the proposed lease.

1. Lease: The lease must comply with the requirements of Section 3.58 of the *Local Government Act 1995*. Officers will ensure that this occurs.
2. Fit-out Contribution Agreement: The negotiated terms of this lease include a payment made by the City towards the lessee's fit out. The Fit-out Contribution Agreement will outline the agreed terms of how and when payments are made to the lessee for the fit-out contribution amount.

CONSULTATION

The property was marketed via the following methods;

- Advertising on realcommerical.com
- City's website and various media channels
- Google Adwords
- Advertisement in the West Australian and Business News
- Direct approach to potential candidates and use of Economic Development database.

OFFICER COMMENT

The Walyalup Civic Centre offers a substantial opportunity for retail operators to consider establishing a presence within new A-grade commercial space located adjacent to significant numbers of government workers.

Despite this significant opportunity, lettable commercial space offered as part of the Walyalup Civic Centre has come on to the market at a challenging time for the retail sector. Feedback collected directly from prospective tenants has suggested that

operators who currently maintain a retail business have put a hold on considering any new premises or relocations. This is based on many operators deciding to consolidate operations within existing locations to mitigate current risks associated with the recent impact of COVID, as opposed to making any moves to expand.

As the building is in the final stages of construction, prospective tenants have been able to determine the physical 'look and feel' of the space and consider the surrounding environment. This has provided some positive interest in the site, however due to the lack of current activation by foot traffic many have opted to 'wait and see' before deciding to make a submission.

Further anecdotal market feedback from prospective tenants has also suggested that there is currently a prevalence of 'turnkey' opportunities in the market which often include all fit out and equipment or financial contribution to match. To remain competitive in the market, the City has considered terms with this prospective tenant for the financial contribution towards the fit out of the retail space.

The presented proposal is for 220m² of the 405m² retail space located on Newman Court. The site will be located on the corner of William Street and Newman Court providing optimal frontage for an apparel store.

Wear 2 has operated in Fremantle for the past 11 years with the owner/operator having a vast experience in the retail sector. The table attached to this item captures the applicants weighting against the Council approved selection criteria.

Mr Wild's proposal for fit out is simple with the use of the existing industrial elements. Racks and shelving will be timber and the shop will adapt a theme of the America's cup which Mr Wild feels is a turning point in Fremantle's history. This will be shown by using memorabilia from the era such as rare bikes, sailboards and surfboards. Ultimately Mr Wild's aim is that the inventory be the 'hero' and main presence in the store.

The proposed trading hours will be 7 days a week with closure only occurring on Christmas Day.

The following tables outline the proposed terms for the three documents required to finalise an agreement between the City and Mr Wild. Mr Wild has accepted these terms and conditions.

Key Lease Terms and Conditions

Land Description	
Premises	Retail Portion – 8 William Street, Fremantle – address to be confirmed.
Lessor	City of Fremantle
Lessee	TBA
Guarantor	TBA,
Bank Guarantee	\$18,000 This will be provided by bank guarantee or bond.

Site Area	220m2
Lease Commencement Date	TBA
First Term	Three (3) years
Second Term	Three (3) years
Third Term	Three (3) years
Annual Rent	\$39,600 per annum + GST
Rent Review	<p>Rent will be determined by Consumer Price Index annually on the Lease Commencement Date.</p> <p>A market rent review will occur every third year of the lease terms (including options).</p>
Variable Outgoings/Outgoings	<p>Outgoings on demand will include but not be limited to;</p> <ul style="list-style-type: none"> • Council Rates • Emergency Service Levy • Land Tax • Statutory fees and charges • Building Services, repairs and maintenance. <p>Current rate of budget is estimated at \$146m2. The determination of actual Council Rates and Land Tax may vary this figure.</p>
Legal Fees	Each party will be responsible for their own costs.
Public Liability	Minimum of \$20 million
Permitted Use	Retail
Special Conditions	<p>1. Lessee's Fit Out</p> <p>Fit out to Ground floor and First floor must occur within 60 days of the commencement of the Lease.</p> <p>2. Lessee's Works</p> <p>Lessee's works definition;</p> <p>(a) Any alternation, improvement or development of the Premises including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out).</p> <p>(b) The excavation or demolition of any part of the Premises;</p> <p>(c) The removal, sale or disposal of any materials from the Premises.</p> <p>(1) The Lessee must not undertake works unless;</p> <p>(a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works and certified quantity surveyor (QS) estimate. Consent may be withheld at absolute discretion or</p>

	<p>granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor.</p> <p>(b) Planning approval under the local planning scheme (if applicable) and;</p> <p>(c) A building permit under the <i>Building Act 2011</i>(if applicable).</p> <p>(2) With the exception of the Lessors fit-out contribution, the Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:</p> <p>(a) an application for planning consent;</p> <p>(b) an application for a building permit;</p> <p>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</p> <p>(d) construction or installation of the Lessee's Works; and</p> <p>(e) Installation or upgrade of any services.</p> <p>(3) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</p> <p>(4) The Lessee will provide certification and public liability for all the Lessee contractors undertaking the Lessee Works at the Premises.</p> <p>(5) The parties acknowledge and agree that any Lessee's Works comprising structural improvements, or are financially funded by the Lessor's fit-out contribution payment, shall vest to the Lessor upon Termination of the Lease without cost.</p> <p>(6) Should the Lessee and Lessor not agree to the QS estimate provided by the Lessee then this will be mediated by an independent QS being agreed to by both parties whose determination will be accepted by both parties.</p> <p>3. Assignment or Sub Letting</p> <p>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will</p>
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	<p>not unreasonably withhold consent to an assignment or sublease if:</p> <ul style="list-style-type: none"> (a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease. (b) All accounts are paid in full up until the date of the assignment or sub lease. (c) The Lessee pays all costs associated with an assignment or sublease. (d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST. <p>4. State of Emergency Clause</p> <p>The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.</p> <p>5. Use of Confidential Information</p> <p>“Confidential Information” means any information relating to the Lease, including but not limited to the provisions of the Lease.</p> <ul style="list-style-type: none"> (a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease. (b) The obligations of confidentiality in paragraph (a) will not apply to information which: <ul style="list-style-type: none"> (i) is generally available in the public domain except where such availability is as a result of a breach of this agreement; or (ii) is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order. (c) The obligations imposed will survive the termination of the Lease. <p>6. Parties to act in good faith</p> <p>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</p> <p>7. End of Lease</p>
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	At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee will be advised of this process not more than 12 months, no less than 6 months prior to the expiry of the last lease term. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.
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Fit-Out Contribution Agreement

Parties	Company TBA (the Lessee) and the City of Fremantle (the City)
Fit-Out Contribution Amount	\$120,000
Agreed terms	<ol style="list-style-type: none"> 1. The Fit-Out Contribution Agreement will be in conjunction with the terms and conditions of a Lease between the City and Lessee in particular “the Lessee’s Works”. 2. Milestone payments of the contribution will be; <ol style="list-style-type: none"> a) Subject to evidence proving contractor payment for the milestone works or; b) Paid directly to the Lessee’s contractor who completed the milestone works. If the latter, an invoice in the City’s name will be provided by the Lessee’s contractor for payment.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE DECISION ITEM FPOL2101-4
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Andrew Sullivan

1. Approve a Lease between the City of Fremantle and the Jeremy John Wild for a portion of the retail space within the new Walyalup Civic Centre; and authorise the Chief Executive Officer to negotiate the terms and conditions of the lease based on the following:

- a. Lease area: 220m²**
- b. Lease commencement date: TBA**
- c. First term: three years**
- d. Second term: three years**
- e. Third term: three years**
- f. Rent: \$39,600 per annum + GST**
- g. Rent Review: Consumer Price Index annually on the Lease Commencement date. Market rent review every third year.**
- h. Permitted use: Retail**
- i. Bank Guarantee: \$18,000.**

2. Approve a Fit-out Contribution Agreement between the City of Fremantle and Jeremy John Wild for a portion of the retail space within the new Walyalup Civic Centre based on the following:

- a. Fit-out Contribution Amount: \$120,000**
- b. Agreement Commencement Date: Commencement of the Lease**
- c. Agreed Terms:**
 - i. The Fit-out Contribution Agreement will be in conjunction with the terms and conditions of the Lease, in particular the "Lessee's Works".**
 - ii. Milestone payments of the fit-out contribution will be;**
 - 1. Subject to evidence proving contractor payment for the milestone works or;**
 - 2. Paid directly to the Lessee's contractor who completed the milestone works.**
 - iii. If the later, an invoice in the City's name will be provided by the Lessee's contractor for payment.**

Carried: 7/0

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

ITEMS APPROVED “EN BLOC”

The following items were adopted unopposed and without discussion “En Bloc” as recommended.

COMMITTEE DECISION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

The following items be adopted en bloc as recommended:

FPOL2101-5	COVID 19 COMMUNITY RECOVERY PLAN UPDATE
FPOL2101-6	BUDGET AMENDMENTS - DECEMBER 2020
FPOL2101-10	PROPOSED DETERMINATION - INTENTION TO MAKE A DETERMINATION – PERMIT REQUIRED TO USE MOTORISED MODEL AIRPLANES, HELICOPTERS, DRONES OR OTHER SIMILAR REMOTELY PILOTED DEVICES ON MONUMENT HILL RESERVE – LOCAL GOVERNMENT PROPERTY LOCAL LAW
FPOL2101-11	APPOINTING THE WESTERN AUSTRALIAN ELECTORAL COMMISSION / METHOD OF CONDUCTING ELECTIONS 2021 - 2023

Carried: 7/0

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

FPOL2101-5 COVID 19 COMMUNITY RECOVERY PLAN UPDATE

Meeting date:	20 January 2021
Responsible officer:	Manager Strategic Planning
Decision making authority:	Committee
Agenda attachments:	1. COVID 19 Community Recovery Plan – Interim Update Table
Additional information:	Nil.

SUMMARY

Council adopted the COVID 19 Community Recovery Plan on 26 August 2020. This report provides an update on implementation of the Plan.

This report recommends that Council note the progress being made in the implementation of the COVID 19 Community Recovery Plan.

BACKGROUND

The COVID 19 pandemic has caused enormous global disruption, with a State of Emergency declared in Western Australia on 15 March 2020.

As part of its response to the crisis, Council established 3 COVID 19 Recovery Working Groups to provide advice on how it support recovery across the areas of 'Economy', 'Community' and 'Infrastructure'.

On 26 August 2020, Council considered the recommendations of the Working Groups and resolved to:

1. *Note the recommendations and potential response initiatives identified by the Economic, Community and Infrastructure Recovery Working Groups.*
2. *Adopt the COVID-19 Community Recovery Plan provided in Attachment 1 to guide the direction of resources and pursuit of priority initiatives.*
3. *Note the intention to pursue other initiatives where resources are available.*
4. *Note the intention to further consider other initiatives requiring budget allocation against other priorities through regular budget reviews throughout the 2020/21 financial year. (C2008-1)*

The purpose of this report is to provide Council an interim update on the implementation of the Plan.

A copy of the adopted Recovery Plan can be viewed on the City's website under 'Strategies, plans, local laws and policies' in the 'action plans' section.

<https://www.fremantle.wa.gov.au/sites/default/files/COVID%2019%20recovery%20plan.pdf>

OFFICER COMMENT

The Recovery Plan centres around the following the key themes and approaches:

1. *Support: Provide assistance to community members, groups and businesses to access the support they need to recover.*
2. *Activate: Activate places and spaces to bring people back to Fremantle and provide them opportunities to interact and connect.*
3. *Leverage/ Collaborate: Work with our unique attractions, assets, networks and people.*
4. *Renew: Invest in a positive future.*

It identifies a series of priority initiatives under each (some subject to budget allocation), whilst recognising the potential for many others to also materially contribute to recovery.

This update provides an overview of the status of priority initiatives and flags several others which have also been implemented. It notes the solid progress made in pursuit of priority initiatives, including:

- Business Capacity Building program content redesigned and launched to support development of recovery roadmaps.
- Targeted support for the creative industries, including pivoting to digital to meet restrictions (eg 'Revealed' catalogue), stream added to Business Capacity Building program, and first round of annual grants program.
- Working with partners including WAAMH, Imagined Futures, Fremantle Mind Inc and Fremantle Mental Health Unit to increase awareness of and provide support for mental health.
- Technical outreach sessions and securing of BeConnect grant to increase digital literacy to reduce digital divide.
- Activation events including the Lego Adventure Trail, Superheros Secret Mission Trail and Santa Beach photos delivered, attracting approximately 20,000 people.
- Hidden Treasures Festival delivered, and Arts Centre and Moores Building programs reactivated.
- Marketing campaigns including two major TV campaigns delivered.
- Promotion and delivery of several club capacity building initiatives including 'Inclusion Solutions Club Renovation Toolkit' and Grant Writing training. Club Development Plan prepared for 21/22.
- Launch of Neighbourhood Quick Response Grants and first round of broader Community Grants program
- Volunteer portal launched and grant for expansion of Neighbour to Neighbour program lodged.
- Financial Hardship Policy adopted
- Street Activation Policy adopted.

- Kings Square public realm works and play space construction progressed (under construction, and tendered, respectively).
- Gil Fraser Sports Oval lighting funded (partially by grant).
- Library Connect Program launched.
- Working with Fremantle Homeless Interagency Working Group.
- Arthur Head Conservation Works commenced.
- Booyeembara Park Mountain Bike Trail Concept adopted by Council.
- Masterplanning process for Fremantle Harbours commenced (led by Department of Transport).

A further report including consideration of the effectiveness of initiatives and the plan overall will be submitted to Council at the plan's conclusion, early next financial year.

FINANCIAL IMPLICATIONS

Recovery initiatives being pursued have budget allocation. Regular budget updates will continue to occur to match priority items with resources available as the financial year progresses.

LEGAL IMPLICATIONS

Nil

CONSULTATION

The Plan was prepared within the input of 3 x COVID 19 Recovery Working Groups, and informed by consultation undertaken by them, and as part of the broader response.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE DECISION ITEM FPOL2101-5 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

Council receive the COVID 19 Community Recovery Plan Initiatives update provided in Attachment 1 and note the progress made in pursuit of these.

Carried en bloc: 7/0
Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Andrew Sullivan, Cr Doug Thompson, Cr Adin Lang, Cr Sam Wainwright

FPOL2101-6 BUDGET AMENDMENTS - DECEMBER 2020

Meeting date: 20 January 2021
Responsible officer: Manager Finance
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

To adopt various budget amendments to the 2020/2021 budget account numbers as detailed below in accordance with the Budget Management Policy. The budget amendments have nil effect to the overall budget.

This report recommends that Council approves the required budget amendments to the adopted budget for 2020/21 as outlined in the report.

BACKGROUND

In accordance with the Budget Management Policy this report provides details of proposed amendments to the 2020/2021 budget on a monthly basis to Council (via FPOL) to adopt budget amendments to:

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

FINANCIAL IMPLICATIONS

The financial implications are detailed in this report.

LEGAL IMPLICATIONS

Local Government Act 1995:

Section 6.2 (1)

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

Section 6.8 (1) and (2)

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

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

Where expenditure has been incurred;

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

Local Government (Financial Management) Regulations 1996:

Regulation 33A

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

CONSULTATION

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

OFFICER COMMENT

The following amendments to budget account numbers to the adopted budget for 2020/2021 are submitted to Council for approval as outlined below.

1. Budget amendments for proposed expenditure for an additional purpose

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

Item	Account #	Account Details	2020/21 Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2020/21 Amended Budget
				Revenue	(Expenditure)	
1.1	The Department of Biodiversity, Conservation and Attractions (DBCA) grant received for the continuation of the work (site environmental condition investigation) at the Northbank for the stabilisation of the foreshore. Request for muni funds to match the approved grant funding.					
	200xxx.1606	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)			(28,404)	(28,404)
	200xxx.4311	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)		14,202		14,202
	200xxx.3915	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)		14,202		14,202
1.2	Project to implement waste education and guidance to support the FOGO kerbside collections, fully funded through Better Bins Plus scheme.					

	200791.4326	P-11963 - Better Bins Plus - Go FOGO		168,825		168,825
	200791.6823	P-11963 - Better Bins Plus - Go FOGO			(168,825)	(168,825)

1.3	In August 2020, the State government announced as part of the \$5.5 billion WA Recovery Plan, it would allocate \$3.25 million to City of Fremantle for a Port Beach large-scale sand nourishment project to provide up to 10 years of protection. The purpose of sand placement is to nourish Port Beach to protect adjacent assets from the impact of coastal erosion while maintaining public beach amenity for ongoing public recreation.					
	300110.1606	P-111823 - Design and Construct - Port Beach – Coastal Adaptation			(3,250,000)	(3,250,000)
	300110.4211	P-111823 - Design and Construct - Port Beach – Coastal Adaptation		3,250,000		3,250,000

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

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

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

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

Item	Account #	Account Details	2020/21 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2020/21 Amended Budget
Nil						

3. Carried forward projects estimate budget amendments

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

Item	Account #	Account Details	2020/21 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2020/21 Amended Budget
Nil						

End of financial year adjustments for 30 June 2020 are still ongoing therefore further budget amendments for carried forward projects will be presented to Council next month. Once completed the final overall effect on the end of year surplus, unspent grant funds and reserve funds movements for carried forward projects will be reported to Council through the budget amendment report.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-6 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

Council approve the required budget amendments to the adopted budget for 2020/2021 as outlined below:

Item	Account #	Account Details	2020/21 Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2020/21 Amended Budget
				Revenue	(Expenditure)	
1.1	The Department of Biodiversity, Conservation and Attractions (DBCA) grant received for the continuation of the work at the Northbank for the stabilisation of the foreshore. Request for muni funds to match the approved grant funding.					
	200xxx.1606	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)			(28,404)	(28,404)
	200xxx.4311	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)		14,202		14,202
	200xxx.3915	P-11970 - Design and Construct – Northbank Foreshore Stabilisation Project (Stage 2)		14,202		14,202
1.2	Project to implement waste education and guidance to support the FOGO kerbside collections, fully funded through Better Bins Plus scheme.					
	200791.4326	P-11963 - Better Bins Plus - Go FOGO		168,825		168,825
	200791.6823	P-11963 - Better Bins Plus - Go FOGO			(168,825)	(168,825)

Carried en bloc: 7/0

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

FPOL2101-10 PROPOSED DETERMINATION - INTENTION TO MAKE A DETERMINATION – PERMIT REQUIRED TO USE MOTORISED MODEL AIRPLANES, HELICOPTERS, DRONES OR OTHER SIMILAR REMOTELY PILOTED DEVICES ON MONUMENT HILL RESERVE – LOCAL GOVERNMENT PROPERTY LOCAL LAW

Meeting date: 20 January 2021
Responsible officer: Manager Governance
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

The City has recently given local public notice of its intention to make a determination under the Local Government Property Local Law 2002 to prohibit persons from flying motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill Reserve without a permit from the City of Fremantle and riding a skateboard, rollerblades, a sandboard or a similar device on any of the Monuments, or their surrounding bases, on Monument Hill Reserve, without a permit.

This report recommends that Council, having considered the submission received during the public notice period, continue with the determination and give local public notice of its final adoption.

BACKGROUND

At the Finance, Policy, Operations and Legislation Committee held on 14 October 2020 Council moved the following motion to begin the process of making a determination Monument Hill Reserve within the City of Fremantle.

Council gives local public notice of its intention to make a determination to prohibit persons from flying motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill Reserve without a permit from the City of Fremantle and riding a skateboard, rollerblades, a sandboard or a similar device on any of the Monuments, or their surrounding bases, on Monument Hill Reserve.

Purpose: To prohibit:

- 1. flying motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill Reserve without a permit from the City of Fremantle; and*
- 2. riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device on any of the Monuments, or their surrounding bases, on Monument Hill Reserve.*

Effect: The effect of the determination is to maintain Monument Hill Reserve as an area for remembrance and quiet solitude and to protect the Monuments from potential damage.

Monument Hill is considered the perfect place to take some time out to relax on the lawns and enjoy the view whilst reflecting the true meaning of the memorials and appreciating the meaningful architecture. However, this quiet enjoyment is sometimes disturbed and disrespected by use of motorised model airplanes, helicopters, drones or other similar remotely piloted devices

The intention of adopting this Determination is to enable the City to maintain Monument Hill Reserve as an area for remembrance and quiet solitude.

FINANCIAL IMPLICATIONS

It is estimated that 8 signposts will be needed to cover entrances to Monument Hill Reserve advising of the requirement to obtain a permit before flying motorised model airplanes, helicopters, drones or other similar remotely piloted devices

Each signpost costs approximately \$400 to manufacture and install, for a total initial installation cost of approximately \$3,200. There will also be additional ongoing maintenance costs for signage.

Additional financial implications will include the cost of City officers processing permit applications, responding to complaints and potentially issuing infringements.

LEGAL IMPLICATIONS

In accordance with the City of Fremantle Local Government Property Local Law 2002, the City may make a determination providing that a person is prohibited from pursuing specified activities on specified local government property. The local law also allows the City to specify the extent to which a person is prohibited from pursuing an activity and whether the prohibition is in relation to a specific class of people.

The intended outcome of the proposed Determination is to prohibit the use of motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill by the class of persons who do not hold a permit issued by the City of Fremantle.

Procedure for making a determination 2.2

1. The local government is to give local public notice of its intention to make a determination.
2. Council is to consider submissions received and give public notice of the outcome of its consideration:
 - a. Adoption of the proposed determination
 - b. Amendment and further advertising of the proposed determination
 - c. Not to continue with the proposed determination.

CONSULTATION

In accordance with the local law, the intention to make a determination must be advertised in the local newspaper and public submissions being received for a period of twenty-one (21) days. Submissions are then considered by Council before a final decision is made and further public notice given.

Public notice of the proposed determination was given in the following way:

- Publication on the City's notice boards 23 October – 18 November 2020
- Publication through the City's 'MySay' Portal 22 October – 17 November 2020
- Advertisement in the Fremantle Herald newspaper 24 October 2020

Public notice of the proposed determination was given, including publication on the City's notice boards, publication through the City's 'MySay' Portal, and an advertisement in the Fremantle Herald newspaper.

A total of 10 submissions were received during the public notice period. Eight of the ten submissions received (shown in green) were supportive of the proposal and two of the ten (shown in orange) were not supportive of the proposal:

Determination Submissions	
(prohibiting the use of motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill Reserve, without a permit.)	
1.	Although it is already an offence to skateboard on Monument Hill without a permit (vehicle includes skateboard in definitions) it's a good move to make it clear, and to prohibit other disruptive, potentially damaging and intrusive activities.
2.	Today is Remembrance Day yet even today there are loud motorbike persons, no doubt believers but the noise is too much. Park and walk as others do. Drones, electric flying bizzos, whatever, should not be allowed. It should be an area of quiet contemplation to remember those who gave their lives and service.
3.	"This is something I already would have thought should be in place and enforced. The area should be respected as a place of reflection and not a play zone for people's hobbies. Not only should this policy be enacted it should be enforced with regular Ranger patrols and fines if applicable."
4.	I agree with the proposals to maintain the monument as a place of quiet reflection.
5.	"In 2018 the council's own permitted drone photographer ruined the ANZAC ceremony by flying over continuously. Could the council also not issue permits (including to itself) on days of remembrance? Banning flying remote vehicles doesn't stop the motorised remote cars, Segway's, parked vehicles playing loud music, picnic people having music, informal sport (kicking a ball or slack lining) etc. The monument isn't just a place of reflection. It's a daytime picnic area, sunset gathering place, a local open space for children, a foot and cycling transit thoroughfare. Banning 2 activities and not others, on every day of the year seems excessive. Signage prohibiting these activities should not detract from the monuments themselves. We live right next to Monument Hill and rarely if ever see people cycling or skateboarding on the monuments so not sure what formal evidence there is about this being an issue warranting more rules."
6.	"I agree with the proposal to make Monument Hill a place of quiet reflection. As a long-time resident of Fremantle, this historic and beautifully situated place of tranquillity has been a favourite area for picnics and wedding photos, as well as the yearly remembrances for our fallen soldiers and other wartime personnel. I believe it is totally unsuitable as a venue for rock concerts with very large crowds as well as a place for young people to use their skateboards and bikes in the monument area or on the manicured lawns. Please keep this as a sacred place for meaningful celebrations and events. Many thanks."
7.	Monument Hill needs to remain a place where quiet contemplation can occur. The space allows us to reflect on our lives and the lives lost in world conflict. Noisy pastimes can happen elsewhere.

8.	I support the proposed prohibited activities. The type of activities allowable should encourage quiet reflection, such as walking, sight viewing, yoga and prayer. However, I would also mention family gatherings and special events such as picnics and wedding photography.
9.	Don't be such a wowser.
10.	<p>"WE need to protect the historic Monument for all the reasons cited above. This is an area popular with families and those who want a peaceful place for reflection and activities such as picnics and get togethers. The Hill was vested in the City for its management as an area for quiet reflection and passive community use. The Monument is made of vulnerable materials that are extremely costly to upkeep from inappropriate activities and usage. Let's keep it that way. There are many other areas dedicated to activities that have more robust needs. The current state of the Monument is very very poor. Chunks are taken out of the stone and render in many many places. This is exacerbated by cars and inappropriate activities such as skateboards, bikes etc.</p> <p>There is very little surveillance and the signage is dilapidated and virtually illegible as well as only visible from one aspect for users of the Memorial Park. This means that Memorial Park users are completely unaware of the activities that need to be discouraged.</p> <p>The increase in use of recreational drones is very unwelcome, irritating, noisy and dangerous. The drone users aim at the trees scaring the birds and barely are above the ground. The people and dogs that may be using the grassed area are in danger. The noise is frightening. Most of the users if these mechanised devices are novices practising and have very little control.</p> <p>Drones are also extremely invasive and without any value as a community activity, mostly with solo naive inexperienced pilots.</p> <p>There needs to be complete clarification that the Reserve is NOT a dog exercise area; it is for walking dogs on leads. Signs indicating this would help, as would information online as to where the official dog exercise areas are in Fremantle, as well as a guide to the 8 skateboard areas in Fremantle. Skateboarders are not deprived.</p> <p>Please keep the use of Monument Hill Memorial reserve and the Monument for discrete activity and opportunity for simple community passive activity such as picnics and observation and reflection."</p>

OFFICER COMMENT

This determination is not intending to ban motorised model airplanes, helicopters, drones or other similar remotely piloted devices from being able to be used on or over the Monument Hill Reserve but to restrict their use to permit holders only. The use of motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill may be useful or necessary for photography or filming purposes and the City wants to be able to accommodate these uses by permitting the activity by qualified and conscientious pilots, during periods of time considered appropriate by the City.

Even when permitted by the City, motorised model airplane, helicopter, drone or other similar remotely piloted device operators will need to comply with the CASA rules in addition to any requirements set out by the City.

If Council approves the continuation and implementation of this Determination, it will come into effect when the advertisement appears in the Fremantle Herald. However, no penalties will be issued until the City has erected signage advising visitors to Monument Hill of these new restrictions.

It is anticipated that appropriate signage will be in place by the end of February.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-10
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

Council, in accordance with the process outlined in the City's Property Local Law and having considered the submission received during the public notice period, give local public notice that the Determination prohibiting:

- a. flying motorised model airplanes, helicopters, drones or other similar remotely piloted devices on or over Monument Hill Reserve without a permit from the City of Fremantle; and**
- b. riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device on any of the Monuments, or their surrounding bases, on Monument Hill Reserve.**

will come into effect on the date of its publication.

Carried en bloc: 7/0

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

FPOL2101-11 APPOINTING THE WESTERN AUSTRALIAN ELECTORAL COMMISSION / METHOD OF CONDUCTING ELECTIONS 2021 - 2023

Meeting date: 20 January 2021
Responsible officer: Manager Governance
Decision making authority: Council
Agenda attachments: Nil
Additional information: Nil

SUMMARY

For Council to consider the appointment of the Western Australian Electoral Commission (WAEC) and the preferred method for conducting all future local government elections to the end of 2023.

BACKGROUND

The Western Australian Electoral Commissioner, Robert Kennedy, has written to the City offering to undertake the 2021 election as a full postal election. In order to accept the Commissioner's offer, the Council is required to adopt a resolution, by absolute majority, declaring the Electoral Commissioner responsible for the conduct of the election by a postal ballot.

The recommendation in this report provides for the Western Australian Electoral Commission to be responsible for the 2021 ordinary election and for any other election or poll that may arise prior to the 2023 ordinary election, this means that if any extraordinary vacancies should arise, the approvals are in place to proceed with an extraordinary election in the same format.

It is common practice by many local governments to conduct an election in this manner as the resources involved to conduct an election in-house can be more costly and have a greater impact on the City's resources and core business.

In a postal voting election, election packages are posted to all eligible electors on the City of Fremantle Electoral Roll approximately three weeks before Election Day. Electors vote and then return the completed ballot papers and elector certificates by post to the Returning Officer by 6:00pm on Election Day.

At an in-person election, electors vote at polling places within their district on polling day;
Votes can also be posted or delivered in accordance with regulations.

Local governments or, by request, the Electoral Commissioner can conduct voting in-person elections, however, the Electoral Commissioner has previously declined to conduct voting in-person elections.

FINANCIAL IMPLICATIONS

The Western Australian Electoral Commissioner has estimated the cost for the 2021 election, if conducted as a postal ballot, as \$118,000 including GST.

The estimate has been based on the following assumptions:

- 24,250 electors
- response rate of approximately 50%
- 7 vacancies
- the count to be conducted at the offices of the City of Fremantle
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of election packages.

This does not include the following costs:

- additional non-statutory advertising;
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns;
- one local government staff member to work in a polling place on election day; and
- any additional postage rate increase by Australia Post.
- Any unanticipated costs arising from public health requirements for the COVID-19 pandemic.

Under the *Local Government Act 1995*, the Commission is required to conduct local government elections on a full cost recovery and recent experience has demonstrated that the final costs have been within the Commission's estimate.

Provision will be made during the 2020/2021 budget preparations.

LEGAL IMPLICATIONS

Section 4.61 of the *Local Government Act 1995* allows local governments to choose their preferred method of voting.

The election can be conducted as a:

- Postal election which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or
- Voting in-person election which is an election at which the principal method of casting votes is by voting in-person on election day but at which votes can also be cast in-person before election day, or posted or delivered, in accordance with regulations.

Section 4.20(1) of the *Local Government Act 1995* provides that by default the Chief Executive Officer is the returning officer of a local government for each election. The default method for conducting an election is by in-person voting.

Section 4.20(4) of the *Local Government Act 1995* states that a local government may, having first obtained the written agreement of the Electoral Commissioner, declare the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time, and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the Returning Officer of the local government for the election or elections. An absolute majority is required.

Section 4.61(2) of the *Local Government Act 1995* states that the local government may decide to conduct an election as a postal election. An absolute majority is required.

Section 4.61(4) of the *Local Government Act 1995* states that a decision under subsection (2) has no effect unless it is made after the declaration under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.

CONSULTATION

Nil

OFFICER COMMENT

Council has previously appointed WAEC to conduct the City's elections via postal election. In 2017 and 2019 Council declared the Western Australian Electoral Commission responsible for all elections in the City, and for the method of voting to be postal.

Postal elections encourage greater voter participation and are generally considered to be more representative of the community. Although the City is responsible for the coordination of the postal election, the process is less demanding on the City's resources than an in-person election.

One of the benefits of the Electoral Commission conducting the City's elections is that the process and the Returning Officer are largely independent of the City. This separation may improve the community's perception and confidence in the election process. In addition, postal voting is more convenient for electors and typically achieves a higher rate of voter participation.

Conducting elections as voting in-person elections presents a number of challenges, particularly on account of the role of the CEO who is also the Returning Officer. The requirements and expectations placed on the Chief Executive Officer in taking on this dual role can be both contentious and time consuming. In addition to dealing with complaints received during the election period, that dual role can lead to an unwelcome perception of conflict of interest and bias from the community.

It is the prerogative of Council to decide, as a matter of policy, to conduct elections by postal vote and to make a declaration that the elections are to be conducted by the Electoral Commission.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-11 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

Council determines that:

- 1. In accordance with section 4.20(4) of the Local Government Act 1995, the Western Australian Electoral Commissioner is declared responsible for the conduct of all elections, polls or referendums, including extraordinary elections, for the City of Fremantle until the end of 2023, subject to acceptance by the Western Australian Electoral Commission.**
- 2. In accordance with section 4.61(2) of the Local Government Act 1995, the City of Fremantle's elections, polls or referendums including extraordinary elections, will be conducted as postal elections.**

Carried en bloc: 7/0

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

FPOL2101-1 70 PARRY STREET – EXPRESSION OF INTEREST PROCESS

Meeting date: 20 January 2021
Responsible officer: Manager Economic Development and Marketing
Decision making authority: Committee
Attachments: Nil
Additional information: Nil

SUMMARY

The City's current administration building at 70 Parry Street will become vacant when the City relocates to its new premises at Kings Square later in 2021.

This report recommends that the Finance, Policy, Operations, and Legislation Committee, acting under delegation 1.1 authorise the Chief Executive Officer to seek expressions of interest for the leasing or licensing of the property via an Expressions of Interest (EOI) process.

BACKGROUND

Upon the completion of the City of Fremantle's new administration building at Kings Square, the City's current administration building at 70 Parry Street (Fremantle Oval) will become vacant.

The City of Fremantle has occupied the building for approximately 3 years, prior to which it was occupied by the Fremantle Football Club.

A future use for the building has yet to be determined and as such the City would like to seek expressions of interest from both commercial and community proponents in order to determine a suitable use for the building.

FINANCIAL IMPLICATIONS

Should the building be made available via a lease or license, capital works may be required to be carried out in order to create multiple tenancies.

The estimated costs associated with capital works required by the City to deliver multiple tenancies have been provided below.

- Single tenant occupying all of the building – approx. \$5,000
- Two tenants occupying a single floor each – approx. \$35,000
- Three tenants with single tenant occupying the first floor and two occupying the ground floor - \$ approx. \$49,000

Rent and outgoings will be payable by the tenant in line with market rates or community rates depending on the use.

LEGAL IMPLICATIONS

The City will deliver a public expression of interest process in line with requirements of the Local Government Act 1995 and the City's Leasing of City property in a competitive manner policy.

CONSULTATION

The expression of interest process will be advertised via City of Fremantle corporate communication channels and via the City's Tenderlink website. Key stakeholders that currently utilise or are within the vicinity of 70 Parry Street will also be notified.

The outcome of the EOI process will be advertised inviting any submissions to be made within 14 days of it being advertised in line with requirements of the Local Government Act 1995.

OFFICER COMMENT

An opportunity exists to lease or license the entire building or alternatively it can be divided in to at least three tenancies. This would include two tenancies on the ground floor with one totalling 351 square metres and one totalling 800 square metres. The first floor includes a single tenancy of up to 988 square metres.

The building has a floor area of approximately 2,322 square metres across 2 levels. The ground floor has approximately 1,334 square metres and an additional 900 square metres is available on the first floor.

The property includes secure gated car parking to the rear capable of incorporating over 45 car bays. Officers propose that a portion of this parking would be retained for use by the City's own fleet.

Depending on the level of interest in the property, Officers would also recommend that the City to retain some parts of the building for its own purposes which may suit a multiple tenancy scenario, although expressions of interest for the use of the entire building would still be considered.

To determine a suitable use officers will run a public EOI process to determine interest in the use of the building. Officers may choose to engage with multiple proponents if a mix of aligned concepts/uses are proposed.

Given the property forms part of a masterplan process currently underway to determine the redevelopment potential of the broader oval precinct, it is assumed that some form of redevelopment may occur within the next 10 years resulting in the building no longer being available once redevelopment commences. Due to this potential for redevelopment it is preferable that any lease or license being offered for the use of the building is relatively short term and ideally no longer than 5 years. Commercial leases of up to 10 years could be considered on a case by case basis depending on the proposed use and fit out requirements. It is intended that a

redevelopment clause will be included in any lease or license regardless of the outcome.

Whilst leasing the property presents a short term approach to activating the vacant premises, consideration is also being given to whether the replacement of the building with an interim at-grade car park may present an opportunity to address an impending reduction in parking supply in the area and also provide a greater return on investment than a commercial or community lease. Officers are currently assessing the cost benefit and opportunity cost associated with each scenario.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge Seconded: Cr Jenny Archibald

Council:

1. Authorise the Chief Executive Officer to seek expressions of interest for the leasing or licensing of 70 Parry Street, while giving preference to the following outcomes:
 - a. A term that does not exceed 10 years
 - b. Multiple tenancies that achieve a mix of both community and commercial uses
2. Request that the Chief Executive Officer bring any expressions of interest received as part of the process back to council for further consideration.

AMENDMENT 1

Moved: Cr Doug Thompson Seconded: Cr Jenny Archibald

Amend part 1

1. Authorise the Chief Executive Officer to seek expressions of interest *for both community or commercial uses* for the leasing or licensing of 70 Parry Street, *or part thereof, for a term that does not exceed 10 years.* ~~while giving preference to the following outcomes:~~
 - ~~a. A term that does not exceed 10 years~~
 - ~~b. Multiple tenancies that achieve a mix of both community and commercial uses~~

Carried: 7/0

Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Andrew Sullivan, Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright

Reason for change:

Part 1 is amended to enable the CEO to seek community or commercial tenancies for any part of the property.

COMMITTEE DECISION ITEM FPOL2101-1
(Officer's recommendation, as amended)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Authorise the Chief Executive Officer to seek expressions of interest *for both community or commercial uses* for the leasing or licensing of 70 Parry Street, *or part thereof, for a term that does not exceed 10 years.***
- 2. Request that the Chief Executive Officer bring any expressions of interest received as part of the process back to council for further consideration.**

Carried: 7/0

**Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Andrew Sullivan, Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright**

FPOL2101-2 FREMANTLE BOAT SHOW AND SEAFOOD FESTIVAL

ITEM WITHDRAWN

Reason for withdrawal

Officers were advised by the event organiser that *“Due to a critical nationwide shortage of new recreational vessels resulting from overwhelming consumer demand associated with the pandemic, the proposed Fremantle Boat Show has been postponed for 2021”*. The event organiser still wishes to pursue a proposed 3 year sponsorship arrangement from 2022 onwards, however, officers will bring an updated report back to council at the appropriate time. The event organiser is however still working to deliver the seafood festival component for 2021 subject to State Government funding that has been requested for the event.

**FPOL2101-3 PROPOSED CITY OF FREMANTLE PARKING LOCAL LAW
2021**

Meeting date: 20 January 2021
Responsible officer: Director City Business
Decision making authority: Committee
Attachments: 1. Proposed Parking Local Law 2021
Additional information: Nil

SUMMARY

The purpose of this report is to present the Proposed Parking Local Law 2021 for consideration, prior to advertising.

This report recommends that Council give local public notice of its intention to make the City of Fremantle Parking Local Law 2021 as provided in Attachment 1, 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

At the Finance, Policy, Operations and Legislation Committee meeting held 11 September 2019, the Committee approved to initiate a review of the City of Fremantle Parking Local Law 2006. Following this decision, the City advertised its intent to review the Parking Local Law 2006 and invited the public to provide feedback, over a period of six weeks.

At the Ordinary Meeting of Council held 11 December 2019, the Council considered the public submissions received and determined that the Parking Local Law 2006 be amended and brought back to Council in 2020 for consideration. As outlined in this report, Officers have completed a comprehensive review of the parking local law and have recommended the adoption of a new Parking Local Law that will replace the previous local law.

FINANCIAL IMPLICATIONS

As part of the Parking Local Law 2006 review, it was identified that the modified penalty amounts have not been amended in eight years. Therefore, it is recommended that the lower level fines be increased, as listed in Schedule 1: Prescribed Penalties (p. 47). It is the City's intent to consider these changes by the time the new budget is adopted in late June 2021.

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.

Local Government Act 1995	
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 (Current stage in the process).
3.12(3)(a)	Local public notice to be given 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.
3.12(4)	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.
3.17	Review by Government (Joint Standing Committee on Delegated Legislation).

CONSULTATION

As part of the local law review undertaken in 2019, the following two submissions were received in relation to the Parking Local Law 2006.

Parking Local Law Review – Public Submissions	
<u>Respondent 1</u>	
<ul style="list-style-type: none"> We need better parking laws in our city, especially for older high percentage heritage areas like, Fremantle, South Fremantle and the Beaconsfield Ridge zone. Each residence needs to have at least 1 street parking spot, battle-axe blocks to have 1 space per house. 	

- A parking regulation / system designed to give residents in these streets priority to park a car in front of their own house. The narrow streets should be marked as "Street Permit Parking Only".
- A visitor parking permit with the address of the residence who sponsors that permit, that gives visitors access to park on any free spot in the street.
- If a car is parking on a street marked "street permit parking only" without a permit for that street, a parking law needs to exist to allow council to impose a fine.
- We need a better parking system for space limited streets that have numerous heritage homes not designed with car parking in mind.
- A system that allows for streets to be marked as being resident parking or "Street Permit Parking Only".
- A system that has, for streets that qualify, a resident street permit and street visitor permits which display the address of the permit holder or visitor permit sponsor.
- A system that gives residents priority to park at the front of their own house (no time limit). Visitor permits for the street should have a limited time period.
- Removes the risk of anyone else parking for an extended period of time in the spot directly in front of your own home.
- Enforces the need for anyone parking on such streets to display a valid permit, hopefully reducing the number of vehicles parking on these streets which will improve street appeal and safety.

Respondent 2

- Modified Penalties for an offences under clause 54(1) should be increased from \$120 to \$300 to be in line with Local Government (Parking for People with Disabilities) Regulations 2014.
- Clause 82 should remove the text "excepting clause 54 which shall not exceed one thousand dollars (\$1,000.00)". The maximum amounts are specified under Local Government (Parking for People with Disabilities) Regulations 2014 and take priority over the City's LL.

If the proposed Parking Local Law 2021 is endorsed by Council, the City will advertise the proposed local law and invite public comment for a minimum of six weeks. Once the public submission period has closed, a report will be brought back to Council to consider the submissions received as required under section 3.12(4) of the Act.

OFFICER COMMENT

A review of the existing parking local law identified various improvements required to provide better controls and management of parking within the district, whilst also providing more flexibility for patrons.

A key improvement considered in the proposed parking local law, is 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'. This would enable the City to introduce pay by phone only parking zones in areas like Marine Terrace, without the need to install ticket

machines. Another consideration included in the proposed parking local law, is to provide residents (in residential areas) the ability to control parking on the verge at the front of their own property.

Due to the complex nature of the parking local law and the changes required, officers have engaged the City's solicitors, to ensure it is lawful and meets the standards required by the Joint Standing Committee on Delegated Legislation. In order to meet this objective, the City's solicitors have recommended that the local law be rewritten to remove repetition, update in accordance with current legislation and to include the improvements required.

The proposed Parking Local Law 2021 has been prepared by City's solicitors in consultation with officers and is intended to repeal and replace the existing Parking Local Law 2006.

A summary of the intended improvements included in the proposed local law is provided in the table below:

Proposed improvement	Clause
(1) Expansion of the definition of <i>fee paying machine</i> in clause 1.5, to allow the use of any mobile device for the payment of parking.	1.5
(2) Amendments to various definitions to ensure that a <i>parking station</i> may include all or part of a <i>pay by phone zone</i> or a <i>ticket issuing machine zone</i> .	1.5
(3) Amendments to the definition of <i>pay station</i> to be flexible enough to encompass the City's adoption of plate recognition technology.	1.5
(4) Amendment to include the definition of <i>parking app</i> , to enable the provisions relating to the use of the City's parking app, apply when using a similar process under the City's web browser.	1.5
(5) Amendment to provide general powers to regulate parking.	2.1 – 2.4
(6) Ability to establish Pay By Phone Zones where the only method of payment in that zone is "Pay By Phone". (Clauses)	3.1.c, 3.2.2.c, 4.2.d
(7) Limiting the operation of clause 3.2 to the payment of fees in a fee-paying zone that is not in a parking station. The payment of fees in a parking station is governed by clause 4.2.	3.2
(8) Amendments to the pay by phone provisions (in clause 3.2(2)(c) and in other corresponding provisions) to be consistent with the pay by phone process.	3.2(2)(c)
(9) Including the permit and facility parking permit exceptions to the time restriction provisions.	3.8(1); and 4.8(1)

Proposed improvement	Clause
(10) Amendments to the free parking provisions to prevent vehicles from obtaining free parking multiple times unless the vehicle has been removed from the area for 4 hours on each occasion.	3.11
(11) Removal of existing clause 5.7 that deals with motorcycles, to enable a motorcycle to be parked in any parking stall, provided the fee for a vehicle in that stall is paid.	Nil
(12) Inclusions of a paragraph to prohibit the parking, on a verge, of a trailer, caravan or boat that is not attached to a motor vehicle.	5.18
(13) Inclusion of a new section that deals with a 'Construction Site'.	5.8
(14) Inclusion of a new provision to allow for the use of electronic parking permits.	6.3.1.d
(15) Amendment to ensure that a permit is not transferrable.	6.8
(16) Limiting clause 7.11 to prohibitions against leaving a vehicle in a public place – with the City's removal and impounding powers to be exercised under regulation 29 of the <i>Local Government (Functions and General) Regulations 1996</i> .	7.11
(17) Amendments to the prescribed offences in Schedule 1, to increase infringement amounts.	Schedule 1
(18) Amendments to Forms 2 and 3 in Schedule 2 to be consistent with the recent amendments to the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> .	Schedule 2

It is recommended that Council endorse the proposed Parking Local Law 2021 in Attachment 1, to be advertised for public comment. On conclusion of the public submission period, a report will be brought back to Council for consideration of the public submissions received and final adoption of the local law.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-3
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Give local public notice, in accordance with section 3.12 of the *Local Government Act 1995*, of the City's intention to make a City of Fremantle Parking Local Law 2021 as provided in Attachment 1, 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.

Carried: 7/0

**Mayor Brad Pettitt, Cr Hannah Fitzhardinge, Cr Jenny Archibald,
Cr Andrew Sullivan, Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright**

Mayor, Brad Pettitt requested the item be referred to the Ordinary Meeting of Council. Seconded by Cr Jenny Archibald.

**FPOL2101-7 ADOPTION OF THE CITY OF FREMANTLE LOCAL
GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2021**

Meeting Date:	20 January 2021
Responsible Officer:	Manager Governance
Decision Making Authority:	Council
Attachments:	<ol style="list-style-type: none">1. City of Fremantle Local Government Property Amendment Local Law 20212. Consolidated Local Government Property Local Law with changes indicated
Additional information:	Nil

SUMMARY

For council to consider the adoption of the City of Fremantle *Local Government Property Amendment Local Law 2021*.

This report recommends that Council consider the submissions received during the public consultation period and adopt the City of Fremantle *Local Government Property Amendment Local Law 2021*.

The purpose and effect of the City of Fremantle Property Amendment Local Law 2021 are as follows:

- Purpose:** To provide for the regulation, control and management of activities and facilities on all local government property within the district.
- Effect:** To establish the requirements with which any person using or being on all local government property within the district, must comply.

BACKGROUND

The City of Fremantle's Local Government Property Local Law was originally gazetted in 2002.

At the Ordinary Council Meeting held on 14 October 2020, Council resolved to give notice of its intention to make a City of Fremantle Local Government Property Amendment Local Law 2020 (since renumbered to 2021) and to consider the submissions received.

Public notice of the proposed Local Government Property Amendment Local Law was advertised as prescribed and, in accordance with s13.2(3b) of the Act, a copy of the local law was provided to the Minister for Local Government.

At the closing date for receipt of public submissions Wednesday 9 December 2020, one public submission on the proposed local law had been received.

The Department of Local Government, Sport and Cultural Industries suggested that the City change the year in the title from 2020 to 2021 as final adoption was more likely to happen in 2021.

The Department also provided feedback on other minor typographical and preferred styles of the amendment local law, which has no effect on the application of the local law and has been included as recommended.

FINANCIAL IMPLICATIONS

Financial implications may include the cost of City officers responding to complaints and potentially issuing penalties under the additional penalties included in the amendment local law.

LEGAL IMPLICATIONS

If Council resolves to amend the local law (by adopting the recommended amendment local law) the procedure is the same as the procedure for making a local law and is set out in Section 3.12 of the *Local Government Act 1995*.

CONSULTATION

Notice and invitation to make a submission on the proposed amendment local law was given as follows:

Fremantle herald on 24 October
My Say Freo 23 October – 9 December
City notice boards from 23 October – 9 December
Sent to the Minister for Local Government.

One submission was received during the public consultation period as follows:

Local Government Property Amendment Local Law 2019		
Submissions received for submission period ending 9 December 2020		
No.	Date	Submission
1.	20/11/20	<p>I could not Download the document from the email you sent. I would like provisions made for smokers too (with ashtrays). As in done in many European cities worldwide. They can smoke in convenient locations without impacting on other people.</p> <p>I would prefer the Council to take more interest in control the impact of Alcohol. A far more dangerous drug to the community yet overlooked by governments as Having a beer is considered True Blue!!</p> <p>Also, noise within residential settings in Fremantle. With smaller block sizes noise transference is a real issue for people who struggle with noise neighbours, loud music and screaming from drunk neighbours. Takes up lots of police time tooo!!!</p> <p>Smoking seems to be focused on whilst these other way more significant issues are overlooked....!!!!</p>

OFFICER COMMENT

In reviewing the City of Fremantle Leisure centre operations in line with the Department of Health and Royal Life Saving Society's codes of practice and guidelines for safe pool operations, and uncertainty relating to lost and abandoned property on Fremantle local government property it is considered that the City's Property Local Law contains some provisions that are outdated and do not align with best practice provisions specifically for the operation of swimming pool management but also in some other areas of the local law.

In addition to updating some provisions in the local law it is considered desirable to adopt a new provision to enable the City to make a determination controlling smoking in specific areas of local government property. With the ongoing development in the City and the existing preference for the City's property to be available to be used for social activities for all, it is considered desirable to be able to restrict certain areas of local government property as smoke free areas. It is anticipated that smoke free areas will improve the amenity in Fremantle by reducing litter from cigarette butts and to eliminate exposure to cigarette smoke by users of local government property.

The proposed changes are detailed in the below table and the City of Fremantle Local Government Property Local Law 2002 (consolidated) is attached to this report, with green text highlighting the proposed additions and red, struck through text highlighting the proposed removals.

As a point of clarification, this report is not recommending that smoking be banned on all local government property, but that the City be able to make a determination to restrict smoking, at a later date, in specific areas, where it is believed that smoking is causing significant adverse environmental impacts due to cigarette butts or it is in the interest of better community health and amenity.

Council Report explanatory table		
	Amendment	Justification
1.2 (1) Amended definition	" local government property " means anything except a thoroughfare – (a) which belongs to or is leased or licensed by the local government; (b) of which the local government is the management body under the <i>Land Administration Act 1997</i> ; or (c) which is an 'otherwise unvested facility' within section 3.53 of the Act;	This amendment is intended to allow the provisions of this local law to apply to all property under the control or management of the City of Fremantle.
2.8 (k) New subclause	(k) smoking in contravention of a sign which prohibits the act of smoking.	This amendment is intended to allow the City to make a determination to prohibit smoking in specific areas of the City as sign posted.
3.2 (5) Amend clause	(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2) or where the	This amendment is intended to clarify the expectations relating to the responsibility of permit applicants to comply with all

	requirements of subclause (3) or (4) have not been satisfied.	provisions as required by the City.
3.3 (4) new clause	(4) The local government may, at any time, amend a condition of approval and the amended condition takes effect 30 days after written notice of it is given to the permit holder.	This amendment is intended to allow the City to amend permit conditions when necessary.
3.9 (2) Amend clause	(2) The provisions of this Part shall apply to an application for the renewal of a permit mutatis mutandis, as though it was a new application for a permit.	This amendment is intended to promote 'plain English' principles.
4.1 (1)(c) New subclause	(1) A person shall not in or on any local government property behave in a manner which – (a) is likely to interfere with the enjoyment of a person who might use the property; or (b) interferes with the enjoyment of a person using the property. (c) places the public at risk or interferes with the safety of others.	This amendment is intended to expand restrictions on behaviour on local government property that places the public at risk or interferes with the safety of others.
4.3 Amend Title	4.3 Taking, or injuring or damaging any fauna or flora	This amendment is intended to include flora within the clause to allow the local government to issue a penalty for the damage/removing flora or fauna from local government property.
4.3 (3) & (4) New clauses	(3) A person must not remove or damage or attempt to remove or damage any flora which is on or above any local government property, unless that person is authorised to do so under a written law or with the written approval of the local government. (4) In this clause "flora" means all vascular plants.	This amendment is intended to include flora within the clause to allow the local government to better protect both flora and fauna on local government property and to issue a penalty for the damage/removal of flora or fauna from local government property.
Delete Part 5, Division 1	Division 1 – Swimming pool areas 5.1 – When entry must be refused (1) – A Manager or an authorised person shall refuse admission to, may direct to leave or shall remove or cause to be removed from a pool area any person who – (a) – in her or his opinion is – (i) – under the age of 6 years and who is unaccompanied by a responsible person over the age of 14 years; (ii) – suffering from any contagious, infectious or cutaneous disease or complaint, or is in an unclean condition; or	Aquatic Facilities are governed by the following legislation and Code. Where a local law is inconsistent with the legislation, or legislated code, by default, it is invalid. The provisions in the City's local law are inconsistent with the prevailing legislation and are considered redundant. <ul style="list-style-type: none"> • Health (Miscellaneous Provisions) Act 1911 • Health (Aquatic Facilities) Regulations 2007

	<p>(iii) under the influence of liquor or a prohibited drug; or</p> <p>(b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.</p> <p>5.2 Consumption of food or drink may be prohibited</p> <p>(1) A person shall not consume any food or drink in an area where consumption is prohibited by a sign.</p>	<p><i>“Code means the “Code of practice for the design, construction, operation, management and maintenance of aquatic facilities”, published by the Chief Health Officer under the Act on 1 June 2007 as amended by the Chief Health Officer from time to time, and any code of practice under the Act that replaces the Code;</i></p> <p><i>6. Adoption of Code and relationship to these regulations</i></p> <p><i>(1) The Code is adopted to the extent to which it is applied by these regulations.</i></p> <p><i>(2) These regulations prevail over the provisions of the Code to the extent to which the provisions of the Code are inconsistent with these regulations.”</i></p> <ul style="list-style-type: none"> • Department of Health – Code of Practice for the design, Construction, Operation, Management & Maintenance of Aquatic Facilities
Update title	Division 2 <i>Division 1 - Beaches</i>	Amending a title.
Renumber clauses	Renumber existing clauses 5.3 – 5.6 AS 5.1 – 5.4 respectively	Renumbering
Delete Part 5, Division 4	<p>Division 4 – Toilet blocks and change rooms</p> <p>5.7 Only specified gender to use entry of toilet block or change room</p> <p>(1) Where a sign on a toilet block or change room specifies that a particular entry of the toilet block or change room is to be used by—</p> <p>(a) females, then a person of the male gender shall not use that entry of the toilet block or change room; or</p> <p>(b) males, then a person of the female gender shall not use that entry of the toilet block or change room.</p>	<p>This local law allows the City to erect signage if conditions of use are necessary. Therefore, this provision is considered unnecessary.</p>

Update Title	Division 5 Division 4 - Golf course	Amending a title.
Renumber clauses	Renumber existing clauses 5.8 and 5.9 AS 5.5 and 5.6 respectively	Renumbering
9.2 (1) Replace clause	<p>(1) An authorised person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.</p> <p>(1) If the CEO or an authorised person reasonably suspects that a person is breaching, or has just breached, a provision of this local law or any other written law, the CEO or authorised person may –</p> <p>(a) refuse to allow that person to enter local government property; and</p> <p>(b) if the person is on local government property, direct the person to leave the local government property.</p> <p>(2) A person who has been refused entry or who has been directed to leave under subclause (1) must immediately leave the local government property quickly and peaceably.</p> <p>(3) If a person fails to comply with subclause (2), the CEO or an authorised person may remove the person, or arrange for the person to be removed, from the local government property.</p>	This amendment is intended clarify the conditions by which the City may address any potential anti-social activity by enabling authorised officers to restrict access of individuals to local government
9.3 (1) Replace clause	<p>(1) An article left on any local government property, and not claimed within a period of 3 months, may be disposed of by the local government in any manner it thinks fit.</p> <p>(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 –</p> <p>(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;</p> <p>(b) if the article is reasonably believed to</p>	This amendment is intended to clarify the way in which any unclaimed property left on local government property may be disposed of.

	<p>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</p> <p>(c) in any other case, by donation to a not for profit body incorporated under the Associations Incorporations Act 1987.</p>	
New penalties	<p>8 4.3(1) - Taking or injuring any fauna - 125</p> <p>9 4.3(3) - Removing or damaging any flora - 125</p>	Introduction of 2 new penalties relating to the taking or injuring of flora or fauna from local government property.
Renumber Penalties	Renumber existing penalties 8 - 27 AS 10 - 29 respectively	Renumbering

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL2101-7 (Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Andrew Sullivan

Council, in accordance with the provisions and processes of the *Local Government Act 1995*; adopt the proposed City of Fremantle Local Government Property Amendment Local Law 2021 (attachment 1), which incorporates the changes suggested by the Department of Local Government, Sport and Cultural Industries and considers the submissions received through the community consultation period - the purpose and effect of which is as follows:

Purpose: To provide for the regulation, control and management of activities and facilities on all local government property within the district.

Effect: To establish the requirements with which any person using or being on all local government property within the district, must comply.

Carried: 7/0

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

FPOL2101-8 FREMANTLE PARK CARPARK

Meeting date:	20 January 2021
Responsible officer:	Manager Infrastructure Engineering
Decision making authority:	Council
Attachments:	Attachment 1: Original at-grade carpark (Drawing Reference 401-C-10865-20-001) Attachment 2: Additional at-grade laneway carparking (Drawing Reference 401-C-10865-20-003) Attachment 3: Location Map of full car parking proposal (Drawing Number 401-C-10865-20-004)
Additional information:	Nil

SUMMARY

As part of the Fremantle Park Sport and Community Centre (Clubs) project, there was a budget allocation for the provision of a new public carpark.

At Finance, Policy, Operations and Legislation (FPOL) Committee dated 9 October 2019, officers were requested to investigate further options for increased parking capacity to the site.

At FPOL Committee dated 11 November 2020, options for additional parking capacity were presented and a preferred option recommended, however, the item was deferred to the next appropriate FPOL Committee meeting to allow further consultation with the Clubs.

Subsequent to this City officers met with the Clubs on 6 January 2020 and further consulted with them on the car parking location options to Fremantle Park. The clubs also highlighted their increased requirements for parking passes due to their increased membership.

This report recommends that Council progress with the construction of the original design of at-grade carpark. It also recommends that Council approve an additional budget from the parking reserve to progress with the construction of both an additional at-grade carpark to the laneway and also a temporary surface treatment to the Fremantle Park area currently licenced to the Clubs for informal parking.

Subject to approval, officers propose to work collaboratively with the Clubs on the timing of the construction works to minimise disruption. It is currently estimated that the start date for construction would be mid to late April 2021.

BACKGROUND

On 24 May 2017, Council endorsed the concept design for the Fremantle Park Sport and Community Centre (Club), this included provision of an at-grade carpark.

The works contract was awarded to McCorkell Constructions (WA) Pty Ltd on 22 March 2019 and the carpark aspect of the project was separated (to be delivered as a separate project) at the request of the Clubs.

Council subsequently adopted a budget of \$350 0000 for the provision of a carpark at Fremantle Park during the 2019/20 financial year.

During the design process of an at-grade carpark, officers requested Council approve the transfer of \$75 000 from the parking reserve to increase the Fremantle Park carpark budget to \$425 000, to allow the carpark to be delivered in accordance with best practice sustainable One Planet Living principles.

Council approved of this budget increase and requested officers investigate further options for increased parking capacity to the site of the proposed at-grade carpark on Parry Street, including the possibility of multi-story car parking options.

At FPOL Committee dated 11 November 2020, options for additional parking capacity were presented and continuation of a grade solutions recommended by officers. Following debate, the item was deferred to allow further consultation with the Clubs. For full details on options investigated, please refer to FPOL Committee item FPOL2011-7.

FINANCIAL IMPLICATIONS

Total adopted carry forward budget allocation for the proposed carpark for this financial year is \$425,000.

Increased provision of car parking capacity will require an increase to the adopted budget.

LEGAL IMPLICATIONS

The City have previously been advised by The Department of Planning Lands and Heritage (DPLH) that Lot 1826 is held in freehold title by the City of Fremantle to be used and held in trust for the purpose of Park, Recreation and Community Centre. DPLH also advised that the construction of a carpark for patrons and the general public is consistent and ancillary to the purposes of park, recreation and the community centre.

Once a preferred option is determined and agreed, Officers will seek formal confirmation of this position prior to project commencement.

CONSULTATION

The carpark project has been developed in consultation and with active participation of the Clubs who have provided input on the carpark concepts.

Following the deferred FPOL Committee item (FPOL2011-7) dated 11 November 2020, officers subsequently met with Clubs on 6 January 2020 and further consulted

with them on both car parking locations to Fremantle Park and the Clubs increased requirements for parking passes due to their increased membership.

OFFICER COMMENT

The original carpark design was an at-grade solution and contained 101 car parking bays with two additional ACROD bays (See Attachment 1 for drawing number 401-C-10865-20-001). The cost estimate to construct the original carpark design was \$425 000.

Following further consultation with the Clubs, Officers can confirm that the Clubs are collectively supportive of the original carpark design and location (See Attachment 1), although they did request officers investigate the possibility of relocating it to the corner of Parry Street and Ellen Street. Following investigation, officers confirm that this is a possibility, but do not recommend it for the following reasons;

- Reduced width of existing corner plot, resulting in a net loss of approximately 21 of the overall 103 parking bays.
- Reduced line of sight along Parry Street from existing on-street parking negatively impacting road safety and resulting in a potential reduction of existing on-street parking bays to Parry Street.
- Greater visual impact to residents as opposed to the original location.

The clubs have been informed of this outcome.

The Clubs are also collectively supportive of the concept design option and location for additional car parking to the Fremantle Park laneway (parallel to the existing soccer pitch), which is an at grade solution, containing 44 car parking bays (See Attachment 2) with a cost estimate to construct of \$361 000. Officers can confirm that the laneway carpark park can be constructed whilst maintaining the minimum soccer pitch dimensions in accordance with FIFA Specifications.

The Clubs have requested that officers consider the laneway carpark proposal be designed with both pedestrian and vehicle safety in mind. Officers have already allowed a provision for lighting the laneway carpark in the budget request and if approved, will also consider low cost options for keeping vehicle speeds on the laneway to a minimum.

The Clubs have also requested that the surface of the area currently licenced to them for informal parking be improved due to its current poor condition. Officers propose that the vegetation and topsoil could be easily removed and replaced with a recycled road material to create a hardstand for the informal use of parking (See Attachment 3). The cost estimate to complete these improvements is \$20 500.

Below is a summary of the costs for the full proposal as supported by the Clubs;

Summary Table of Proposed Costs

Option	Number of bays	Estimated Cost	Treatment inclusions
Original	103 (formal)	\$425,000	Drainage, asphalt surface treatment, line marking, solar lighting and soft landscaping.
Laneway	44 (formal)	\$361,000	Drainage, asphalt surface treatment, line marking, solar lighting and retaining wall.
Licensed Area	Approx. 45 (informal)	\$20,500	Temporary surface treatment (hardstand from recycled road material) only.

Car Parking Provision (for the Clubs)

In respect to previous agreements with the Clubs, Council have approved parking allocations of:

- 5 (dedicated) free Club car parking bays
- 35 Club free car parking permits for weekdays
- 45 Club free car parking permits for weekends
- A license for the corner of the block (end of the laneway) – currently used as short-term parking (hold approx. 30-40 cars depending on positioning).

Following further consultation with the Clubs, the Clubs have confirmed that their membership numbers have subsequently grown and have requested additional parking permits.

Officers propose that the matter of increased Club parking passes be the subject of a further report to Council.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

1. Approve the construction of the original Fremantle Park at-grade public carpark design as shown in Attachment 1 (drawing number 401-C-10865-20-001).
2. Approve the construction of the additional Fremantle Park at-grade public carpark to the laneway as detailed in Attachment 2 (drawing number 401-C-10865-20-003).
3. Approve the construction of a temporary surface treatment to Fremantle Park area currently licenced to the Fremantle Park Sport and Community Centre for informal parking.
4. Include the following budget re-allocation to progress the works.

Account	Account Details	Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2020/21 Amended Budget
Increase budget for P-10865 Construct Fremantle Park carpark by an additional \$381,500 for provision of increased parking capacity to the site of the proposed at-grade carpark on Parry Street, being funded from the Parking Reserve Fund.					
300115.3923	P-10865 Construct- Fremantle Park carpark - Parking Reserve	(425, 000)		(381, 500)	806,500
300115.1606	P-10865 Construct- Fremantle Park carpark - Capital Expenditure	425, 000		381,500	806,500

PROCEDURAL MOTION

At 8.25 pm the following procedural motion was moved:

COMMITTEE DECISION ITEM FPOL2101-8

Moved: Cr Andrew Sullivan

Seconded: Mayor, Brad Pettitt

That the motion be deferred to the Ordinary Meeting of Council on 27 January 2021, to enable further consideration.

Carried: 7/0

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

FPOL2101-9 SOLE SOURCE OF SUPPLY – AUSTRALIAN PARKING AND REVENUE CONTROL

Meeting date: 20 January 2021
Responsible officer: Manager Finance
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

This purpose of this report is to seek approval from Council to enter into a sole source of supply contract with the incumbent supplier of parking pay and display machines to the City.

This report recommends that Council authorise the Chief Executive Officer to enter in to a two year contract for the sole source of supply of technical support and hardware maintenance for pay and display machines in the City.

BACKGROUND

At the 25 March 2009 Ordinary Meeting of Council, Council approved the award of tender FCC321/08 for the supply, installation, commissioning and ongoing support of parking pay and display machines to Australian Parking and Revenue Control (APARC), for a 5-year term with extension options. The contract was entered in to on 25 August 2009 following the successful trial and testing of 15 machines.

The current contract reached its term at 1 December 2020. The supplier APARC has provided pricing options for the further extension of this contract.

FINANCIAL IMPLICATIONS

APARC has agreed to hold pricing at current levels for a further 2-year term (excluding annual CPI increases).

Expenditure with APARC for the ongoing support of the hardware and software and licensing and credit card fees in the current financial year and estimated expenditure in future years is shown in the table below:

Account	Description	Budget 20/21	YTD 20/21	Forecast* 21/22	Forecast* 22/23
IP 100099	Printing - Ticket rolls	\$15,000	\$0	\$41,200	\$44,908
IP 100736	Licencing – Hosting and Communications	\$109,400	\$50,010	\$119,246	\$129,978
IP 100566	Credit Card Payments	\$115,000	\$50,530	\$125,350	\$136,631

Note – YTD figures are for July 20 – Nov 20.

Forecasts make the following assumptions:

- The requirement for ticket rolls will return to a normal level in 21/22
- CPI 0.9% per annum added to ticket rolls, licencing and credit card payments
- Printed ticket use is likely to increase as the economy recovers from the effects of Covid 19

*note –future budgets will be required to be adopted during the annual budget process to ensure ongoing service delivery.

LEGAL IMPLICATIONS

The ability for Council to enter into sole source of supply agreements is covered under Regulation 11(2)(f) of the Local Government (Functions and General) Regulations 1996, which states:

11. When tenders have to be publicly invited

(2) Tenders do not have to be publicly invited according to the requirements of this Division if —

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier;

As the sum of this contract is above the delegation to CEO to enter in to sole source of supply contracts, Council approval is required.

CONSULTATION

Nil

OFFICER COMMENT

The City believes APARC are a sole source supplier for the following reasons:

- i) The hardware and software supplied by APARC is proprietary to APARC as the sole distributor in Australia. The City is unable to source hardware or software from alternative sources
- ii) Consumables required to operate the parking pay and display machines is only available from APARC

As the City is not intending to replace the current parking machines at this time, then it is required to purchase upgrades, consumables and hardware from the current supplier.

By entering in to a two (2) year contract with APARC, further time is afforded to consider the future parking requirements of the City.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge **Seconded: Cr Adin Lang**

Council authorise the Chief Executive Officer to enter into a two (2) year contract with Australian Parking and Revenue Control Pty Ltd (ABN 35 131 621 666) for the estimated contract sum of \$380,600 (excluding GST and annual CPI rises).

AMENDMENT 1

Moved: Cr Doug Thompson **Seconded: Cr Andrew Sullivan**

Amendment to include the words shown in green italics, as follows:

Council authorise the Chief Executive Officer to enter into a two (2) year contract *consistent with Regulation 11(2)(f) of the Local Government (Functions and General) Regulations 1996*, with Australian Parking and Revenue Control Pty Ltd (ABN 35 131 621 666) for the estimated contract sum of \$380,600 (excluding GST and annual CPI rises).

Amendment carried: 7/0

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

COMMITTEE RECOMMENDATION ITEM FPOL2101-9 (Officer's recommendation, as amended)

Moved: Cr Hannah Fitzhardinge **Seconded: Cr Adin Lang**

Council authorise the Chief Executive Officer to enter into a two (2) year contract, *consistent with Regulation 11(2)(f) of the Local Government (Functions and General) Regulations 1996*, with Australian Parking and Revenue Control Pty Ltd (ABN 35 131 621 666) for the estimated contract sum of \$380,600 (excluding GST and annual CPI rises).

Carried: 7/0

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

FPOL2101-12 APPOINT A COUNCILLOR TO ACT AS REPRESENTATIVE FOR MAYORS FOR PEACE

Meeting date: 20 January 2021
Responsible officer: Manager Governance
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

The purpose of this report is to appoint a councillor to act as Mayors for Peace representative for the City of Fremantle, during Mayor Brad Pettitt's upcoming leave of absence and through the possible Mayoral vacancy, when the Deputy Mayor is unable to perform those functions.

BACKGROUND

Mayors for Peace is a global movement formed in 1982 by the Mayor of Hiroshima to raise awareness and push for the abolition of nuclear weapons. The City of Fremantle is the lead city for Mayors for Peace in Australia and has been a member of Mayors for Peace for many years. Mayor Pettitt himself, has been a committed member since his election to Mayor for the City of Fremantle more than 10 years ago.

"The purposes of the "Mayors for Peace" are to contribute to the attainment of lasting world peace by arousing concern among citizens of the world for the total abolition of nuclear weapons through close solidarity among member cities as well as by striving to solve vital problems for the human race such as starvation and poverty, the plight of refugees, human rights abuses, and environmental degradation."
Mayorsforpeace.org

On 24th October 2020 the International Campaign to Abolish Nuclear Weapons (ICAN), celebrated the landmark occasion of the 50th signatory to the Treaty on the Prohibition of Nuclear Weapons, which means that the Treaty will become International Law on 22 January 2021.

"On the 24th of October 2020 the world received the news that Honduras formally ratified the Treaty on the Prohibition of Nuclear Weapons, a day after Jamaica and Nauru submitted their ratifications. Honduras became the 50th state party, triggering the entry into force of the treaty 90 days later on 22 January 2021."
Icanw.org.au

"Mayors for Peace wholeheartedly welcomes the momentous occasion of the number of states ratifying the Treaty on the Prohibition of Nuclear Weapons (TPNW) reaching fifty, ensuring its entry into force in ninety days. We would like to rejoice at this moment from the bottom of our hearts with our member cities, their citizens, our partner peace NGOs, and most importantly, with the hibakusha, who long more than anyone else for a world without nuclear weapons."
Mayorsforpeace.org

In recognition of this important milestone there is likely to be several important events arranged with Mayors for Peace in the coming months, for which representation of the City of Fremantle will be important.

As it is important for the City to continue its strong representation without interruption at this exciting time and in the coming year, it is suggested that Council appoint an elected member to act as representative during the period in which the Deputy Mayor is undertaking the functions of the Mayor's role, to act as representative when the Deputy Mayor is unable to.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil

OFFICER COMMENT

The Mayor currently attends a number of events and occasions throughout the year as the City's representative for Mayors for Peace working closely with Elizabeth Po and Adrian Glamorgan who work tirelessly to activate and support Mayors for Peace initiatives and membership in Australia.

Following is a small taste of some of the events which have been or are planned to be, supported by Mayor Pettitt and Mayors for Peace:

- Online hibakusha testimony session 'Every Second Counts for the Survivors!' in conjunction with the Peace Boat
- Peace Park Opening Ceremony on International Day of Peace
- Video message from the Mayor Pettitt commemorating the 75th anniversary of the atomic bombings.
- The planting of the now-six-year-old Gingko biloba saplings grown from second generation a-bombed Hiroshima seeds.
- Short video recording by Mayor Pettitt supporting Mayors for peace cities appeal

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-12
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

Council appoint Councillor Jenny Archibald to act as the City of Fremantle representative for Mayors for Peace, as required, during the absence of the Mayor.

Carried: 7/0

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

**FPOL2101-13 SUBMISSION TO THE SALARIES AND ALLOWANCES
TRIBUNAL – DEPUTY MAYORAL ALLOWANCE INCREASE**

Meeting date: 20 January 2021
Responsible officer: Manager Governance
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

The purpose of this report is to seek Council approval to make a submission to the Salaries and Allowances Tribunal (the Tribunal) requesting that the Tribunal consider increasing the allowance paid to the Deputy Mayor in the event that they undertake the duties of the Mayoral role should the position remains vacant for an extended period of time.

BACKGROUND

Mayor Brad Pettitt has announced his decision to run for State Election in March 2021. If the Mayor is elected to State, his position as Mayor for the City of Fremantle will become vacant. In that event, it is likely that the City will request that the Electoral Commissioner allow the position of Mayor to remain vacant until the Ordinary Local Government Election due to be held in October 2021 as the cost to hold an additional election (Mayoral) has not been included in the City's 2020-21 budget and the estimated cost to hold an additional election would be around \$74,000.

If the Electoral Commissioner allows the position of Mayor to remain vacant until the Ordinary Election, the Deputy Mayor will be expected to undertake the duties of the Mayor during the extended period of the vacancy. It is estimated that the Deputy Mayor will be expected to fulfil Mayoral duties, full-time, for approximately seven months.

While it is acknowledged that the Deputy Mayor is ordinarily paid an allowance to fulfil the duties of the Mayors role when the Mayor is unavailable, this allowance (25% of the Mayoral Allowance) does not appear to anticipate occasions where the Deputy Mayor is called on to undertake the duties of the Mayors role for several months.

Given that the Deputy Mayor will be expected to commit to a considerable increase in their availability, to attend to Mayoral functions while the Mayoral role is vacant, it is considered appropriate that that the City attempt to arrange appropriate remuneration during this time.

The Salaries and Allowances Tribunal is responsible for inquiring into and setting the remuneration for Local Government Elected Members.

“Pursuant to section 5.98(5) of the Local Government Act 1995 (LGA), the mayor of a local government is entitled to be paid an annual allowance

Pursuant to section 5.98A(1) of the LGA, a local government may decide, by an absolute majority, to pay the deputy mayor of the local government, an allowance of up to the percentage that is determined by the Tribunal of the annual allowance to which the mayor is entitled under section 5.98(5) of the LG Act. That percentage is determined as 25%.”

A preliminary approach has been made to the Tribunal who have stated that they essentially agree to consider the question of increasing the allowance to be paid to the Deputy Mayor, but that they would need to be convinced of the rationale to alter their current determination.

The Tribunal have also indicated that their preference would be that the question of increasing the allowance be considered by full council, including the current Mayor.

Rationale

The rationale for requesting an increase to the allowance permitted to be paid to the Deputy Mayor, for the period that they are undertaking the duties of the role of Mayor, is as follows:

1. There is an expectation that the level of service and availability of the Mayor of the City of Fremantle, a ‘Band 1’ and arguably Perth’s ‘second capital City’, will remain unchanged. Therefore, the Deputy Mayor will be required to fulfil the duties of the Mayor on a full-time and long-term basis.

The Deputy Mayor will be expected to:

- provide an increased availability and commitment to the role;
- familiarise themselves with all current affairs, issues and other necessary ‘knowledge’ basis relevant to the role;
- perform the leadership role of the mayor;
- perform the statutory functions for which the mayor is accountable;
- undertake the ceremonial and civic duties required of the mayor, including local government business related entertainment;

FINANCIAL IMPLICATIONS

If the Tribunal approves an amendment allowing the City to pay the Deputy Mayor an increased allowance, there will be no additional expense for the City as the Mayoral and Deputy Mayoral allowances are included in the budget.

It is considered likely that Council will request that the Mayoral position remains vacant (if it becomes vacant) until the Ordinary Election 2021 in order to avoid the cost of an additional Mayoral election being held in 2021.

The Western Australian Electoral Commission have advised that the cost to hold a stand-alone Mayoral election would be approximately \$74,000 based on the following assumptions:

- 24,000 electors across 6 all wards
- 40% participation rate

- Regular Mail Delivery

LEGAL IMPLICATIONS

Under Section 5.98A of the Local Government Act 1995 A local government may decide (by absolute Majority) to pay the deputy mayor of the local government an allowance of up to the percentage, that is determined by the Salaries and Allowances Tribunal, of the annual local government allowance to which the mayor is entitled.

The determined percentage is 25 per cent.

Under Section 7B(2) of the Salaries and Allowances Act 1975 the Salaries and Allowances Tribunal must inquire into and determine the amount of:

- allowances, or the minimum and maximum amounts of allowances, to be paid under the LG Act to elected council members.

CONSULTATION

Nil

OFFICER COMMENT

This report is being presented to council at this early stage as the Tribunal have advised that they would prefer that a request to amend their determination to increase the Deputy Mayors allowance be considered by full council including the current Mayor.

As the Mayor is planning to request a leave of absence in the lead up to the State Election and may not return in the Mayoral position if successfully elected to State Government, it was considered prudent to prepare a pre-emptive report for consideration of full council while he is available.

Should council adopt the recommendation in this report the decision will not be acted upon until and unless, following the State Election on 13 March 2021:

1. the position of Mayor becomes vacant; and
2. the position of Mayor is permitted to remain vacant, by the Electoral Commissioner, until the Ordinary Election to be held in October 2021.

At which time a request will be made to the Tribunal to consider an increase in the Deputy Mayor allowance.

No increased payment of the allowance would be made until approved by the Tribunal, and no request for increase will be made to the Tribunal unless the Mayoral position becomes vacant until the ordinary election to be held in October 2021.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-13
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

Council, in the event that the position of Mayor becomes vacant and is permitted to remain vacant until the ordinary election to be held in October 2021, request that the Salaries and Allowances Tribunal alter their Determination to allow the City to pay its Deputy Mayor the full Mayoral allowance, or an increased percentage of that allowance, while they are fulfilling the duties of the Mayor during the extended period of time that the position remains vacant.

Carried: 7/0

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

FPOL2101-15 CONSIDERATION OF REQUEST TO EXTEND THE SPICER SITE SUBSTANTIAL COMMENCEMENT DATE (8-10 HENDERSON STREET, FREMANTLE)

Meeting date: 20 January 2021
Responsible officer: Director City Business
Decision making authority: Council
Attachments: 1. Paddy Troy Easement
Additional information: Nil

SUMMARY

The property development arm of Spicer Street Pty Ltd (Forrest Entity/Minderoo), Fiveight (Spicer Purchaser), have formally requested the City to consider an extension of the substantial commencement date provided in the Spicer Development Deed (SDD) between the City and Spicer Street Pty Ltd for the property at 8-10 Henderson Street Fremantle, known as the Spicer Site.

The request proposes to extend this date for a period of two years to 19 December 2022. The current date is 19 December 2020.

This report recommends that Council agree to extend the substantial commencement date in the PDD, subject to a number of conditions.

BACKGROUND

The City entered into a contractual agreement with Sirona Capital in May 2013 for the sale of the former Spicer property as part of the Kings Square Project. This contractual agreement was in the form of the Project Development Deed (PDD).

Since the PDD was first entered into, settlement dates for the other properties involved have been amended twice, each time the consequence has had a flow on effect to move the Spicer settlement as well.

In late 2018 the property settled to Sirona and was then immediately sold on to the Spicer Purchaser. The condition of approval of the sale was that the Spicer Purchaser was required to enter into a development deed on substantially the same terms as that between the City and Sirona Capital Pty Ltd. At the Ordinary meeting of Council held on 12 December 2018, the following was adopted;

“Council consent to:

1. *the transfer of 8-10 Henderson Street, Fremantle, (known as the former Spicer Site) by Sirona Capital Management Pty Ltd (Sirona) to Spicer Street Pty Ltd (Forrest Entity);*
2. *the assignment of the Project Development Deed (PDD) as amended and originally dated 10 May 2013, as it relates to the development of the Spicer Site to the Forrest Entity; and*

3. *the modifications to the PDD recommended by the City's lawyers needed to give effect to the above,*

Subject to the following conditions:

- a. *the transfer of the Spicer Site by the City to Sirona takes place within a time acceptable to the Chief Executive Officer;*
- b. *Sirona observes and performs all of its obligations in the PDD in relation to the development of the Spicer Site until the transfer to the Forrest Entity occurs;*
- c. *the Forrest Entity agrees to assume all of Sirona's post settlement obligations in relation to the development of the Spicer Site;*
- d. *the parties to the PDD and the Forrest Entity enter into documents to effect the above that are acceptable to the Chief Executive Officer upon advice from the City's lawyers and that the Mayor and Chief Executive Officer are authorised to execute such documents; and*
- e. *the City is not required to pay the costs of any other party to the PDD or the Forrest Entity in relation to this matter."*

One of the conditions provided in the now Spicer Development Deed (SDD) is for the development of the property to reach substantial commencement within two years of the settlement of the property. The SDD defines the "Spicer Substantial Commencement Date" as;

- "(a) the date being 24 months from the date that Sirona Capital Management Pty Ltd as trustee for the Kings Square No. 2 Unit Trust becomes the registered proprietor of the Spicer Property; or*
- (b) such later date agreed to by the Spicer Purchaser and the City pursuant to clause 8.2.*

Substantial Commencement means in relation to the Spicer Development;

- (a) demolition of existing Buildings and Improvements;*
- (b) (if the development is to include a basement) completion of the site works, including excavation to basement level and completion of construction works to a ground floor slab level (including the pouring of a ground floor slab); and*
- (c) (if the development is not to include a basement) completion of the site works and completion of the structural works to a first floor level (including the pouring of a first floor slab), and Substantially Commence shall have a corresponding meaning."*

Since purchasing the site, various Minderoo entities have met with the City to discuss various development options which meet the SDD and Urban Design Guidelines. No formal development application has been received from Spicer Street Pty Ltd and a related entity, Fiveight, have formally requested consideration of an extension for substantial commencement.

FINANCIAL IMPLICATIONS

There is limited direct financial implication from considering this request. The immediate financial implication is any associated legal costs associated with negotiating the extension.

The SDD also contemplates options to buy the property back if substantial commencement is not achieved. The SDD requires particular steps to take place that are considered further in the legal implications of this report. The financial implication to this is the cost of re-purchasing the property.

In the event that:

- (i) the Spicer Purchaser fails to Substantially Commence the Spicer Development by the Spicer Substantial Commencement Date; and*
- (ii) this document is terminated prior to the date on which the Spicer Purchaser has Substantially Commenced the Spicer Development by:*
 - (A) either party pursuant to clause 17.6;*
 - (B) the City as a result of a Project Default pursuant to clause 18.3; or*
 - (C) the City pursuant to clause 20(c)(i)(B), then the City shall have the option to re-purchase the Spicer Property, from the Spicer Purchaser for the Re-Purchase Price, in accordance with the provisions of this clause.*

A further, albeit indirect, cost for considering such a request is the loss of rate income from the development not being commenced on time and therefore not being completed within the original considered timeframe. This issue is considered further within the body of this report.

LEGAL IMPLICATIONS

As noted above, the SDD has provision for the Spicer Purchaser to substantially commence development of the property within a determined timeframe (19 December, 2020), with one of the remedies being that the City has the right to re-purchase the property if this is not achieved.

The SDD describes the process for a re-purchase below;

- (a) The parties must use reasonable endeavours to complete the process contained in this clause 9.3 in a timely manner.*
- (b) The City must undertake a Business Plan Process.*
- (c) If the outcome of the Business Plan Process is that the City decides to proceed with the repurchase of the Spicer Property then the City must, within 28 days of making its decision to proceed, give an Exercise Notice to the Spicer Purchaser.*
- (d) If the Exercise Notice is not received by the Spicer Purchaser within 8 months of the date on which it received the Initiation Notice, then the City's option to repurchase the Spicer Property automatically and irrevocably lapses.*
- (e) The Spicer Purchaser may not dispute or object to the validity of the Exercise Notice on grounds that the City has not complied with any requirements contained in the LGA relating to the Business Plan or the Business Plan Process.*
- (f) Within 30 days of the City giving the Exercise Notice to the Spicer Purchaser;*
 - (i) each party must obtain a valuation of the Market Value as at the date of the Exercise Notice;*

- (ii) *the “parties must exchange copies of the valuations obtained under clause 9.3(f)(i); and*
- (iii) *the Spicer Purchaser must notify the City of what the Spicer Purchaser considers to be the value of any works undertaken on the Spicer Property by the Spicer Purchaser since the Spicer Settlement Date.*
- (g) *The parties must then, acting through the Strategic Liaison Group, meet in good faith and endeavour to agree on the Re-purchase Price.*
- (h) *If the parties have not reached agreement on the Re-purchase Price within 40 days of the City giving the Exercise Notice, then;*
 - (i) *either party may request that the President of the Australian Property Institute (Inc) (Western Australia Division) appoint an independent Valuer;*
 - (ii) *the Valuer appointed under clause 9.3(h)(i) must use its best endeavours to determine:*
 - (A) *the Market Value; and*
 - (B) *the value of any works undertaken on the Spicer Property by the Spicer Purchaser since the Spicer Settlement Date, within 20 Business Days after being appointed and give the Valuer's determination (which will be a valuation in writing outlining the reasons for it) to the parties;*
 - (iii) *the Valuer must act as an expert and not as an arbitrator;*
 - (iv) *the fees of the Valuer will be payable by the Spicer Purchaser and the City in equal shares;*
 - (v) *clause 21.5 will apply as if the Valuer is the Expert described in that clause;*
 - (vi) *the Valuer's decision on the Market Value and the value of any works undertaken on the Spicer Property by the Spicer Purchaser since the Spicer Settlement Date will be final and binding on the parties for the purpose of determining the Repurchase Price; and*
 - (vii) *the Re-purchase Price shall be taken to be determined on the date of the Valuer's decision.*

The City is also required to commence this process by way of notice to the Spicer Purchaser within 90 days of the event failure. The City would need to undertake this step by 18 March 2021, if it were to proceed with this remedy rather than consider a request to extend the date.

CONSULTATION

Nil for this consideration.

OFFICER COMMENT

Officers have met with the officers of Fiveight to discuss the options that may be considered by Council when considering this request.

The City has proposed the following conditions as part of any consideration, subject to council approval and other options available to Council under the SDD. These being;

- Consideration of a one only extension for two years to 19 December 2022.
- An amendment to the SDD to allow for;
 - Milestone dates for each step in the development approval process up to substantial commencement.
 - The right for the City to commence re-purchase action for failure to achieve any milestone date.
 - A rate equivalent payment to be paid by the Spicer Purchaser in the event that a milestone date is not achieved.
 - An easement, 8 metres in width, be registered to ensure suitable access to Paddy Troy Mall from William Street between the Spicer property and the Fremantle Malls property.
 - A two stage development would be accepted as long as the first stage is:
 - at least 2,600m² of gross floor area fronting Henderson Street; and
 - not less than 50% of the works the subject of the approved development.

Rate Equivalent Payment Option

The City is seeking to be financially compensated for the rates revenue that the City would have received from the Spicer Purchaser had the Spicer Purchaser achieved the milestones in the Spicer Development Deed. The City is seeking the right to attain a rate equivalent payment from the Spicer Purchaser if any of the revised milestone dates are not met. The rates equivalent payment would be payable from the date that the first of the milestone dates is not achieved until Practical Completion of the Spicer Development.

Milestone Dates

Milestone dates have been suggested by the City to ensure that the Spicer Development progresses in a clear timeline and to give the City additional rights to repurchase the Spicer Property if one or any milestones are missed. This will allow Council to consider an option to repurchase the Spicer Property prior to the varied Substantial Commencement Date rather than waiting for this date before having any right to repurchase the Spicer Property under the SDD. The following milestone dates have been proposed;

Preparation of Spicer Development Plans and Specifications	19 June 2021
Development Application to be lodged	19 September 2021
Building Permit to be obtained	19 June 2022
Spicer Substantial Commencement Date	19 December 2022

Paddy Troy Easement

Registering an Easement against the Certificate of Title for the Spicer Property will ensure that the connection between William Street and Paddy Troy Mall is agreed now and will not be re-aligned or challenged through the development application process. This is a significant improvement in the SDD and allows Council to have greater say in how the connection is provided and has been agreed in principle by the Spicer Purchaser subject to the Easement being drafted for review.

Two Stage Development

The Spicer Purchaser have advised a scenario where a two stage accommodation development may be more advantageous (for them) in the current tourism market and have requested that the City permit the Spicer Purchaser to stage the Spicer Development. This will allow them to develop the site without over-committing to tourism accommodation if the market cannot support it. The City has some support for this position, albeit that the development is to be significant enough to satisfy the City that the Spicer Purchaser has substantially commenced the Spicer Development. Therefore, the City suggests that the first stage needs to be:

- at least 2,600m² of gross floor area fronting Henderson Street; and
- not less than 50% of any approved development of the site.

Summary of Conditions

The above options will place council in a stronger position through the SDD if the request for extension is supported. Officers are of the view that a one time only support for extension could be considered based on the conditions being agreed by the Spicer Purchaser.

Re-Purchase

If council were to choose to apply the re-purchase option in place of an extension of the date, the City will need to notify SSPL of its intention and then run through the legal process of doing so. This may mean Council will need to grant SSPL an opportunity to rectify the situation, a valuation for the property will need to be obtained and further legal advice will need to be obtained. the SDD requires Council to notify SSPL of its intent to re-purchase prior to 18 March 2021. The conditions of the re-purchase under the current SDD are provided in the legal implications above.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE RECOMMENDATION ITEM FPOL2101-15 (Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council approve a request from Spicer Street Pty Ltd for a one-off extension to the Spicer Substantial Commencement Date as defined under the Spicer Development Deed dated 19 December 2018, subject to the following conditions;

- 1. Consideration of a one only extension for two years to 19 December 2022.**
- 2. An amendment to the Spicer Development Deed dated 19 December 2018, to allow for;**

- a. Milestone dates for each step in the development approval process up to substantial commencement as;**

Preparation Development Plans and Specifications	19 June 2021
Development Application to be lodged	19 September 2021
Building Permit to be obtained	19 June 2022

Spicer Substantial Commencement Date 19 December 2022

- a. The right for the City to commence re-purchase action for failure to achieve any milestone date.
 - b. A rate equivalent payment to be paid by Spicer Street Pty Ltd, if any milestone date is missed on and from the date that the milestone date should have been achieved until Practical Completion.
 - c. an easement, 8 metres in width, be registered to ensure suitable access to Paddy Troy Mall from William Street between the Spicer property and the Fremantle Malls property.
3. A two stage development would be accepted as long as the first stage is not less than 50% of the approved development from the development application to be lodged by 19 September 2021.

Carried: 7/0

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

11. Motions of which previous notice has been given

The following item was dealt with earlier in the meeting:

FPOL2101-14 ELECTED MEMBER MOTION – INCREASING CANOPY COVER AND BIODIVERSITY IN THE CITY OF FREMANTLE – COUNCILLOR ADIN LANG

12. Urgent business

Nil

13. Late items

The following items were dealt with earlier in the meeting:

FPOL2101-15 CONSIDERATION OF REQUEST TO EXTEND THE SPICER SITE SUBSTANTIAL COMMENT DATE (8-10 HENDERSON STREET, FREMANTLE)

FPOL2101-16 PIONEER PARK FREMANTLE CAMP OUT

14. Confidential business

Nil

15. Closure

The Presiding Member declared the meeting closed at 8.47 pm.