



# Minutes

## Finance, Policy, Operations and Legislation Committee

---

Wednesday, 10 February 2021, 6.00pm

# Table of Contents

Contents	Page
1. Official opening, welcome and acknowledgement	1
2.1. Attendance	1
2.2. Apologies	1
2.3. Leave of absence	1
3. Disclosures of interests by members	1
4. Responses to previous questions taken on notice	1
5. Public question time	2
6. Petitions	2
7. Deputations	2
7.1 Special deputations	2
7.2 Presentations	2
8. Confirmation of minutes	2
9. Elected member communication	2
10. Reports and recommendations	3
10.1 Committee delegation	3
10.2 Council decision	4
FPOL2102-1 ADOPTION OF THE CIVIC COLLECTIONS POLICY	4
FPOL2102-2 NEW LEASE – BAKPAK FREO PTY LTD – 18 PHILLIMORE STREET, FREMANTLE	6
FPOL2102-3 CITY OF FREMANTLE WASTE PLAN	15
FPOL2102-4 DELEGATION TO APPOINT A COMPLAINTS OFFICER AND ADOPTION OF A COMPLAINTS FORM	23
11. Motions of which previous notice has been given	25
C2101-5 ELECTED MEMBER MOTION – ISSUES RELATING TO PIONEER PARK – COUNCILLOR MARIJA VUJCIC	25
12. Urgent business	27

<b>13. Late items</b>	<b>27</b>
<b>14. Confidential business</b>	<b>27</b>
<b>FPOL2102-5 CONFIDENTIAL REPORT – REVIEW OF TENDERS RECEIVED FOR THE PROPOSED SALE OF 7-15 QUARRY STREET, FREMANTLE</b>	<b>28</b>
<b>15. Closure</b>	<b>29</b>

---

## **FINANCE, POLICY, OPERATIONS AND LEGISLATION COMMITTEE**

Minutes of the Finance, Policy, Operations and Legislation Committee  
held in the North Fremantle Community Hall  
on **Wednesday, 10 February 2021** at 6.00 pm.

---

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

The Presiding Member declared the meeting open at 6.00 pm.

#### **2.1. Attendance**

Cr Andrew Sullivan	Deputy Mayor/South Ward
Cr Hannah Fitzhardinge	Presiding Member/Beaconsfield Ward
Cr Jenny Archibald	Deputy Presiding Member/East Ward
Cr Doug Thompson	North Ward
Cr Adin Lang	City Ward
Cr Sam Wainwright	Hilton Ward
Cr Marija Vujcic	South Ward/Deputy member
Cr Bryn Jones	North Ward (Observing only)
Mr Glen Dougall	Acting Chief Executive Officer/Director City Business
Ms Michelle Brennand	Director Community Development
Mr Graham Tattersall	Director Infrastructure
Mr Paul Dunlop	Manager Communications and Events
Ms Charlie Clarke	Manager Governance
Mr David Janssens	Manager Infrastructure Engineering
Mr Tony Strickland	Manager Facilities and Environmental Management
Mr Matt Hammond	Manager Economic Development and Marketing
Ms Melody Foster	Meeting Support Officer

*There were approximately 4 members of the public and no members of the press in attendance.*

#### **2.2. Apologies**

Nil

#### **2.3. Leave of absence**

Mayor, Brad Pettitt

### **3. Disclosures of interests by members**

Nil

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

Nil

**5. Public question time**

Nil

**6. Petitions**

Nil

**7. Deputations**

**7.1 Special deputations**

Nil

**7.2 Presentations**

Nil

**8. Confirmation of minutes**

**COMMITTEE DECISION**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Andrew Sullivan**

**The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 20 January 2021.**

**Carried: 7/0**

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

**9. Elected member communication**

Nil

## **10. Reports and recommendations**

### **10.1 Committee delegation**

The following item is provided under section 14. Confidential business (page 27)

**FPOL2102-5      CONFIDENTIAL REPORT – REVIEW OF TENDERS RECEIVED  
FOR THE PROPOSED SALE OF 7-15 QUARRY STREET,  
FREMANTLE**

## 10.2 Council decision

### FPOL2102-1 ADOPTION OF THE CIVIC COLLECTIONS POLICY

<b>Meeting date:</b>	10 February 2020
<b>Responsible officer:</b>	Manager Governance
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Civic collections policy
<b>Additional information:</b>	Nil

#### SUMMARY

**This report discusses the care and management of memorabilia and historic items donated or gifted to the City of Fremantle and recommends the attached Civic Collections policy be adopted.**

#### BACKGROUND

The City of Fremantle recognises the social and cultural significance of the historical items and sister city gifts that have been collected over the years. Many of the items stored by the City have historical and cultural value and represent the city's social, military and civic functions and history.

These items enrich Fremantle's character and define it as a special and unique place. Fremantle contains the main port of Western Australia and has a rich maritime history. Many of the gifts reflect the relationships that have been built with visiting ships and visitors from overseas cities, and from where many of Fremantle's citizens originated.

#### FINANCIAL IMPLICATIONS

The City has budgeted to store archived materials.

By implementing this policy, the costs associated with storing memorabilia and civic gifts may be reduced as the City will be able to dispose of items that no longer have any civic value to the City.

#### LEGAL IMPLICATIONS

The City must procure and dispose of assets in accordance with the *Local Government Act 1995* and any other legislation or City policies.

#### CONSULTATION

No consultation was undertaken as a result of this report.

## **OFFICER COMMENT**

As the administration prepares to move in to the Walyalup Civic Centre the City is considering the storage and display of the City's collection of memorabilia and civic gifts.

While the Local History Centre and the Art collections have policies on the management, care and disposal of items in those collections, the City does not currently have a policy related to the management of memorabilia and civic gifts that do not fit into the category for the Art collection or the History collection. The attached policy sets out criteria for an item to be considered for inclusion in the City's civic collection, and criteria for when an item may be disposed of.

The City is given civic gifts by our Sister Cities and other visiting dignitaries, offered donations of memorabilia and occasionally items are bequeathed to the City. There may also be items that come up for sale the City wishes to purchase due to the civic significance or value it has to the City.

The management of the Civic Collection will be managed ethically and in accordance with the *Local Government Act 1995* asset management requirements and Australian Museums and Galleries Association values, however this policy will provide further guidance on the accession and care of items or the deaccession and disposal of items that become irrelevant, are given in duplicate, or are dangerous or damaged beyond reasonable repair.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

### **COMMITTEE RECOMMENDATION ITEM FPOL2102-1** **(Officer's recommendation)**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Doug Thompson**

**Council adopt the Civic Collections policy, as provided in Attachment 1.**

**Carried: 7/0**

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



**FPOL2102-2      NEW LEASE – BAKPAK FREO PTY LTD – 18 PHILLIMORE STREET, FREMANTLE**

**Meeting date:** 10 February 2021  
**Responsible officer:** Manager Economic Development and Marketing  
**Decision making authority:** Council  
**Attachments:** Nil  
**Additional information:** Nil

**SUMMARY**

The purpose of this report is to seek Council approval for a lease term of ten (10) years with a further option of five (5) years for Bakpak Freo Pty Ltd T/A Old Fire Station Backpackers at 18 Phillimore Street, Fremantle.

Bakpak Freo Pty Ltd have been an existing lessee of the City for approximately fifteen (15) years. Due to COVID's impact on the tourism industry, the lessee proposes to redevelop the ground floor into a bar/restaurant. The proposed redevelopment is estimated at \$450,000.

**BACKGROUND**

The Old Fire Station, 18 Phillimore Street, Fremantle is a 1900's two story brick heritage registered building, with an area of 941m<sup>2</sup>. It was originally constructed as a fire station and was redeveloped into hostel accommodation. There are two smaller rear buildings also fitted out for this purpose.

The City entered a lease with Brett Wariedor Neville for a term of five (5) years effective 26 August 1999 with a further term of five (5) years expiring 25 August 2009. Mr Neville assigned the Lease to Maria and Bruce Luck, Directors of Bakpak Freo Pty Ltd effective from 31 July 2005. Prior to the expiry of the Lease the City approved a further term of five years effective from 26 August 2009 expiring 26 August 2014.

At the time, the property was used for hostel accommodation and a restaurant with a partial section of the ground floor occupied by the Bengal Indian Restaurant. In 2012, due to an increase in demand for accommodation facilities the lessee closed the restaurant and converted the area into additional hostel accommodation. To allow time to recoup the lessee's financial investment Council approved a further lease term of ten years effective 26 August 2012 expiring 25 August 2024.

Due to the impact of COVID-19 Bakpak Freo Pty Ltd's current business model is not sustainable. The lessee proposes a reinvention of their business model to include a bar/restaurant on the ground floor using the street frontage of Phillimore Street. They will continue to maintain the hostel accommodation on the first floor and rear of the premises.

To enable the investment of approx. \$450,000 the lessee has requested a further term of ten (10) years with a further option of five (5) years from their current expiry being 25 August 2024.

## FINANCIAL IMPLICATIONS

Bakpak Freo pay a rent of \$100,000pa + GST. This rent was determined by a market valuation in August 2019.

While some sectors are starting to perform better since the easing of initial restrictions in 2020, the COVID restrictions relating to interstate and international travel continue to impact accommodation businesses.

For the initial period of COVID, Bakpak Freo Pty Ltd saw a 53.7% decrease in revenue between April – June 2020. Many patrons made emergency arrangements to return home, while those that stayed were obligated to isolate at the backpackers.

When intrastate travel was resumed after the initial lock down, this saw the remaining patrons travel north to warmer weather. The July – September 2020 and October – December 2020 quarters saw a 75% and 72% reduction in revenue respectively.

The City, in line with the *Commercial Tenancy (COVID-19) Response Act 2020*, has provided waivers and deferral options in line with revenue loss. The current arrangement provided is 25% of normal rent (\$25,000pa + GST) being payable up until 31 March 2021, in line with the current end date of the COVID Act.

With no international travel in the foreseeable future, the lessee has requested that the arrangement of 25% normal rent continue beyond 31 March 2021, subject to the opening of the bar/restaurant.

The lessee has continued to maintain payment for all outgoings for the property.

## LEGAL IMPLICATIONS

The lease must comply with the requirements of Section 3.58 of the *Local Government Act 1995*. Officers will ensure that this occurs.

Under the Leasing of City property in a competitive manner policy, a property is exempt from a competitive leasing process if a property is leased to a tenant that:

1. Is paying full commercial market rent or above, and
2. Adds significant value to Fremantle's overall tenancy mix and appeal for visitors.

This proposed lease is considered to be exempt from a competitive leasing process due to it aligning with the criteria above.

## CONSULTATION

Officers have continued to liaise with Bakpak Freo Pty Ltd throughout the COVID period and in negotiation with the proposed terms within this item.

All consultation in relation to the proposed redevelopment of 18 Phillimore Street will be completed through the Development Application process.

## OFFICER COMMENT

The lessee has maintained their lease conditions throughout their tenancy with no arrears or defaults. They have traded under an existing liquor licence since 2005 (restaurant until transferred to special facilities in 2012) with no incursions. It is proposed the existing special facilities liquor licence will be adapted to purpose for the proposed bar/restaurant (subject to approval by the Department Government, Sport and Cultural Industries). If not, the liquor licence would be changed to a hotel liquor licence which would remain consistent with the current lease's permitted use.

The Old Fire Station Backpackers is one of the highest rating backpackers in Fremantle based on online reviews. This status is assisted by the operator assisting international visitors with securing local employment.

Throughout their tenure the lessee has continually adapted their business in line with supply and demand to remain relevant. Their current proposal shows a similar willingness to adapt given the current climate created by COVID-19 and its impact to their existing business model.

Under the Leasing of City property in a competitive manner policy, a property is exempt from a competitive leasing process if a property is leased to a tenant that:

1. Is paying full commercial market rent or above, and
2. Adds significant value to Fremantle's overall tenancy mix and appeal for visitors.

This proposed lease is considered to be exempt from a competitive leasing process due to it aligning with the criteria above.

While COVID-19 and the City's compliance with the *Commercial Tenancy (COVID-19) Response Act 2020* has reduced the rent charged in the interim. The full rent payable under the lease is in line with current market value.

Due to ongoing impact from COVID-19 the Lessee has requested that Council consider extending the COVID rent assistance until they are able to redevelop and operate the bar/restaurant. Under the existing arrangement the lessee would pay 25% of the normal rent payable = \$25,00pa + GST. Currently this arrangement is due to expire 31 March 2021.

The building is ideally suited to hostel or low-cost accommodation – a large level of investment would be required to utilise this building for any other purpose. The lessee has developed a strong business model in this industry.

The lessee's proposal of activating the street frontage on Phillimore Street would create an activation on Phillimore Street that is currently not occurring in this location.

The lessee has requested a term of ten (10) years with a further option of five (5) years. Officers proposed that the further term of five (5) years be subject to the following conditions:

1. The lessee carries no outstanding arrears associated with the initial 10-year term
2. The lessee is not in breach of any lease terms
3. The nature of the lessee's business remains predominantly as backpacker hostel accommodation

The lease would be subject to the lessee securing all required approvals for the proposed redevelopment.

The current lease is due to expire 26 August 2024. It's proposed that the current lease be surrendered and a new lease be considered based on the following essential terms and conditions;

Land Description	
Premises	18 Phillimore Street, Fremantle
Lessor	City of Fremantle
Lessee	Bakpak Freo Pty Ltd
Site Area	941m <sup>2</sup>
Lease Commencement Date	TBA
First Term	Ten (10) years
Second Term	Five (5) years  The further term will be subject to the following conditions being met by the lessee;  <ol style="list-style-type: none"> <li>1. The lessee carries no outstanding arrears associated with the initial 10-year term</li> <li>2. The lessee is not in breach of any lease terms</li> <li>3. The nature of the lessee's business remains predominantly as backpacker hostel accommodation</li> </ol>
Annual Rent	\$100,000 per annum + GST
Rent Review	Rent will be determined by Consumer Price Index annually on the Lease Commencement Date.  A market rent review will occur every third year of the lease terms (including options).
Outgoings	Outgoings on demand will include but not be limited to; <ul style="list-style-type: none"> <li>• Council Rates</li> <li>• Emergency Service Levy</li> <li>• Land Tax</li> <li>• Statutory fees and charges</li> <li>• Building Services, repairs and maintenance.</li> </ul>
Legal Fees	Each party will be responsible for their own costs.

Public Liability	Minimum of \$20 million
Permitted Use	Hostel Accommodation, Bar and Restaurant
Condition Precedent	<p>The lease will be subject to:</p> <ol style="list-style-type: none"> <li>1. Surrender of the existing Lease agreement between the City of Fremantle and Bakpak Freo Pty Ltd</li> <li>2. The lessee to gain all relevant approvals for the proposed works, including but not limited to landlord approval, development and building permit approvals.</li> <li>3. The lessee to gain approval for the change of liquor licence consistent with the proposed bar/restaurant.</li> </ol>
Special Conditions	<ol style="list-style-type: none"> <li>1. Lessee's Works</li> </ol> <p>Lessee's works definition:</p> <ol style="list-style-type: none"> <li>(a) Any alternation, improvement or development of the Premises including but not limited to the erection of any building, structure, or fixture on the Premises (including tenancy fit out).</li> <li>(b) The excavation or demolition of any part of the Premises:</li> <li>(c) The removal, sale, or disposal of any materials from the Premises.</li> </ol> <p>(1) The Lessee must not undertake works unless:</p> <ol style="list-style-type: none"> <li>(a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works. Consent may be granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor.</li> <li>(b) Planning approval under the local planning scheme and;</li> <li>(c) A building permit under the <i>Building Act 2011</i>.</li> </ol> <p>(2) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:</p> <ol style="list-style-type: none"> <li>(a) an application for planning consent;</li> <li>(b) an application for a building permit;</li> <li>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</li> <li>(d) construction or installation of the Lessee's Works; and</li> </ol>

	<p>(e) Installation or upgrade of any services.</p> <p>(3) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</p> <p>(4) The Lessee will provide certification and public liability for all the Lessee contractors undertaking the Lessee Works at the Premises.</p> <p>(5) The parties acknowledge and agree that any Lessee's Works comprising structural improvements shall vest to the Lessor upon Termination of the Lease without cost.</p> <p>2. Assignment or Sub Letting</p> <p>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if:</p> <p>(a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease.</p> <p>(b) All accounts are paid in full up until the date of the assignment or sub lease.</p> <p>(c) The Lessee pays all costs associated with an assignment or sublease.</p> <p>(d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST.</p> <p>3. State of Emergency Clause</p> <p>The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.</p> <p>4. Use of Confidential Information</p> <p>"Confidential Information" means any information relating to the Lease, including but not limited to the provisions of the Lease.</p> <p>(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease.</p> <p>(b) The obligations of confidentiality in paragraph (a) will not apply to information which:</p> <p style="padding-left: 40px;">(i) is generally available in the public domain except where</p>
--	---

	<p style="text-align: right;">such availability is as a result of a breach of this agreement; or is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order.</p> <p>(ii)</p> <p>(c) The obligations imposed will survive the termination of the Lease.</p> <p>5. Parties to act in good faith</p> <p>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</p> <p>6. End of Lease</p> <p>At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee will be advised of this process not more than 12 months, no less than 6 months prior to the expiry of the last lease term. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.</p>
--	--

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

## OFFICER'S RECOMMENDATION

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Doug Thompson**

1. Approve a Lease between the City of Fremantle and the Bakpak Freo Pty Ltd for 18 Phillimore Street, Fremantle and authorise the Chief Executive Officer to negotiate the terms and conditions of the lease based on the following:
  - a. Lease area: 941m<sup>2</sup>
  - b. Lease commencement date: TBA
  - c. First term: ten years
  - d. Second term: five years subject to;
    - a. The lessee carries no outstanding arrears associated with the initial 10-year term
    - b. The lessee is not in breach of any lease terms
    - c. The nature of the lessee's business remains predominantly as backpacker hostel accommodation
  - e. Rent: \$100,000 per annum + GST

- f. Rent Review: Consumer Price Index annually on the Lease Commencement date. Market rent review every third year.
- g. Permitted use: Hostel accommodation, bar and restaurant.
- h. Condition precedent: The lease is subject to;
  - a. Surrender of the existing lease between the City of Fremantle and Bakpak Freo Pty Ltd
  - b. The lessee gaining all planning and building approvals.
  - c. The lessee gaining liquor license approvals.

### **AMENDMENT 1**

**Moved: Cr Jenny Archibald      Seconded: Cr Andrew Sullivan**

**Amend the officer's recommendation, to include an additional condition, to read as follows:**

- g. Rent Adjustment: From the commencement of the lease the rent payable will be 25% of the Annual Rent until whichever is first of the following;***
  - i. Reopening of international tourism to Western Australia;***
  - ii. Opening of the lessee proposed bar/restaurant;***
  - iii. Two years from the commencement of the lease.***

**Amendment carried: 6/1**

**For**

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

**Against**

**Cr Marija Vujcic**

**Reason for change:**

To ensure the rent discount is reviewed against these conditions.



**COMMITTEE RECOMMENDATION ITEM FPOL2102-2**

(Officer's recommendation, as amended)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

1. Approve a Lease between the City of Fremantle and the Bakpak Freo Pty Ltd for 18 Phillimore Street, Fremantle and authorise the Chief Executive Officer to negotiate the terms and conditions of the lease based on the following:

- a. Lease area: 941m<sup>2</sup>
- b. Lease commencement date: TBA
- c. First term: ten years
- d. Second term: five years subject to;
  - a. The lessee carries no outstanding arrears associated with the initial 10-year term
  - b. The lessee is not in breach of any lease terms
  - c. The nature of the lessee's business remains predominantly as backpacker hostel accommodation
- e. Rent: \$100,000 per annum + GST
- f. Rent Review: Consumer Price Index annually on the Lease Commencement date. Market rent review every third year.
- g. *Rent Adjustment: From the commencement of the lease the rent payable will be 25% of the Annual Rent until whichever is first of the following;*
  - i. *Reopening of international tourism to Western Australia;*
  - ii. *Opening of the lessee proposed bar/restaurant;*
  - iii. *Two years from the commencement of the lease.*
- h. Permitted use: Hostel accommodation, bar and restaurant.
- i. Condition precedent: The lease is subject to;
  - a. Surrender of the existing lease between the City of Fremantle and Bakpak Freo Pty Ltd
  - b. The lessee gaining all planning and building approvals.
  - c. The lessee gaining liquor license approvals.

Carried: 6/1  
For

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

Against  
Cr Marija Vujcic

**FPOL2102-3 CITY OF FREMANTLE WASTE PLAN**

<b>Meeting Date:</b>	10 February 2021
<b>Responsible Officer:</b>	Manager Facilities and Environmental Management
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	1. Draft Waste Plan (including DWER Template)
<b>Additional Information:</b>	1. Waste Plan Guidance 2. Notice to Prepare a Waste Plan 3. Division 3 of the <i>Waste Avoidance and Resource Recovery Act 2007</i> 4. City of Fremantle Waste Minimisation Policy

**SUMMARY**

Waste reduction (ultimately to zero) is a goal of the City's Strategic Community Plan and has also been prioritised by the state government. The Department of Water and Environmental Regulation (DWER) recently provided Notice to CEOs to prepare a Waste Plan under Section 40(4) of the *Waste Avoidance and Resource Recovery Act 2007* and provided guidance on the content and format of this.

The purpose of the Waste Plan is to outline how the City's waste services will be managed and improved in pursuit of Council's objectives and to ensure consistency with the Waste Avoidance and Resource Recovery Strategy 2030 (WARR Strategy) targets. It is based on three main categories, Avoid, Recover and Protect, and outlines current status, achievements to date, and a series of actions to achieve the targets within the Implementation Plan section.

The Waste Plan once endorsed and approved by DWER will provide future direction for the City's waste avoidance and resource recovery activities. Accordingly, on endorsement of the Waste Plan the existing SG2 Waste Minimisation Policy can be deleted and the Strategic Community Plan target for waste reduction can be amended.

This report recommends that Council:

1. Endorse the City of Fremantle Waste Plan (Attachment 1).
2. Authorise submission of the City of Fremantle Waste Plan for final approval by the Department of Water and Environmental Regulation before the 31 March 2021 deadline.
3. Endorse deletion of SG2 Waste Minimisation Policy.
4. Update the Strategic Community Plan 'measure of success' for waste reduction to 70% in recognition that this reflects a more clearly defined and mapped target within the plan horizon.

## BACKGROUND

Waste management is a core service of local government. Reduction of waste and its diversion and re-use is identified as one of the key Environmental Responsibility goals within the Strategic Community Plan.

Environmental concerns and rising costs and management challenges have also led the state government to take a pro-active role in waste minimisation and management.

In February 2019, the Waste Authority released the Waste Avoidance and Resource Recovery Strategy 2030 (WARR Strategy). One of the eight headline strategies of the WARR Strategy is the implementation of local government Waste Plans, which align local government waste planning processes with the WARR Strategy.

Following an initial consultation period from June to September 2019, the Department of Water and Environmental Regulation (DWER) released the Local Government Waste Plans Guidance Document (Additional Information 1). DWER simultaneously released the Waste Plan Template to be completed by all local governments in Western Australia.

These documents were included with the Notice to the City of Fremantle CEO under Section 40(4) of the *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) to prepare a Waste Plan (Additional Information 2).

Due to COVID-19 the deadline for Waste Plan final submissions was postponed to 31 March 2021.

### Purpose of the Waste Plan

As per the Notice to the CEO, *the purpose of waste plans is to:*

- *align local government waste management activities with the Waste Strategy;*
- *map current performance and establish a benchmark to achieve Waste Strategy targets;*
- *monitor progress on local government achievement of Waste Strategy targets; and*
- *design programs and activities which will support the implementation of waste plans.*

The Waste Strategy targets are divided in to three broad categories:

**Avoid** - Western Australians generate less waste.

Avoidance of waste generation is the preferred waste management option in the waste hierarchy.

**2025:** Reduction in Municipal Solid Waste (MSW) generation per capita by 5%,

**2030:** Reduction in MSW generation per capita by 10%.

**Recover** - Western Australians recover more value and resources from waste.

Where waste generation is unavoidable, efforts should be made to maintain the circulation of materials within the economy.

**2020:** Increase MSW material recovery to 65% in the Perth and Peel regions, 50% in major regional centres<sup>3</sup>

**2025:** Increase MSW recovery to 67% in the Perth and Peel regions, 55% in major regional centres

**2030:** Increase MSW material recovery to 70% in the Perth and Peel regions, 60% in major regional centres

**Protect** - Western Australians protect the environment by managing waste responsibly.

Objective 3 of the Waste Strategy is to protect the environment by managing waste responsibly, with targets for achieving better practice, reducing litter and illegal dumping.

**2030:** Move towards zero illegal dumping

**2030:** Move towards zero littering

These objectives align with the City's strategic waste objectives (albeit with a lower target than the ambitious 80% recycling / reuse target Council set itself 5 years ago).

### Key Dates

As per the Key dates page of the Guidance Document, the City of Fremantle sent a draft of the plan for review by the DWER Waste Plans team prior to the 1 April 2020 deadline.

Feedback provided by the DWER has been included into the current version of the Waste Plan presented to Council for endorsement. The extended deadline for submission of the Waste Plans for final approval by DWER is 31 March 2021.

### Structure of the Waste Plan

The DWER Waste Plan template has been presented as a working document using an Excel spreadsheet. The spreadsheet consists of tabs. There are two main parts:

Part 1 – Background Information

Part 2 – Implementation Plan

Some of the background information was pre-populated by DWER using information from the annual waste census submitted by the City of Fremantle. In other instances, to complete the tables, data was collated in consultation with internal stakeholders from different teams.

To improve comprehensibility, the City has incorporated the template into its standard action plan template, providing a clearer explanation of its purpose and integration into the Council's strategic documents framework.

### Summary of the analysis and direction

Table 20 of the Waste Plan (copied below) summarises the key points of the Plan.

<p><b>Waste management achievements</b> (for example, performance/achievement against Waste Strategy targets or objectives or where particular waste management objectives have already been met)</p>	<p>Roll-out of FOGO services. Tonnes diverted through the Recycling Centre drop-off facility and use by the community. Asbestos drop-off day organised in 2018-19. Reduced illegal asbestos dumping experienced in 2019-20. Introduction of sustainable procurement measures. Engagement of a Waste Education Officer. Provisional approval as a HHW collection facility. Provisional approval as a Container Deposit Scheme Refund Point. Better data from waste vehicles through use of fleet management systems inclusive of City and kerbside collection contractor vehicles. Appointment of verge-side bulk waste recycling processor.</p>
<p><b>Opportunities for improvement</b> (for examples, where performance against Waste Strategy targets or objectives could be improved or where waste management objectives have not been met)</p>	<p>Data management. Expansion of FOGO service to currently excluded MDDs. Broader reaching waste education and minimisation activities. Improved alignment the City's waste plans with the City's strategic direction.</p>
<p><b>Priority areas for action in Part 2 – Implementation plan</b></p>	<p><b>Ongoing (activities currently under way and/or continuously undertaken)</b> - Waste education and minimisation activities. Improved data management. Maintain levels and standards of service provision. Improvements to the Recycling Centre.</p>
	<p><b>Short term (within the next 1-2 years)</b> - Expansion of FOGO service to currently excluded MDDs. Improved alignment the City's waste plans with the City's strategic direction. Container Deposit Scheme refund point set-up and operation. Solid waste licence for Depot.</p>
	<p><b>Medium term (within the next 3-5 years)</b> - Expansion of commercial waste services provision. Review of bulk waste collection methodology.</p>
	<p><b>Long term (more than five years)</b> - Best practice drop-off facility.</p>

## FINANCIAL IMPLICATIONS

The Implementation Plan lists existing and new actions for completion. Most actions (and all short term actions) can be managed using existing budgets.

However, some larger scale actions or projects in years 3-5 of the Waste Plan will need to be budgeted for prior to the applicable financial year and also in the Long-Term Financial Plan. The Implementation Plan requires individual consideration, business case and Council approval for any such actions.

## **LEGAL IMPLICATIONS**

Division 3 of the *Waste Avoidance and Resource Recovery Act 2007* (provided in Additional Information 3) provides legislative requirements in relation to local government waste plans.

## **CONSULTATION**

Consultation undertaken in the preparation of the Strategic Community Plan identified protecting and enhancing the natural environment as a key issue for the Fremantle community. The City's weekly rubbish collection service was well rated in the 2017 Community Perceptions Survey, and feedback on the FOGO residential scheme has also been positive. No specific consultation has been undertaken in the preparation of this plan.

## **OFFICER COMMENT**

The former Waste Strategy targets set by the Waste Authority, including that of 65% waste diversion by 2020, have not been able to be achieved by all local governments. In part, this is due to the lack of consistency in local government waste planning that focused on the state waste targets.

The introduction of the new Waste Plan template by DWER is a step in the right direction. It clearly outlines the WARR strategy targets and assists local governments to evaluate the current position, the identifiable gaps, and provides an opportunity for local government to strategically plan ahead to achieve the targets.

By introducing a 3-bin food organics and garden organics collection system, operating a community recycling centre, signing up for container deposit scheme operations and delivering a vast array of environmental measures, the City of Fremantle has become one of the leaders in WA in meeting and in some instances exceeding the targets of the new WARR Strategy.

The Waste Plan highlights these achievements, helps identify gaps and where the City can improve. It also provides an action plan for the City to work with to make further improvements.

Most actions can be achieved using existing budgets. Where capital is required for longer-term projects, these will be brought to Council or further consideration.

It is therefore recommended that Council note the statutory requirement for the plan, its broad alignment with Council's pre-existing strategic direction and activities and endorse the City of Fremantle Waste Plan for submission to DWER.

The report also recommends deletion of Waste Minimisation Policy (additional Information attachment 4) given that this is effectively superseded by the Waste Plan.

Finally, it is recommended that the Strategic Community Plan 'measure of success' for waste reduction (currently 80% reduction by 2020) be updated to reflect the more realistic target of 70% by 2025 proposed in the draft Action Plan.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required

## **OFFICER'S RECOMMENDATION**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Sam Wainwright**

Council:

1. Endorse the City of Fremantle Waste Plan (Attachment 1).
2. Authorise submission of the City of Fremantle Waste Plan for final approval by the Department of Water and Environmental Regulation before the 31 March 2021 deadline.
3. Endorse deletion of SG2 Waste Minimisation Policy.
4. Update the Strategic Community Plan 'measure of success' for waste reduction to '70% by 2025' in recognition that this reflects a more firmly defined and mapped target.

## **AMENDMENT 1**

**Moved: Cr Doug Thompson**

**Seconded: Cr Jenny Archibald**

**Amend the recommendation to include an additional part 5, to read as follows:**

5. ***Authorise officers to make minor amendments to the Waste Plan before delivery to the Department of Water and Environmental Regulation:***
  - a) ***Bring forward the timeline for the milestones and timeframe to complete the Phase 2 of the 3-bin FOGO bin roll-out.***
  - b) ***Simplify the target column of the fourth action of the Waste Services section of the Implementation Plan – to target number of containers rather than percentages.***

- c) *Introduce an action in the Implementation Plan with the following wording, ‘Investigate opportunities to utilise a portion of FOGO derived compost from the SMRC for the City’s parks and gardens and/or for distribution to the residents from the Recycling Centre.’*
- d) *Review the following initiatives and give consideration to changing these Actions from “planning and implementing” to “investigating” and where appropriate make changes in the Actions and Targets.*
- *Trailer hire options*
  - *Specialised organics collection at Fremantle based events*
  - *Repair and reuse shop at the recycling centre*
  - *Options for donation points for CDS*
  - *Arrangements for recycling of all uncontaminated soft plastics*

**Amendment carried: 7/0**

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

**Reason for change:**

To enable the CEO to make further changes to the Waste Plan.

**COMMITTEE RECOMMENDATION ITEM FPOL2102-3**

**(Officer’s recommendation)**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Sam Wainwright**

**Council:**

1. **Endorse the City of Fremantle Waste Plan (Attachment 1).**
2. **Authorise submission of the City of Fremantle Waste Plan for final approval by the Department of Water and Environmental Regulation before the 31 March 2021 deadline.**
3. **Endorse deletion of SG2 Waste Minimisation Policy.**
4. **Update the Strategic Community Plan ‘measure of success’ for waste reduction to ‘70% by 2025’ in recognition that this reflects a more firmly defined and mapped target.**
5. ***Authorise officers to make minor amendments to the Waste Plan before delivery to the Department of Water and Environmental Regulation:***
  - a) ***Bring forward the timeline for the milestones and timeframe to complete the Phase 2 of the 3-bin FOGO bin roll-out.***
  - b) ***Simplify the target column of the fourth action of the Waste Services section of the Implementation Plan – to target number of containers rather than percentages.***



- c) Introduce an action in the Implementation Plan with the following wording, 'Investigate opportunities to utilise a portion of FOGO derived compost from the SMRC for the City's parks and gardens and/or for distribution to the residents from the Recycling Centre.'**
- d) Review the following initiatives and give consideration to changing these Actions from "planning and implementing" to "investigating" and where appropriate make changes in the Actions and Targets.**
- **Trailer hire options**
  - **Specialised organics collection at Fremantle based events**
  - **Repair and reuse shop at the recycling centre**
  - **Options for donation points for CDS**
  - **Arrangements for recycling of all uncontaminated soft plastics**

**Carried: 7/0**

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

**FPOL2102-4 DELEGATION TO APPOINT A COMPLAINTS OFFICER AND  
ADOPTION OF A COMPLAINTS FORM**

<b>Meeting date:</b>	10 February 2021
<b>Responsible officer:</b>	Manager Governance
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Delegation to appoint persons to receive and withdrawals of complaints 2. Complaint About Alleged Breach Form
<b>Additional information:</b>	Nil

**SUMMARY**

**Local governments must implement requirements of new legislation.**

**This report seeks to delegate to the Chief Executive Officer the power to appoint persons to receive and withdraw complaints and approve a complaints lodgement form in accordance with the *Local Government (Model Code of Conduct) Regulations 2021*.**

**BACKGROUND**

The *Local Government (Model Code of Conduct) Regulations 2021*, *Local Government (Administration) Amendment Regulations 2021* and *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021* (collectively the New Regulations) were gazetted on Tuesday 2 February 2021 and took effect on 3 February 2021.

New sections of the *Local Government Act 1995* (the Act) that provided for the New Regulations were proclaimed concurrently and are also now in effect.

Following the gazettal of these New Regulations an implementation phase of up to three months has been provided, during which time Local Governments must undertake a series of actions to operationalise the New Regulations.

Two such tasks, due to be completed by the 24 February 2021, are that Local Governments must:

1. appoint an officer[s] for the purposes of receiving complaints and withdrawals of complaints, in accordance with cl. 11(3)
2. approve a complaint lodgement form in accordance with cl. 11(2)(a).

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

## CONSULTATION

Nil

## OFFICER COMMENT

Local governments may delegate the power of this appointment to the CEO, which is what the city of Fremantle have traditionally done, allowing the CEO to react quickly to any changes in employment conditions. Hence the recommendation that council delegate this power to the CEO.

If a complaints officer is not appointed (by 24 February 2021) under the provisions of the regulations, a complaint made on or soon after the date of effect (3 February 2021) may lapse before it can be formally lodged.

This would be considered inconsistent with the principles of procedural fairness and community expectations of local government.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

### **COMMITTEE RECOMMENDATION ITEM FPOL2102-4** **(Officer's recommendation)**

**Moved: Cr Hannah Fitzhardinge**

**Seconded: Cr Andrew Sullivan**

**Council in accordance with cl. 11(3) and cl. 11(2)(a) of the *Local Government (Model Code of Conduct) Regulations 2021*:**

- 1. delegate to the Chief Executive Officer the power to appoint 1 or more persons to receive and withdraw complaints (attachment 1); and**
- 2. approve a complaints lodgement form (attachment 2).**

**Carried: 7/0**

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

## 11. Motions of which previous notice has been given

### C2101-5 ELECTED MEMBER MOTION – ISSUES RELATING TO PIONEER PARK – COUNCILLOR MARIJA VUJCIC

**Meeting date:** 27 January 2021  
**Responsible officer:** Chief Executive Officer  
**Decision making authority:** Council  
**Agenda attachments:** Nil

#### ELECTED MEMBER SUMMARY

The systematic failures of the Council's own procedures and governance in the incident known as Pioneer Park Tent City has seriously impacted the local business community, the ratepayers and residents and the reputation of the City of Fremantle.

#### VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

#### OFFICER COMMENT

As this Notice is being presented to Council in the first instance the section of City's Meeting Procedures that apply are as follows:

#### 4.3 Notices of motions

- (7) A motion presented in the first instance to an ordinary meeting of council, is to be referred to the appropriate committee for consideration before final determination by council.
- (a) The presiding member may determine that the notice of motion may be presented directly to council if they consider the subject of the motion to be time sensitive.

#### Additional Officer Comment

In order to enable officers to action the requests outlined in the Elected Member Motion, the following clarification is sought:

1. As final consideration of this Motion will be at the February Ordinary Council Meeting, it will be impossible to present a full report to that meeting. It is recommended that the month of February be amended to allow time for the preparation of the report.
2. Is it the intention of the Motion for the CEO to determine the investigation terms of reference, as it is not clear in the Motion? For any investigation to take place, terms of reference would be required relating to the type and scope of the investigation being requested in order to allow the City to seek appropriate quotes in line with procurement policy.
3. If Council were of the view to adopt this Motion, it is not recommended that part 1b be adopted, as the Acting CEO is of the view that Council should see the report before allocating additional resources.

## **MOTION**

**Moved: Cr Marija Vujcic**

**Seconded: Cr Hannah Fitzhardinge**

1. An immediate independent investigation to be undertaken by the City to examine the root causes that resulted in the Pioneer Park tent city incident; and
  - a. that a full report with recommendations is presented for consideration at the next Ordinary Council Meeting in February for further urgent action.
  - b. that the City allocates sufficient resources to ensure that the recommendations of that report are immediately implemented to support the principles of continuous improvement and good governance.

**Lost: 1/6**

**For**

**Cr Marija Vujcic**

**Against**

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

The following alternative motion was put:

### **COMMITTEE RECOMMENDATION ITEM C2101-5**

**Moved: Cr Doug Thompson**

**Seconded: Cr Jenny Archibald**

1. Notes that it is inappropriate and premature in a notice of motion to make assertions of perceived failures in procedures and governance in advance of any report from the CEO to Council.
2. Requests the CEO, to report on:
  - The establishment of food services at the site
  - Council response to tents being pitched on site
  - Council response to public safety and hygiene issues
  - Appropriate process amendments that can made in the approvals for social service groups providing services in the City.
3. Request the Chief Executive Officer to provide advice on the need for a policy for social service groups providing service to 'at risk' persons in Fremantle on Council controlled property in order to ensure they are delivered appropriately.

**Carried: 6/1**

**For**

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

**Against**

**Cr Marija Vujcic**

**12. Urgent business**

Nil

**13. Late items**

Nil

**14. Confidential business**

**PROCEDURAL MOTION**

At 7.31 pm the following procedural motion was moved:

**COMMITTEE DECISION**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Andrew Sullivan

**That the meeting be moved behind closed doors to consider the confidential item/s on the agenda.**

**Carried: 7/0**

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

At 7.31 pm members of the public were requested to vacate the meeting.

**FPOL2102-5 CONFIDENTIAL REPORT – REVIEW OF TENDERS RECEIVED FOR THE PROPOSED SALE OF 7-15 QUARRY STREET, FREMANTLE**

**Meeting date:** 10 February 2021  
**Responsible officer:** Manager of Economic Development and Marketing  
**Decision making authority:** Committee  
**Attachments:** 1. 7-15 Quarry Street EOI Summary of Offers  
**Additional information:** Nil

**REASON FOR CONFIDENTIALITY**

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

- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting

**COMMITTEE DECISION ITEM FPOL2102-5**

**Moved: Cr Hannah Fitzhardinge      Seconded: Cr Jenny Archibald**

**Council:**

1. **Receive information relating to the offers submitted as part of the Expression of Interest process for the sale of 7-9 Quarry Street Fremantle**
2. **Request the Chief Executive Officer to carry out further negotiations with proponents who submitted as part of the Expression of Interest process for the sale of 7-9 Quarry Street Fremantle noting that:**
  - a. **Negotiations with proponents are to be prioritised based on the highest sales price offer received**
  - b. **Only one proponent is to be negotiated with at any given time**
  - c. **Any negotiated position reached between the City and a prospective buyer will require consideration and approval from council before a sale can be finalised.**

**Carried: 6/1**

**For**

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

**Against**

**Cr Marija Vujcic**

**PROCEDURAL MOTION**

At 7.34 pm the following procedural motion was moved:

**COMMITTEE DECISION**

Moved: Cr Hannah Fitzhardinge      Seconded: Cr Andrew Sullivan

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

**Carried: 7/0**

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

**15. Closure**

The Presiding Member declared the meeting closed at 7.34 pm.