



# Minutes

## Finance, Policy, Operations and Legislation Committee

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Wednesday, 9 February 2022, 6.00pm

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## FINANCE, POLICY, OPERATIONS AND LEGISLATION COMMITTEE

Minutes of the Finance, Policy, Operations and Legislation Committee  
held in the Council Chamber, Walyalup Civic Centre, 151 High Street, Fremantle  
on **Wednesday, 9 February 2022** at 6.00 pm.

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### 1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00pm.

#### 2.1. Attendance

Ms Hannah Fitzhardinge	Mayor
Cr Jenny Archibald	Presiding Member/East Ward
Cr Fedele Camarda	Beaconsfield Ward
Cr Marija Vujcic	South Ward
Cr Doug Thompson	North Ward ( <i>entered 6.22pm</i> )
Cr Rachel Pemberton	Deputy Presiding Member/City Ward
Cr Frank Mofflin	Deputy Mayor/Hilton Ward
Cr Andrew Sullivan	South Ward
Cr Ben Lawver	Hilton Ward
Cr Adin Lang	City Ward
Mr Glen Dougall	A/Chief Executive Officer
Mr Matt Hammond	A/Director City Business
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Michelle Brennand	Director Community Development
Mr Graham Tattersall	Director Infrastructure
Mr Mark Donnelly	Manager Field Services
Mr Paul Dunlop	Manager Communications and Events
Mrs Kathryn Taylor	Manager Arts and Culture
Mr Ryan Abbott	Manager Parks and Landscape
Mr Luke McGuirk	Engineering Team Leader
Mrs Beverley Bone	Manager Community Development
Mrs Kylie Lamb	Manager Financial Services
Ms Charlie Clarke	Manager Governance
Mrs Melody Foster	Executive Assistant
Ms Donna Ross	Meeting Support Officer

*There were approximately 16 members of the public 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 C2201-8 Code of Conduct – Division 3 Complaint Investigation 02-2021.

Cr Sullivan stated that in accordance with directions from the State Government Department, he was obliged to remain in the Council Chamber during discussion of the matter notwithstanding that real or perceived bias may creep in to the decision-making process. He was confident he would remain impartial during discussion of this item and would remain in the meeting.

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

Nil

### **5. Public question time**

Lisa Hills spoke in relation to FPOL2202-3.

Rob Fittock spoke in relation to FPOL2202-9

#### **The following members of the public spoke in relation to item FPOL2202-5:**

Anne-Marie Marias

Ashley Davidson

Ed and Donna Punchard

#### **The following members of the public spoke in relation to item FPOL2202-6:**

Samantha Hall

Barbara Martin

### **6. Petitions**

Nil

### **7. Deputations**

#### **7.1 Special deputations**

Nil

#### **7.2 Presentations**

Nil

**8. Confirmation of minutes**

**COMMITTEE DECISION**

**(Officer's recommendation)**

**Moved: Cr Jenny Archibald**

**Seconded: Mayor Hannah Fitzhardinge**

**The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 8 December 2021.**

**Carried: 6/1**

**For**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda, Cr Frank Mofflin,**

**Against**

**Cr Marija Vujcic**

**9. Elected member communication**

**Nil**

## 10. Reports and recommendations

### 10.1 Committee delegation

#### **FPOL2202-5 PARKLET APPLICATION – 1/36 HENRY STREET (DARLING DARLING BAR)**

**Meeting date:** 9 February 2022  
**Responsible officer:** Manager Infrastructure Engineering  
**Decision making authority:** Committee  
**Attachments:** Nil  
**Additional information:** Nil

### **SUMMARY**

The purpose of this report is to recommend Council rejects the parklet application submitted by the owners of 1/36 Henry Street, Fremantle 6160, trading as 'Darling Darling Bar'.

### **BACKGROUND**



At the Finance Policy Operations and Legislation Committee on 8 December 2021, officers recommended the approval of this parklet application based on not having received any objections from local residents at this time (See item FPOL2112-4).

At the Finance Policy Operations and Legislation Committee on 8 December 2021, Council raised concerns over the potential disturbance to local residents surrounding the proposed liquor licence for the parklet should it be implemented from 12pm to 12am (midnight) seven days per week and subsequently deferred the item to allow officers to review the hours of operation for use by patrons as per below:

**COMMITTEE DECISION ITEM FPOL2112-4**

**Moved: Cr Rachel Pemberton**

**Seconded: Cr Fedele Camarda**

**That this item be deferred to the next appropriate Finance, Policy, Operations and Legislation Committee meeting to review the hours of operation for use by patrons.**

**Carried: 5/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda**

Parking bays along Henry Street are metered with a maximum parking limit of three hours and are popular with university students and visitors to the west end. This parklet application proposes the loss of two paid parking bays on Henry Street and the estimated loss of parking revenue to the City per annum is approximately \$16,000 at this location.

**LEGAL IMPLICATIONS**

The City can approve works in the road reserve in accordance with the *Local Government Act 1995*.

**CONSULTATION**

Prior to the Finance Policy Operations and Legislation Committee on 8 December 2021, a copy of the parklet proposal was delivered to surrounding businesses and residents for information and the chance to comment or object. At this time, officers did not receive any comments or objections.

Following the deferral of item FPOL2112-4, the City has received five written and three verbal objections from local residents on Henry Street regarding the parklet application. Residents are concerned with the potential disturbance that may be caused to them from the parklet in an area that is mostly residential.

The City also requested further details from the applicant to see if a reduction in operating hours would be considered. The applicant has stated that this would not be logistically viable and confirms their proposal is to operate the parklet between 12pm and 12am (midnight) seven days per week.

**OFFICER COMMENT**

Henry Street provides for one-way vehicular traffic. The parklet proposal itself has been assessed and is acceptable for normal traffic movements. In addition to this, the parklet does not unduly interfere with other public infrastructure (such as drainage).

However, the potential use of the parklet for liquor consumption and the proposed times of operation are a concern. The City does not believe that the applicant will be able to control noise levels within the proposed parklet and although the original objectives of the parklet policy could be viewed as being met by this application, the intent of parklets did not include late night liquor consumption in residential areas.



## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.

## **OFFICER'S RECOMMENDATION**

Council

1. Rejects the application for a parklet permit for 1/36 Henry Street, Fremantle.
2. Request officers review and update the parklet policy to include controls surrounding the proposed use of parklets for liquor licencing.

The Presiding Member moved the recommendation in two parts.

### **COMMITTEE DECISION ITEM FPOL2202-5**

(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Mayor Hannah Fitzhardinge

Council

1. Rejects the application for a parklet permit for 1/36 Henry Street, Fremantle.

Carried: 6/1

For

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Fedele Camarda, Cr Frank Mofflin, Cr Marija Vujcic

Against

Cr Rachel Pemberton

### **COMMITTEE DECISION ITEM FPOL2202-5**

(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Mayor Hannah Fitzhardinge

2. Request officers review and update the parklet policy to include controls surrounding the proposed use of parklets for liquor licencing.

Carried: 7/0

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Fedele Camarda, Cr Frank Mofflin,  
Cr Marija Vujcic, Cr Rachel Pemberton

**FPOL2202-6 CONCEPT PROPOSAL - PEDESTRIAN REALM FOR SOUTH STREET DEVELOPMENT, NO 285 AND 297, HILTON**

**Meeting date:** 9 February 2022  
**Responsible officer:** Director Strategic Planning  
**Decision making authority:** Council  
**Attachments:** 1. Paget Street Concept Proposal  
**Additional information:** Nil

**SUMMARY**

**The purpose of this report is for Council to consider the Paget Street Concept proposal for the purposes of further design development, costing and engagement with the owners/developers of the site at No. 285 South Street.**

**Officers are seeking Council approval of the concept, with delegation to the CEO to approve works within the road reserve to implement the concept upon satisfaction of the alignment of the developers proposed works and contribution.**

**BACKGROUND**

In 2018, following community consultation, the city delivered a project to improve safety on South Street between Paget Street and Victor Street (Hilton Town Centre). The concept design and design principles for the Hilton Town Centre project were adopted by Council at Finance Policy Operations and Legislation Committee on 8 November 2017 (See FPOL1711-9).

In October 2020 a development application was lodged for the demolition of existing buildings and car parking at 285 South Street, Hilton and the construction of a single storey shop (supermarket), restaurant and liquor store building with basement car parking and services at 285 and 297 South Street, Hilton.

As the construction cost of the proposal was \$10 million, the application was required to be determined by the Metro Inner South Joint Development Assessment Panel (JDAP).

As required by the DAP Regulations, City planning officers prepared a Responsible Authority Report (RAR) for consideration by the JDAP but in accordance with the City's normal practice, before the RAR was submitted the application was referred to the Planning Committee. This was done to give the Committee the opportunity to consider whether to support the officer's recommendation or to provide different comments/recommendations to the JDAP. The application was considered by the Planning Committee on 13 January 2021, when the Committee resolved to not support the officer's recommendation for approval and instead requested the JDAP to refuse the application.

Notwithstanding the Planning Committee's resolution, on 28 January 2021 the JDAP subsequently approved the development subject to a number of conditions including the following:

11. Prior to the issue of a building permit for the development hereby approved, the owner/developer is to submit a verge landscaping plan and a modified street parking and pedestrian realm plan to the City of Fremantle for approval. The plan is to demonstrate the following:
  - Modified on street car parking bays in Paget Street.
  - Verge landscaping details.
  - The painting of a two (2) metre wide median to Paget Street.
  - Pavement marking to the vehicle crossover.

The works shown on the approved plan shall be installed at the cost of the applicant/owner prior to the occupation of the development, to the satisfaction of the City of Fremantle.

## **FINANCIAL IMPLICATIONS**

The opinion of probable costs for the proposed concept works in the road reserve is estimated at approximately \$300,000, this is subject to further detailed design.

## **LEGAL IMPLICATIONS**

Nil

## **CONSULTATION**

The application for the construction of a single storey Shop, Restaurant and Liquor store building with basement car parking and services at 285 and 297 South Street, Hilton was advertised for a period of 14 days, ending on 17 November 2020. Letters were sent to owners and occupiers adjoining and adjacent to the subject site, advertising signage was placed on the site and the application was advertised on the City's website. 170 submissions were received, including those received up to a week after the end of the formal consultation period. A summary schedule of all the submissions is detailed in the minutes of the Planning Committee meeting held on 13 January 2021.

Previously, the 2018 Hilton Town Centre project was consulted widely with the community. From 2–20 October 2017, the draft concept plan was presented to the community via 'My Say Freo' website, providing the opportunity to comment on the concept design.

The concept design for the Hilton Town Centre project was adopted by Council at Finance Policy Operations and Legislation Committee on 8 November 2017 (refer to the minutes of FPOL1711-9 for a full copy of the consultation report).

No additional consultation has been undertaken in relation to the Paget Street Concept proposal in this report.

## **OFFICER COMMENT**

The developer is seeking to make some changes in relation to the streetscape along Paget and South Street, primarily to improve access into the building and to accommodate a Western Power service pit. Officers have taken the opportunity to develop a broader scheme for Paget Street to inform the community space which would then form any consideration of the developer's proposal. The scheme has been developed as an extension of the 2018 Hilton Town Centre project which was approved by Council at the Finance, Policy, Operations and Legislation Committee meeting on 8 November 2017.

The developer has advised the Western Power service pit location is determined by Western Power and is in relation to the location of the building's substation. The proposed pit location is within the tree protection zone of a semi mature tree (*Erythrina indica* flame tree). The developer has requested the City consider allowing removal of this tree as the location of the pit will severely compromise the trees health and long-term viability.

The landscape plan considers the removal of this tree to accommodate the service pit but includes an offset where the streetscape improvements provide for 8 new mature trees on the development frontages along South Street and Paget Street.

Additional trees and landscaping are also proposed centrally and on the western side of Paget Street.



Image: Semi-mature *Erythrina indica* flame tree the developer has requested the City considers allowing removal.

The developer is also proposing built infrastructure within the road reserve, this was not approved as part of the development application approval. The works proposed are to address access and the difference in level between the buildings floor level and the road reserve and consist of retaining walls and steps. The City would not normally approve development of this nature in the road reserve.

Notwithstanding this, the updated concept proposal officers have developed (attachment 1) offers the potential to accommodate a negotiated solution with the developer; the concept was developed as a 'phase 2' to compliment the streetscape and reflects previous works undertaken on South Street. The concept anticipates a sense of place is maintained and enhanced further into Paget Street; furthermore, it can now inform conversation with the current developer's requests for public space review by:

- Continuing the 'Hilton Town Centre' streetscape design principles into Paget Street by:
  - Prioritising pedestrians and cyclists over vehicles.
  - Increasing ramps at Paget Street to make it easier and safer for people with prams, wheelchairs, and mobility issues to cross the street.
  - Using the same furniture, colour and planting scheme
  - Increasing tree canopy cover.
- Minimising built infrastructure within the road reserve, such as walls and steps, which facilitate access to the building.
- Improving pedestrian facilities and road safety by:
  - Reducing on-street parking and introducing an additional informal pedestrian crossing point across Paget Street.
  - Reducing vehicle speeds on Paget Street through narrowing of the vehicle lanes

- Improving the pedestrian environment by:
  - Increased number of trees and landscaping.
  - Additional seating.
- Improving the end of trip facilities through increased bike parking.

The scheme can be delivered in stages, depending on funding.

It is anticipated that should Council endorse the concept, Stage 1 (scope and cost to be determined) would be the developer's contribution in accordance with Condition 11 of the JDAP approval and in accordance with the City's expectations - if it is to agree to permit additional works the developer wishes to do on the interface between the site and the road reserve. This stage could be constructed by the developer, or the City on the developer's behalf (and at the developer's cost).

Further stages can be constructed by the City upon approval of a budget for the works.

Officers are seeking Council approval of the concept proposal, with delegation to the CEO to approve works within the road reserve to implement the concept subject to a satisfactory proposal in respect to the developers proposed works and contribution.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

Council

1. Approve the Paget Street concept proposal in Attachment 1.
2. Subject to approval of part 1, request officers develop detailed design options to ensure:
  - a. the integration of works with surrounding developments within the road reserve into the overall design.
  - b. a suitable contribution to be made by the developers for implementation of the works.
3. Authorise the Chief Executive Officer to approve design and implementation of the agreed works where in accordance with the requirements of part 2.

## **AMENDMENT**

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

Amend part 2 of the officer's recommendation, as follows:

2. Subject to approval of part 1, request officers develop detailed design options **noting:**
  - a. That the provision, location, species and canopy coverage of trees are appropriately considered within the detailed design process and that they are maximised using suitable nursery stock that are consistent with the Garden suburb concept and the Hilton Town Centre Scheme.
  - b. That officers liaise with local stakeholders including the medical centre and the PTA with regards to the location of the bus stops, all crossovers and the extent of the Town Centre whilst having due regards for vehicle movements and sightlines.
  - c. The design shall also ensure that:
    - i. the integration of works with surrounding developments within the road reserve into the overall design.
    - ii. a suitable contribution to be made by the developers for implementation of the works.

**Amendment carried: 7/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic

### **Reason for change:**

To provide some additional detail and clarity in respect to the Council's key design requirements for incorporation into the options being discussed.

**COMMITTEE DECISION ITEM FPOL2022-6**  
**(Officer's recommendation, as amended)**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Frank Mofflin**

**Council**

- 1. Approve the Paget Street concept proposal in Attachment 1.**
- 2. Subject to approval of part 1, request officers develop detailed design options *noting:***
  - a. *That the provision, location, species and canopy coverage of trees are appropriately considered within the detailed design process and that they are maximised using suitable nursery stock that are consistent with the Garden suburb concept and the Hilton Town Centre Scheme.***
  - b. *That officers liaise with local stakeholders including the medical centre and the PTA with regards to the location of the bus stops, all crossovers and the extent of the Town Centre whilst having due regards for vehicle movements and sightlines.***
  - c. *The design shall also ensure that:***
    - i. the integration of works with surrounding developments within the road reserve into the overall design.**
    - ii. a suitable contribution to be made by the developers for implementation of the works.**
- 3. Authorise the Chief Executive Officer to approve design and implementation of the agreed works where in accordance with the requirements for part 2.**

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

**Cr Marija Vujcic left the meeting at 7.32pm during the following item and returned at 7.35pm prior to determination.**

**Cr Fedele Camarda left the meeting at 7.35pm during the following item and returned at 7.38pm prior to determination.**



**FPOL2202-3 PROPOSED LOCAL GOVERNMENT PROPERTY AMENDMENT  
LOCAL LAW 2022 – SHARK FISHING ON BEACHES PROPOSED  
PROHIBITION**

**Meeting date:** 9 February 2022  
**Responsible officer:** Manager Governance  
**Decision making authority:** Committee  
**Agenda attachments:** 1. Proposed City of Fremantle Local Government  
Property local law 2022  
**Additional information:** Nil

**SUMMARY**

This report seeks Council approval to initiate an amendment to the City of Fremantle *Local Government Property Local Law 2002*; in accordance with Section 3.12 of the *Local Government Act 1995* to enable the City to prohibit fishing for sharks on City beaches which will create a safer beach environment for swimmers.

This report recommends that Council determines to initiate the process of making a City of Fremantle *Local Government Property Amendment Local Law 2022*.

**BACKGROUND**

Shark fishing from the City's beaches has recently come to prominence with increasing reports of sophisticated shark fishing practices, including the use of berley and blood to attract sharks, in waters where swimmers and other water users frequent the beaches along the coast of Fremantle and in particular Port Beach. These reports have come forward with greater frequency since the recent shark attack incident at Port Beach in November 2021. This has raised concerns with other water users and swimmers.

It is believed that shark fishing from the shore, where the fishing is undertaken in a way that encourages sharks to hunt in these areas may be dangerous to regular swimming activities in these locations. This report provides information that will enable Council to consider the options available to better protect swimmers along the City's beaches, by restricting the areas in which fishing for sharks may occur.

**Option one**

**Local law provisions**

Council can consider the adoption of provisions within the City's Local Government Property Local Law to provide the framework necessary to allow the City of Fremantle to prohibit shark fishing from its beaches.

These types of provisions have not been commonplace in local laws since the repeal of the Local Government Model By-laws (Safety, Decency, Convenience and Comfort of Persons in Respect of Bathing) No. 14 which included the below provisions and ceased on 17 October 2005:

*“9. Fishing*

- (1) Where the Council sets aside areas in which fishing is prohibited, it shall exhibit signs indicating that fishing is prohibited between the signs.*
- (2) A person shall not, at any place within the defined area, whether that place is one in which fishing is permitted or not —*
  - (a) clean fish or cut bait on any seat or handrail;*
  - (b) leave or deposit fish offal on land or in the sea within 183 metres of any portion of the beach at which persons are swimming or are likely, within twelve hours thereafter, to be swimming; or*
  - (c) without written permission of the Council, fish for sharks by use of set or buoyed lines or use blood or any other lure, for the purpose of attracting sharks.”*

There are two local governments that have adopted provisions in their local laws which deal with the prohibition of shark fishing in particular, being the City of Cockburn and the Town of Cottesloe.

The **City of Cockburn** includes the following provision into its Consolidated (Local Government Act) Local Laws. There is no penalty applied to this offence included in its local law:

*“3.3 Prohibited Activities*

*A person shall not on a reserve, foreshore or beach:*

- ...(d) fish for sharks by use of set or buoyed lines or use blood or any other lure for the purpose of attracting sharks...”*

The **Town of Cottesloe** has the following provision in its Beaches and Beach Reserves Local Law and applies a penalty of \$100.

*“PART 7 - FISHING 7.*

*1 Certain fishing activities prohibited*

*Within the defined area no person shall at any time –*

- (a) fish for sharks by any means;*
- (b) use blood as a lure for the purpose of attracting marine life;*
- (c) clean fish, or leave or deposit fish offal or bait and associated material, except in the bins provided for that purpose; or*
- (d) use or be in possession of a device such as a spear gun, gidgee, hawaiian sling or other like device.”*

## State legislation

An amendment to the City's property local law is considered to be the most suitable option to enable the prohibition of shark fishing as currently the *Fish Resources Management Act 1994* only regulates fishing in regard to aquatic resources in Western Australia rather than in regard to safe fishing practises in areas shared by swimmers and other water users.

On consultation with Department of Primary Industries and Regional Development (DPIRD), the following wording was recommended to be included in the City's provisions, to enable a more prescriptive focus on fishing methods:

"A person must not fish by means of any fishing line that contains any metal wire or chain within one metre of any hook."

This wording has been included in the recommended amendments to the local law.

## Option two

### Fish habitat protection area (FHPA)

Option two, intended to be considered in addition to the adoption of local law provisions, is to explore the possibility of the development of a Fish Habitat Protection Area (FHPA), to stretch from Leighton to Sandtrax, in consultation with the DPIRD.

The intention is that this will also have the effect of banning shark fishing at those beaches.

It is not clear at this stage that the City's waters would meet the criteria for the implementation of a FHPA, for example, Cottesloe has a reef (fish habitat) but that does not extend down into Fremantle waters.

There are currently six FHPA's in Western Australia:

Fish Habitat Protection Areas in Western Australia	
Abrolhos Islands	<a href="#">Fisheries Occasional Publication 105</a>
Cottesloe Reef	<a href="#">Fisheries Management Paper 155</a>
Kalbarri Blueholes	<a href="#">Fisheries Management Paper 188</a>
Lancelin Island Lagoon	<a href="#">Fisheries Management Paper 149</a>
Miaboolya Beach	<a href="#">Fisheries Management Paper 161</a>
Point Quobba	<a href="#">Fisheries Management Paper 185</a>

DPIRD provides the following information about FHPA's:

*"Fish and their habitats within a particular area can be covered by special protection and management in Western Australian waters by including them within a Fish Habitat Protection Area (FHPA)."*

*These areas are set aside under section 115 of the Fish Resources Management Act 1994 (FRMA) for the following purposes:*

- *the conservation and protection of fish, fish breeding areas, fish fossils or the aquatic eco-system;*
- *the culture and propagation of fish and experimental purposes related to that culture and propagation; or*
- *the management of fish and activities relating to the appreciation or observation of fish.*

*Under the Act, fish can include a range of organisms including finfish, crustaceans, molluscs, corals, seagrass and algae at all stages of their life cycles.*

*FHPAs can be established in any area of the aquatic environment (freshwater and marine) which has been identified as having a particular value for the protection of fish and their habitats, education and/or aquaculture and which is considered to require a higher level of protection than other parts of the marine environment. The Minister for Fisheries retains the vesting of an FHPA, or it can be vested within a community group which is a body corporate.*

*Management of an FHPA is designed and carried out to achieve the purposes outlined in a Plan of Management. This Plan must be made available for public review before it is finalised. This enables interested groups and individuals to have a direct say in how the area should be managed.*

*FHPAs may restrict non-fishing related activities, such as the use of anchors, if they are considered to be inconsistent with the purpose of the FHPA; for example if there is a risk to damage of fragile marine formations such as coral reefs.*

*It is important to note that a proponent of an FHPA must first demonstrate its need, as well as local support. A proposal to create an FHPA needs to be endorsed by the Minister for Fisheries before it can proceed.*

*FHPAs and a marine reserve declared under the Conservation and Land Management Act 1984 cannot exist in the same area. For instance, if a FHPA is already in place when a marine reserve is established, the FHPA will automatically be cancelled.”*

The **Town of Cottesloe** provides the following information on its FHPA:

*“An FHPA is a location declared by the Minister for Fisheries as having special ecological and community significance and thus deserving special management to ensure its long-term sustainability. Its principal aim is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Special rules regarding fishing and other activities apply in most FHPAs.*

#### **Prohibited activities**

- *Spearfishing is prohibited throughout the FHPA. This includes spear guns, gidgees, hawaiian slings or other similar devices.*
- *Commercial fishing is prohibited throughout the FHPA.*

### **Recreational fishing**

*Recreational fishing (except net fishing) for fish such as tailor, herring, whiting, skipjack and garfish is permitted in the FHPA, subject to recreational fishing rules for the West Coast region.*

- *Unwanted fish should be carefully released.*
- *Fishing for sharks and/or rays in the FHPA is prohibited.*
- *No cleaning of fish and leaving of offal or bait.*
- *Subject to Department of Fisheries' regulations the taking of rock lobster in season is permitted (for more information log onto [www.fish.wa.gov.au](http://www.fish.wa.gov.au)).*
- *The take of abalone in the FHPA is prohibited in areas south of the Cottesloe Groyne.*

### **Collection of live specimens**

*The collection of aquarium fish specimens and of marine flora and fauna, including live shell fish, coral and live rock (substrate which has living marine organisms attached to it) is prohibited within the FHPA.*

### **Jet skis**

*The use of jet skis is prohibited within the restricted area.*

### **Anchoring**

*Anchoring of any craft in the FHPA is prohibited.*

- *Five yellow moorings have been provided within the FHPA for use by boats up to 12 metres. These moorings are removed during winter (April – November) to prevent damage from winter storms.*

### **Snorkelling and scuba diving**

*The Cottesloe Reef FHPA is a popular snorkelling and scuba diving site, particularly during summer in low swell conditions.*

*Snorkelling and scuba diving are ideal ways to observe and appreciate the FHPA's marine habitat. Both activities, pursued safely and responsibly, are fully encouraged within the FHPA."*

## **FINANCIAL IMPLICATIONS**

Community Safety Officers will be responsible for compliance activities. Shark fishing is generally undertaken outside of regular patrol hours, with infrequent patrols scheduled at peak times to monitor the activity. Regular additional hours to patrol outside of normal rostered hours would incur additional staffing costs and would therefore require additional funding.

## **LEGAL IMPLICATIONS**

Section 3.5 of the *Local Government Act 1995* confers the legislative function of local government to make local laws under the *Local Government Act 1995* in addition to the legislative power to make local laws conferred on local governments by any other written law. A local law made under this section, is inoperative to the extent that it is inconsistent with the *Local Government Act 1995* or any other written law.

Regulation 3 of the Local Government (Functions and General) Regulations 1996 requires that for the purposes of Section 3.12 of the Local Government Act 1995, the purpose and effect of any proposed local law must be included in the agenda and minutes of a meeting.

If Council resolves to amend the 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*, as summarised below:

- **Council initiate process** - s3.12(2) of the *Local Government Act 1995* (Act)
- **Public notice** – s3.12(3) of the Act
- **Notification to Minister** - s3.12(3)(b) of the Act
- **Considering Submissions** – s3.12(4) of the Act
- **Gazettal notice** – s3.12(5) of the Act
- **Public notice** – s3.12(6) of the Act
- **Explanatory Memoranda** – s3.12(7) of the Act
- **Commencement of local law** - s3.14 of the Act
- **Review by government (Joint Standing Committee on Delegated Legislation)** - s3.17 of the Act

## **CONSULTATION**

In accordance with Section 3.12(3) of the Local Government Act 1995, the City is required to give local public notice of the proposed City of Fremantle Property Amendment Local Law 2022 inviting submissions for a period of no less than six (6) weeks after the notice is given.

## **OFFICER COMMENT**

The officer recommendation is that the City approve an amendment to the City's Local Government Property Local Law to enable it to specify areas in which fishing activity, namely fishing for sharks, is prohibited.

The intention is to enable the local government to prohibit shark fishing from the beaches of Fremantle to better protect those areas that are habitually populated with swimmers and other water users. The report also recommends adding a new penalty to the local law in reference to this activity to an amount that reflects the inherent risks associated with the activity. This new penalty is recommended at \$500.00.

Whilst not part of the recommendation below, Council may also consider exploring the possibility of creating or extending the current fish habitat protection area in addition to amending the local law.

If council were to be inclined to consider this as well, a second point could be added to the recommendation as;

2. *Requests that the Chief Executive Officer continue to explore and advocate for:*
  - a. *the implementation of a fish habitat protection area between Leighton and Port beaches (including Sandtracks).*
  - b. *the State Government to introduce legislation to better manage shark fishing in conjunction with other recreational activities off the coast of Western Australia.*

The proposed changes which will enable the prohibition to be applied are detailed in the below table with the amendments to the City of Fremantle Local Government Property Amendment Local Law 2020 attached to this report.

Amendment	Justification
<p>Insert the following new clause 5.4 and renumber subsequent clauses:</p> <p><b>5.4 prohibited fishing activities</b></p> <p>(1) A person shall not, in relation to a beach, fish for sharks –</p> <ol style="list-style-type: none"> <li>(a) by means of any fishing line that contains any metal wire or chain within one metre of any hook;</li> <li>(b) with use of blood or berley as a lure;</li> <li>(c) with use of a device such as a spear gun, hand spear, hawaiian sling or other like device.</li> </ol>	<p>This amendment is intended to allow the City to control shark fishing to better protect swimmers along its coast.</p>
<p>Renumber all subsequent clauses following the new clause 5.4</p>	<p>To correct numbering.</p>
<p>Insert new penalty: Undertaking prohibited fishing activities \$500</p>	<p>Add new penalty – to apply a penalty of \$500 to the new clause. This penalty is considerably higher than other penalties included in the existing schedule to highlight the inherent danger related to this provision.</p>
<p>Amend referencing throughout local law to match new numbering and referencing.</p>	<p>References adjusted to correct and match new numbering</p>

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

## OFFICER'S RECOMMENDATION

Council

1. Approves public notice be given, in accordance with the *Local Government Act 1995*, of its intention to make a *City of Fremantle Property Amendment Local Law 2022* (Attachment 1), the purpose and effect of which is as follows:

Purpose: the purpose of the City of Fremantle Local Government Property Amendment Local Law 2022 is to enable the City of Fremantle to provide additional controls and management related to shark fishing on local government property to support increased public safety.

Effect: the effect of the City of Fremantle Local Government Property Amendment Local Law 2022 is that it will provide a framework for the control of shark fishing on local government property and will provide authority to enforce the law and administer fines.

## AMENDMENT

Moved: Cr Jenny Archibald

Seconded: Mayor Hannah Fitzhardinge

Amend the proposed new clause 5.4 to read as follows:

### **5.4 prohibited fishing activities**

- (1) A person ~~shall not, in relation to a beach,~~ **must not fish for sharks –**
  - (a) **by means of any fishing line that contains any metal wire or chain within one metre of any hook;**
  - (b) **with use of blood or berley as a lure;**
  - (c) **with use of a device such as a spear gun, hand spear, hawaiian sling or other like device.**

**Amendment carried: 7/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic



**COMMITTEE DECISION ITEM FPOL2022-3**  
**(Officer's recommendation, as amended)**

**Moved: Cr Jenny Archibald**

**Seconded: Mayor Hannah Fitzhardinge**

**Council**

- 1. Approves public notice be given, in accordance with the *Local Government Act 1995*, of its intention to make a *City of Fremantle Property Amendment Local Law 2022* (Attachment 1), the purpose and effect of which is as follows:**

**Purpose:** the purpose of the City of Fremantle Local Government Property Amendment Local Law 2022 is to enable the City of Fremantle to provide additional controls and management related to shark fishing on local government property to support increased public safety.

**Effect:** the effect of the City of Fremantle Local Government Property Amendment Local Law 2022 is that it will provide a framework for the control of shark fishing on local government property and will provide authority to enforce the law and administer fines.

- 2. *Amends the proposed new clause 5.4 to read as follows:***

**5.4 *prohibited fishing activities***

- (1) *A person must not fish for sharks –***
  - (a) *by means of any fishing line that contains any metal wire or chain within one metre of any***
  - (b) *with use of blood or berley as a lure;***
  - (c) *with use of a device such as a spear gun, hand spear, hawaiian sling or other like device.***

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

## 10.2 Council decision

### FPOL2202-9 NORTH FREMANTLE BOWLING CLUB – EXPRESSION OF INTEREST CRITERIA

**Meeting date:** 9 February 2022  
**Responsible officer:** Manager Community Development  
**Decision making authority:** Council  
**Attachments:** Nil  
**Additional information:** Nil

#### SUMMARY

At the Finance, Policy, Operations and Legislation Committee Meeting held on Wednesday 10 November 2021, Council endorsed the following:

- 1. Receive the petition relation to the North Fremantle Bowling Club*
- 2. Request the CEO form a reference group to develop criteria for an EOI for a licence or lease, as appropriate, for the medium-term use of the North Fremantle Bowling Club site that includes:*
  - a. Tenancy arrangements*
  - b. Anticipated community use of the site*
- 3. Request a report be brought back to Council on the criteria for an EOI for the January Council meeting.*
- 4. Officers prepare and cost a maintenance plan for the site for Council's consideration as a separate report*

This report outlines the key criteria developed by the CEO reference group for an expression of interest for a license or lease, as appropriate, for the medium-term use of the existing North Fremantle Bowling Club site. It includes the main objective and expected outcome for the North Fremantle and wider community.

The running cost and maintenance plan for the site currently being prepared will be submitted to Council as a separate report as per the point 4 of endorsed actions (above).

This report recommends that Council endorse the criteria for the delivery of an expression of interest process that will seek to identify potential future uses for the existing North Fremantle Bowling Club.

#### BACKGROUND

The traditional way local government has catered for community facilities is with single use and stand-alone facilities. While many of these facilities still exist and are used, there has been a major shift to multi-purpose facilities, which can improve the use and sustainability of community facilities significantly. This trend will continue with an increasing focus on improving the capacity of single use facilities to cater for multiple users.

## **Current arrangements**

The North Fremantle Bowling Club facility is leased to a community group who operates the venue as a social bowling club.

The lessee currently has access to the premises under a lease arrangement, which has expired and has been operated in a holding over arrangement since 2012. Termination of the lease would be subject to providing 30 days written notice.

The City has been made aware that there have been various concerns raised by members of the community regarding membership and accessing the facility to enable wider community benefit and use.

To enable fuller consideration of the issues and support a more comprehensive recommendation a reference group was established by the Chief Executive Officer in accordance with Council's Internal Groups policy in December 2021. The reference group was tasked to consider criteria for an expression of interest for the medium-term use of the existing North Fremantle Bowling Club including tenancy arrangements and anticipated community use of the site.

It is intended that a medium-term lease would be based on a five plus five-year agreement with the preferred community group.

The EOI process will look at potential future usage of the site, including participation trends and industry standards. The current indication is that bowls alone for this site is potentially unviable in the longer term for reasons such as oversupply of bowls facilities across the City and declining membership of bowls across WA.

Residents within the City of Fremantle are well catered for in terms of bowls club options. There are a number of clubs within other Local Government Authorities that also service the City of Fremantle residents, these include East Fremantle, Mosman Park, Kardinya and Spearwood.

## **FINANCIAL IMPLICATIONS**

The City currently receives \$1 per year income from a peppercorn lease, with outgoings paid by the lessee.

It is intended the building will be leased out as-is, in current building condition.

A further report will be presented by the Infrastructure team on building and grounds maintenance costs, along with any building compliance requirements.

## **LEGAL IMPLICATIONS**

The lessee currently has access to the premises under a lease agreement, which has expired and has been operated in a holding over arrangement since 2012. The agreement can be terminated by giving a minimum of 30 days-notice.

The liquor licence is a club licence, it cannot be transferred to another entity. The licence would be cancelled if the bowling club lease is terminated.

### **CONSULTATION**

Council staff have been liaising with the current lessee of the North Fremantle Bowling Club to keep them up to date and will continue to liaise through the projected timeframe as outlined below:

<b>PROJECTED TIMELINES</b>	
9 February 2022	Council to endorse criteria
End February 2022	Forecast draft expression of interest
March 2022	Release of expression of interest to market for 6 to 8 weeks
End April 2022	EOI Closes
May 2022	Assessment process
July 2022	Potential appointment with terms of lease potentially going to Council for endorsement

The Expression of interest timeframe of 6-8 weeks will allow bidders to seek funding and attract community collaboration opportunities as part of developing submissions.

A clear statement that Elected Members are not to be canvassed during the procurement process is to be included in the expression of interest.

### **OFFICER COMMENT**

The Chief Executive Officer established the North Fremantle Bowling Club reference group to develop criteria for the delivery of an expression of interest process for a licence or lease, as appropriate, for the future medium-term use of the existing North Fremantle Bowling Club that includes, consideration of the following:

- a. Tenancy arrangements
- b. Anticipated community use of the site.

Reference group members attended two meetings on the 15<sup>th</sup> and 21<sup>st</sup> December 2021, with the objective to ensure the equitable and appropriate allocation of tenant and usage, whilst optimising maximum community benefit of the existing North Fremantle Bowling Club. The outcome of the EOI process is to activate and enhance the physical activity, social interaction, and cultural development in the North Fremantle wider community.

The reference group developed the following criteria:

- a. The ability to demonstrate an ongoing utilisation of the facility that is equal to or greater than 60% per half day
- b. The facility is made accessible to the broader community and the extent to which a diversity of use will be achieved can be demonstrated
- c. The use is complementary to surrounding sites such as the Community Hall, Community Farm and Playground, and impact to surrounding residents is minimal
- d. The financial and operational sustainability of the use can be clearly demonstrated through the provision of a business plan and other relevant financial documentation
- e. The proposal can demonstrate the local community has been consulted or there is an intent and plan to do so
- f. The extent to which the proposal aligns with the City's Strategic Community Plan and other relevant informing strategies

The proposed criteria will work to achieve the objective of guaranteeing the equitable and appropriate allocation of tenant and usage, whilst maximizing community benefit of the North Fremantle Bowling Club.

The City recognises that community facilities can have a strong impact on residents' quality of life, and contribute to the quality of visitors' experience. Community facilities can facilitate and promote the adoption of sport and recreational activities, as well as consolidate social inclusion. They are pivotal in community wellbeing.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **OFFICER'S RECOMMENDATION**

Council:

1. Endorse the following criteria for the delivery of an expression of interest process that will seek to identify potential future uses for the North Fremantle Bowling Club:
  - a. The ability to demonstrate an ongoing utilisation of the facility that is equal to or greater than 60% per half day.
  - b. The facility is made accessible to the broader community and the extent to which a diversity of use will be achieved can be demonstrated
  - c. The use is complimentary to surrounding sites such as the Community Hall, Community Farm and Playground, and impact to surrounding residents is minimal

- d. The financial and operational sustainability of the use can be clearly demonstrated through the provision of a business plan and other relevant financial documentation
  - e. The proposal can demonstrate the local community has been consulted or there is an intent and plan to do so
  - f. The extent to which the proposal aligns with the City's Strategic Community Plan and other relevant informing strategies
2. Note that a further report will be presented on the current running costs and maintenance plan for the North Fremantle Bowling Club site.

**AMENDMENT**

**Moved: Cr Rachel Pemberton**

**Seconded: Cr Frank Mofflin**

**To remove the wording 'per half day' in 1a.**

**Amendment carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

**COMMITTEE RECOMMENDATION ITEM FPOL2022-9**

**(Officer's recommendation, as amended)**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Doug Thompson**

**Council:**

- 1. Endorse the following criteria for the delivery of an expression of interest process that will seek to identify potential future uses for the North Fremantle Bowling Club:**
  - a. The ability to demonstrate an ongoing utilisation of the facility that is equal to or greater than 60%.**
  - b. The facility is made accessible to the broader community and the extent to which a diversity of use will be achieved can be demonstrated**
  - c. The use is complimentary to surrounding sites such as the Community Hall, Community Farm and Playground, and impact to surrounding residents is minimal**
  - d. The financial and operational sustainability of the use can be clearly demonstrated through the provision of a business plan and other relevant financial documentation**
  - e. The proposal can demonstrate the local community has been consulted or there is an intent and plan to do so**
  - f. The extent to which the proposal aligns with the City's Strategic Community Plan and other relevant informing strategies**
- 2. Note that a further report will be presented on the current running costs and maintenance plan for the North Fremantle Bowling Club site.**

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

## 10.1 Committee delegation

### FPOL2022-4 PROPOSED CITY OF FREMANTLE CAT MANAGEMENT AMENDMENT LOCAL LAW 2022

Meeting date:	9 February 2022
Responsible officer:	Manager Governance
Decision making authority:	Committee
Attachments:	1. Cat Management Amendment Local Law 2022
Additional information:	Nil

#### SUMMARY

This report is to initiate an amendment of the City's Cat Management local law 2020 in accordance with section 3.16(1) of the *Local Government Act 1995*.

This report recommends that Council initiates the adoption of the City of Fremantle Cat Management Amendment Local Law 2022 to include nuisance provisions and expand cat prohibited areas.

#### BACKGROUND

On 13 May 2020, Council adopted the City's Cat Management Local Law 2020 which came in effect in June 2020 following its Gazettal on the 25 May 2020.

At the Ordinary Council Meeting held on 24 November 2021 Council supported a motion moved by Cr Lang as follows:

*"Council supports current initiatives to improve cat and wildlife safety by amending the City of Fremantle Cat Management Local Law to expand cat prohibited areas on all City owned and managed property and consider including nuisance provisions that are consistent with the controls provided by the Cat Act 2011."*

The City's local law already contains provisions in respect to areas from which cats may be prohibited by the City and it is proposed that these areas are expanded through amendment of Schedule 3.

The City's local law does not include provisions relating to nuisance and it is proposed that, in addition to including a new clause dealing with nuisance that an interpretation on nuisance is included.

#### FINANCIAL IMPLICATIONS

Increases to service levels required by the Community Safety Team may occur to accommodate oversight of larger areas of cat prohibited areas. Increased service provision will incur additional costs for the City.



## LEGAL IMPLICATIONS

If Council resolves to initiate an amendment to the local law, the procedure is the same as it would be for making a new local law.

As set out in Section 3.12 of the *Local Government Act 1995*, and summarised below:

- **Council initiate process** - s3.12(2) of the *Local Government Act 1995* (the Act) & Regulation (3) *Local Government (Functions and General) Regulations 1996*
- **Public notice** – s3.12(3) of the Act
- **Notification to Minister** - s3.12(3)(b) of the Act
- **Considering Submissions** – s3.12(4) of the Act
- **Gazettal notice** – s3.12(5) of the Act
- **Public notice** – s3.12(6) of the Act
- **Explanatory Memoranda** – s3.12(7) of the Act
- **Commencement of local law** - s3.14 of the Act
- **Review by government (Joint Standing Committee on Delegated Legislation)** - s3.17 of the Act

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* requires that for the purposes of Section 3.12 of the *Local Government Act 1995*, the purpose and effect of any proposed local law must be included in the agenda and minutes of a meeting.

## CONSULTATION

In accordance with Section 3.12(3) of the *Local Government Act 1995*, the City is required to give local public notice of the proposed City of Fremantle Cat Management Amendment Local Law 2022, inviting submissions for a period of no less than six weeks after the notice is given.

## OFFICER COMMENT

Nuisance provisions are commonly included in Cat Management local laws and it is not anticipated that there will be objections to the inclusion of these provisions in the City of Fremantle's local law.

In contrast there are no cat management local laws in Western Australia that include all of the property under the control of the local government as Cat Prohibited Areas.

In 2014 the Joint Standing Committee on Delegated Authority objected to Cat management local laws (Shire of Dardanup and five others) that attempted to include provisions about 'wandering cats' and 'cats being under effective control in public places.' The view of the JSCDL (and ultimately the Minister) was that, as the Cat Act 2011 did not include wandering cats within the list of matters for which a local law could be made, those clauses were not within power.

The committee resolved those provisions about “wandering cats” were inconsistent with or repugnant to the *Cat Act 2011* and that prescribing it an “offence to allow a cat to be in any ‘other place’ unless consent had been given by the occupier or on behalf of the occupier, and the cat was under ‘effective control’” was not a matter appropriate for subsidiary legislation. Ultimately, the Governor chose to repeal those provisions of the Cat Local Laws.

As outlined above, previous attempts by local governments included provisions relating to cats being under “effective control” and “wandering cats” in their cat management local laws have been unsuccessful.

However, the City is not attempting to ensure cats are under “effective control” on City property but to simply prohibited Cats from being on property under the management or control of the City of Fremantle.

Proposed amendments to the existing City of Fremantle Cat Management Local Law 2020		
	Amendment	Comment
1.	<p>Include a new definition in correct alphabetical order -</p> <p>nuisance means—</p> <p>(a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;</p> <p>(b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land;</p> <p>(c) interference which causes material damage to land or other property on the land affected by the interference;</p>	<p>These are common provisions of other local government adopted cat local laws and not expected to raise any objections to inclusion in the City of Fremantle Cat Management Local Law</p>
2.	<p>Insert new clause 2.2 after clause 2.1 -</p> <p>2.2 Cat not to be a nuisance</p> <p>(1) An owner shall not allow a cat to be or create a nuisance.</p> <p>(2) Where in the opinion of an authorised person, a cat is creating a nuisance, the local government may give written notice to the owner of the cat requiring that person to abate the nuisance.</p> <p>(3) When a nuisance has occurred and a notice to abate the nuisance is given, the notice remains in force for the period specified by the local government in the notice which shall not exceed 28 days.</p>	

	(4) A person given a notice to abate the nuisance shall comply with the notice within the period specified in the notice.																					
3.	<div>Insert new Schedule 2:</div> <div>Schedule 2 Prescribed Offences</div> <div>[Clause 2.2]</div> <table><tr><th>Item No.</th><th>Clause No.</th><th>Nature of Offence</th><th>Modified Penalty</th></tr><tr><td>1</td><td>2.1</td><td>Cat in prohibited area</td><td>\$200</td></tr><tr><td>2</td><td>2.2</td><td>Cat causing a nuisance</td><td>\$200</td></tr><tr><td>3</td><td>3.2</td><td>Failure of a person to hold a permit when required</td><td>\$200</td></tr><tr><td>4</td><td>3.8</td><td>Breach of a condition of a permit</td><td>\$200</td></tr></table>	Item No.	Clause No.	Nature of Offence	Modified Penalty	1	2.1	Cat in prohibited area	\$200	2	2.2	Cat causing a nuisance	\$200	3	3.2	Failure of a person to hold a permit when required	\$200	4	3.8	Breach of a condition of a permit	\$200	<div>The inclusion of a penalty relevant to the above proposed addition of nuisance provisions.</div>
Item No.	Clause No.	Nature of Offence	Modified Penalty																			
1	2.1	Cat in prohibited area	\$200																			
2	2.2	Cat causing a nuisance	\$200																			
3	3.2	Failure of a person to hold a permit when required	\$200																			
4	3.8	Breach of a condition of a permit	\$200																			
4.	<div>Insert new Schedule 3:</div> <div>Schedule 3 Cat Prohibited Areas</div> <div>[Clause 2.1]</div> <div>Places where cats are prohibited –</div> <div>All City of Fremantle owned and managed property.</div>	<div>This is not a common approach in cat management local laws. The common approach has been to list all areas in the schedule individually.</div> <div>This is not considered practicable as the City would need to list approximately 294 properties individually and then amend the local law each time there was a change.</div> <div>It is not clear if this format will raise objections from the DLGSC or the JSCDL.</div>																				

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

**COMMITTEE DECISION ITEM FPOL2022-4**  
**(Officer's recommendation)**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Doug Thompson**

**Council approves public notice be given, in accordance with the *Local Government Act 1995*, of its intention to make a *City of Fremantle Cat Management Amendment Local Law 2022*, the purpose and effect of which is as follows:**

**Purpose: To exercise the control of cats, powers which exist under the *Cat Act 2011*.**

**Effect: To better control nuisance cats and expand the prescribed areas in which cats are prohibited.**

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

## **FPOL2202-1 INFORMATION REPORTS - FEBRUARY 2022**

### **1. CREATIVE STRATEGY INFORMATION REPORT**

**Responsible officer:** Manager Arts and Culture  
**Agenda attachments:** Nil  
**Additional information:** Nil

#### **SUMMARY**

**The purpose of this report is to inform the Finance, Policy, Operations and Legislation (FPOL) committee of the proposed framework of the City of Fremantle Creative Strategy.**

**This report recommends that FPOL note this important piece of work that will be delivered in 2022.**

#### **BACKGROUND**

Fremantle's vision for the future is to be a destination city that is clever and creative, inspiring, and inclusive. A city that welcomes and celebrates all people and cultures. A city that encourages innovation, prosperity, and achievement. A compassionate city that cares for the wellbeing of our people and the environment we share. A city that thrives on diversity and dares to be different. Fremantle's creative sector is essential to the City achieving this aspiration and is already a major contributor to our social, cultural and economic success. City of Fremantle's investment in this area – through infrastructure, the Fremantle Art Centre, the City's art collection, public art program, festivals and grants – has firmly established Fremantle's reputation as a creative city. Fremantle's unique character and cultural milieu is well understood by its residents; however, this strategy will seek to identify the conditions that contribute to this precious ecosystem and ensure it continues to thrive.

Character, culture, and heritage are a strategic focus area of the Strategic Community Plan. The next step is to outline the intended outcomes of the Creative Strategy over a 10-year period, in response to the City's Vision and Strategic Community Plan. The Strategy will evaluate the city's creative economy and its role in shaping the future of Fremantle. It builds on the former Arts and Culture Plan 2014 – 2015 and will revisit the Cultural Policy and Plan 1999 - 2003, whilst also considering the broader strategic context at a state, national, and international level.

There is an urgency for the completion of the Creative Strategy. Global and national economic trends reveal that creativity and innovation are at the heart of competitive advantage in leading economies and organisations. Arts and culture contribute to and enrich our everyday lives and helps build communities that are mentally healthy and socially cohesive. Now, more than ever, arts and culture are an essential part of our community's resilience, healing, and future revitalisation.

Fremantle is a nationally recognised creative hotspot. A recent Bankwest Curtin Economics Centre report cited strategic potential for the creative industries in WA as: art and culture based on local Aboriginal cultures; innovation that capitalises on emerging digital technologies; and the music industry, based on past successes and evidence of creative hubs within the Perth metropolitan area, notably around Fremantle. With the City embracing Aboriginal culture, soon welcoming a new film studio and screen production facility, and a music ecology naturally building skills and cross-fertilizing talent, Fremantle can be confident in its position to capitalise on its strengths. Additionally, the high-quality reputation and ambition of the Fremantle Arts Centre, coupled with the popular and critically acclaimed festivals produced and supported by the City's arts and culture team, means the City can be proud of its position as a contemporary and relevant creative leader. A Creative Strategy needs to underpin the remarkable work already achieved to ensure sustainability, growth and to stay competitive.

The Creative Strategy will help drive areas of strategic potential and opportunity for partnership and investment. Fremantle, as a destination city, can maximise recommendations from the State Government's WA Cultural Infrastructure Framework 2030+ which identifies how cultural infrastructure can increase participation in arts, culture and creative activities for all Western Australians and showcase the State to the world. State Government is also incentivising regional local governments to develop arts and cultural plans, and Fremantle as a creative local government leader should not lag.

Societal and political changes that have recently shaped the creative sector and that might influence the Creative Strategy include various shifts in engagement in the arts and cultural activities, a need to better value the role of artists and creatives and protecting fundamental creative spirit. The onset of COVID-19 laid bare the vulnerability of the creative sector and the Black Lives Matter and Me Too movements have resulted in a shift in focus on culturally relevant and responsive programming, producing and curation.

Emerging themes for the Creative Strategy indicate the need for the City to be a platform for meaningful cultural expression and creative participation for everyone, everywhere. Fremantle's geography, strong sense of place and unique local story is a strength that contributes to exploration of cultural identity resulting in a more resilient and confident community. For the City to continue to be a vibrant choice for artists, residents and visitors it must continue to provide and broker opportunities for the creative sector ensuring strong cross-collaboration across all industry.

## **TIMELINE**

In developing the Creative Strategy, the intent is to complement the broader consultation undertaken during the review of the Community Strategic Plan throughout 2022.

### **1) Research and Development – February, March and April 2022**

This is where the bulk of the work will be conducted resulting in the development of the draft Creative Strategy.

There will be a review of all relevant research and consultation. Feedback will be sought on the outcomes of the previous Arts and Culture Plan and the relevance of the currently stated priority areas whilst identifying any new service gaps.

The role of the newly developed Walyalup Koort as well as other key cultural precinct areas such as Bathers Beach, J-Shed and Arthur Head will also be considered in regard to supporting the outcomes of a new Creative Strategy.

**2) Engagement – May and June 2022**

Following Council approval, the draft Creative Strategy 2022- 2032 will be made available for broader community feedback seeking feedback on the key priorities of the plan and to ensure that no key themes have been missed.

**3) Finalisation - July and August 2022**

Following the engagement stage, the Strategy will be updated incorporating any new feedback in preparation for final approval by Council. An Implementation Plan will also be developed concurrently with the strategy demonstrating how the progress of the plan will be measured and reported.

## **CONSULTATION**

The creative sector is an informed and engaged community and an unbiased, neutral and transparent community engagement methodology will be carefully designed to manage the consultation process. The consultation process will align with the review of the Strategic Community Plan. It is expected the development of a Creative Strategy will be welcomed by the creative sector and audiences.

A cultural infrastructure audit of the City has been undertaken and a stakeholder list is being developed taking into consideration the broad definition of creative industries, from cultural activities to more traditional arts through to newly emerging creative activities, such as digital design and software development for gaming.

Recent surveys undertaken by the City, include the 2020 'Understanding and Supporting our Creative Sector Survey', and a recent Fremantle Arts Centre's online survey, will help inform community feedback, along with targeted interviews, stakeholder workshops and community drop in sessions to inform the draft plan areas. The Council will be kept informed regularly on the progression of this project.

## **FINANCIAL IMPLICATIONS**

The development of the strategy, community consultation and design of the strategic document will be undertaken within current Arts and Culture budget.

## **2. CAT MANAGEMENT LOCAL LAW UPDATE INFORMATION REPORT**

**Responsible officer:** Manager Field Services

**Attachments:** 1. Nil

**Additional information:** 1. Nil

At the Ordinary Meeting of Council in May 2020, Council requested an update on the effectiveness of the Cat Local Law 2020 to be provided by October 2021, the following is the summary to date:

Since the Cat Local Law came into effect on 8 June 2020, the City's natural areas feral animal control program, with a budget of \$27,000, also captures domestic cats should they be present in the areas identified in the Cat Management Local Law 2020. All natural areas continue to be surveyed twice per year, with additional information provided via the City's camera trap fauna monitoring and includes natural areas where cats are known to frequent or where residents have reported nuisance cats, to determine areas to deploy traps. Trapping for cats occurs for a period of up to 14 days.

All trapped cats are transported to Cat Haven for assessment. Cats that can be identified are returned to their owners, with a notification being issue to the City who may then issue an infringement depending on the area the cat was trapped. Cats that cannot be identified are tested for temperament and re-homed if possible, according to Cat Haven's procedures.

In the round of cat trapping conducted in June 2021, there were a total of six (6) cats trapped across the City, three were believed to be domestic and three were identified as feral.

In the last round of trapping in November 2021 no cats were trapped.

There have been no infringements issued to Cat owners by the City to date.

The following table illustrates the number of cats with assumed feral or domestic status, at each trapping period since the program commenced. Trapping data is skewed by trap tampering where cats have been released from traps by persons unauthorised to do so.

<b>Date</b>	<b>Feral</b>	<b>Domestic</b>
November 2020	0	2
June 2021	3	3
November 2021	0	0



### **3. PETITION ON RATS INFORMATION REPORT**

**Responsible officer:** Manager Field Services  
**Attachments:** 1. Nil  
**Additional information:** 1. Nil

On 27 October 2021, Cr Adin Lang presented a petition signed by 17 residents, requesting consideration for the coordination of a rat eradication plan that targets the area bound by Quarry, Barnett and Shuffrey Street. After careful consideration, City's officers did not recommend treatments on public land, due to environmental safety concerns, but invited residents to report properties of concern; so that the City can work with the owners and occupiers of properties to adequately control rodents.

City officers attended the Arts Centre Precinct Meeting on 18 November 2021, to discuss the concerns of the petitioners and provided information on the control of rodents, including trimming of fruit trees, discarding of unwanted/unused food and materials and appropriate pest management control. Following the Precinct meeting, a letter and educational pamphlet was sent to each of the petitioners confirming this advice.

#### **COMMITTEE DECISION ITEM FPOL2202-1** **(Officer's recommendation)**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Rachel Pemberton**

**Council receive the following information reports for February 2022:**

- 1. CREATIVE STRATEGY INFORMATION REPORT**
- 2. CAT MANAGEMENT LOCAL LAW UPDATE INFORMATION REPORT**
- 3. PETITION ON RATS INFORMATION REPORT**

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
 Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
 Cr Frank Mofflin, Cr Marija Vujcic**

**FPOL2202-2 CORPORATE BUSINESS PLAN – QUARTERLY REPORT –  
OCTOBER TO DECEMBER 2021**

**Meeting date:** 9 February 2022  
**Responsible officer:** Acting Director City Business  
**Decision making authority:** Committee  
**Attachments:** 1. Corporate Business Plan – Quarterly report –  
October to December 2021  
**Additional information:** Nil

**SUMMARY**

The Corporate Business Plan (CBP) Report for 2021/22 was presented to Committee on 8 September 2021 providing detail on the services, deliverables and projects that are programmed for the 2021/22 financial year.

This quarterly update report documents the progress made on those services and projects listed in the CBP Report 2021/22 for the second quarter of the financial year.

This report recommends that Council receive the CBP Quarterly Report for October to December 2021 as provided in Attachment 1.

**BACKGROUND**

This report includes services, deliverables and projects programmed for the 2021/22 financial year and reported to Committee in the Corporate Business Plan Report in September 2021. The projects and services are delivered across a number of business units throughout the organisation.

**FINANCIAL IMPLICATIONS**

Please note, the budget summary will continue to be reported through the Monthly Financial Report.

**LEGAL IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**OFFICER COMMENT**

This Corporate Business Plan Quarterly Report continues to support an integrated planning framework and allows us to be more transparent in monitoring performance.

This report provides a summary of the deliverables and project progress for the programmed activities for 2021/22 as at 31 December 2021.

The key projects for the City this financial year are listed below with their progress update for quarter 2, 2021/22: -

**Walyalup Koort – Project Director (Infrastructure)**

- Walyalup Civic Centre
  - The building was completed and opened to the public in November 2021.
  - Officers are completing final accounts and retention provisions.
  - Visitors Centre works are complete, the service opens to the public early February 2022.
- Newman Court\High Street
  - The final street furniture was installed early January 2022. There are some minor defects which are being closed out.
  - There has been a delay in the supply of the lighting units in Newman Court, these are currently scheduled for installation in February.
  - Lighting improvement proposals for Walyalup Koort have been included for consideration in the annual budget process.
- Playground
  - The playground is complete and was opened in November 2021.
- Adelaide/Queen Street trees
  - The first phase of tree pits and tree planting works have been completed to Adelaide and Queen Street, this included the amendment of parking bays.
  - The second phase is subject to funding and included for consideration in the annual budget process.
- Walyalup Koort - remaining works
  - The remaining phases of works to Walyalup Koort are included for consideration in the annual budget process.

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**Port Beach – Manager Parks and Landscape**

The Port Beach project has progressed with the environmental investigations and reports being finalised and the EPA submission being made. The design and specifications for the dredging works are being finalised for tender. The sand screening works have been completed.

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**Fremantle Oval – Project Director**

The Business Plan document is proceeding on time and budget. The spatial planning is also progressing well. All aspects of current work will be consolidated into a funding document in February 2022 for Council's consideration. In addition to the project planning, a heritage consultant has been engaged to prepare an updated Conservation Management Plan to assist with guiding future development. As part of this work, the City has invited members of the community to share stories and memories via the MySay Freo website.

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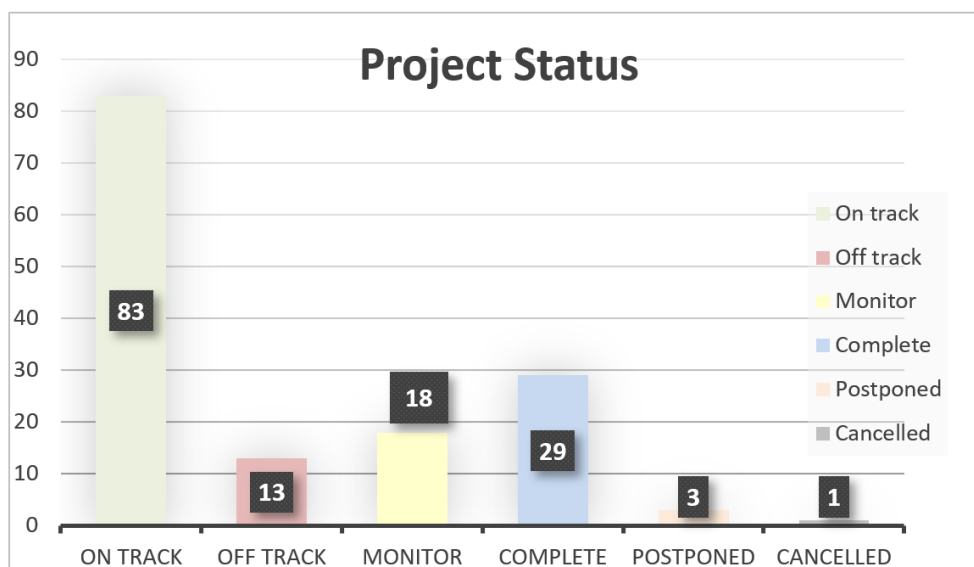
**Strategic Community Plan Review – Manager Strategic Planning**

A Working Group has been established to guide the engagement process. There has been a slight delay to the program to allow coordination with the Future of Fremantle project (which is likely to involve concurrent engagement).

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## Progress Status

A summary of the status of the budgeted projects is displayed below.



Officers continue to actively manage and monitor progress with the projects through the City's monthly project reviews – particular focus is included in respect to 'off track' projects; currently, the predominant reasons for the delays (as noted in attachment 1) are mainly around contractor availability, supply delays and cost increases as a result of COVID.

For information on why a particular project is off track refer to Attachment 1 - Approved Capital and Operating Projects and Programs.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

### **COMMITTEE DECISION ITEM FPOL2202-2** **(Officer's recommendation)**

Moved: Cr Jenny Archibald

Seconded: Cr Frank Mofflin

**Council receive the City of Fremantle Corporate Business Plan – Quarterly Report for October to December 2021, as provided in Attachment 1.**

**Carried: 6/1**

**For**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda, Cr Frank Mofflin

**Against**

Cr Marija Vujcic

## 10.2 Council decision

### FPOL2202-7 ORGANISATIONAL COUNCIL POLICY REVIEW – FIELD SERVICES AND ASSET MANAGEMENT

**Meeting date:** 9 February 2022  
**Responsible officer:** Manager Governance  
**Decision making authority:** Council  
**Attachments:** 1. Amended Policies  
**Additional information:** Nil

#### SUMMARY

A key role of Council is to make policies to guide its decision making, as specified in clause 2.7 of the *Local Government Act 1995*. Council has 81 policies, a number of which have not been reviewed for some time. A staged review of all policies has commenced to ensure that these continue to represent the position of Council and to identify desirable and / or necessary updates. The purpose of this report is to consider policies relating to the Field Services and Asset Management business units, as part of this review.

This report recommends that Council adopt the recommendations listed in the table included in the 'officer comment' section of this report, noting that the following policies are recommended for deletion:

1. Breakout areas approval process for licensed premises under the Liquor Act
2. Greywater reuse systems

#### BACKGROUND

Policies are (in their ideal form) clear, simple statements of how an organisation plans to conduct its services, actions or business. In local government policies reflect the leadership and decision-making role of Council and are a way for Council to give expression to preferred solutions to problems or matters of concern. Policies are in turn a guide for officers and elected members when making decisions, although they are not procedural in nature. They are implemented by way of administration policies, procedures and processes.

This report is part of a program where a number of reports will be presented to Council over the next 12 months, to update the City's Policies. The purpose of this program is to simplify the City's policies and create stronger alignment across the City's Divisions.

Clause 2.7 of the *Local Government Act 1995* make provision for Council to adopt policies to guide its decision making. These exist in addition to strategies, action plans, budgets, operational policies and procedures, and instruments (including policies) adopted under the *Planning and Development Act 2005*.

Council has approximately 81 policies (not including those made under the Planning and Development Act), a number of which have not been reviewed for some time.

As part of its general administration and in the interests of good governance, a staged review of policies has commenced to ensure that these continue to represent the position of Council and to identify any desirable / necessary updates.

The proposed approach is to undertake a preliminary review of policies by area to establish whether a policy is:

1. Current, requiring no amendments.
2. Largely current, requiring minor updates only.
3. Requiring minor updates and future review
4. Not current, recommended for deletion.
5. Requiring future review.

## **OFFICER COMMENT**

A review of the 12 policies sitting under the Field Services and Asset Management Teams has been undertaken and recommendations are included below.

The regular review and update of Council Policy contributes to Council's objective to "*maintain high standards of corporate governance*" (Strategic Community Plan) and addresses the auditor recommendation to:

- "Introduce a periodic City-wide policy review to:
- minimise the risk of policies becoming outdated;
  - ensure consistency of formatting between policies; and
  - promote culture where employees bring all proposed policy amendments to the attention of council."

<b>Policies considered to be current, no amendments recommended:</b>	
<b>1. Circuses on land owned or controlled by the City of Fremantle</b>	Adopted: 26/04/2006 Last Reviewed: 28/09/2011
Council's position remains the same on performing animals in circuses.	<b>Recommendation: Adopt as unchanged.</b>
<b>2. Dog exercise and prohibited areas</b>	Adopted: 18/04/2018 Last Reviewed: 24/10/2018
This policy is still current.	<b>Recommendation: Adopt as unchanged.</b>
<b>3. Alcohol Management</b>	Adopted: 22/02/2017 Last Reviewed: -
This policy is still current.	<b>Recommendation: Adopt as unchanged.</b>

<b>Policies that are largely current, recommended for minor amendment:</b>	
<b>1. Residential and multi-purpose parking permits</b>	Adopted: 14/12/2005 Last Reviewed: 27/05/2015
This policy is still current. Minor amendments shown in the attachment are recommended to improve wording and update language.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>2. Parking infringement appeals</b>	Adopted: 23/11/2016 Last Reviewed: -
This policy is still largely current. Minor amendments are shown in attachment to provide clarity to residents and make easier for City staff to understand and apply.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>3. Consumption of liquor without a meal in outdoor eating areas</b>	Adopted: 25/03/2009 Last Reviewed: -
This policy is still largely current. Minor amendments, shown in the attachment, include updates to references and language.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>4. Liquor licencing act provisions</b>	Adopted: 24/08/2005 Last Reviewed: -
This policy is still largely current. Minor amendments, shown in the attachment, include updates to references and language.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>5. Pyrotechnic management</b>	Adopted: 28/02/2007 Last Reviewed: -
This policy is still largely current. Minor amendments, shown in the attachment, include updates to position titles, legislative references and language.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>6. Risk management plan approval for licensed premises under the Liquor Act</b>	Adopted: 26/04/2006 Last Reviewed: -
This policy is still largely current. Minor amendments, shown in the attachment, include updates to references and language.	<b>Recommendation: Adopt policy with minor amendments.</b>
<b>7. Asset Management</b>	Adopted: Last Reviewed: -
This policy is still largely current. Minor amendments are shown in the attachment.	<b>Recommendation: Adopt policy with minor amendments.</b>

<b>Policies considered not current/obsolete, recommended for deletion:</b>	
<b>4. Breakout areas approval process for licensed premises under the Liquor Act</b>	Adopted: 25/10/2006 Last Reviewed: -
Policy no longer required. The issue is considered to be adequately regulated under the Tobacco Control Act & Regulations.	<b>Recommendation: Delete policy.</b>
<b>5. Greywater reuse systems</b>	Adopted: 28/03/2007 Last Reviewed: -
This Policy is no longer required as it has not been used for some time.	<b>Recommendation: Delete policy.</b>

Copies of each policy in their current form are available on the City's website, and any proposed amendments to policies are shown in the above table and are shown in the attachment to this report with red and green text, indicating red for removal and green for inclusion.

All final policies will also be updated in line with current City templates and any spelling, formatting or grammatical inconsistencies will be corrected.

## **FINANCIAL IMPLICATIONS**

Nil.

## **LEGAL IMPLICATIONS**

Clause 2.7 of the *Local Government Act 1995* make provision for Council to adopt policies to guide its decision making.

## **CONSULTATION**

Consultation is not statutorily required or considered necessary for the minor amendments made during this part of the review.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority required



**COMMITTEE RECOMMENDATION ITEM FPOL2202-7**  
**(Officer's recommendation)**

**Moved: Cr Jenny Archibald**

**Seconded: Mayor Hannah Fitzhardinge**

**Council:**

- 1. Approve the following policies to remain unchanged:**
  - a. Circuses on land owned or controlled by the City of Fremantle**
  - b. Dog exercise and prohibited areas**
  - c. Alcohol Management**
- 2. Adopt the minor amendments to the policies below (as shown in attachment 1):**
  - a. Residential and multi-purpose parking permits**
  - b. Parking infringement appeals**
  - c. Consumption of liquor without a meal in outdoor eating areas**
  - d. Liquor licencing act provisions**
  - e. Pyrotechnic management**
  - f. Risk management plan approval for licensed premises under the Liquor Act**
  - g. Asset Management**
- 3. Delete the following policies:**
  - a. Breakout areas approval process for licensed premises under the Liquor Act**
  - b. Greywater reuse systems**

**Carried: 7/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic**

**FPOL2202-8 PROPOSED PUBLIC ROAD CLOSURE - BAYLY STREET NORTH  
FREMANTLE - AMALGAMATION WITH FREMANTLE PORTS  
PROPERTY**

**Meeting date:** 9 February 2022  
**Responsible officer:** Manager Information Technology  
**Decision making authority:** Council  
**Attachments:** 1. Bayly Street – Location Map  
2. Fremantle Ports – road closure application form  
**Additional Information:** Nil

**SUMMARY**

The City of Fremantle ('City') has received an application from the Fremantle Ports (FP) to close and amalgamate the whole of Bayly Street, North Fremantle for amalgamation with No. 33 (Lot 10) Tydeman Road, North Fremantle in the ownership of the FP (Applicant).

The FP has purchased No. 28 (Lot 42) Bayly Street being the only other property affected by the proposed closure of Bayly Street road reserve. The FP has indicated that the proposed amalgamation of Bayly Street will include the amalgamation Lot 42 with No. 33 (Lot 10) Tydeman Road.

This report recommends that;

Council, in accordance with Sections 58 and 87 of the *Land Administration Act 1997*, advertise the proposed closure of Bayly Street, North Fremantle for the purpose of amalgamation with No. 33 Tydeman Road, North Fremantle subject to no objections being received.

**BACKGROUND**

The Fremantle Ports has recently purchased Lot 42 (No.28) Bayly Street, North Fremantle for amalgamation with the FP owned Lot 10 Tydeman Road. The acquisition of Lot 42 Bayly Street completes the ownership by the FP of all properties adjoining Bayly Street, North Fremantle.

The FP proposes to amalgamate both Lot 42 Bayly Street and the Bayly Street road reserve with the FP main Lot 10.

The Fremantle Ports have made the following comments as to purpose and future use of Bayly Street road reserve and adjoining land;

*"Fremantle Ports acquired Lot 42 Bayly Street on 25 July 2021 by mutual agreement with the previous owner. The purchase was facilitated in order to amalgamate this parcel of land zoned "Port Installation" and currently land locked by Fremantle Ports owned land, with the larger footprint of land to enable a more favourable parcel configuration and allow for the best use of the land.*

*As part of optimising the area, Fremantle Ports are seeking to close the Bayly Street road reserve which served to provide a means of vehicle access to the above-mentioned residence.*

*Now that this access is no longer required by the previous home owner, Fremantle Ports wishes to close the road reserve, purchase the land, and facilitate optimal land configuration.*

*It is proposed that the road reserve will become part of the greater Fremantle Ports land holding with the intent to lease the consolidated area for port related use."*

## **FINANCIAL IMPLICATIONS**

There are no financial implications. Fremantle Ports has agreed to pay all costs associated with the proposed road closure and amalgamation.

## **LEGAL IMPLICATIONS**

Section 58 and Section 87 of the *Land Administration Act 1997 (LAA)* apply in relation to the proposed closure and amalgamation described above.

All public road closures for the purpose of amalgamation with an adjoining property require a 35 day public comment period before being submitted to the Department of Planning, Lands and Heritage (DPLH), in accordance with Section 58 of the LAA.

## **CONSULTATION**

In accordance with Section 58 of the *LAA*, the City will carry out public advertising for a period of not less than 35 days by:

- Advertising in the Fremantle Herald (NewsBites)
- Freo Weekly e-newsletter
- Public Comment invited on the City's "My Say Freo" webpage
- Writing to public utility service providers for comments

Subject to no objections received after 35 days, Council may make a final decision regarding the proposal.

The Applicant has conducted the initial "*Dial Before You Dig*" enquiry on 27/08/2021. The enquiry identified assets located within the vicinity of Bayly Street, North Fremantle with comments from the agencies tabled below.

Atco Gas	High pressure pipeline in the vicinity
Western Power	Overhead power lines located within Bayly Street.
NBN Services	Contains infrastructure within the subject roadway
Water Corporation	Subject area contains a critical pipeline
Telstra (WA)	Contains critical network route in plot area.

Western Power	Contains overhead power lines located within Bayly Street.
Fremantle Ports	Inner Harbour Electrical Service Sheet 37 drawing 006-700-37 shows low tension power cables.

#### **OFFICER COMMENT**

The proposed closure of Bayly Street, North Fremantle will assist the Fremantle Ports in the future use and consolidation of the land zoned as "Port Installation". The proposed amalgamation of Bayly Street and No. 42 Bayly Street into the FP main Lot 10 will eliminate the need for a public road and street addressing to continue at that location.

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

Simple majority required

#### **COMMITTEE RECOMMENDATION ITEM FPOL2202-8**

(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

#### **Council**

1. In accordance with Sections 58 and 87 of the *Land Administration Act 1997*, approves the advertising of the proposed whole road closure of Bayly Street, North Fremantle for the purpose of amalgamation with No.33 Tydeman Road as described on Certificate of Title Volume 2786 Folio 652 being Lot 10 on Deposited Plan 69297 and subject to no objections being received:
  - a. Supports the proposal, and applies to the Minister for Lands to close and amalgamate the whole of Bayly Street, described in part 1 above, and
  - b. Indemnifies the Minister for Lands against any claim for compensation that may arise from that closure and amalgamation.

**Carried: 7/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic

**11. Urgent business**

Nil

**12. Late items**

Nil

**COMMITTEE DECISION**

Moved: Cr Jenny Archibald      Seconded: Cr Frank Mofflin

That the meeting be moved behind closed doors to consider the confidential items on the agenda.

**Carried: 7/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic

At 8.06pm, members of the public were requested to vacate the meeting.

**13. Confidential business**

**C2201-7      CODE OF CONDUCT - DIVISION 3 COMPLAINT INVESTIGATION  
01-2021**

**Meeting date:** 19 January 2022  
**Responsible officer:** Manager Governance  
**Decision making authority:** Council  
**Attachments:** 1. Investigation Report  
**Additional information:** Nil

**REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

- the personal affairs of a person.

**C2201-8 CODE OF CONDUCT - DIVISION 3 COMPLAINT INVESTIGATION  
02/2021**

**Meeting date:** 19 January 2022  
**Responsible officer:** Manager Governance  
**Decision making authority:** Council  
**Attachments:** 1. Investigators Report  
**Additional information:** Nil

**REASON FOR CONFIDENTIALITY**

This report is **CONFIDENTIAL** in accordance with Section 5.23(2) of the *Local Government Act 1995* which permits the meeting to be closed to the public for business relating to the following:

- the personal affairs of a person.

**COMMITTEE DECISION**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Doug Thompson**

**That the meeting come out from behind closed doors.**

**Carried: 7/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Doug Thompson, Cr Rachel Pemberton, Cr Fedele Camarda,  
Cr Frank Mofflin, Cr Marija Vujcic

**14. Closure**

The Presiding Member declared the meeting closed at 8.26pm.