



# Minutes

## Ordinary Meeting of Council

Wednesday 27 July 2022 6pm





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## 1 Official opening, welcome and acknowledgment

The Presiding Member declared the meeting open at 6.03 pm and welcomed members of the public to the meeting.

The Presiding Member acknowledged the recent passing of two community members: Elder Aunty Margaret Culbong, and Cathy Hall.

The Presiding Member informed the meeting of the great impact that both Aunty Margaret and Cathy had on the Fremantle community.

## 2 Attendance, apologies and leave of absence

### 2.1 Attendance

Ms Hannah Fitzhardinge	Mayor
Cr Andrew Sullivan	South Ward
Cr Marija Vujcic	South Ward
Cr Doug Thompson	North Ward ( <i>entered 6.20pm</i> )
Cr Bryn Jones	North Ward ( <i>attended electronically</i> )
Cr Rachel Pemberton	City Ward
Cr Jenny Archibald	East Ward
Cr Su Groome	East Ward
Cr Frank Mofflin	Deputy Mayor/Hilton Ward
Mr Matt Hammond	A/Director City Business
Ms Michelle Brennand	Director Community Development
Mr Graham Tattersall	Director Infrastructure
Ms Chloe Johnston	Manager Development Approvals
Mr Russell Kingdom	Manager Strategic Planning and City Design
Mr Paul Dunlop	Manager Communications and Events
Ms Melody Foster	Executive Assistant
Ms Anne-Marie Bartlett	Meeting Support Officer

*There were approximately 40 members of the public and no members of the press in attendance.*

### 2.2 Apologies

Cr Fedele Camarda  
Cr Adin Lang  
Cr Ben Lawver  
Cr Geoff Graham

Mr Glen Dougall, CEO





## 2.3 Leave of absence

Nil

## 3. Applications for leave of absence

### COUNCIL DECISION

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

**Cr Su Groome request for a leave of absence from 8 September 2022 to 26 September 2022 (inclusive) is approved.**

**Carried: 8/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome, Cr Frank Mofflin,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton**

### COUNCIL DECISION

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Frank Mofflin**

**Cr Adin Lang request for a leave of absence from 28 July 2022 to 2 August 2022 (inclusive) is approved.**

**Carried: 8/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome, Cr Frank Mofflin,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton**

## 4. Disclosures of interest by members

Cr Andrew Sullivan declared a impartiality interest in item number FPOL2207-4. Cr Sullivan is a social member of the South Fremantle Football Club, which is a relevant party to the Oval Business Plan.

Cr Andrew Sullivan stated that he was confident that he could maintain impartiality during consideration of this item and would remain in the meeting.

Mayor Hannah Fitzhardinge declared a impartiality interest in item number C2207-5. Mayor Fitzhardinge's family member is employed by the business associated with the motion and is named in the motion.

Mayor Hannah Fitzhardinge stated that she would leave the meeting for this item.





## 5. Responses to previous public questions taken on notice

Nil

**Cr Doug Thompson entered the meeting at 6.20 pm during the following item.**

**Cr Bryn Jones left the meeting at 6.43pm and returned at 6.46pm.**

**Cr Rachel Pemberton left the meeting at 7.08pm and returned at 7.09pm.**

## 6. Public question time

**The following member/s of the public spoke in relation to item PC2207-1.**

Roz Connor  
Jane Hammond  
Warren Limonas  
Gill Mickinlay  
Ian Ker  
Jeremy Bean

Sebastian Galati  
Patricia McQuaid  
Jerome Argue  
Sally Raine  
Nathan Stewart  
Trish Calverley

Tony Rieck  
Lisa Barnes  
Jennifer Hudson  
Alessandra Rossi

**The following member of the public asked questions in relation to item FPOL2207-4, a summary of these questions is included below:**

### **Question 1- Susan Allwood**

Who are the driving forces behind these developments, please?

### **Question 2- Susan Allwood**

Why is Council endorsing oversized boxes in our heritage precinct and ignoring our World Heritage Listings in this area?

### **Question 3- Susan Allwood**

What are Council's intentions, and again, who are the people behind this?

### **Question 4- Susan Allwood**

Why is Council still going ahead with more developments within our heritage precincts while still failing to declare full financial disclosures and financial audits upon the new Council Chambers building and library, and FOMO?





**Question 5- Susan Allwood**

As a ratepayer I thereby ask for a financial audit from myself and full transparency on the last Council developments which are these two buildings [council building and FOMO].  
How do I go about lodging my forms for this audit?

**Question 6- Susan Allwood**

In future, can Council please include the description [of endorsed developments] on social media?

**Question 6- Susan Allwood**

Does Fremantle council planning embrace and ensure the inclusion of the studies of the effects added high-rises within our heritage CBD upon these:

- The increase in temperatures in our city.
- A study to avoid the unfortunate effects of the wind tunnels such as what we have here between the FOMO and the Council building.
- A study on the increases in our carbon footprint when these buildings are constructed of concrete.

**Question 7- Susan Allwood**

What is Council giving to offset this carbon increase?

**Question 8- Susan Allwood**

Have studies been done on the effects and results from additional buildings upon our ancient sewerage and water systems, and the ongoing problems of finding parking, which increases with development?

**Questions 1-8 were taken on notice.**

**The following member of the public spoke in relation to item FPOL2207-3.**

Bobby Wilson

**The following member of the public asked questions in relation to item FPOL2207-5, a summary of these questions is included below:**

**Question 1- Mark Woodcock**

Why wouldn't the City properly investigate its options here?





## **Question 2- Mark Woodcock**

Why, at FPOL, didn't the Council supply more details of the buyback for consideration by Council?

**Questions 1 and 2 were taken on notice.**

**The following member of the public spoke in relation to item FPOL2207-5.**

Jeff Holloway

**At 7.12 pm Mayor Hannah Fitzhardinge left the meeting and the Deputy Mayor, Cr Frank Mofflin assumed the chair.**

**The following member/s of the public spoke in relation to item C2207-5.**

Clint Clarke

## **7. Petitions**

Nil

## **8. Deputations**

Nil

### **8.1 Special deputations**

Nil

### **8.2 Presentations**

Nil

**Deputy Mayor Cr Frank Mofflin brought the following item forward.  
Cr Bryn Jones left the meeting at 7.22pm and returned at 7.23pm.**





## 10. Elected member communication

Cr Doug Thompson made the following statement:

*The subject of the current Notice of Motion C2207-5 I consider to have been appropriately dealt with as per scenarios 1 and/or 2 in WALGA's outline of Elected Members Roles and Responsibilities and I can see no objective reason for it to come before Council.*

*I also interpret the motion as potentially contravening Local Government Regulations (Model Code of Conduct) Schedule 1, Division 4, 20.1: in the part that refers to supposed inequitable application of the law by Council officers.*

*I wish to advise that if the motion is seconded for debate, I will remove myself from the meeting because I cannot vote on a motion that I consider could be in breach of the regulations.*

Cr Marija Vujcic requested that item C2207-5 be brought forward for discussion.

**At 7.20 pm the Presiding Member, Mayor Hannah Fitzhardinge returned to the meeting and assumed the chair.**

Cr Rachel Pemberton gave special thanks to Cathy Hall for her great contribution to the City.

## 9. Confirmation of minutes

### **COUNCIL DECISION**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Doug Thompson**

**Council confirm the minutes of the:**

- 1. Ordinary Meeting of Council dated 22 June 2022.**
- 2. Special Meeting of Council dated 20 July 2022.**

**Carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton**





## 11. Reports and recommendations from committees

### 11.1 Planning Committee 6 July 2022

**PC2207-1 SECTION 31. RECONSIDERATION - SOUTH TERRACE, NOS. 271-271A (STRATA LOTS 1 AND 2) SOUTH FREMANTLE - CHANGE OF USE TO SMALL BAR AND ALTERATIONS AND ADDITIONS TO EXISTING BUILDING AND CHANGE OF USE TO SHOP (DA0352/21)**

<b>Meeting Date:</b>	6 July 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	1. Amended development plans (dated 27 May 2022) and amended Management Plan (dated 10 June 2022)
<b>Additional information:</b>	1. Site Photos 2. Schedule of submissions 3. Parking analysis from applicant 4. Acoustic Report and memo dated 27 May 2022 5. Technical (Review) Report – DWER

#### SUMMARY

**Approval is sought for a change of use from Shop to Small Bar with associated alterations and additions at No. 271 (Strata Lot 1), and a change of use to Shop at Strata Lot 2, South Terrace, South Fremantle.**

**At its meeting held on 1 December 2021, the Planning Committee (PC) considered the application and in accordance with the Officers recommendation, resolved to:**

***REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Small Bar and alterations and additions to existing buildings at No. 271 (Lot 1) South Terrace, South Fremantle, as detailed on plans dated 21 September 2021, for the following reasons:***

- 1. The proposal Small bar use does not meet the Local Planning Scheme No. 4 objectives of the Mixed Use zone due to its impact on the amenity of adjoining residential uses.***
- 2. The proposal would be detrimental to the residential amenity of adjoining properties under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015.***





***3. The proposal does not meet the parking requirements of Local Planning Scheme No. 4.***

**On 5 January 2022, the applicant submitted an application for review of the decision to the State Administrative Tribunal (SAT). Subsequent to mediation between the parties, the applicant has submitted amended plans and information on 27 May 2022, and further information was provided on 10 June 2022. The City has been invited by SAT to reconsider the application based on the amended proposal for the Small Bar. It includes the following key changes:**

- **Reduced proposed capacity from 102 patrons to 85 patrons;**
- **Reduced opening days and hours;**
- **Updated Acoustic Report, and modification of the development plans to demonstrate the physical works proposed to meet the recommendations; and,**
- **Updated Management Plan.**

**The amended application is, on balance, recommended for approval.**

**PROPOSAL**

**Detail**

Approval is sought for a change of use from Shop to Small Bar at No. 271 South Terrace, South Fremantle, as well as the change of use of an existing Outbuilding to Shop on the other strata lot.

The applicant has submitted an application for review of the City's decision to the SAT and has now lodged an amended proposal for reconsideration. After a number of mediation sessions and discussion with officers, the applicant submitted amended plans on 27 May 2022. In addition to the updated plans, the applicant provided an amended Management Plan on 10 June 2022 detailing operating hours, the use of an alfresco area, waste management, deliveries, staff training, patron management, and a number of other elements. The applicant has also provided an updated acoustic report and supporting memo for consideration. All documents are included as either attachments or additional information to this report. The following table details the key changes between the refused and amended proposal:

<b>Refused application</b>	<b>Current amendments</b>
Internal fit out	Further details proposed
Demolition of rear addition	No change





Refused application	Current amendments
Addition of single storey rear addition, comprising bathroom facilities and new enclosure to rear verandah	Further details proposed, specifically replacement of less reliable acoustic screening with a solid wall around verandah
Roof treatments	<p>No change to main roof of Small Bar, with exception of addition of barrier (single fibre cement panel on metal framing) to existing roof mounted mechanical air conditioner compressor.</p> <p>The recommendation of the updated Acoustic Report dated 27 May 2022 includes additional roof/ceiling treatments for the rear balcony area, which haven't been provided on the updated DA plans. These recommendations were not present in the original Acoustic Report recommendations. A condition of approval is recommended for all measures in the Acoustic report to be included.</p>
Replacement of windows to front, rear and northern side elevations	<p>Sealing shut windows to front, rear and northern side elevations, and replacing their glazing with 6.38mm laminated glass (acoustic specification) with exception of new bi-fold window.</p> <p>The refused development plans did not propose the sealing of these windows in the closed position.</p>
No confirmed details on capacity – 120 under Small Bar licence, however restricted to 102 under Public Building requirements	85 Persons
87m <sup>2</sup> internal floor area (Public bar floor area – 27sqm, seated area – 60sqm)	No change to floor areas allocated to seating and bar area between the refused and amended development plans.
Small scale food (cheese platters, snacks etc)	No change
Patron access into building from South Terrace only	No change, however existing gate is proposed to be moved to street edge





Refused application	Current amendments
	to ensure no congregating of patrons or staff in driveway next to adjoining dwelling
Licenced area shown in road reserve, assumed alfresco dining area	Alfresco dining area proposed
	Old Bakehouse on other strata lot to be converted to Shop
Opening hours as permitted by Small Bar licence.	Reduced hours – further details in table below.
No methods provided to survey patron numbers.	Using management procedures including a clicker as patrons enter and exit the premises to keep track of patron numbers.
Ensuring doors and windows are closed, other than for patron transit, after 10pm on any days. Doors and windows to also be closed, other than for patron transit, during Sundays, public holidays, and after 7pm when venue capacity is above 30%.	Close doors and windows at various times when 70% of the venue capacity is reached.
No alfresco dining area clearly labelled as part of refused application.	Controlling patron numbers in alfresco areas to comply with noise requirements, closing the alfresco area at 9:30pm each night and bringing the patrons inside the premises.
Patron access into the building from the South Terrace entrance only.  No Small Bar patron access into the courtyard.	Ensuring that patron access for the Small Bar is via the South Terrace entrance through locking the side gate to South Terrace after certain times and prohibiting patron access to the courtyard.
Management of smoking not addressed.	Placing a sign in the alfresco area notifying patrons that no smoking is permitted at the venue.
No on-site parking provided for staff.	Ensuring that staff park on Marine Terrace and park their bicycles off-site.
No details on staff breaks or use of courtyard.	Encouraging staff to take breaks inside the venue rather than inside the courtyard.
Acoustic report recommended music to be played at background levels.	Requiring that background music complies with noise requirements and





Refused application	Current amendments
	requirements of the Acoustic Report and is managed by staff.
<p>Small bar deliveries anticipated to occur on Mondays between 10am and 4pm via front laneway/driveway. Shop deliveries to occur up to twice per week.</p> <p>Waste to occur weekly. Acoustic report recommends that waste removal occurs during daytime hours (7am-7pm, Monday to Saturday).</p>	Ensuring deliveries and waste removal occurs during reasonable business hours and in such a way as to reduce impact on neighbours.

The differences between the opening hours of the use are outlined in more detail below -

<i>Original proposal (Small bar)</i>	<i>Amended proposal (Small bar)</i>
Monday - 6am to 12am	Monday - closed
Tuesday - 6am to 12am	Tuesday - closed
Wednesday - 6am to 12am	Wednesday - 3pm to 10pm
Thursday - 6am to 12am	Thursday - 3pm to 10pm
Friday - 6am to 12am	Friday - 12pm to 12am (midnight)
Saturday - 6am to 12am	Saturday (and Public Holidays) - 10am to 12am (midnight)
Sunday - 10am to 12am	Sunday - 10am to 10pm
New Years Day -12pm to 2am	New Years Eve - 10am-1am
<i>Original proposal (Shop)</i>	<i>Amended proposal (Shop)</i>
N/A	Mon- Wed – Closed
	Thu-Fri- 10am-3pm
	Sat – 10am-5pm
	Sun -10am-4pm



It is noted that the alfresco area at the front of the premises indicated on the plans but outside the application property boundary (i.e. in the road reserve) is subject to a separate approval under the City's Alfresco Dining Local Law and does not form part of this development application. The applicant has however indicated it as part of their proposal in an effort to demonstrate the entirety of the business they intend to operate.

### Site/application information

Date received:	18 August 2021
Owner name:	Margaret and Sophie Morris
Submitted by:	Urbis Pty Ltd
Scheme:	Mixed Use
Heritage listing:	Not Heritage Listed, located in South Fremantle Heritage Area
Existing land use:	Shop
Use class:	Small Bar; Shop
Use permissibility:	A; A







## **CONSULTATION**

### **External referrals**

The amended Acoustic Report dated 27 May 2022 was referred to the Department of Water and Environmental Regulation (DWER), with no comment provided at the time of preparing this report.

### **Community**

The original application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) due to the land use requiring advertising, in addition to the car parking, delivery, and bicycle parking shortfalls. The advertising period concluded on 13 September 2021, and 22 submissions (19 against and 3 in support of the proposal) were received, including two petitions (one in support and the other objecting).

It is noted that the subsequent amended plans provided on 27 May 2022 did not require re-advertising as they do not raise new discretions or increase the intensity of the proposal, however additional submissions were received following the original determination from two additional submitters and have been added to the list of submissions.

Given the large volume of submissions received, a schedule of submissions including relevant officer comments has been prepared and attached to this report. At the time of advertising the original application petitions both supporting and opposing the application were submitted. These are summarised in the Schedule of Submissions (see Additional Information 2)

The remaining comments relating to land use, noise and parking are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this particular application the areas outlined below do not meet the policy provisions and need to be assessed under the relevant discretionary criteria:

- Land use
- Car parking
- Delivery bay
- Bicycle parking

The above matters are discussed below.





## **Background**

The subject site is located on the west side of South Terrace in South Fremantle. The parent lot has a land area of approximately 359m<sup>2</sup> and Lot 1 is currently used as a Shop. The site is zoned Mixed Use and has a density coding of R30. The property is not individually heritage listed, however is located within the South Fremantle Heritage Area.

The parent lot currently contains several structures, comprising of a two storey Grouped dwelling at the rear of site, an outbuilding (Old Bakehouse), which is to be retained as a 'Shop' use, and the Shop to the front of the lot which is to be changed to a 'Small Bar' use.

A search of the property file has revealed the following approval for the site:

- DA128/03 (two storey dwelling) – Lot 2 at rear.

Following the original refusal of the application in December 2021 by PC, the applicant lodged an application for review to the SAT. The initial mediation was held on site with the adjoining neighbour participating in the early stage, so that they could show the relevant parties through their property and voice their concerns ahead of a private session with the applicants. A further mediation session occurred a few weeks later to enable the applicant to reconsider their application and measures. Following both sessions, SAT issued direction to the City to reconsider its decision based on a revised proposal from the applicants.

## **Land Use**

A Small Bar is an 'A' use in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with clause 64 of the Deemed Provisions.

Firstly, in considering this land use, the LPS4 objectives of the Mixed Use zone have been considered, as discussed below. The objectives of the Mixed Use zone per LPS4 is provided below: –

*Development within the mixed use zone shall—*

- (i) provide for a mix of compatible land uses including light, services and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;*
- (ii) provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;*





- (iii) *ensure future development within each of the mixed used zones is sympathetic with the desired future character of each area;*
- (iv) *ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
- (v) *conserve places of heritage significance the subject of or affected by the development.*

The City originally recommended refusal partly on the basis of the proposal not meeting the objectives of the 'Mixed use' zone in LPS4 as it was considered incompatible with the amenity of the locality due to the following primary reasons:

- Land use composition of the locality, whereby many of the immediate land uses are residential, and the intensity and scale of the use was not expected to be appropriately managed;
- Potential for noise issues to be presented and impact negatively on the amenity of adjoining residents;
- Impact of patron activity within and around the site, including their travel to and from the premises at later time periods, noting this was proposed to be late hours every day of the week.

In light of the amended proposal which seeks to reduce the intensity of the use, predominantly with reduced patron capacity, reduced opening days and hours and built form measures, it is considered that the amendments proposed do go far enough to reduce the potential adverse amenity impacts of the proposal to a supportable level. It is acknowledged that there will be a change to the character of the locality with the introduction of this Small Bar, noting much of the immediate section of the zone does not have night time activity. The introduction of a Small Bar here is a different proposition to other locations on South Terrace where there are informal nodes of entertainment uses like bars and restaurants. In reconsidering the use, PC will need to be satisfied that the measures proposed by the applicant are sufficient to meet the objectives of the Mixed use zone.

However, it is important to consider that the objectives of the Mixed use zone do seek to balance a level of commercial activity in addition to protecting residential amenity. Officers consider that the reduced scale of the proposed use and the mitigation measures proposed to reduce the potential for significant detrimental impacts go far enough to warrant a recommendation for approval.

The following primary changes have been made, which justify support against the objectives of the 'Mixed use' zone:

- The refused proposal was not specific in detailing its patron numbers. The LPS4 definition, and Small Bar licence requirements, limits capacity to 120 persons, and it was noted that the Public Building regulations may further restrict to 102 based on the submitted plans. The amended application has reduced the number of patrons to a maximum of 85, including the proposed alfresco area, which assists to reduce the intensity of the use;





- The operating hours have been reduced (including no opening at all on Mondays and Tuesdays) to decrease the time when neighbouring residents may be exposed to noise from the premises. The reduction in operating hours has been concentrated on weekdays and Sunday evening, which are typically the more sensitive evenings and now mean that the Small Bar will be fully closed two nights per week and closed at 10pm on the other weekdays and Sunday; and
- The applicant and City officers have spent significant time working through the acoustic reporting from the applicant to ensure improvements to measures proposed and accuracy of assessment. The proposal now demonstrates that it is capable of meeting the limits set out in the noise regulations when all recommendations of the Acoustic Report dated 27 May 2022 are implemented. One element of contention however, is that for evening hours to comply with the bifold window open, there is a reliance on capacity reducing to 70%. This is not considered to be a reasonable measure for management to monitor, and for clear compliance, it is recommended that the bi-fold window simply be closed at 7pm every evening. A condition of approval requiring this is recommended.

In addition to the discussion above relating to the objectives of the 'Mixed use' zone, in considering an 'A' use the Council will have regard to the matters to be considered in the Deemed Provisions of the Regulations. In this regard the following provisions of Clause 67 of the Regulations have been considered in the Table below:

Provision	Officer comment
(a) <i>The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area</i>	See discussion in body of the report.
(g) <i>any local planning policy for the Scheme area</i>	See discussion in body of the report relating to Local Planning Policy D.B.U6 – <i>Late night entertainment venues serving alcohol.</i>
(m) <i>the compatibility of the development with its setting, including – (i) the compatibility of the development with the desired future character of its setting; and (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the</i>	<p>The impact of the use on the character of the area is an important consideration which is further detailed in the body of the report.</p> <p>Regarding the built form of the proposal, it is considered that modifications are predominantly internal, with the external modifications proposed at the rear of the property relatively minor in their impact to adjoining properties and the</p>





Provision	Officer comment
<i>height, bulk, scale, orientation and appearance of the development</i>	streetscape, with no adverse building bulk or scale issues posed.
<p>(n) <i>The amenity of the locality including the following:</i></p> <ul style="list-style-type: none"> <li><i>(i) Environmental impacts of the development</i></li> <li><i>(ii) The character of the locality</i></li> <li><i>(iii) Social impacts of the development</i></li> </ul>	<p>See the body of the report for further discussion relevant to noise.</p> <p>The impact of the proposal on the character of the broader locality is detailed above in the assessment of the use against the Mixed use zone. In relation to the more immediate locality, the subject site is abutted by residential land uses to the north, south, east, and west. Within the immediate locality exist retail, personal services, galleries, eateries, and other non-licensed venues, in addition to residential uses. See diagram 2 below for a more detailed demonstration of the land uses in the immediate locality.</p> <p>Within the broader locality there are licensed venues of various scales, in addition to other non-licensed venues and commercial premises.</p> <p>It is considered that the retained Shop portion of the application has an acceptable impact on the environmental, social values of the locality, improves the diversity of land use in the zone and is consistent with the character of the locality, which includes other small scale retail venues as part of its fabric.</p>
<p>(s) <i>the adequacy of —</i></p> <ul style="list-style-type: none"> <li><i>(i) the proposed means of access to and egress from the site; and</i></li> <li><i>(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles</i></li> </ul>	<p>No parking or delivery bays are proposed on the subject site. Parking and delivery bays are discussed further below. The gate is moved further towards the street.</p> <p>As discussed, there is limited use of the side gate for entry to the premises, with its only sanctioned use being for access to the Shop which is open during limited daytime hours. For the Small Bar</p>



Provision	Officer comment
	component, the only non-emergency access point is via the front door facing South Terrace.
<p><i>(u) the availability and adequacy for the development of the following —</i></p> <p><i>(i) public transport services;</i></p> <p><i>(iii) storage, management and collection of waste;</i></p> <p><i>(iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);</i></p>	<p>Discussion relating to public transportation and bicycle racks is provided in the body of the report.</p> <p>The City's Waste Management Department has advised that they support the amended Waste Management Plan provided in the Management Plan dated 3 June 2022, which is unchanged in the updated Management Plan provided on 10 June 2022.</p>
<p><i>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals</i></p>	<p>The impact of the development on the community of the locality is discussed in the body of the report.</p>
<p><i>(y) Any submissions received on the application.</i></p>	<p>A detailed discussion relating to the submissions received is provided in the schedule of submissions.</p>



**Diagram 2:** General land use map present in immediate locality of subject site.





## Parking

### Small Bar

Element	Requirement	Proposed	Extent of Variation
Car parking (Small Bar)	1: 2.5 m <sup>2</sup> of public bar area	Nil	23 bays
	27.5m <sup>2</sup> public bar area proposed		
	11 bays required		
	1: 5 m <sup>2</sup> of lounge / garden area	Nil	
	60m <sup>2</sup> lounge proposed.		
12 bays required			
Delivery bay (Small Bar)	1: service/storage area	Nil	1 bay
Bicycle racks (Small Bar)	Class 1: 1 per 25 m <sup>2</sup> bar floor area and 1 per 100 m <sup>2</sup> lounge and beer garden	Nil	3 Class 1 bays
	Class 3: 1 per 25 m <sup>2</sup> bar floor area and 1 per 100 m <sup>2</sup> lounge and beer garden	Nil	3 Class 3 bays required.

There are no parking provisions specific to a 'Small Bar' in LPS4. Therefore, the requirements of a hotel/tavern have been consistently used by the City in assessing Small Bar applications, as they most closely relate to the nature of the land use.

It is noted that despite the reduction in proposed patron numbers from 102 to 85, there is no corresponding reduction in the number of car bays required under LPS4 provisions as parking requirements in this instance are based on bar and lounge/garden floor areas, rather than patron numbers.





Shop

Element	Requirement	Proposed	Extent of Variation
Car parking (Shop)	1: 20 m <sup>2</sup> nla (minimum 2 bays)	Nil	2 bays (reduction in shortfall by 2 bays from existing Shop use)
	27.5m <sup>2</sup> net lettable area proposed (reduced from 69m <sup>2</sup> net lettable area currently occupied by the Shop) .  2 bays required.	Nil	
Delivery bay (Shop)	Not applicable	Nil	1 bay
Bicycle racks (Shop)	class 1: 1 per 300 m <sup>2</sup> gla  1 class 1 bay required	Nil	1 bay
	class 3: 1 per 500 m <sup>2</sup> gla (over 1000 m <sup>2</sup> gla)  Nil class 3 bays required.	Nil	1 bay

The City did not support the 23 car parking bay and one delivery bay shortfall in the original application for the following reasons:

- Lack of parking bays for staff working later hours;
- Additional parking demand is likely to add strain to existing parking issues in the locality;
- Infrequency of local public transportation;
- Increased parking shortfall posed by the development;
- Lack of designated loading bays in the locality; and,
- No bicycle bays are provided on site.

In reconsidering the application, the component of change to the Small Bar proposal that makes the most practical difference on the parking is the reduction of patron capacity. While the calculation does not change due to the methodology in the planning scheme, the number of people when the premises is at full capacity is considered a far more practical way of measuring parking demand. Additionally, a reduction in days and hours the bar is proposed to be open will assist in reducing demand in the area across the week compared with the previous proposal. The retention of a small component of Shop on site will not be a significant influence, noting that people typically visit a Shop for a shorter time period (resulting in a greater turnover of bays) and the hours when both uses are open rarely align.





In justifying the parking shortfall against the criteria in LPS4, the area is serviced by some public transport nearby and some people will choose to take ride share or taxi services to visit if not walking from the nearby neighbourhood. There is also on street parking on Marine Terrace often available which is only a short walk to the site. The maximum capacity of 85 is also not anticipated to be met during all opening hours.

In relation to deliveries, the updated Management Plan is clearer on the level and scale proposed and it is considered that the local network is capable of managing this.

For the bicycle racks, given the restricted access to the site for patrons, there is the ability for secured bicycle parking on site for staff if they chose to use it informally. Given the restriction of access to the courtyard to protect the amenity of the adjoining residents, it is not recommended to install formal racks in this area. The applicant has also been discussing the ability to install class 3 style racks (i.e. rails) within the public realm, which is in principle supported. A condition of approval is recommended to ensure the applicant either contributes to the installation of racks in the public realm or on their site.

Having regard to the recent increase in activity in South Fremantle, it is acknowledged that some additional parking demand may be experienced with the introduction of this proposed small bar. However, given the changes to the proposal put forward by the applicant in comparison to that previously considered by PC, the parking shortfall is now supported, albeit on balance.

#### **D.B.U6 – Late night entertainment venues serving alcohol**

The proposal has been assessed against the relevant provisions of this Policy.

Element	Requirement	Proposed
General Provisions For All Late Night Venues Which Propose To Serve Alcohol	<p>1.1 Location</p> <p>Due to access and safety issues, any proposal for a late night entertainment venue (serving alcohol), including hotels, night-clubs, jazz and piano bars and performing arts centres, should be located on land adjacent to well-lit through streets to enable adequate safety and access for taxi cabs. Ideally a loading zone or similar shall be located near the entrance to the building to allow for private vehicle drop off and pick up as well</p>	<p>The subject site is located on a portion of South Terrace with a degree of lighting provided, however isn't considered well lit. Nonetheless, the lighting provided by the premises in combination with the street lighting is considered reasonable to provide a degree of safety.</p>





Element	Requirement	Proposed
	as pre-ordered taxi travel. Amenity and safety considerations may preclude narrow or quiet streets from this type of development.	<p>Delivery services are discussed in the body of the report.</p> <p>The street is wide, and whilst is busy during the day, its amenity is considerably quieter during the night. It is noted that the noise expected to be generated by the proposal is acceptable, provided the noise attenuation requirements discussed in the body of the report are met.</p>
	A provision for a queuing area at the entry of the venue is required on site if admission fees or other line up situations are proposed for the venue.	<p>It is considered unlikely that patron numbers would be sufficient for any extended period of time to require a queuing area.</p> <p>The Management Plan states the premises is a walk-in only venue. If there are no seats available, patrons will be asked to leave the premises. A staff member will be allocated to greeting patrons, controlling access, and ensuring no ques form on South Terrace.</p>
	If this is not possible Council may consider a site adjacent to a footpath of 3 metres minimum width (from the kerb to the entrance of the property).	As discussed above, a dedicated queuing area is considered unnecessary, however the footpath is considered generally wide enough to accommodate a line whilst allowing for pedestrian traffic to flow.
	Proximity of proposed late night entertainment facilities (serving alcohol) to residential development shall form a significant part of the assessment of the applications as,	As discussed in the body of the report, despite the proximity of the premises to residential properties, given the type of Liquor License





Element	Requirement	Proposed
	in general, Council does not support proposals which may encourage conflict between land uses.	sought, the number of patrons present, the measures taken to reduce noise, and the practices outlined in the Management Plan, it is considered that the potential for land use conflict is minimised to an acceptable level.

## **Noise**

An updated Acoustic report prepared on 27 May 2022 has been provided by the applicant to justify the change of use proposal. The Acoustic Report was referred to the Department of Water and Environmental Regulation for peer-review, with no referral response received at the time of writing this report. The City's Environmental Health officers have however provided advice.

Recognising that a greater noise level could be a contributor to poor amenity for nearby residents, the applicant has amended the plans and the management plan to incorporate the recommendations from their acoustic consultant. It is noted that there has been an improvement in the proposed built form measures to limit the amount of noise emanating from the premises, in addition to reducing the maximum number of patrons, in addition to updating the management plan. This ensures that fewer elements resulting in noise compliance are left to management to control.

The recommendations and proposed works detailed in the report include:

- Managing the sources of noise, with measures including:
  - Music to be at background levels only;
  - Loudspeakers to have appropriate mounts to stop vibrations and resonances and point to centre of indoor bar;
  - All mechanical equipment and furniture shall be disconnected from building structure with anti-vibration mounts and furniture to be fitted with sliding panels or felt;
  - Installation of appropriate toilet and kitchen exhaust fan (quietest possible unit to be installed, with silencer provided if possible); and,
  - Restaurant and alfresco furniture to be fitted sliding panels or felt.
- Installation of sound absorption panels and barriers and recommends absorptive furniture and floors;
- Install short barriers on the roof next to each of the mechanical plant units;





- Minimise air gaps at boundary walls, roof, ceiling, windows and doors through expanding mastic foam;
- Provide automatic closing system for rear door;
- Retrofit all existing windows to make them air-tight and upgrade existing glass;
- Retrofit all doors as required;
- Upgrade ceiling with high-density insulation and one layer of mass loaded vinyl;
- Upgrade balcony wall to certain specifications;
- Upgrade roof/ceiling with certain specifications (in addition to aforementioned treatments); and,
- Ensuring doors and windows are closed, other than for patron transit, after 10pm on any day. Doors and windows to also be closed, other than for patron transit, during Sundays, public holidays, and after 7pm when venue capacity is above 70%;
- Limiting waste disposal to daytime hours; and,
- Limiting goods delivery to daytime hours.

The Acoustic Report details that subject to all of the above measures, that the premises should meet the requirements of the noise regulations as follows:

- If the doors are open, noise is compliant for all receivers during the day;
- If the doors are open during the evening (7pm-10pm), noise is compliant if capacity is restricted to 70%;
- If the doors are open during the night-time (10pm-7am), noise is compliant if capacity is restricted to 70%; and,
- If the doors and windows are closed, noise is compliant at all hours, even with 100% capacity.

The Management Plan and subsequent clarification with the proponents states that strict capacity and patron numbering will be undertaken by staff to ensure that doors and windows are closed when 70% capacity is reached during the required times. Methods of monitoring include using a manual clicker to keep track of patrons entering and exiting the venue, in addition to staff patrols to ensure noise and patron number compliance.





However, officers consider that ensuring closure of all windows and doors when patron numbers reach 70% of total capacity after certain times is a difficult task to manage consistently. Therefore, it is considered more manageable for staff, and more enforceable for the City, for the requirement to be imposed for all doors (other than for transit) and the bi-fold window facing South Terrace be closed every evening from 7pm onwards to comply with the noise requirements. Given all the windows are to be fixed, other than the front bi-fold window, this requirement is considered a reasonable compromise to ensure compliance with noise, whilst preserving the amenity and envisaged character of the Small Bar. Therefore, relevant conditions of approval are recommended, in addition to compliance with the Management Plan and the Acoustic Reports recommendations listed in Table 8 of the Acoustic Report.

## **CONCLUSION**

Since the original decision to refuse the development application on 1 December 2021, it is considered that the applicant has made some meaningful changes in an attempt to address the original reasons for refusal. It has been recognised that the locality is somewhat unusual, being a Mixed Use zone with a high proportion of residential properties. In recognition of this, the applicant has put forward more detailed and intensive physical alterations to the building to attenuate noise 'leaking' externally, as well as committing to a reduction in patron numbers and reduced operating hours. Additional commitments are also put forward by the applicant in the updated Management Plan which, so long as they are complied with, should assist in further reducing the potential for significant impacts of the Small Bar use.

It is also considered that with the reduced patronage and opening hours proposed, there is a more acceptable impact on parking conditions in the locality.

Therefore, on balance the application is recommended for approval, subject to the conditions contained in the officer recommendation which include conditions to expressly require the physical noise attenuation works to the building to be fully implemented prior to the use commencing.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle

## **FINANCIAL IMPLICATIONS**

Nil





## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Moved: Cr Bryn Jones**

**Seconded: Cr Andrew Sullivan**

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Small Bar and alterations and additions to existing building at Nos. 271 and 271a (Strata lots 1 and 2) South Terrace, South Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 27 May 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. The development hereby approved shall:
  - Abide by all the provisions of the Management Plan dated 10 June 2022 (except where amended by conditions of approval), which includes, but is not limited to such measures as maximum patron capacity and opening hours; and,
  - Close all doors and windows every evening from 7:00pm. Doors may be used only for patron access and egress.

Any exceptions and amendments to these requirements must be sought from, and approved by, the City of Fremantle. These requirements must be abided by for the life of the development to the satisfaction of the City of Fremantle.

4. Prior to the issue of a Building Permit for the development hereby approved, details of how the recommendations contained in Table 8 of the Acoustic Report, prepared by Acoustic Consultants Australia, and approved development plans dated 27 May 2022 are to be implemented are to be submitted to the satisfaction of the City of Fremantle.





These measures must be implemented prior to occupation of the development hereby approved and must be complied with for the life of the development to the satisfaction of the City of Fremantle.

5. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
6. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.
7. Prior to occupation of the development hereby approved, arrangements shall be made for 3 x Class 3 bicycle racks in the vicinity of the development to the satisfaction of the City of Fremantle.
8. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

#### ADVICE NOTES

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- ii. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 Design, construction and fit-out of food premises. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).
- iii. The applicant/owner is advised that the premises must comply with the *Environmental Protection (Noise) Regulations 1997*.





- iv. The proponent must:
  - 1. make application to Environmental Health Services via Form 1 - Application to construct, alter or extend a public building as a requirement of the Health (Public Buildings) Regulations 1992;
  - 2. once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate;And
  - 3. once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.

Note that Section 1 does not apply to or in relation to building work, as defined in the Building Act 2011 section 3, for which a building permit is required under that Act.

For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).

- v. The applicant is advised that any signage may be subject to a separate application for planning approval.
- vi. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the South Terrace road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).
- vii. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).





### **AMENDMENT 1**

**Moved: Cr Ben Lawver**

**Seconded: Cr Adin Lang**

**Add a condition 9 to read as follows:**

- Prior to the issue of a Building Permit, the approved plans and management plan shall be amended to demonstrate the permanent closure of the bifold window on the front elevation and the inclusion of an air lock entry to the Small Bar. The works shall be installed on site and maintained for the life of the development to the satisfaction of the City of Fremantle.

**Amendment lost 2/4**

**For:**

**Cr Adin Lang, Cr Ben Lawver**

**Against:**

**Cr Bryn Jones, Cr Geoff Graham,  
Cr Andrew Sullivan, Cr Su Groome**

### **AMENDMENT 2**

**Moved: Cr Ben Lawver**

**Seconded: Cr Su Groome**

**Add an additional advice note viii to read as follows:**

- Council advises that it does not support an Alfresco Dining Permit at this premises due to the potential impact on the amenity of nearby residential properties.

**Amendment lost 2/4**

**For:**

**Cr Su Groome, Cr Ben Lawver**

**Against:**

**Cr Bryn Jones, Cr Geoff Graham,  
Cr Andrew Sullivan, Cr Adin Lang**





Council:

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1. This approval relates only to the development as indicated on the approved plans, dated 27 May 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. The development hereby approved shall:
  - Abide by all the provisions of the Management Plan dated 10 June 2022 (except where amended by conditions of approval), which includes, but is not limited to such measures as maximum patron capacity and opening hours; and,
  - Close all doors and windows every evening from 7:00pm. Doors may be used only for patron access and egress.

Any exceptions and amendments to these requirements must be sought from, and approved by, the City of Fremantle. These requirements must be abided by for the life of the development to the satisfaction of the City of Fremantle.

4. Prior to the issue of a Building Permit for the development hereby approved, details of how the recommendations contained in Table 8 of the Acoustic Report, prepared by Acoustic Consultants Australia, and approved development plans dated 27 May 2022 are to be implemented are to be submitted to the satisfaction of the City of Fremantle.

These measures must be implemented prior to occupation of the development hereby approved and must be complied with for the life of the development to the satisfaction of the City of Fremantle.

5. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.





6. Prior to the issue of a Demolition Permit or Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.
7. Prior to occupation of the development hereby approved, arrangements shall be made for 3 x Class 3 bicycle racks in the vicinity of the development to the satisfaction of the City of Fremantle.
8. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

#### ADVICE NOTES

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- ii. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 Design, construction and fit-out of food premises. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).
- iii. The applicant/owner is advised that the premises must comply with the *Environmental Protection (Noise) Regulations 1997*.
- iv. The proponent must:
  1. make application to Environmental Health Services via Form 1 - Application to construct, alter or extend a public building as a requirement of the Health (Public Buildings) Regulations 1992;
  2. once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate;

And





3. once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.

Note that Section 1 does not apply to or in relation to building work, as defined in the Building Act 2011 section 3, for which a building permit is required under that Act.

For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).

- v. The applicant is advised that any signage may be subject to a separate application for planning approval.
- vi. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the South Terrace road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).
- vii. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).

**Lost: 1/5**

**For:**

**Cr Andrew Sullivan**

**Against:**

**Cr Bryn Jones, Cr Geoff Graham,  
Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**





**COMMITTEE DECISION ITEM PC2207-1**  
**(Alternate recommendation)**

**Moved: Cr Bryn Jones**

**Seconded: Cr Geoff Graham**

**Reaffirm the decision of Planning Committee in December 2021 to refuse the development for the same reasons previously listed, based on the updated plans dated 27 May 2022.**

**Carried: 5/1**

**For:**

**Cr Bryn Jones, Cr Geoff Graham,  
Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

**Against:**

**Cr Andrew Sullivan**

**PROCEDURAL MOTION**

**At 8.11pm the following procedural motion was moved:**

**Cr Andrew Sullivan requested the item be referred to the Ordinary Meeting of Council on 27 July 2022. Seconded by Cr Su Groome.**

**ADDITIONAL OFFICER COMMENT**

When this item was considered at the meeting of the Planning Committee on 6 July, the officer's report advised that the applicant's amended acoustic report dated 27 May had been referred to the Department of Water and Environmental Regulation (DWER), but no comment had been received.

Since consideration of the item by the Planning Committee, the City has received comments from the Environmental Noise Branch of DWER in the form of a Technical (Review) Report. A copy of DWER's Review Report is provided as an Additional Information document to the agenda for this Ordinary Council Meeting.

In summary, the DWER report questions some elements of the methodology used and assumptions made in the noise modelling upon which the applicant's assessment is based. Consequently, the assessment may have underestimated the noise impacts upon some of the nearest noise receivers (nearby residential properties). DWER consider that the assessment should be updated to address the issues identified in their Review Report.





It should be noted however that the DWER report also makes some assumptions about the proposal which do not fully align with the details of the proposal as presented to Planning Committee and Council. For instance, the DWER report assumes an al fresco area shown indicatively on the submitted plans but not forming part of the development application would operate with capacity for 15 patrons in addition to the maximum 85 patrons in the premises in the revised proposal. This is not correct – the City officer’s report makes clear that any al fresco area would require separate approval under the City’s Alfresco Dining Local Law even if development approval was granted, and the amended proposal is for a small bar with a total capacity of 85 patrons inclusive of any patrons in an al fresco area that might (or might not) be separately approved under the Local Law. The DWER comments were also made without knowledge that the officer’s recommendation for approval included a condition requiring all doors and windows to be closed at 7pm on every day.

It should also be noted that in any situation, a noise assessment of a proposed development or activity as opposed to one that already exists and operates is based to a certain degree on assumptions and modelling, rather than exact measurement of all actual noise emissions.

If Council is minded to support the Planning Committee’s recommendation to refuse the application for the same reasons as given in the Committee’s original decision of December 2021 the comments from DWER would not materially alter the basis for the Council’s decision.

If Council is minded to support the officer’s original recommendation for conditional approval, as presented to the Planning Committee on 6 July, further clarification/updating of parts of the noise assessment as referred to by DWER could be dealt with through an amended version of condition no. 4 as follows:

4. *Prior to the issue of a Building Permit for the development hereby approved, an updated version of the Acoustic Report, prepared by Acoustic Consultants Australia, is to be submitted to the City of Fremantle. The updated report must address issues identified in the Technical (Review) Report dated July 2021 prepared by the Environmental Noise Branch of the Department of Water and Environmental Regulation. Details of how the recommendations contained in Table 8 of the Acoustic Report, (including any amended or additional recommendations to address issues identified in the report by the Department of Water and Environmental Regulation) and approved development plans dated 27 May 2022 are to be implemented are to be submitted to the satisfaction of the City of Fremantle, on advice from the Department of Water and Environmental Regulation.*

*These measures must be implemented prior to occupation of the development hereby approved and must be complied with for the life of the development to the satisfaction of the City of Fremantle.*





## **COMMITTEE RECOMMENDATION**

**Moved: Mayor Hannah Fitzhardinge    Seconded: Cr Rachel Pemberton**

**Reaffirm the decision of Planning Committee in December 2021 to refuse the development for the same reasons previously listed, based on the updated plans dated 27 May 2022.**

## **AMENDMENT**

**Moved: Cr Doug Thompson**

**Seconded: Cr Rachel Pemberton**

**Add an advice note to read as follows:**

**Without prejudice to the Council's decision, that in the event of SAT approving the proposal, the Council's preference is that the smaller proposal (dated 27 May 2022) be approved to reduce the impact on the community.**

**Amendment carried: 8/1**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Andrew Sullivan, Cr Rachel Pemberton**

**Against:**

**Cr Marija Vujcic**





**COUNCIL DECISION ITEM PC2207-1**  
**(Committee recommendation, as amended)**

**Moved: Mayor Hannah Fitzhardinge   Seconded: Cr Rachel Pemberton**

**Reaffirm the decision of Planning Committee in December 2021 to refuse the development for the same reasons previously listed, based on the updated plans dated 27 May 2022, as follows:**

***REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Small Bar and alterations and additions to existing buildings at No. 271 (Lot 1) South Terrace, South Fremantle, as detailed on plans dated 27 May 2022, for the following reasons:***

- 1.   The proposal Small bar use does not meet the Local Planning Scheme No. 4 objectives of the Mixed Use zone due to its impact on the amenity of adjoining residential uses.***
- 2.   The proposal would be detrimental to the residential amenity of adjoining properties under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015.***
- 3.   The proposal does not meet the parking requirements of Local Planning Scheme No. 4.***

**Advice Note:**

***Without prejudice to the Council's decision, advise SAT that in the event of SAT approving the proposal, the Council's preference is that the smaller proposal (dated 27 May 2022) be approved to reduce the impact on the community.***

**Carried: 7/2**

**For:**

**Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Marija Vujcic, Cr Rachel Pemberton**

**Against:**

**Mayor Hannah Fitzhardinge, Cr Andrew Sullivan**





## 11.2 Finance, Policy, Operations and Legislation Committee 13 July 2022

### FPOL2207-3 SOUTH FREMANTLE LANDFILL SITE – SOLAR FARM PROJECT

<b>Meeting date:</b>	13 July 2022
<b>Responsible officer:</b>	Director of Strategic Planning and Projects
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Exclusive Working Agreement between City of Fremantle and Epuron dated 30 August 2017 (Confidential attachment under separate cover)
<b>Additional information:</b>	Nil

#### SUMMARY

The South Fremantle landfill site is a registered contaminated site under the Contaminated Sites Act 2003. This constrains many forms of development and land use for the site. As the landowner, the City of Fremantle has since the mid-2000's been undertaking site investigation, monitoring and management works in consultation with the Department of Water and Environmental Regulation to meet its obligations as landowner under the above Act.

In 2014 the City recognised that a large solar panel array (solar farm) could be a suitable interim use of the site having regard to its contaminated status. The City called for expressions of interest from private sector solar farm developers/operators which eventually led to the City entering into an agreement with a company called Epuron Projects Pty Ltd (Epuron) to allow them an exclusive working period to undertake feasibility work, gain necessary approvals and confirm the commercial viability of the project, and enter into a lease over the site with the City.

The exclusive working agreement period was extended in 2017 for a further two years or until Epuron entered into a lease for the site with the City (whichever was the longer). To date Epuron have been unable to advance the project to the point of committing to a lease with the City and have recently requested the City to consider agreeing to a transfer of the project to another commercial entity, effectively indicating that Epuron no longer wish to proceed with the project. Given that in over five years Epuron has not been able to bring the project to fruition, City officers are not confident that another party would be more successful in progressing the project and executing a lease in a timely manner.





**The ongoing uncertainty over whether the solar farm will or will not proceed is unsettling for the local community and makes it difficult for the Council to consider other potential suitable uses for the site. Therefore, officers consider it is now an appropriate time to terminate any further work by the City on trying to facilitate development of a solar farm at the South Fremantle landfill site and for Council to have the opportunity to consider other options for the site.**

**This report recommends that Council:**

- **Authorise the CEO to give notice to Epuron of the termination of any continuing informal extension of the exclusive working agreement.**
- **Agree to terminate any further work by the City on facilitating a solar farm development on the site.**
- **Request officers to prepare a further report on other options for potentially suitable uses for the site.**

## **BACKGROUND**

The former South Fremantle landfill site (the SFLS) is located to the west of Cockburn Road and Hampton Road, South Fremantle, and covers a total land area of approximately 19.4 hectares. Approximately 88% of the total site area is owned by the City of Fremantle. The remainder of the site comprises of an unmade road reserve (Island Street) and freehold land owned by the Commissioner of Main Roads WA. The land owned by the City comprises two distinct parcels, separated from one another by the road reserve and Main Roads-owned land which forms a relatively narrow strip running east-west across the centre of the site. The site was operated as a waste disposal landfill site for most of the 20th Century up until 1991, and is a site registered under the Contaminated Sites Act 2003 with a current classification of 'contaminated – remediation required'. The City has since the mid-2000's been undertaking site investigation, monitoring and management works in consultation with the Department of Water and Environmental Regulation (DWER) to meet its obligations as a landowner under the above Act. The environmental and geotechnical constraints associated with the site due to its past use as a landfill site, and the very high costs of remediation, make it unsuitable for most forms of urban development at least in the short to medium term future (up to 25 years approximately)

In 2014 the Council resolved to call for Expressions of Interest (EOI) for the potential construction and operation of a large-scale solar electricity generation facility (solar farm) on part of the SFLS.





A solar farm was considered to be a potentially suitable interim use of the site having regard to its contaminated status, which precludes major disturbance to the current ground conditions without very expensive and complex remediation works.

A solar farm involves only lightweight structures being placed on the ground surface with minimal requirements for ground penetrating foundations or other excavations.

In the EOI invitation the City provided information on the extent of the site available and requirements with respect to environmental approvals and site management and monitoring. It also offered a lease term of up to 21 years. Proponents were asked to provide information regarding the part of the site they required, energy output, structures, constructional and operational phases and governance and funding arrangements.

In February 2015, after considering eight responses received through the EOI process, Council resolved that:

- First Solar be approved as the preferred proponent
- Epuron be approved as the second preferred proponent.

The City and preferred proponent enter an exclusive working period of 12 months to allow time for the proponent to undertake site testing, feasibility work, achieve DWER approvals and enter into a power purchasing agreement with an electricity retailer.

- The exclusive working period should have the option to be extended so long as reasonable efforts are being made to achieve project milestones.
- If the exclusive working period with First Solar does not result in the project proceeding within the agreed period, the City should have the right to terminate the relationship and move to the second proponent Epuron and establish an exclusive working period with them under similar conditions.

Later in 2015, prior to signing an Exclusive Working Agreement (EWA), First Solar advised the City that they wished to withdraw from the project and so in accordance with the above resolution the City entered into discussions regarding the project with Epuron.

The City granted Epuron an exclusive working period through an EWA which originally ended on 27 August 2016 and was extended to 27 August 2017 after Epuron demonstrated it was making reasonable endeavours to develop the project.





In June 2017 Council resolved to authorise the Chief Executive Officer to further extend the EWA on terms which included principles for negotiation of a long-term lease for the site based on a potential agreement between Epuron and a power retailer. Council also resolved that the City's next tender for the supply of electricity for contestable sites should give consideration to a preference for 'locally sourced green power', the preference being subject to the annual cost of procuring electricity being no more than 10% greater than the total expenditure by the City on electricity under its (then) current contestable power contract and the purchase of carbon offsets.

Part of the reasoning behind this resolution was that extending the EWA would allow Epuron sufficient time to develop the project to a stage where a final decision could be made on whether or not it could be implemented. It would also allow the City to investigate in more detail potential options for purchasing green power under its contestable sites power supply contract.

The extended EWA was signed by the City's CEO and Epuron in late August 2017. It included a clause stating the agreement would expire on execution of a lease or in 24 months, whichever is the longer but also stated that both parties would use their best endeavours during that period to meet a project timeline appended to the EWA. The project timeline set a date of April 2018 for lease execution and December 2018 for practical completion of the solar farm and commencement of commercial operations.

In 2018 Epuron obtained development approval for the construction of a solar farm at SFLS and in July 2019 the Department of Water and Environmental Regulation (DWER) accepted construction and site management plans for the building and operating of the project. The preparation and approval of these plans had been key conditions of the development approval. Around the same time the heads of terms of a prospective lease between the City and Epuron were generally agreed between the two parties, but no lease has been executed.

Since 2019 Epuron have continued to try to secure a commercial agreement with an electricity retailer to purchase the power that would be generated from a solar farm on the site. This is a critical requirement for the project to proceed as without certainty over a purchaser for the power, it is not financially viable for a solar farm operator to commit to the costs of building and operating such a facility. Due to market conditions in the wholesale and retail electricity markets Epuron have not to date been able to reach an agreement with any retail electricity supplier to purchase power from a solar farm facility at SFLS.

In March 2022 Epuron contacted City officers to inquire whether the City would consider agreeing to a transfer of the project to another commercial entity with whom Epuron had had some negotiations, effectively indicating that Epuron no longer wished to proceed with the project.





In November 2021 Council approved the City entering into a large-scale power purchase agreement with the WA Local Government Association (WALGA), through which the City will procure 100% of its contestable sites energy supply from already established WA renewable energy sources. This is a group power purchase agreement which amalgamates the contestable energy loads of multiple WA local governments into a single contract and allows the City to transition to 100% green power at an advantageous price. This is a three-year contract which commences in July 2022.

### **FINANCIAL IMPLICATIONS**

Costs associated with the solar farm project have been borne by Epuron in accordance with the terms of the Exclusive Working Agreement referred to in the Background section of this report. Terminating the City's working relationship with Epuron and ceasing any further work to facilitate development of a solar farm at the SFLS as recommended by officers would have no financial implications for the City.

### **LEGAL IMPLICATIONS**

The Exclusive Working Agreement (as extended under Council's resolution of 2017) had an expiry date of 24 months from 30 August 2017 or on execution of a lease, whichever is the longer. The project timeline appended to the EWA referred to best endeavours being used to execute a lease by April 2018. A reasonable legal interpretation, from a reading of the EWA as a whole, is that it cannot reasonably have been the intent of the parties to the EWA that, in the absence of a lease being executed, the obligations to use such reasonable endeavours should continue indefinitely.

Although the execution of a lease has not been achieved, the working arrangements set out in the EWA have continued to operate informally. However, it has never been the City's intention that this state of affairs should continue indefinitely, particularly in the event that either the City or Epuron forms the opinion that the purposes for which the EWA was entered into are no longer likely to be achieved.

As Epuron are now indicating that they no longer have a desire to enter into a lease with the City, and have requested the City to agree to another company taking over Epuron's role in the project, officers consider (taking account of legal advice obtained on the matter) there is a reasonable basis for the City to form the opinion that the purposes for which the EWA was entered into are no longer likely to be achieved, and therefore to give notice to Epuron of the termination of any continuing informal extension of the EWA.

### **CONSULTATION**

None applicable





## **OFFICER COMMENT**

It is now nearly five years since the City and Epuron entered into an extended Exclusive Working Agreement in relation to the solar farm project in August 2017. Under the EWA both parties agreed to use their best endeavours to meet a timeline for implementation of the project (set out in an appendix to the EWA) for a period of 24 months or until execution of a lease from the City to Epuron over the project site, whichever is the longer period.

Officers recognise that Epuron has used its best endeavours to bring the project to fruition, and there are good reasons why Epuron does not wish to continue to pursue execution of a lease over the site. However, in consideration that after five years Epuron has not been able to reach this milestone (primarily due to commercial market factors in the electricity generation and retailing industries), City officers are not confident that another party would be more successful in progressing the project and executing a lease in a timely manner. The ongoing uncertainty over whether the solar farm will or will not proceed is unsettling for the local community and makes it difficult for the Council to consider other potential suitable uses for the site.

Therefore, officers consider it is now an appropriate time to cease further work under the provisions of the EWA, and to terminate any other work by the City on trying to facilitate development of a solar farm at the SFLS.

As referred to in the Background section of this report, the City has recently entered into a large-scale power purchase agreement with WALGA, which the City will procure 100% of its contestable sites energy supply from established WA renewable energy sources. This contract allows the City to transition to 100% green power at an advantageous price, very similar to the price it was previously paying for 'black' power in 2021/22. Although the City had never made a firm commitment to purchase power (via a retailer) generated from a solar farm on the South Fremantle site, the possibility of this outcome had been to some degree a consideration in assessing the commercial viability of the project from a developer/operator's point of view. Officers consider the removal of this prospect due to the City's commitment to the WALGA power purchase contract (at least for the next three years) would be a further impediment to any solar farm developer/operator being able to secure a commercial arrangement with an electricity retailer to purchase power generated at the site, which is critical to the viability of a solar farm development.

If Council did support continuing with the project with an entity other than Epuron as the developer/operator of the solar farm, officers consider it would be necessary to undertake a further open market expressions of interest process, and a fresh business plan process in relation to a major land transaction (a lease) with a different party.





Officers recommend that Council authorise the Chief Executive Officer to give written notice to Epuron of the termination of any continuing informal extension of the EWA. Council is also recommended to agree to the termination of any further work by the City to try to facilitate development of a solar farm on the SFLS in conjunction with another party, and to request officers to prepare a further report on possible alternative suitable uses of the site for Council's future consideration.

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

Simple majority required

### **OFFICER'S RECOMMENDATION**

Council:

1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.
2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the former South Fremantle landfill site.
3. Request officers to prepare a further report on options for potentially suitable alternative uses for the former South Fremantle landfill site for Council's consideration.





### **AMENDMENT 1**

**Moved: Cr Rachel Pemberton      Seconded: Cr Jenny Archibald**

#### **Council:**

- 1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.**
- 2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the former South Fremantle landfill site pending the outcome of Council's consideration of the further report referred to in part 3 below.**
- 3. Request officers to prepare a further report on options for potentially suitable alternative uses for the former South Fremantle landfill site for Council's consideration. Options for investigation should not necessarily exclude some form of solar or other type of renewable energy project, and as part of the investigation of potential alternative uses the scope of the report should include estimates of the costs of site remediation needed to enable potential uses to occur within the short to medium term future (next 5-10 years).**

**Amendment carried: 4/2**

**For:**

**Cr Jenny Archibald, Cr Fedele Camarda,  
Cr Doug Thompson, Cr Rachel Pemberton**

**Against:**

**Cr Frank Mofflin, Cr Marija Vujcic**

#### **Reason for change:**

To allow the investigation of potential alternative future uses of the site to include a wide range of options (including possibly a combination of different uses) and to provide updated information on likely costs of remediating the site in a timely manner.





**COMMITTEE RECOMMENDATION ITEM FPOL2207-3**  
**(Officer's recommendation)**

**Moved: Mayor Hannah Fitzhardinge   Seconded: Cr Rachel Pemberton**

**Council:**

- 1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.**
- 2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the former South Fremantle landfill site *pending the outcome of Council's consideration of the further report referred to in part 3 below.***
- 3. Request officers to prepare a further report on options for potentially suitable alternative uses for the former South Fremantle landfill site for Council's consideration. *Options for investigation should not necessarily exclude some form of solar or other type of renewable energy project, and as part of the investigation of potential alternative uses the scope of the report should include estimates of the costs of site remediation needed to enable potential uses to occur within the short to medium term future (next 5-10 years).***





## **AMENDMENT**

**Moved: Cr Doug Thompson**

**Seconded: Cr Marija Vujcic**

**Council:**

- 1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.**
- 2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the **former contaminated** South Fremantle landfill site *pending the outcome of Council's consideration of the further report referred to in part 3 below.***
- 3. Request officers to prepare a further report on options for potentially suitable alternative uses for the **former contaminated** South Fremantle landfill site for Council's consideration. *Options for investigation should not necessarily exclude some form of solar or other type of renewable energy project, and as part of the investigation of potential alternative uses the scope of the report should include estimates of the costs of site remediation needed to enable potential uses to occur within the short to medium term future (next 5-10 years).***

**Amendment carried: 8/1**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Doug Thompson, Cr Bryn Jones, Cr Andrew Sullivan,  
Cr Marija Vujcic, Cr Rachel Pemberton**

**Against:**

**Cr Frank Mofflin**





**COUNCIL DECISION ITEM FPOL2207-3**  
**(Committee recommendation, as amended)**

**Moved: Mayor Hannah Fitzhardinge   Seconded: Cr Rachel Pemberton**

**Council:**

- 1. Authorise the Chief Executive Officer to write to Epuron Projects Pty Ltd to give notice of the termination of any continuing informal extension of the Exclusive Working Agreement between the City of Fremantle and Epuron dated 30 August 2017.**
- 2. Terminate any further work by the City on facilitating development of a large-scale solar electricity generation facility (solar farm) on the *contaminated* South Fremantle landfill site *pending the outcome of Council's consideration of the further report referred to in part 3 below*.**
- 3. Request officers to prepare a further report on options for potentially suitable alternative uses for the *contaminated* South Fremantle landfill site for Council's consideration. *Options for investigation should not necessarily exclude some form of solar or other type of renewable energy project, and as part of the investigation of potential alternative uses the scope of the report should include estimates of the costs of site remediation needed to enable potential uses to occur within the short to medium term future (next 5-10 years)*.**

**Carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton**





## **FPOL2207-4      FREMANTLE OVAL REDEVELOPMENT – BUSINESS PLAN**

**Meeting date:** 13 July 2022  
**Responsible officer:** Manager Strategic Planning and City Design  
**Decision making authority:** Council  
**Attachments:** 1. Fremantle Oval Redevelopment Business Plan

### **Additional information:**

### **SUMMARY**

**As part of the feasibility and masterplanning for a future redevelopment of the oval precinct, a business plan has been prepared investigating various aspects of the project in more detail, including:**

- **Vision – broad economic and social benefits of the project.**
- **Masterplanning and concept development.**
- **Market analysis and financial modelling.**
- **Governance and future management options.**
- **Risk, legal and statutory considerations.**
- **Funding strategy.**

**This work is considered to be sufficiently advanced to be presented to Council (as well as the board of directors of project partners) for endorsement and agreement to continue with moving the project forward.**

### **BACKGROUND**

A holistic approach to a future redevelopment of the Fremantle Oval precinct has been an aspirational project for many years and was clearly articulated as one of five key strategic projects in council's ***FREO2029 Transformational Moves*** (2015).

In 2020, in response to the complexities of the site, including the uncertainty around the nature and timing of neighbouring sites (for example: Hospital, Police HQ) the Council resolved to progress with some broad masterplanning work.





At its Ordinary Meeting 28 April 2021, Council:

1. *Adopted the Fremantle Oval Masterplan for the purposes of:*
  - a. *Enabling all project partners to advocate for the project and pursue funding opportunities.*
  - b. *Communicating the vision with the broader Fremantle community.*
  - c. *Developing and refining certain aspects of the project, in particular, the community facilities and programs that could be incorporated.*
2. *Noted that other elements of the broader planning of Fremantle Oval precinct, such as development options for the former Dockers building and potential shared public road with the hospital site, will be developed at a later stage.*

### **FINANCIAL IMPLICATIONS**

There will be approximately \$50,000 of approved, unspent project funding at the end of 2021/22 financial year that will be brought forward into 2022/23 to assist with project development.

### **LEGAL IMPLICATIONS**

There are no legal implications associated with this report.

### **CONSULTATION**

Following the endorsement by council of the masterplan in April 2021, the masterplan document has been shared with key project partners, stakeholders and government as well as made available for public comment on the City's website.

In parallel with the masterplanning work, the City has commissioned the preparation of an updated Conservation Management Plan. As part of this, the City has reached out to the community through its MySay website to invite people to share stories and personal histories associated with Fremantle Oval. This will add depth to the understanding of the social significance of the place as part of the new Conservation Management Plan.

Given the current status of the project feasibility, it is considered premature to commence focussed community engagement on specific aspects of the project.

Broad consultation should continue by making project documents available via the City's MySay website.





## OFFICER COMMENT

### Project Update

Since the Council decision in April 2021 to adopt the Fremantle Oval masterplan, the following actions and activities have occurred:

1. On-going **collaboration** and project planning with key partners:
  - South Fremantle Football Club
  - Fremantle Football Club
  - WA Football Commission
2. **Concept development**, led by COX architecture.
3. **Cost planning**, quantity surveying.
4. Preliminary **approaches to Government** around funding.
5. Preparing an up-dated **Conservation Management Plan** (80% complete).
6. Development of a **Business Plan** (focus of this report), including:
  - Vision – broad economic and social benefits of the project.
  - Masterplanning and concept development.
  - Market analysis and financial modelling.
  - Governance and future management options.
  - Risk, legal and statutory considerations.
  - Funding strategy.

### Next Steps

To maintain project momentum, the following is a summary / sequence of activities to be considered:

1. Seek **short-term funding options** for advancing the project planning, design and business case – including Commonwealth and State governments, project partners and city funding.
2. Develop an **advocacy plan** for promoting the project and securing financial commitments for the delivery of the project.
3. **Promote** the broad potential benefits of the project on the City's website together with sharing up-to-date project information with the community and providing opportunities to receive feedback.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required





**COMMITTEE RECOMMENDATION ITEM FPOL2207-4**  
**(Officer's recommendation)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

**Council endorses the Fremantle Oval Redevelopment Business Plan, dated June 2022, for project advocacy purposes with a focus on approaching Commonwealth and State governments to seek project support and funding commitments.**

**AMENDMENT**

**Moved: Cr Andrew Sullivan**

**Seconded: Cr Doug Thompson**

- 1. Council endorses the Fremantle Oval Redevelopment Business Plan, dated June 2022, for project advocacy purposes with a focus on approaching Commonwealth and State governments to seek project support and funding commitments, and**
- 2. Future design aspects for Fremantle Oval redevelopment seek to ensure the following items are provided for as part of the design;**
  - a. Optimisation of parking within the redevelopment,**
  - b. Vehicle movements around the club facility to achieve appropriate service vehicle access to the back-of-house areas while also introducing improved public access from South Terrace and the south.**
  - c. Spectator seating and configuration to replace or expand numbers and spectator experience, including weather protection.**
  - d. Connection between Victoria Pavilion, the western wing, and the Club facility to be designed for integrated and comfortable spectator outcomes.**
  - e. View corridors through the site to be enhanced in ways that also optimises the spectator experience within the oval itself.**
  - f. Establish a close physical relationship between the club seating areas and the playing surface in a manner that continues to foster traditional interactions.**
  - g. Options to expand the crowd capacity from 12,000 to 18,000.**
  - h. In liaison with surrounding landowners (the Prison and Fremantle Hospital) expand the landscaping and urban design brief so as to integrate and optimise the use and enjoyment of all available public areas.**





- i. Development of an architectural language for the oval precinct that new proposals should respond to.**
- j. Explore activities and layouts that directly improve the way the oval is used for events while also activating the oval precinct daily as a significant and accessible public space. Ensure the business, governance, management and operational model continuously strives to optimise the use and accessibility of the oval precinct.**
- k. Further consideration of the extent and type of development achievable on the future development site taking into account the need to integrate with the redevelopment within the hospital precinct, connect to South Terrace, retain view corridors to The Knowle, retain a respectful and usable setback from the oval and to ensure the open space areas to the south east are demonstrably accessible as public open space.**

**Amendment carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton**

**Reason for change:**

To ensure redevelopment meets the required needs into the future and satisfy the City's needs long term.





**COUNCIL DECISION ITEM FPOL2207-4**  
**(Committee recommendation, as amended)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

- 1. Council endorses the Fremantle Oval Redevelopment Business Plan, dated June 2022, for project advocacy purposes with a focus on approaching Commonwealth and State governments to seek project support and funding commitments, and**
- 2. *Future design aspects for Fremantle Oval redevelopment seek to ensure the following items are provided for as part of the design;***
  - a. Optimisation of parking within the redevelopment,***
  - b. Vehicle movements around the club facility to achieve appropriate service vehicle access to the back-of-house areas while also introducing improved public access from South Terrace and the south.***
  - c. Spectator seating and configuration to replace or expand numbers and spectator experience, including weather protection.***
  - d. Connection between Victoria Pavilion, the western wing, and the Club facility to be designed for integrated and comfortable spectator outcomes.***
  - e. View corridors through the site to be enhanced in ways that also optimises the spectator experience within the oval itself.***
  - f. Establish a close physical relationship between the club seating areas and the playing surface in a manner that continues to foster traditional interactions.***
  - g. Options to expand the crowd capacity from 12,000 to 18,000.***
  - h. In liaison with surrounding landowners (the Prison and Fremantle Hospital) expand the landscaping and urban design brief so as to integrate and optimise the use and enjoyment of all available public areas.***
  - i. Development of an architectural language for the oval precinct that new proposals should respond to.***
  - j. Explore activities and layouts that directly improve the way the oval is used for events while also activating the oval precinct daily as a significant and accessible public space. Ensure the business, governance, management and operational model continuously strives to optimise the use and accessibility of the oval precinct.***





- k. Further consideration of the extent and type of development achievable on the future development site taking into account the need to integrate with the redevelopment within the hospital precinct, connect to South Terrace, retain view corridors to The Knowle, retain a respectful and usable setback from the oval and to ensure the open space areas to the south east are demonstrably accessible as public open space.***

**Carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton**





**FPOL2207-5      REQUEST FOR APPROVAL OF PROPOSED SALE OF 8 POINT STREET (PREVIOUSLY 2 POINT ST) FREMANTLE**

<b>Meeting date:</b>	13 July 2022
<b>Responsible officer:</b>	Chief Executive Officer
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. SKS letter – <i>Confidential attachment</i></li><li>2. Original Purchase Contract</li><li>3. Deed of Covenant – <i>Confidential attachment</i></li><li>4. Comparative Market Analysis for 8 Point Street – <i>Confidential attachment</i></li></ol>
<b>Additional information:</b>	Nil

**SUMMARY**

**SKS Land Pty Ltd (SKS) have advised the City they have been in discussion with a private entity for the possible transfer and sale of 8 Point Street (previously 2 Point St), Fremantle, and have agreed commercial terms for such. SKS now seek Council approval to undertake the sale.**

**This report recommends that Council approve the proposed sale of 8 Point Street, Fremantle, by SKS to the new entity, Point Street Partners (PSP), with conditions set out in two separate Deeds of Covenant.**

**BACKGROUND**

After an open tender process, the City of Fremantle approved the sale of the property formerly described as 2 Point Street (now 8 Point Street), Fremantle to SKS Land Pty Ltd (SKS) in November 2012. The sale provisions included specified timeframes where certain outcomes needed to be achieved by SKS. These sale provisions include (to):

- a) Commence construction of the development within 3 years after receiving the planning approval.*
- b) Continue to carry out construction of the development once it has been commenced; and*
- c) Complete construction of the development within 5 years after receiving the planning approval.*

Planning approval was received from Joint Development Assessment Panel (JDAP) in January 2014, to fulfil the original sale provisions, SKS originally had until January 2017 to commence development and until January 2019 to complete development.





In September 2016, SKS advised the City it will not meet these conditions and sought a one-year extension to the sale agreement.

On 26 October 2016, Council resolved to approve an extension to the agreement between SKS and City of Fremantle on the following terms:

- i. An extension of the time to commence development after receiving planning approval to three years and six months being July 2017, and*
- ii. A further extension of the time to commence development after receiving planning approval to four years being January 2018 subject to the placement of a sales office for the residential component of the development within Fremantle.*

In April 2017, SKS advised the City that, due to additional unforeseen circumstances, it will not meet these modified conditions of October 2016 and requested a further extension beyond January 2018, until January 2020. Council resolved at its meeting on 26 April 2017, to provide a further extension of time to SKS of two years to commence development from January 2018 to January 2020.

As a condition of the extension of time provided by council in 2017, the City took over management of the existing multi-deck car park (car park 6) and the undeveloped portion of land adjacent to it in order to build an at-grade car park (car park 6a).

In 2018, SKS requested early termination of the two agreements for car parks 6 and 6a, in order to commence excavation and construction of the two-level basement car park and ground level slab (stage 1) and, if it reaches its apartment pre-sales targets, immediate commencement of the entire development (stage 2). As a result, Council adopted the following resolution at its meeting dated 27 June 2018:

*Council accept SKS's request for early termination of the two agreements for Car Park 6 and the area used for Car Park 6a at 2 Point Street, Fremantle on the following conditions:*

- a) SKS acknowledge in writing that the original conditions of the contract of sale are still applicable, including the requirement to continue to carry out construction of the development once it has been commenced, unless otherwise approved by a decision of council.*
- b) In the event that Council approve a break in construction after; demolition of Carpark 6 or the construction of the two-level basement car park and ground level slab, (stage 1);*
  - (i) the City has the right to use the site for the purpose of paid public parking in the period before re-commencement of the remainder of the development,*





- (ii) SKS to use its best endeavours to ensure the (stage 1) site can be used for paid public parking including the installation of parking infrastructure, and*
  - (iii) the use of the site for public parking by the City does not incur any fee or charge by SKS.*
- c) *Should there be a significant break in construction after demolition, where there is no usable carpark, the city reserves the right to recoup costs associated with the construction of the temporary carpark and the revenue forgone.*

### **FINANCIAL IMPLICATIONS**

The sale was awarded to SKS after a tender process managed by Colliers International for a sale price of \$10 million. The property settled in the fourth quarter of the 2013/14 financial year and the City received the full \$10 million payment from SKS at that time.

The original sale conditions intended to provide a development achieved on this site by now. In this circumstance the City would have also been receiving rate revenue for the completed development. It is anticipated that the rate revenue for the completed development to be between \$45,000 and \$60,000 per year. If original conditions were met the City would have received up to \$135,000 rate revenue to date.

The City received a bond of \$200,000 as part of the sale conditions as assurance that any costs for the City could be recovered if the conditions were not met. Discussion has been held between the City and SKS to consider whether any, part or all of this bond would be claimable by the City.

SKS has provided information that in achieving a development approval and construction planning they have expended a considerable amount above the original purchase price which clarifies their genuine intent to develop. They have also agreed to cover any of the City's legal costs in undertaking this agreement. As such the City recommends releasing the bond post settlement.

### **LEGAL IMPLICATIONS**

Currently, the City has the options to approve the request to transfer, buy the property back or take action under the agreement for the conditions to be met.

If Council approve the recommendation of this report, two Deeds of Covenant between the City, SKS and PSP will be finalised to reflect the council resolution.





## **CONSULTATION**

To comply with the Local Government Act 1995, the City prepared and advertised a business plan for the sale of the property in the 2012/13 financial year. Members of the community were invited to comment on the sale as part of that process.

## **OFFICER COMMENT**

SKS have formally written to the City advising they have agreed commercial terms with another entity for the transfer and sale of 8 Point Street, Fremantle and seek Council consideration on the following:

- 1) The City will consent the sale of this property to Point Street Partners Pty Ltd and/or its nominee.
- 2) The City will not trigger the buyback provisions in the contract and the sale of this property with Sirona will happen at the agreed price between Point Street Partners and SKS;
- 3) SKS's bank guarantee of \$200,000 with the City will be returned to SKS upon the sale of this property and upon replacement of Sirona's bank guarantee or equivalent of the same value; and

In addition, Point Street Partners have also requested the following conditions be considered by Council:

- 1) Maintain the obligation to secure a new Development Approval within two (2) years from the date of acquisition with option to extend by 12 months if a scheme rezoning is required;
- 2) Commencement of construction must occur within three (3) years of obtaining Development Approval, with no condition of final completion of the development;
- 3) The removal of the requirement for personal guarantees or bonds and;
- 4) Maintain the provision for a buy-back of the property if conditions are not met.

In order for this transaction to occur, the City need to respond to the above requests and provide confirmation of our agreed terms for the release of SKS from their current contractual arrangement with the City. These terms will be provided through a formal Deed of Covenant between the City, SKS and Point Street Partners.

It is recommended that Council release SKS from their current contractual arrangement with the City, subject to Deed conditions identified above. All other previous contractual conditions will be maintained through the Deeds.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required





**COMMITTEE RECOMMENDATION ITEM FPOL2207-5**  
**(Officer's recommendation)**

**Moved: Cr Jenny Archibald**

**Seconded: Cr Frank Mofflin**

**Council approves the transfer of 8 Point Street, Fremantle, subject to the below Deed of Covenant main terms;**

<b>Deed of Covenant – Main terms</b>	
<b>City's consent</b>	<ul style="list-style-type: none"> <li>The City consents to SKS Land Pty Ltd (Seller) selling 8 Point Street, Fremantle (Land) to Point Street Partners Pty Ltd (Buyer).</li> </ul>
<b>Buyer's Covenants</b>	<ul style="list-style-type: none"> <li>(Plans for Development and Planning Approval) The Buyer must obtain development approval within 2 years of the settlement of the acquisition of the Land. Option of 12 months extension if LPS rezoning required.</li> <li>(Time for commencement of construction of Development) The Buyer must commence the construction of the development within 3 years of obtaining development approval.</li> <li>(Restriction on Dealings) Clause 24 of the Acquisition Contract will apply to the Buyer.</li> <li>(Insolvency) Clause 25 of the Acquisition Contract will apply to the Buyer.</li> </ul>
<b>City's Option to Repurchase</b>	<ul style="list-style-type: none"> <li>The City will have a right to repurchase the Land from the Buyer if the Buyer fails to commence construction within 3 years of receiving the development approval.</li> <li>The repurchase price is to be determined based on purchase price paid by the Buyer, or Market Value, whichever is the lesser.</li> <li>The 2022 General Conditions to apply to the repurchase (as opposed to the 2011 General Conditions).</li> </ul>
<b>Caveat N908854</b>	<ul style="list-style-type: none"> <li>The City must withdraw Caveat N908854 prior to or at settlement.</li> </ul>
<b>Security</b>	<ul style="list-style-type: none"> <li>(Caveat) Immediately after settlement, the City can lodge a caveat against the</li> </ul>





	<p><b>Land to secure the Buyer's obligations under the Deed of Covenant.</b></p> <ul style="list-style-type: none"> <li>• <b>(Guarantee) The directors of the Buyer will not be required to guarantee the obligations of the Buyer.</b></li> <li>• <b>(Bank Guarantee) The Buyer will not be required to provide the City with a bank guarantee.</b></li> </ul>
<b>Charge</b>	<ul style="list-style-type: none"> <li>• <b>The Deed of Covenant will charge the Land in favour of the City to secure the Buyer's obligations.</b></li> </ul>
<b>Release of Seller</b>	<ul style="list-style-type: none"> <li>• <b>(Guarantee) On and from settlement, the City forever releases the guarantee given by Windi Sims for the benefit of the City under the Acquisition Contract.</b></li> <li>• <b>(Bank Guarantee) The City will return the Bank Guarantee to the Seller (propose that this occur within 7 days of the date of the Deed of Covenant).</b></li> <li>• <b>(Indemnity) On and from settlement, the City releases the Seller from the indemnity given for the City's benefit under clause 16 of the Acquisition Contract.</b></li> <li>• <b>(General Release) On and from settlement, the City releases the Seller from any and all obligations it would have owed to the City under the Acquisition Contract had it not disposed of the Land.</b></li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>• <b>The Buyer will bear its own costs.</b></li> <li>• <b>The Seller will bear its own costs and will cover the City's costs.</b></li> </ul>

**Carried: 4/2**

**For**

**Cr Jenny Archibald, Cr Frank Mofflin, Cr Doug Thompson, Cr Rachel Pemberton**

**Against**

**Cr Fedele Camarda, Cr Marija Vujcic**





## ADDITIONAL OFFICER COMMENT

Further to the committee debate on this item further information is provided below;

### Buy-Back Option

The current conditions provided in the agreement between SKS Land and the City includes a clause (Clause 17) for the possible re-purchase of the site "until the commencement of construction" if the Buyers fails to commence construction within the agreed period. The current approved period to commence development was January, 2020.

For the City to commence the buy-back condition, it would be required to give notice to SKS Land that it had failed to meet this condition and that unless otherwise remedied within the terms of the agreement, buy-back could be commenced. This would require the City undertaking a process through the Local Government Act to approve a plan to acquire the property in the provision of a section 3.59 of the Act. The Plan known as a "Business Plan" under the terms of the Act would require the following detail;

"(2) Before it —

(b) enters into a **major land transaction**; or...

*a local government is to prepare a business plan.*

(3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*

(a) *its expected effect on the provision of facilities and services by the local government; and*

(b) *its expected effect on other persons providing facilities and services in the district; and*

(c) *its expected financial effect on the local government; and*

(d) *its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and*

(e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*

(f) *any other matter prescribed for the purposes of this subsection.*

(4) *The local government is to —*

(a) *give Statewide public notice stating that —*





- (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*
  - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
  - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
- and*
- (b) make a copy of the business plan available for public inspection in accordance with the notice; and*
  - (c) publish a copy of the business plan on the local government's official website.*
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*

*\* Absolute majority required."*

This process would normally take approximately three (3) to six (6) months to complete. During this time SKS Land would also be entitled to any legal action it believes it has right to in which to challenge the forced buy-back provision. The actual time before the property returned to the City would be significant and up to two years.

If the City was entitled to buy-back the property post Act requirements and any legal challenge, it would then be required to expend funds to find another purchaser. This would be in the vicinity of \$100,000+ for agents, marketing etc.

Buy-back is an option Council may wish to exercise. The City has not chosen to seek this remedy as it is considered a complex option to exercise and SKS Lands has provided the option of transfer to another party who has the intention to develop. Seeking development of the site in as short a time as possible remains the intended preferred outcome and the proposal seeks to circumvent the need for the City to take ownership back. The current conditions of sale include a clause (clause 24) which allows SKS Lands to seek to assign at the absolute discretion of the City. This clause also requires this occur at no expense to the City. This is the deal the current proposal provides.





### Take Action to meet Conditions

The City would have a right, under the agreement, to seek SKS Lands to undertake development in accordance with the conditions. This option is considered a complex legal option to exercise as it would be within SKS Lands rights to legally defend their position.

The current Development Approval for the site is a hotel, residential apartments and commercial outcome. The current market conditions are not conducive to hotel outcomes and SKS would find it difficult to acquire funds to undertake such a development without a commercial provider to operate the hotel. Their original agreement with the Hilton Hotel chain concluded in 2020. The City generally now prefers this property is developed mainly as residential to improve the residential capacity of the CBD. This would require as a minimum a revised development application and this would require time and expense for SKS to undertake. The current proposal by the new purchaser is to amend the current development application or submit a new application to move towards a substantially residential development.

The current proposal and proposed new Deed requires a timeframe outcome that would likely take no longer, if at all, than the time taken to settle a legal dispute to meet conditions with SKS Lands.

### Deed of Covenant

The Deed of Covenant between the parties has been settled and is provided in Confidential Attachment 3, with the Council agenda for review. This Deed, if approved by Council, will be used as the formal legal instrument to support the transfer of title.

### Property Valuation

In the short period between committee and this agenda it is not possible to have a formal property valuation undertaken. A request for valuation is being undertaken, however it is unlikely to be received in time – albeit the request is made for the process to be expedited. If the valuation is provided at any time before the council meeting it will be provided to the meeting.

In the interim, an independent appraisal has been sought from a local real estate agent. A copy of this appraisal is provided in Confidential Attachment 4, this appraisal was sought to be provided within a narrow bandwidth to ensure it provides some indication of the property market. The appraisal provided is set between \$11.5 and \$11.7 million.





**COUNCIL DECISION ITEM FPOL2207-5**  
**(Committee recommendation)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Frank Mofflin**

**Council approves the transfer of 8 Point Street, Fremantle, subject to the below Deed of Covenant main terms;**

<b>Deed of Covenant – Main terms</b>	
<b>City's consent</b>	<ul style="list-style-type: none"> <li>The City consents to SKS Land Pty Ltd (Seller) selling 8 Point Street, Fremantle (Land) to Point Street Partners Pty Ltd (Buyer).</li> </ul>
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<b>Charge</b>	<ul style="list-style-type: none"> <li>• <b>The Deed of Covenant will charge the Land in favour of the City to secure the Buyer's obligations.</b></li> </ul>
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<b>Costs</b>	<ul style="list-style-type: none"> <li>• <b>The Buyer will bear its own costs.</b></li> <li>• <b>The Seller will bear its own costs and will cover the City's costs.</b></li> </ul>

**Carried: 8/1**

**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Andrew Sullivan, Cr Rachel Pemberton**

**Against:**

**Cr Marija Vujcic**





At 8.43pm the Presiding Member, Mayor Hannah Fitzhardinge left the meeting, and Deputy Mayor, Cr Frank Mofflin assumed the chair.

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

#### C2207-5                      ELECTED MEMBER MOTION - HIGH STREET PARKING ISSUES – CR MARIJA VUJCIC

**Meeting date:** 27 July 2022  
**Responsible officer:** Chief Executive Officer  
**Decision making authority:** Council  
**Attachments:** Nil.

#### ELECTED MEMBER SUMMARY

Clinton Clarke owns the Port Jarrah Furniture business located on 45 High Street, Fremantle. Mr Clarke has been a business owner and tenant for over 20 years.

#### 27 June 2022

Mr Clarke sent a Letter of Demand to the CEO, Councillors Camarda and Vujcic in which he states:

*"It's actually disgusting how Im treated being a 21 year tenant, rate payer and local resident.*

*Clint Clarke, Port Jarrah Furniture  
45 High St Fremantle Union Stores*

*Un lawful parking breaches by tenant Japingka in designated parking bays at Union Stores. Port Jarrah Furniture has exclusive use of the car bay labelled Port Jarrah is paying \$214.50 a month.*

*Japingka Tenants are unlawfully squeezing a fourth car into their three paid parking bays it has been going on for many years.*

*The lease allows exclusive use of the car bay and on numerous occasions I have tried to resolve with the neighbour without success. I require the landlord to resolve this issue immediately.*

*If the landlord cannot stop the unlawful parking, The landlord is in breach of my quiet and enjoyment. It denies my access to my bay and creates a inconvenience. It causes my employee to approach the neighbour to move their vehicle from my bay.*





*And it creates a unsafe environment, The neighbour is not cooperative and can at times be passive aggressive, this creates a unsafe environment for my employee and myself as I have a obligation For occupational health and safety protocols.*

*The neighbours use of Port Jarrah Furnitures bay is a breach of the local parking laws. As per City of Fremantle Parking Local Law 2021”.*

Mr Clarke provided a number of photos of the Japingka vehicles one dated as early as November,2021.

This email was sent to Councillors Camarda and Vujcic

From: City Officer

Date: 24 June 2022 at 4:16:26 pm AWST

To: Clint <clint@portjarrah.com.au>

Subject: RE: Union Stores Building - High Street, Fremantle - Parking Permit arrangements

*Hi Clint*

*Sorry for the telephone tag, was hoping to chat but I'll put something in writing for your records in the interim.*

*To cut a long story short, Japingka has made contact directly with the city in response to the communication we sent out to all Union Stores tenants and specifically requested the CEO to attend the site for a discussion, which he did with another city representative last week.*

*They have requested that the city look again into the matter and see if there are any other options available to facilitate more parking at the rear. The city will formally provide a response to Japingka and all other tenancies once we have consulted with other internal teams (heritage, infrastructure, assets etc).*

*For the time being, please understand that my hands are tied and I have been specifically requested by the CEO to not any enforce any parking infringements on any vehicles until the formal response and advice has been put together and concluded.*

*We intend to finalise this in the next couple of weeks.*





**5 July 2022 – Email sent to elected members**

From: Clint <clint@portjarrah.com.au>  
Sent: Tuesday, July 5, 2022 1:19:57 PM  
To: Jennifer Archibald <JENNIFERA@fremantle.wa.gov.au>; ELECTED MEMBERS <MEMBERS@fremantle.wa.gov.au>  
Subject: Fwd: Photos of vehicle in Port Jarrah Furniture paid bay

*Please view my last year of parking issues. And the Mayors mother is the car generally half in my bay.*

*I have spoken with her, I have had numerous conversations with Japingka. They do not care and could not give a stuff about my bay.*

*I'm fed up and no dropping this until it's sorted. And a refund for my bay.*

**On 6 Jul 2022, at 9:16 am, a City Officer wrote:**

*Hi Clint*

*The City understands your concerns and is finalising a plan of action for this area with a view to infringing parties parking illegally. Noting the increase of requests for tenant parking in this space, the City has been asked to look into other options first that may accommodate extra parking including realigning of bays and/or moving/replanting trees. Engagement is required with several stakeholders to get an idea of exactly what can be done in this space regarding parking. We do understand the impact on you and as noted to you, any car that encroaches or is parked illegally in your bay will be infringed.*

*Regarding the adjoining car bays, the City will only infringe parties once consultation re: the above is complete and once all options have been reviewed and considered. Tenant consultation would also occur at this point so that all parties are aware and have had the opportunity to make comment. With the parking of the Hyundai, this void is also being reviewed and if determined, the city will likely need to paint the space highlighting that parking is not permitted; immediate infringement would not be possible.*

*The city is already working on this matter in the background and will be in touch with you in due course with an update. We thank you for your patience and understanding and are happy to hear any other feedback you may have to inform our current discussions and/or to action any direct requests to infringe any parties who are parking in your car bay.*





**5.3 Parking stalls**

- (1) A person must not stop or park a vehicle other than wholly within a parking stall – unless the vehicle is too wide or too long to fit completely within a single stall, in which case it must be parked within the minimum number of stalls needed to park it.
- (2) A person must not stop or park, or attempt to stop or park, a vehicle in a parking stall in which another vehicle is stopped or parked.
- (3) A person must not stop or park a bicycle in a parking stall.

**The City has recently looked into the idea of realigning or resizing bays to look at accommodating more vehicles in this space but this has not proved feasible due to heritage considerations and vegetation in situ. The cheapest nearby parking at time of writing is: Fishing Boat Harbour, \$8.50 per day with Pay stay app – approx. \$170 per month and located 300m away.**

**The City wishes to advise that all tenants will have a grace period of two (2) weeks before infringements are issued for the above, so that those needing to secure alternative parking arrangements have time to do so.**

**Thank you in advance for your cooperation. Please feel free to touch base at any time if you have any queries.**

**Kind Regards**

*From: Clint <clint@portjarrah.com.au>  
Sent: Thursday, July 7, 2022 7:32:20 AM  
To: City Officer, Office of the CEO <ceo@fremantle.wa.gov.au>; ELECTED MEMBERS <MEMBERS@fremantle.wa.gov.au>; Charlie Clarke <CHARLIEC@fremantle.wa.gov.au>  
Subject: Re 17/5/22 City letter stated not feasible for extra bay.*

*Hi,*

*Letter below.*

*How much rate payers money has Been wasted already on this?*

*How about Japinga's extra worker and Mayors mother pay for bays in the City like everyone one else.*

*This really stinks and I'm not stopping 😊😊*





*Firstly if any bay is created all businesses within Union store must all be consulted/offered the bay especially the Architects who have none.*

*I will request that I require a extra bay as well.*

*I also request a Acrod bay should be considered because my 'mummy' Has a Acrod sticker.*

*I totally disagree about the tree being removed it's nice in summer, Provides lots of shade. It also takes a lot of the heat off the paving.*

*The parking Bay Area is actually tight when reversing out as it is close to the Residential building. So if another bay is introducing it will create a parking hazard. Furthermore, please read your email dated 17/5/22*

*How much rate payers money already has been wasted for Mummy to get a bay?*

*How can the City go back from this email which states that it is not feasible to create another bay. Looking forward to your response.*

**Message to Councillor Vujcic relating to Parking infringement issued on Knutsford Street:**

*Hi Marija*

*I was speaking with a good friend of mine who lives at Knutsford Street, Fremantle who told me about her 91 year old friend who recently called into her house to drop of a recipe and was only in the house for a few minutes when a parking inspector stopped by her car and wrote her out a ticket as she was parked in front of my friend's garage. My friend spoke to the inspector when she saw what was happening.*

*Knutsford Street has very little parking available, despite the fact that my friend's house is one of only two homes that face into the street. The other side of the street runs alongside the prison and offers no parking at all. As her friend is 91 years old it would be impossible for her to park at the bottom of the hill and walk up. Knutsford Street is a one-way street - their house is at the Hampton Road end of it. The other houses in this street face onto the adjoining Holdsworth street - and their garages face onto Knutsford.*

*Under the circumstances Marija, would it be possible to do something about this unreasonable parking ticket for \$80 and possibly look into increasing the parking in this street.*

*I don't want to take up your time by calling you Marija, but would be most happy to do so if it suits you to talk about it*

*Thanks so much*





**From:** Marija Vujcic <[MARIJAV@fremantle.wa.gov.au](mailto:MARIJAV@fremantle.wa.gov.au)>  
**Sent:** Tuesday, 21 June 2022 12:05 PM  
**To:** Matt Hammond <[MATTHEWH@fremantle.wa.gov.au](mailto:MATTHEWH@fremantle.wa.gov.au)>  
**Subject:** FW: Ticket

Hi Matt,

*Not sure that you are the person for this issue. Please forward if not. There is a sound reason for a 2nd look at the ticket.*

*Thanks, Marija*

*Councillor Vujcic received a call from Paul Garbett to say that he would look into the matter. A couple of days later, Paul called to say that there are extenuating circumstances in this matter and that the ticket will be withdrawn.*

## **ELECTED MEMBER COMMENT**

There is compelling photographic evidence before the City of serial parking breaches occurring at the back of 45 High Street, Fremantle. Japingka Aboriginal Art and Port Jarrah Furniture are tenants of the City with Japingka leasing 3 parking bays and Port Jarrah Furniture leasing 1 car bay.

The City has not infringed the offending vehicle owner. The City has known of the illegal parking for many months and has not taken any consistent action.

The parking infringement is \$80.00, and the ultimate penalty signage shows \$5,000. The ratepayers have missed out on thousands of dollars of income because the City has not infringed the illegal parking.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Decision

## **OFFICER COMMENT**

Nil.





**The following motion was moved by Cr Marija Vujcic, and as there was no seconder, the motion lapsed.**

**Moved: Cr Marija Vujcic**

**Seconded: Nil**

That Council:

1. Request that an external investigation be conducted to test the city's compliance with legislation and policy in response to the complaints made by Clint Clarke relating to the parking issues he has raised over the last 12 months;
  - a. That the Report of the investigation be presented to the Ordinary Council Meeting in August 2022 and also include consideration of:
    - i. the role played by the Mayor, Hannah Fitzhardinge and the CEO Glen Dougall in not upholding the law.
    - ii. the seemingly inequitable application of the law for the 91 year old lady in comparison to Mrs Jody Fitzhardinge.
2. Request that the city responds to the Letter of Demand by addressing each item as presented by Clint Clarke, by the end of July.

**Lapsed due to no seconder**





At 8.44pm the Presiding Member, Mayor Hannah Fitzhardinge returned to the meeting and assumed the chair.

**ITEMS APPROVED "EN BLOC"**

The following items were adopted unopposed and without discussion "en bloc" as recommended.

**COUNCIL DECISION**

Moved: Mayor Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

The following items be adopted en bloc as recommended:

PC2207-7	AMENDMENTS TO LOCAL PLANNING POLICY 1.9 - DESIGN ADVISORY COMMITTEE AND PRINCIPLES OF DESIGN
FPOL2207-6	BUDGET AMENDMENTS - JULY 2022
C2207-3	STATEMENT OF INVESTMENTS – JUNE 2022
C2207-4	SCHEDULE OF PAYMENTS – JUNE 2022

**Carried en bloc: 9/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton





## 11.1 Planning Committee 6 July 2022

### PC2207-7 AMENDMENTS TO LOCAL PLANNING POLICY 1.9 - DESIGN ADVISORY COMMITTEE AND PRINCIPLES OF DESIGN

<b>Meeting Date:</b>	6 July 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Council
<b>Attachments:</b>	1. Revised Draft Local Planning Policy xxx
<b>Additional information:</b>	N/A

#### SUMMARY

**In February 2010, Council established a Design Advisory Committee (DAC) in accordance with Local Planning Scheme No. 4 (LPS4). Council adopted LPP1.9 Design Advisory Committee and Principles of Design (LPP 1.9) in June 2013 and in 2014 and 2018, the Terms of Reference were updated to support the operation of the DAC.**

**It is recognised that design review is an important part of the development assessment process and is a requirement of LPS4 for many proposals. However it does cost the City to deliver the service particularly when proposals require numerous presentations to the DAC to receive support. This proposed policy amendment seeks to introduce a fee for the service when review is required more than three (3) times. Other minor administrative amendments are also proposed.**

#### BACKGROUND

In February 2010, Council established a Design Advisory Committee (DAC) and associated terms of reference in accordance with LPS4. The purpose of the DAC is to undertake design review of significant development applications, specifically those exceeding 11m in height in zones other than the Residential or Industrial zones, and applications proposed in Special Control Area 5.7 (known as the Freo Alternative). The decision maker, typically Council or the Joint Development Assessment Panel (JDAP), is then required to have regard to the advice provided by the DAC.

In June 2013, Council subsequently adopted LPP 1.9. The policy elaborates on the principles of design to be covered by DAC and includes Terms of Reference for the administration of the DAC. Committee members currently serve a term of four years and are paid set fees per meeting.





Since the establishment of the DAC, costs have been entirely covered by the City, noting that these proposals typically pay an application fee when they lodge their Development Application. It is noted that amongst other local governments with Design Review Panels, there does not appear to be a consistent approach in regard to fees, however many do charge for the service at some stage in the process.

## **OFFICER COMMENT**

Investment in design review is considered good value as it offers broad and long-term benefits to the community. Where there is no fee for design review, applicants may be more likely to seek design review earlier in the process which has a greater impact on the final design. Developers are generally more receptive to making significant design changes in response to DAC feedback where that feedback is provided early in the design process, before a formal development application is lodged. In most instances, the City finds that applicants present to the DAC 1-2 times pre-lodgement and once post lodgement for final endorsement, however there are some proposals that struggle to address the feedback of the panel and return more often than that.

The purpose of this report is to consider the introduction of a fee for some design review. Specifically, it is proposed to introduce a fee after an applicant has presented three times to the Panel, for all subsequent reviews. It is considered that allowing an applicant three reviews without charge allows for early review to assist in the development of the design and encourages them to work hard on responding to the DAC's advice. For proposals that require more review, after the 3 reviews, still offering the service but for a fee is a compromise to assist the City in providing design review but reasonably recovering some of the City's costs for providing developers with the opportunity to obtain multiple reviews. It is anticipated that by allowing 3 reviews without charge, that robust design review can still occur, however it will prompt applicants to undertake proper consideration of feedback and not waste the panel's time.

The following minor amendments are proposed to the policy –

- Introduction of fee for service of \$2000, specifically, payment to cover costs for proposals seeking more than three reviews.
- Updated references to the *Planning and Development (Local Planning Schemes) Regulations 2015* Deemed Provisions.
- Inclusion of references to Clause 5.7 Special Control Provisions for small infill development (known as Freo Alternative); and
- Minor administrative corrections.

The amendments are shown in red in Attachment 1.





## **CONSULTATION**

### **Community**

The administrative corrections to the policy do not warrant consultation as they have no material impact on the policy content and rather ensure correct references to the Deemed Provisions. Additionally, the introduction of a fee for service, noting the service itself is not changing, is considered to be a minor amendment in accordance with the Regulations, and advertising is therefore not required.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The members of the DAC are paid sitting fees on an hourly basis. In accordance with the current Terms of Reference, the amount is determined by the Chief Executive Officer (CEO) subject to overall budget allocations determined by Council as part of the adoption of the annual budget. In determining hourly fee rates the CEO has regard to advice from the Office of the Government Architect of WA on fees for members of design review bodies. At present, DAC members are paid a fee of \$250 per hour.

The introduction of the fee will assist in recouping costs in administering the panel and paying sitting members for items requiring more intensive design review.

## **LEGAL IMPLICATIONS**

The revised policy aligns with the *Planning and Development (Local Planning Schemes) Regulations 2015* and provisions of Local Planning Scheme No. 4 relating to the DAC.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required





**COUNCIL DECISION ITEM PC2207-7**  
**(Committee recommendation)**

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

**Council:**

- 1. In accordance with Schedule 2, Part 2, Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopt the amendments in Attachment 1 to Local Planning Policy 1.9 Design Advisory Committee and Principles of Design.**

**Carried en bloc: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton**





## 11.2 Finance, Policy, Operations and Legislation Committee 13 July 2022

### FPOL2207-6 BUDGET AMENDMENTS - JULY 2022

<b>Meeting date:</b>	13 July 2022
<b>Responsible officer:</b>	Manager Financial Services
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	Nil
<b>Additional information:</b>	Nil

#### SUMMARY

**To adopt various budget amendments to the 2021/22 budget account numbers as detailed below in accordance with the Budget Management Policy.**

**This report recommends that Council approves the required budget amendments to the adopted budget for 2021/22 as outlined in the report.**

#### BACKGROUND

In accordance with the Budget Management Policy, this report provides details of proposed amendments to the 2021/22 budget on a monthly basis to Council (via FPOL) to adopt budget amendments to:

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

#### FINANCIAL IMPLICATIONS

The financial implications are detailed in this report.





## **LEGAL IMPLICATIONS**

### ***Local Government Act 1995:***

#### **Section 6.2 (1)**

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

#### **Section 6.8 (1) and (2)**

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

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

Where expenditure has been incurred;

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

### ***Local Government (Financial Management) Regulations 1996:***

#### **Regulation 33A**

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

## **CONSULTATION**

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





## OFFICER COMMENT

The following amendments are proposed to be made to the adopted/revised budget for 2021-22.

### 1. Budget amendments for proposed expenditure for an additional purpose or release of quarantined funds.

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

Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
1.1	City received a grant from the Department of Industry, Science and Resources for tree planting for the Queens Jubilee. These funds are proposed to be allocated to the Arthur Head Wall Stabilisation project.					
Inc	300168.4218	P-10260 Program - Arthur Head Wall Stabilisation- Non Operating Grant- Federal	-	7,100		7,100
Exp	300168.1606	P-10260 Prgram - Arthur Head - Wall Stabilisation - Capital WIP	(525,744)		(7,100)	(532,844)





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

Chief Executive Officer (CEO) has the delegated authority under the Budget Management Policy to incur expenditure for a purpose identified within the budget for which there are insufficient funds allocated, where:

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

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

Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
2.1	This request is to recognise a reduction in planned expenditure for grant acquittal purposes. Initially, a budget of \$150,000 was allocated for the Design & Construct - Frank Gibson - Lighting 2 project which was fully funded by Fremantle Netball Association. Upon finalisation of the scope and receiving quotations for the project, the costs was estimated at approximately \$100,000. This proposal is to reduce the budget for this item by \$52,205 to align with actual expenditure.					
Inc	300276.4214	P-12065 Design & Construct - Frank Gibson - Lighting 2 - Non Operating Grant - Other Organisation	150,000	(52,205)		97,795





Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
Exp	300276.1606	P-12065 Design & Construct - Frank Gibson - Lighting 2 - Capital WIP	(150,000)		52,205	(97,795)
2.2	<p>The following budget request is to correct an accounting error. The budget amendment outlined below was approved in December 2020 (Council decision item C2012-07) for an additional allocation of budget to the Fire Services Upgrade works for the Town Hall building to reflect the proposed tender and allowed contingency budget. While approval from Council was received at that time, the prior year budget was not updated, and the project therefore currently gives the appearance of being overspent. This budget adjustment is now re-submitted for approval so that the adjustment can be made in the current year.</p>					
Reserve	300166.3923	Transfer from reserve (Capital Projects)	530,000	50,000		580,000
Exp	300166.1606	P-11943 Town Hall Fire Upgrade Works	(530,000)		(50,000)	(580,000)

### 3. Carried forward projects estimate budget amendments.

There are no proposed budget amendments to the FY 2021/22 budget.

### VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required





**COUNCIL DECISION ITEM FPOL2207-6**  
**(Committee recommendation)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

**Council approves the required budget amendments to the adopted/amended budget for the 2021/22 financial year as outlined below:**

Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
<b>1.1</b>	<b>City received a grant from the Department of Industry, Science and Resources for tree planting for the Queens Jubilee. These funds are proposed to be allocated to the Arthur Head Wall Stabilisation project.</b>					
<b>Inc</b>	<b>300168.4218</b>	<b>P-10260 Program - Arthur Head Wall Stabilisation- Non Operating Grant- Federal</b>	<b>-</b>	<b>7,100</b>		<b>7,100</b>
<b>Exp</b>	<b>300168.1606</b>	<b>P-10260 Program - Arthur Head - Wall Stabilisation - Capital WIP</b>	<b>(525,744)</b>		<b>(7,100)</b>	<b>(532,844)</b>
<b>2.1</b>	<b>This request is to recognise a reduction in planned expenditure for grant acquittal purposes. Initially, a budget of \$150,000 was allocated for the Design &amp; Construct - Frank Gibson - Lighting 2 project which was fully funded by Fremantle Netball Association. Upon finalisation of the scope and receiving quotations for the project, the costs was estimated at approximately \$100,000. This proposal is to reduce the budget for this item by \$52,205 to align with actual expenditure.</b>					
<b>Inc</b>	<b>300276.4214</b>	<b>P-12065 Design &amp; Construct - Frank Gibson - Lighting 2 - Non Operating Grant - Other Organization</b>	<b>150,000</b>	<b>(52,205)</b>		<b>97,795</b>





Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
Exp	300276.1606	P-12065 Design & Construct - Frank Gibson - Lighting 2 - Capital WIP	(150,000)		52,205	(97,795)
2.2	<p>The following budget request is to correct an accounting error. The budget amendment outlined below was approved in December 2020 (Council decision item C2012-07) for an additional allocation of budget to the Fire Services Upgrade works for the Town Hall building to reflect the proposed tender and allowed contingency budget. While approval from Council was received at that time, the prior year budget was not updated, and the project therefore currently gives the appearance of being overspent. This budget adjustment is now re-submitted for approval so that the adjustment can be made in the current year.</p>					
Reserve	300166.3923	Transfer from reserve (Capital Projects)	530,000	50,000		580,000
Exp	300166.1606	P-11943 Town Hall Fire Upgrade Works	(530,000)		(50,000)	(580,000)

**Carried en bloc: 9/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton





## **12. Reports and recommendations from officers**

### **C2207-3 STATEMENT OF INVESTMENTS – JUNE 2022**

<b>Meeting date:</b>	27 July 2022
<b>Responsible officer:</b>	Manager Financial Services
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Statement of Investments – June 2022
<b>Additional information:</b>	Nil

#### **SUMMARY**

**This report outlines the investment of surplus funds for the month ending 30 June 2022 and provides information on these investments for Council consideration.**

**This report recommends that Council receive the Investment Report for the month ended 30 June 2022, as provided in Attachment 1.**

**The investment report provides a snapshot of the City's investment portfolio and includes:**

- **Portfolio details as at 30 June 2022;**
- **Portfolio counterparty credit framework;**
- **Portfolio liquidity with term to maturity;**
- **Portfolio fossil fuel summary;**
- **Interest income earned for the month; and**
- **Investing activities for the month.**

#### **BACKGROUND**

In accordance with the Investment Policy adopted by Council, the City of Fremantle (the City) invests its surplus funds, long term cash, current assets and other funds in authorised investments as outlined in the policy.

Due to timing differences between receiving revenue and the expenditure of funds, surplus funds may be held by the City for a period of time. To maximise returns and maintain a low level of credit risk, the City invests these funds in appropriately rated and liquid investments, until such time as the City requires the money for expenditure.

The City has committed to carbon neutrality and to this end seeks to ensure its financial investments consider the City's One Planet Fremantle Strategy. The City therefore seeks to limit investments in financial institutions which support, either directly or indirectly, fossil fuel companies, while balancing compliance with the investment policy.





## FINANCIAL IMPLICATIONS

Investment interest earned year to date is \$217,846 against a full year adopted budget of \$200,000.

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.75% for the month of 30 June 2022. The City's actual portfolio return in the last 12 months is 0.36%, which compares favourably to the benchmark Bloomberg AusBond Bill Index reference rate of 0.10% for the past year (refer Attachment 1 point 8).

## LEGAL IMPLICATIONS

The following legislation is relevant to this report:

- *Local Government (Financial Management) Regulations 1996* Regulation 19 – Management of Investments; and
- *Trustee Act 1962* (Part 3)

Authorised Deposit-taking Institutions are authorised under the *Banking Act 1959* and are subject to Prudential Standards which are overviewed by the Australian Prudential Regulation Authority (APRA).

## CONSULTATION

Nil

## OFFICER COMMENT

A comprehensive Investment Report for the month ending 30 June 2022 has been provided by our Investment Portfolio Manager and can be viewed in the Attachment. A summary of the investment report is provided below.

### 1. Portfolio details

As at 30 June 2022, the City's investment portfolio totalled \$34.02m. The market value was \$34.10m, which takes into account accrued interest.





The investment portfolio is made up of:

Cash Investments (<= 3 months)	\$ 6.52m
Term Deposits (> 3 months)	\$ 27.50m
<b>TOTAL</b>	<b>\$ 34.02m</b>

Of which:

Unrestricted cash	\$ 27.54m
Restricted cash (Reserve Funds)	\$ 6.48m
<b>TOTAL</b>	<b>\$ 34.02m</b>

The current amount of \$27.54m held as unrestricted cash represents 35.4% of the total adopted budget for operating revenue (\$77.76m)

## **2. Portfolio counterparty credit framework**

The City's Investment policy determines the maximum amount to be invested in any one financial institution based on the credit rating of the financial institution. Council adopted amendments to this policy at its Ordinary Council Meeting held on 25 November 2020, and the current adopted counterparty credit framework is as below.

### **Counterparty credit framework**

Investments are not to exceed the following percentages of average annual funds invested with any one financial institution and consideration should be given to the relationship between credit rating and interest rate.

<b>Credit quality</b>	<b>Maximum % of total investments</b>
Tier 1 (excl. AAA government) AAA to AA-	45%
Tier 2 A+ to A-	25%
Tier 3 BBB+ to BBB-	10%
Tier 4 Unrated	(\$1m)

The funds invested as at 30 June 2022 per the City's investment portfolio, relative to the threshold allowed by the investment policy, are outlined below:





## Portfolio Credit Framework Limits As at 30 June 2022

Tier	Allocation	Allocation %	Maximum Allocation %	% Used of Maximum Allocation	% Available of Maximum Allocation	% Exceeded of Maximum Allocation
Tier 1	4,465,407.81	13.13%	100.00%	13.13%	86.87%	0.00%
Tier 2	20,054,624.12	58.95%	60.00%	98.25%	1.75%	0.00%
Tier 3	9,500,000.00	27.92%	35.00%	79.77%	20.23%	0.00%
Tier 4	0.00	0.00%	15.00%	0.00%	100.00%	0.00%
	34,020,031.93					

Values used in the above calculations exclude interest for term deposits and other simple interest securities.



As reported in the above graphs, the portfolio was compliant with the issuer trading limit.

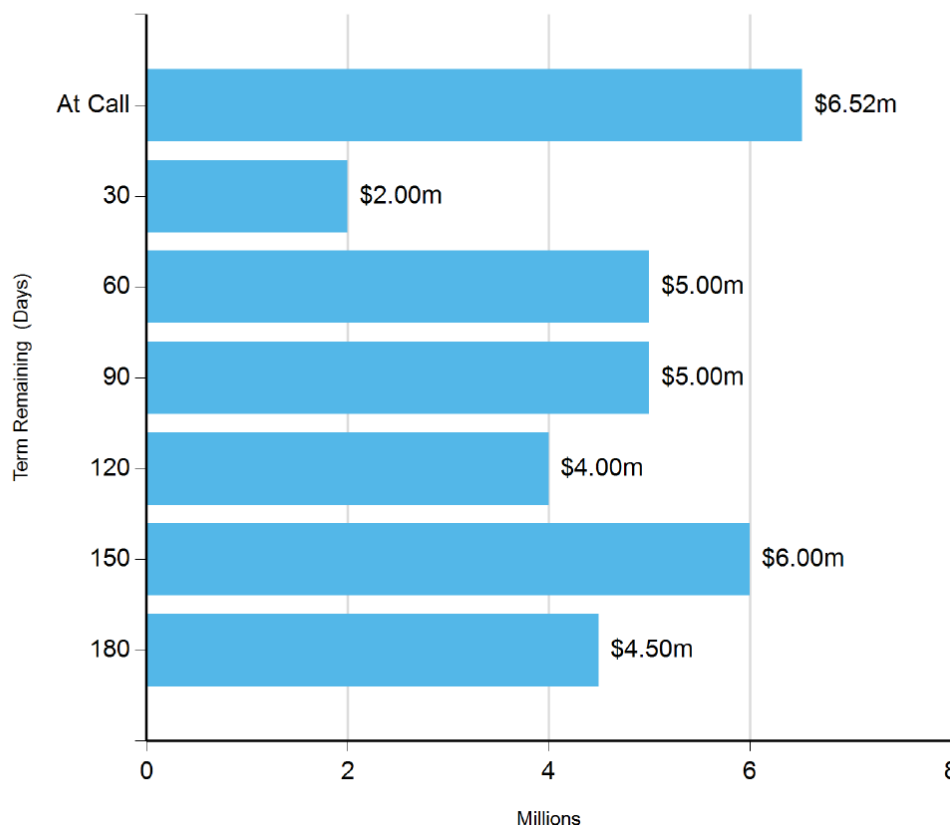
### 3. Portfolio Liquidity Indicator

Investments are to be made in a manner to ensure sufficient liquidity to meet all reasonably anticipated cash flow requirements, without incurring significant costs due to the unanticipated sale of an investment.

The below graph provides details on the maturity timing of the City's investment portfolio as at 30 June 2022. Currently, all investments will mature in one year or less.



#### Face Value by Term Remaining



#### 4. Portfolio Summary by Fossil Fuels Lending Authorised Deposit-Taking Institutions (ADIs)

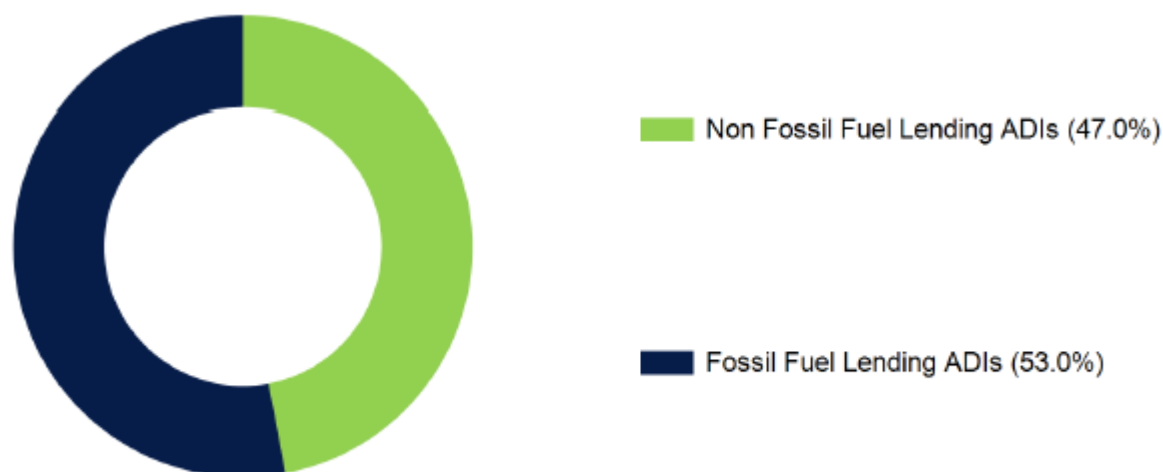
To support the City's ability to undertake greater fossil fuel divestment, a review of the Investment Policy was presented and adopted by Council on 25 November 2020 which incorporated a minor change to the investment framework to increase the percentages allocated to tier 3 and tier 4 categories, allowing greater flexibility. Since December 2020 investments have been made in accordance with the revised policy to increase the percentage invested in "Green Investments"; being ADIs that do not lend to industries engaged in the exploration for, or production of, fossil fuels (Non-Fossil Fuel Lending ADIs).

To date it has been challenging for the City to invest in banks deemed "green" as these banks are full on liquidity and therefore are not issuing new term deposits, however we are starting to see movement in this market that may allow for increased Green Investments in the future.





As at 30 June 2022, \$16m (47.0%) of the City's portfolio was invested in "Green Investments":



Refer to Attachment 1 (note 7) for details on which financial institutions these investments are held in.

While (as previously noted) it has been challenging to access green investments over the past 12 months, positively this period saw an increase from 37.2% in May, to 47.0% in June.

## **5. Interest Income for Matured Investments**

Per Attachment 1 (note 9), interest income earned during the month of June 2022 from matured investments was \$16,515.62.

## **6. Investing Activities**

During the month of June 2022, five term deposit investments of \$6.0m was withdrawn for operational requirements.

Full details of the institution invested in, interest rate, number of days and maturity date are provided in the Attachment.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required





**COUNCIL DECISION ITEM C2207-3**  
**(Officer recommendation)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

**Council receive the Investment Report for the month ending 30 June 2022, as provided in Attachment 1.**

**Carried en bloc: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton,**





## **C2207-4 SCHEDULE OF PAYMENTS – JUNE 2022**

**Meeting date:** 27 July 2022  
**Responsible officer:** Manager Financial Services  
**Decision making authority:** Council  
**Attachments:** 1. Schedule of Payments and Listings  
2. Purchase Card Transactions  
*Attachments viewed electronically*  
**Additional information:** Nil

### **SUMMARY**

**The purpose of this report is to present to Council a list of accounts paid by the Chief Executive Officer under delegated authority for the month ending 30 June 2022, as required by the *Local Government (Financial Management) Regulations 1996*.**

**This report recommends that Council accept the list of payments made under delegated authority and accept the detailed transaction listing of Purchase Card expenditure.**

### **BACKGROUND**

Council has delegated, to the Chief Executive Officer, the exercise of its power to make payments from the City's municipal or trust fund. In accordance with regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid under delegation for the month of June 2022, is provided within Attachment 1 and 2.

### **FINANCIAL IMPLICATIONS**

A total of \$9,800,889.42 in payments were made this month from the City's municipal and trust fund accounts.

### **LEGAL IMPLICATIONS**

Regulation 13 of the *Local Government (Financial Management) Regulations 1996* states:

13. *Payments from municipal fund or trust fund by CEO, CEO's duties as to etc.*  
(1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared —*  
*(a) the payee's name; and*  
*(b) the amount of the payment; and*  
*(c) the date of the payment; and*  
*(d) sufficient information to identify the transaction.*





- (2) A list of accounts for approval to be paid is to be prepared each month showing
- (a) for each account which requires council authorisation in that month —
- (i) the payee's name; and
  - (ii) the amount of the payment; and
  - (iii) sufficient information to identify the transaction; and
- (b) the date of the meeting of the council to which the list is to be presented.
- (3) A list prepared under sub-regulation (1) or (2) is to be —
- (a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
- (b) recorded in the minutes of that meeting.

## CONSULTATION

Nil

## OFFICER COMMENT

The following table summarises the payments for the month ending 30 June 2022 by payment type:

Payment Type	Amount (\$)
Cheque / EFT / Direct Debit	\$ 7,781,794.19
Purchase card transactions	\$ 62,171.11
Salary / Wages / Superannuation	\$ 1,948,827.69
Other payments	\$ 8,096.43
<b>Total</b>	<b>\$ 9,800,889.42</b>

Attachment 1 provides a detailed listing of the payments by Cheque, EFT and Direct Debit, while Attachment 2 provides a detailed listing of Purchase Card transactions for the month ending 30 June 2022.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required





**COUNCIL DECISION ITEM C2207-4**  
**(Officer recommendation)**

**Moved: Mayor Hannah Fitzhardinge**

**Seconded: Cr Jenny Archibald**

**Council:**

- 1. Accept the list of payments made under delegated authority, totalling \$7,781,794.19 for the month ending 30 June 2022, as contained within Attachment 1.**
- 2. Accept the detailed transaction listing of Purchase Card expenditure, totalling \$62,171.11 for the month ending 30 June 2022, as contained within Attachment 2.**

**Carried en bloc: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton,**





## 11.1 Planning Committee 6 July 2022

### **PC2207-8 LOCAL HERITAGE SURVEY AND HERITAGE LIST ADJUSTMENTS 34 QUEEN STREET AND 61-69 KNUTSFORD STREET**

**Meeting Date:** 6 July 2022  
**Responsible Officer:** Manager Strategic Planning and City Design  
**Decision Making Authority:** Council  
**Agenda Attachments:** Jaylu Flats Heritage Assessment, by Stephen Carrick Architect

#### **SUMMARY**

As part of the ongoing management of heritage places in Fremantle, the purpose of this report is to recommend adjustments to the Local Heritage Survey (LHS) and the Heritage List under the Local Planning Scheme (the List) regarding two properties:

1. Warehouses/ Office, 61-69 Knutsford Street, Fremantle
2. Jaylu Flats, 34 Queen Street, Fremantle

#### **61-69 Knutsford Street**

The State Administrative Tribunal (SAT) granted planning approval to demolish all buildings on the site in 2011. Some, though not all, buildings were demolished between late 2012 and mid 2014 thereby substantially commencing the development approval. However, the Heritage List was not updated to reflect the demolition approval by removing the property from the List in subsequent annual heritage updates. This oversight has recently come to the City's attention and this report recommends updating the heritage listings to reflect the SAT decision by changing the management category for the place on the LHS to Historic Record Only and removing it from the Heritage List.

#### **Jaylu Flats**

This property is currently identified on the LHS but is not included on the List which would offer a statutory level of conservation protection under the Local Planning Scheme.

In July 2020 a recommendation was put before Planning Committee to change the LHS category from Level 2 to Historic Record Only. This was referred back to the Administration for further investigations, particularly around the potential significance associated with the major modifications in 1963 to the original building fabric of 1897.





**An independent heritage assessment of the place has been provided by the owners. In addition, the City's Heritage Team has carried out further research and a review of evidence - concluding that the place is below the threshold of both the Level 2 and Level 3 management categories. It is therefore recommended that the management category for this place be changed from Level 2 to Historic Record Only and remain off the List.**

## **BACKGROUND**

### Heritage list and Local Heritage Survey (LHS)

The *Heritage Act 2018* requires that local governments prepare and maintain a LHS of places that in its opinion are, or may become, of cultural heritage significance. That survey is required to be periodically updated and reviewed. Places on the LHS are recognised but do not automatically enjoy statutory protection.

The Planning and Development (Local Planning Schemes) Regulations 2015 ('the Regulations') Schedule 2 'Deemed Provisions for local planning schemes' part 3 make provision for the establishment and maintenance of a Heritage List and Heritage Areas which have been identified as of significance and worthy of built heritage conservation. Places on the Heritage List and in Heritage Areas have statutory protection under the planning scheme.

Council adopted its initial LHS (then called a Municipal Heritage Inventory) in September 2000 and subsequently adopted a Heritage List based on the Inventory through the provisions of Local Planning Scheme No. 4 (gazetted in 2007). These lists are periodically reviewed and adjusted over time.

Maintenance of the City's LHS and Heritage List contributes to Council's objective to "sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history".

### 1. Warehouses / Office, 61 – 69 Knutsford Street

This place is a group of Post-War industrial buildings that were placed on the Municipal Heritage Inventory in 2000 because of their historic connection to transport and industrial development in White Gum Valley. The place is currently included on the Heritage List and is identified on the LHS as a non-standard management category, 'Assess in more detail at DA'.

In 2009 the property owners submitted a planning application, DA0630/09, to demolish all six buildings on the site. The application was approved on the condition that elements of the two most significant buildings were retained to interpret the historic industrial use of the area. The condition read as follows:





- (a) This approval relates only to the demolition of the existing buildings as indicated on the approved plans with the exception of:
- i) Building 1 (not including the east facing verandah); and
  - ii) The first bay of the saw-tooth roof portion of Building 3 located closest to Wood Street;
- which are to be retained to conserve the heritage character of the area and to allow for adaptive re-use in accordance with the objectives and principles of the Knutsford Street East Structure Plan in terms of adaptability and the retention and enhancement of the industrial character of the area. It does not relate to any other development on this lot.

The applicants then successfully appealed this condition at the State Administrative Tribunal and on 13 June 2011 an order was made to the City to delete the above condition and allow the demolition of all buildings on site.

In 2012 an extension of time (ET04/12) was granted to extend the planning approval until 30 November 2014. Some, though not all, buildings on the property were subsequently demolished between late 2012 and mid-2014. The dates of demolition have been verified through the City's records. The demolition of some buildings prior to 30 November 2014 means that the development approval was substantially commenced, and under the provisions of the City's planning scheme this means the approval remains 'alive' indefinitely. Consequently, the two buildings which presently remain standing on site (the building at the corner of Knutsford Street and Amherst Street, referred to as 'Building 1' in the condition that was the subject of the SAT appeal and the building on the corner of Knutsford Street and Wood Street) can lawfully be demolished without a further planning approval being required.

The heritage listing was not updated to reflect the SAT order approving demolition of all the buildings on site in subsequent annual heritage updates of the LHS and Heritage List.

It is noted that the adjacent property, 39 – 41 Wood Street, which was also part of the SAT order, is not included on the Heritage List or the Local Heritage Survey.

To date, the landowners have not had any discussions with City officers regarding firm redevelopment plans for the site and no development application for new development has been submitted.





## 2. Jaylu Flats, 34 Queen Street, Fremantle

Jaylu Flats was not identified by early heritage surveys carried out by the Fremantle Society and was not included in the original Fremantle Municipal Heritage Inventory which was adopted by Council in 2000. In the 2011 annual heritage update, Jaylu Flats was not placed on the Heritage List as it did not meet the threshold of having some significance to the City of Fremantle. It was, however included on the MHI (now LHS) with a management category Level 2.

A statement of significance was prepared in 2011 as part of the MHI inclusion and says:

*"Jaylu Flats, 34 Queen Street, is a substantially modified two storey brick and tile residential building dating from the 1898. The place has aesthetic value for its landmark qualities as well as its contribution to the streetscape and the surrounding area. It is representative of the way buildings can be adapted according to changing needs of the area."*

In 2019 the owners of Jaylu Flats requested that the City of Fremantle remove the place from the LHS. The place was then included in the preliminary report for the 2020 Annual Update of the Heritage List and LHS which was presented to Planning Committee for approval to commence public consultation on the proposed changes. The officer report recommended that the management category be modified from Level 2 to Historic Record Only to suit its limited heritage significance. The Planning Committee requested that this particular item be deferred to allow officers to carry out further investigations on the heritage significance of the place in respect to its original design and, in particular, how the modifications in the 20<sup>th</sup> Century may have added a significant layer of cultural significance.

In 2022 the owners of Jaylu Flats again approached the City of Fremantle to change the heritage listing of the place and provided an independent heritage assessment of the place.

Refer to Attachment for report by Stephen Carrick Architects.

The heritage assessment prepared by Stephen Carrick Architects and the historian Eddie Marcus is a thorough and well researched document which follows the recommended format of the Heritage Council of Western Australia and the recommendations of the Australia ICOMOS Burra Charter. The report has provided further historic information on the history of the place and a written and photographic record of the existing condition of the interior of the building. Based on the documentary and physical evidence provided the report concludes that the place has little heritage significance and recommends an alternative statement of significance for the place:

- *Jaylu Flats, 34 Queen Street, Fremantle is a substantially altered two storey brick and tile residential building dating from 1897.*





- *The place has limited aesthetic value for its siting at the end of the vista along Henderson Street and its contribution to the streetscape.*

## **OFFICER COMMENT**

### **1. 61–69 Knutsford Street**

Planning approval to demolish the buildings at 61 – 69 Knutsford Street has been granted by the SAT and substantially acted on. The demolition of the remaining standing buildings at 61-69 Knutsford Street, when it occurs, will make retention of the property on the Heritage List an anomaly as the building fabric of significance will have been removed (with approval). It is therefore recommended that the property should be removed from the Heritage List.

It is also recommended that the Local Heritage Survey place record should be modified to record the recent history of the site including the decision of the SAT to approve demolition of all buildings on the site. The management category should be changed from 'Assess in more detail at DA' to Historic Record Only.

### **2. Jaylu Flats, Queen Street**

The City's Heritage Team has reviewed the heritage assessment conducted by Stephen Carrick Architect and generally supports its findings. It is noted that the Carrick report does not identify the building as having any specific cultural heritage associated with the extensive alterations made to the building in 1963.

Independently, the City's Heritage Team has carried out further research and analysis of potential cultural significance of the place and submits the following information for Planning Committee's consideration:

1. Originally constructed in 1897 as a block of four terrace houses designed by the Architect Peter John Wilson, the place remained in the ownership of the original developer Mr Candy until the 1940s.
2. Historic photographs and sewerage maps indicate that in the early Twentieth century the area bounded by Queen, James, Parry, Holdsworth and Beach Streets was predominantly residential with a mix of single houses, duplexes and a number of single and double storey blocks of terrace housing.
3. Residents began to leave the city centre for suburban areas during the Inter-War Era and in the Post War Era this area was mostly redeveloped with commercial development. Today the only surviving terrace housing in this area is the Police and Warders cottages on the east side of Henderson and Holdsworth Streets, a two-storey block in Point Street and a single storey block in Parry Street. Of all the early twentieth century buildings in





the immediate vicinity of 34 Queen Street, only the Police and Courts Complex and Warders Cottages remain.

4. 34 Queen Street changed hands several times before being purchased in the 1950s, by Mr James George Phanos. Records from the City Building Surveyor indicate that work to convert the place into eight self-contained flats was well underway by early 1964 and carports and a shared laundry were constructed at the rear of the property later that year.
5. The name Jaylu Flats was created by combining the beginning of the first names of James and Lucy Phanos. The property has remained in the family until 2022 but is currently on the market.
6. James George Phanos (1914 – 2000) migrated to Western Australia in 1926 when he was 13 years old. He grew up and worked in Kalgoorlie before serving in the Royal Australian Air Force during the Second World War. In 1946 he moved to Fremantle where he was a partner in Western Fish Supply which operated out of premisses in High Street, Fremantle.
7. In 1993, in recognition of his contribution to Fremantle, Fremantle Council resolved to act on a request by Mr Phanos and his family that the private ROW to 34 Queen Street be named Phanos Lane.
8. The following table sets out a summary of the extent of modifications to 34 Queen Street:

<b>Terrace houses, 1897</b>	<b>Jaylu Flats, 1960s</b>
4 x 2 storey terrace houses with single storey service rooms to rear (kitchen and bathroom etc)	8 x 1 bedroom apartments – new wall added beside existing stair to provide private access to upper floor flat. Rear single storey kitchen demolished and new two storey bathroom wings added
Corrugated iron clad, gabled roof with no eaves, parapet walls separating each terrace house and decorative gable feature to façade above end terraces.	Parapet walls separating terrace houses removed and gable roof rebuilt. Main gable roof shape retained but small decorative gables removed and eaves widened and boxed in. Roof clad with tiles.
Chimneys with decorative moulded capping	Replaced with face brick chimneys without a capping
Double height front verandah with separate hipped roof	Front verandah removed. Narrow cantilevered concrete balcony with wrought iron balustrade added





Vertical format DHS windows	Horizontal format windows with hopper sashes and fixed panels
External doors with fanlights – front door and upper door for verandah	Extra front door added for lower unit – upper door widened with French doors, all fanlights removed
Face brick and rendered dressing external wall finish	Cement rendered and painted. Building sign 'Jaylu Flats' added
Rear timber verandahs and single storey lean-to service rooms	Verandahs and lean-to rooms removed, bathroom blocks added, concrete 'terrace' and steel escape stairs constructed to rear
Internal walls	New wall added to separate stair from ground floor living room
4 x internal staircases with winder	Retained
Timber floors with moulded timber skirtings	Carpet conceals timber boards, some sections of moulded timber skirtings remain, elsewhere 1960s board skirtings
Lath and Plaster ceilings, cornices in important rooms only	Plaster ceilings with a mixture of cornice types but of 1960s design
3 corner fireplaces in each terrace	Chimney breasts retained but fireboxes blocked up and surrounds removed. Face brick surround with timber mantle added to living room fireplaces.

9. Original Form of Building / Authenticity

Jaylu Flats has been extensively modified externally and internally and it has low authenticity. When looking at the building from the street, or from the rear ROW, it is not obvious that it was originally a block of four Victorian Georgian terrace houses. Jaylu Flats instead reads as a modest block of Post-War housing, and it is only with a knowledge of the history of the place that you can start to guess its original form. This probably explains why, despite standing in such a prominent location at the end of Henderson Street, it was not identified in the original heritage surveys of the Fremantle Society or included on the original Municipal Heritage Inventory in 2000. Records from the Local History Collection indicate that it was originally thought to have been demolished in the 1960s.

The extent of change to this place means that returning it to its original form would be a large and expensive project. Also, while two-storey terrace houses of this era generally follow a standard form, it would be very difficult to accurately return this building to its original form because there are no





early plans and the only known early photographs have been taken from a considerable distance and provide little useful detail.

In some cases, much modified historic buildings are worthy of protection because they are part of a heritage streetscape or heritage area and they still contribute to the collective value of the group. However, Jaylu Flats is not part of a historic streetscape of similar buildings as it is surrounded by commercial development from the 1960s - 1990s. This part of Fremantle was excluded from the Central Fremantle Heritage Area (formerly WEHA) because it was of limited cultural heritage significance.

Jaylu Flats also has limited value as a local landmark. The landmark value of the place is due to its location at the end of Henderson Street rather than as a prominent or particularly distinctive or aesthetically pleasing building.

#### 10. Historic, Social and Aesthetic Value of the Post War Alterations

Jaylu Flats has limited aesthetic value as a modest, representative example of a small block of Post-War Era apartments. The strong horizontal lines created by the simple hipped roof form, cantilevered balcony and horizontal format windows are typical of the era as is the restrained embellishment provided by the wrought iron balustrade and the building name on the façade. The building is not a good example of Post-War design.

Jaylu Flats has limited historic and social value as an example of how early Twentieth Century housing stock was modified to suit changing demographics, architectural taste and housing requirements. This value would be greater if both eras of development were more clearly expressed so this change was clearly visible.

Jaylu Flats has historic and social value for its links to the Phanos family and the contribution made to Fremantle by the Greek Community in the Inter-War and Post-War era however this value is limited as it was an investment property rather than a community building or place with a high public profile such as a well-known business. This value is not embedded in the fabric of the place so it will not be reduced if the building were substantially altered or removed. The family connection is celebrated in the name of Phanos Lane and recorded in the place record in the Local History Collection.

#### Summary

Jaylu flats was not placed on the Heritage List because it did not meet the threshold for inclusion on this list. The management category should be revised to reflect this decision. The Historic Record Category is the appropriate category to record the history and social value of this place.





## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

The *Heritage Act 2018* requires periodic update and review of the LHS. The requirement is met by this report.

## CONSULTATION

The *Heritage Act 2018* and the *Planning and Development (Local Planning Schemes) 2015 Regulations* specify consultation requirements with the landowners of all affected properties prior to modification to the Local Heritage List and Heritage List, respectively. In the case of both properties the subject of this report, consultation with the landowners has already occurred in accordance with these requirements.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

### **COMMITTEE RECOMMENDATION ITEM PC2207-8** **(Officer's recommendation)**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Su Groome**

***Council agrees to modify the Local Heritage Survey and Heritage List as follows:***

<b><i>Place</i></b>	<b><i>Local Heritage Survey</i></b>	<b><i>Heritage List</i></b>	<b><i>Reason</i></b>
<b><i>61 – 69 Knutsford Street, Fremantle</i></b>	<b><i>Modify to Historic Record Only</i></b>	<b><i>Remove from Heritage List</i></b>	<b><i>Update the heritage listings for this place to reflect the implications of the SAT order dated 13 June 2011.</i></b>
<b><i>Jaylu Flats, 34 Queen Street, Fremantle</i></b>	<b><i>Modify from Level 2 to Historic Record Only</i></b>	<b><i>-</i></b>	<b><i>Heritage Assessment has confirmed that the place has little remaining cultural heritage.</i></b>





## **PRESIDING MEMBER DETERMINATION**

The presiding member put the officer's recommendation to the vote in two parts, as shown below:

### **COUNCIL DECISION ITEM PC2207-8** **(Committee recommendation)**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Su Groome**

***Council agrees to modify the Local Heritage Survey and Heritage List as follows:***

<b><i>Place</i></b>	<b><i>Local Heritage Survey</i></b>	<b><i>Heritage List</i></b>	<b><i>Reason</i></b>
<b><i>61 – 69 Knutsford Street, Fremantle</i></b>	<b><i>Modify to Historic Record Only</i></b>	<b><i>Remove from Heritage List</i></b>	<b><i>Update the heritage listings for this place to reflect the implications of the SAT order dated 13 June 2011.</i></b>

**Carried: 8/1**  
**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Andrew Sullivan, Cr Rachel Pemberton,**

**Against:**  
**Cr Marija Vujcic**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Su Groome**

<b><i>Place</i></b>	<b><i>Local Heritage Survey</i></b>	<b><i>Heritage List</i></b>	<b><i>Reason</i></b>
<b><i>Jaylu Flats, 34 Queen Street, Fremantle</i></b>	<b><i>Modify from Level 2 to Historic Record Only</i></b>	<b><i>-</i></b>	<b><i>Heritage Assessment has confirmed that the place has little remaining cultural heritage.</i></b>

**Lost: 4/5**  
**For:**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,  
Cr Frank Mofflin, Cr Doug Thompson**

**Against:**  
**Cr Su Groome, Cr Bryn Jones, Cr Andrew Sullivan,  
Cr Marija Vujcic, Cr Rachel Pemberton**





## 12. Reports and recommendations from officers

### **C2207-1                    CEO ANNUAL PERFORMANCE REVIEW FOR 2021/22 AND ADOPTION OF PERFORMANCE CRITERIA FOR 2022/23**

<b>Meeting date:</b>	27 July 2022
<b>Responsible officer:</b>	Manager People and Culture
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. CEO Performance Review 2021 to 2022 – Summary Report to Council (Price Consulting)</li><li>2. CEO's performance criteria for July 2022 to June 2023</li></ol>
<b>Additional information:</b>	<ol style="list-style-type: none"><li>1. Nil</li></ol>

#### **SUMMARY**

**This report presents the outcome of the Chief Executive Officer's annual performance review for the period of July 2021 to June 2022 and presents the proposed performance criteria for the period of July 2022 to June 2023, for Council consideration.**

#### **BACKGROUND**

Council as the employer of the CEO is required to review the performance of the CEO and provide measures and feedback to the CEO in line with their employment contract, at least once a year.

The Council appointed a CEO Performance Review Committee to undertake the performance review of the CEO on behalf of Council throughout the year, and report findings and recommendations to Council for consideration in accordance with the *Local Government Act 1995*.

To ensure the CEO performance review is undertaken in an impartial and transparent manner, the Council appointed an independent consultant from Price Consulting Group to undertake the annual review process in consultation with the CEO Performance Review Committee (the Committee).

#### **FINANCIAL IMPLICATIONS**

The Local Government Act 1999 Part 5, Division 4 requires that a CEO is to be paid in line with the current Salaries and Allowances Tribunal determination. As the CEO was recently appointed to the role, there are no recommended changes to the CEO's remuneration.





## **LEGAL IMPLICATIONS**

The CEO review has been conducted in accordance with sections 5.38 and 5.39(3)(b) of the *Local Government Act 1995*, which requires that:

- The performance of the CEO be reviewed at least once a year;
- The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review; and
- A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

## **CONSULTATION**

All Elected Members and a selection of senior staff were invited to undertake an online questionnaire as part of the CEO's annual performance review process.

## **OFFICER COMMENT**

In line with the review process adopted by Council in July 2021, the CEO's annual performance review for the period July 2021 to June 2022 was undertaken by the City's consultant in consultation with the CEO Performance Review Committee (the Committee).

A summary of the process undertaken, is provided below:

<b>Activity</b>	<b>Due Date (2022)</b>
CEO self-report sent to consultant	23 May
Draft feedback questionnaires for Councillors and Staff developed and sent to Mayor and CEO for approval	25 May
Feedback questionnaires issued/feedback period opens	27 May
Feedback period closes	7 June
Draft Assessment Report sent to CEO for initial review regarding procedural fairness	8 June
Consultant sends Draft Performance Review Report and a working draft of the new CEO Performance Criteria to members of the CEO Performance Review Committee	9 June
Consultant presents high-level outcomes to the Committee and facilitates a discussion that identifies: <ul style="list-style-type: none"> <li>• Key achievements to thank/congratulate the CEO for</li> <li>• Priority focus areas for the next period</li> <li>• Any changes required to the Performance Criteria for the next period</li> </ul>	Week of 20 June





Activity	Due Date (2022)
Consultant meets with CEO to advise the outcomes of the meeting with Committee	Week of 20 June
Consultant facilitates the formal feedback meeting with CEO and Committee	Week of 20 June
Consultant finalises the Performance Review Report and sends to the CEO and Mayor	29 June
Consultant develops a Summary Report to Council and sends to CEO for inclusion on the Agenda for the 27 July OCM.	

1. As part of the review process, the CEO performance criteria was reviewed by the Committee in consultation with the CEO. Some amendments have been made to the CEO's key performance indicator's (KPI's) to align with the 'overarching message' identified by the Committee, to be achieved over the next twelve months.

The proposed performance criteria for the period July 2022 to June 2023, is provided in Attachment 2, for Council consideration. Following adoption of the revised performance criteria, the Committee agreed that the CEO will prepare a brief report outlining progress against these KPIs in September and February for discussion with the Committee.

A summary report of the findings from the annual performance review of Mr Dougall is provided by the consultant from Price Consulting Group in Attachment 1, for Council consideration.

It is recommended by the CEO Performance Review Committee, that Council endorse the findings of the annual performance review as outlined in the consultant's report and approve the proposed performance criteria for the period July 2022 to June 2023.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Absolute majority required





## **OFFICER'S RECOMMENDATION**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Frank Mofflin**

**Council:**

- 1. Notes the annual performance review of Mr Glen Dougall, Chief Executive Officer, has been completed for the period of July 2021 to June 2022.**
- 2. Endorses the findings of the 2020-21 Annual Performance Review Report as provided by Price Consulting Group in Attachment 1.**
- 3. Approves the CEO's Performance Criteria for the period of July 2022 to June 2023, as provided in Attachment 2, noting that the CEO will prepare a brief report outlining progress against the KPI's in September and February for discussion with the CEO Performance Review Committee.**

## **PRESIDING MEMBER DETERMINATION**

**The presiding member put the officer's recommendation to the vote in two parts, as shown below:**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Frank Mofflin**

**Council:**

- 1. Notes the annual performance review of Mr Glen Dougall, Chief Executive Officer, has been completed for the period of July 2021 to June 2022.**
- 3. Approves the CEO's Performance Criteria for the period of July 2022 to June 2023, as provided in Attachment 2, noting that the CEO will prepare a brief report outlining progress against the KPI's in September and February for discussion with the CEO Performance Review Committee.**

**Carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton,**





**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Frank Mofflin**

- 2. Endorses the findings of the 2020-21 Annual Performance Review Report as provided by Price Consulting Group in Attachment 1.**

**Carried: 8/1**

**For:**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Andrew Sullivan, Cr Rachel Pemberton,

**Against:**

Cr Marija Vujcic

**COUNCIL DECISION ITEM C2207-1**  
**(Officer's recommendation)**

**Moved: Mayor Hannah Fitzhardinge Seconded: Cr Frank Mofflin**

**Council:**

- 1. Notes the annual performance review of Mr Glen Dougall, Chief Executive Officer, has been completed for the period of July 2021 to June 2022.**
- 2. Endorses the findings of the 2020-21 Annual Performance Review Report as provided by Price Consulting Group in Attachment 1.**
- 3. Approves the CEO's Performance Criteria for the period of July 2022 to June 2023, as provided in Attachment 2, noting that the CEO will prepare a brief report outlining progress against the KPI's in September and February for discussion with the CEO Performance Review Committee.**

**Parts 1 and 3 - Carried: 9/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton,

**Part 2 - Carried: 8/1**

**For:**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones,  
Cr Andrew Sullivan, Cr Rachel Pemberton,

**Against:**

Cr Marija Vujcic





## **C2207-2            MONTHLY FINANCIAL REPORT – JUNE 2022**

**Meeting date:** 27 July 2022  
**Responsible officer:** Manager Financial Services  
**Decision making authority:** Council  
**Attachments:** 1. Monthly Financial Report – June 2022  
**Additional information:** Nil

### **SUMMARY**

**The monthly financial report for the period ending 30 June 2022 has been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.**

**This report provides an analysis of financial performance for June 2022 based on the following statements:**

- **Statement of Comprehensive Income by Nature & Type and by Program;**
- **Rate Setting Statement by Nature & Type and by Directorate; and**
- **Statement of Financial Position with Net Current Assets.**

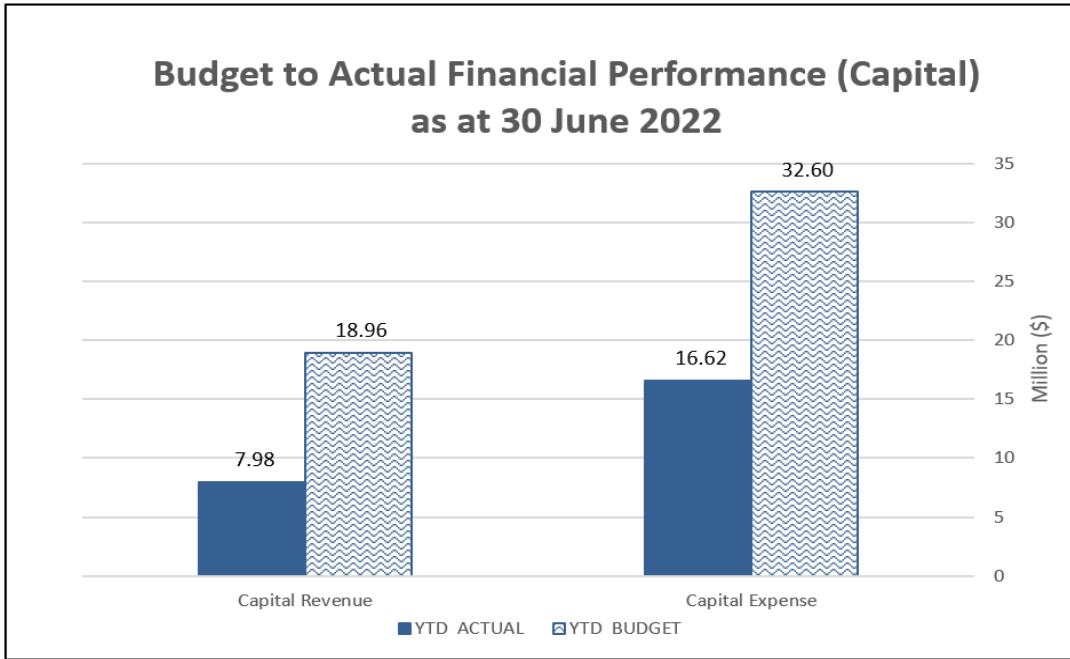
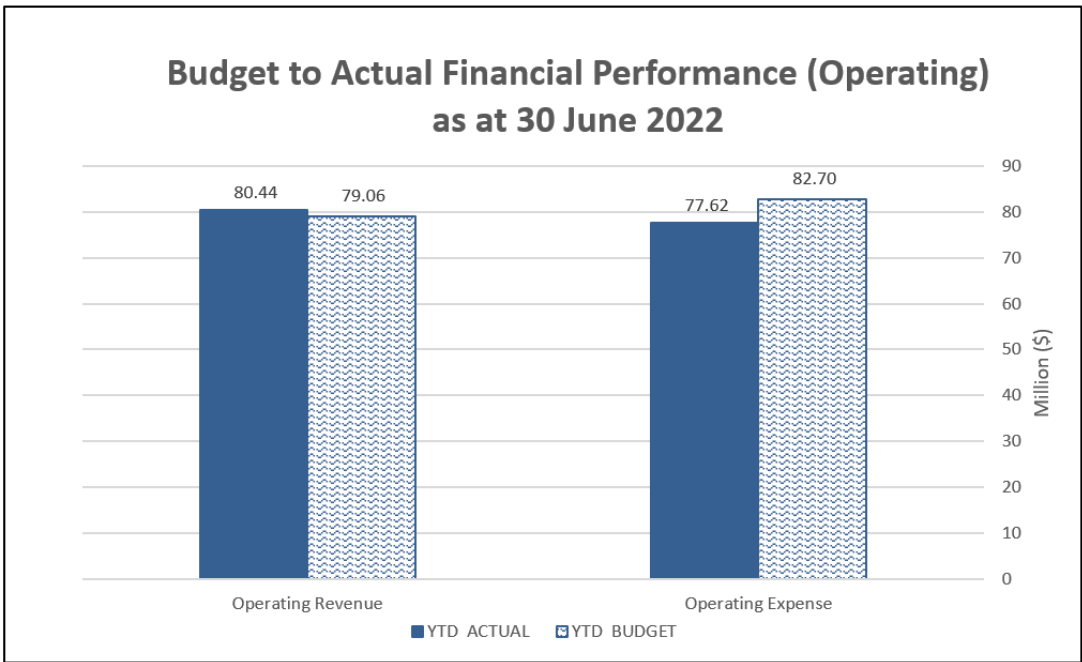
**The budget figures in this report include the Mid-Year Review budget amendments adopted by Council on 23 March 2022 (Item C2203-4 Budget Review 2021-2022) and any subsequent amendments thereafter. Further, this financial report for the period ending 30 June 2022 is prepared considering accrued interest on borrowings (loans) and prepaid insurance premiums. Please note figures reported for 30 June 2022 in this report are subject to change with pending end-of-year adjustments and are as yet un-audited.**





BACKGROUND

The following graph and table provide a high-level summary of the Council’s year to date financial performance as at 30 June 2022.







## RATE SETTING STATEMENT – BY NATURE AND TYPE FOR THE PERIOD TO 30 JUNE 2022

Below is a summary of the year-to-date Rate Setting Statement, by Nature and Type, to 30 June 2022. The detailed Statement can be found in the attached Financial Report.

Description	YTD Amended Budget \$M	Actual YTD \$M	Variance \$M	Variance %
<b>Opening Surplus</b>	<b>3.72</b>	<b>15.06</b>	<b>11.34</b>	<b>304.43%</b>
<b>Operating</b>				
Rate Revenue	50.32	50.08	(0.24)	(0.49%)
Revenue	29.46	30.36	0.90	3.07%
Expenses	(82.70)	(77.62)	5.08	6.14%
Non-Cash Adj.	8.98	9.45	0.46	5.23%
	<b>6.06</b>	<b>12.27</b>	<b>6.20</b>	<b>102.48%</b>
<b>Investing</b>				
Capital Revenue	18.96	7.98	(10.98)	(57.89%)
Capital Expenses	(32.60)	(16.62)	15.98	49.02%
	<b>(13.64)</b>	<b>(8.64)</b>	<b>5.00</b>	<b>36.71%</b>
<b>Financing</b>				
Repayment Loans & Leases	(2.49)	(2.91)	(0.41)	16.58%
Reserve Transfers	6.43	6.15	(0.28)	(4.34%)
	<b>3.94</b>	<b>3.24</b>	<b>(0.69)</b>	<b>(17.59%)</b>
<b>Closing Surplus</b>	<b>0.08</b>	<b>21.93</b>	<b>21.85</b>	<b>-</b>





## STATEMENT OF COMPREHENSIVE INCOME – BY NATURE AND TYPE FOR THE PERIOD TO 30 JUNE 2022

As detailed in the Statement of Comprehensive Income by Nature and Type, operating income and expenses have varied to the Amended Budget as follows:

Description	YTD Amended Budget \$M	YTD Actual \$	Variance \$	Variance %
<b>Operating Income</b>				
<b>Rates (including Annual Levy)</b>	50,502,513	50,251,586	(250,927)	(0.50%)
<b>Service Charges</b>	7,192	8,804	1,612	22.41%
<b>Op.Grants, Subsidies &amp; Cont'ns</b>	4,706,165	4,881,379	175,214	3.72%
<b>Fees and Charges</b>	21,765,493	22,743,593	978,100	4.49%
<b>Interest Earnings</b>	633,000	624,763	(8,237)	(1.30%)
<b>Reimbursement Income</b>	1,005,390	1,227,198	221,808	22.06%
<b>Other Income</b>	436,810	701,682	264,872	60.64%
<b>Total</b>	<b>79,056,563</b>	<b>80,439,005</b>	<b>1,382,442</b>	<b>1.75%</b>
<b>Operating Expenses</b>				
<b>Employee Costs</b>	(37,722,290)	(37,094,427)	627,863	1.66%
<b>Employee costs - Agency Labour</b>	(1,502,774)	(1,927,310)	(424,536)	(28.25%)
<b>Materials and Contracts</b>	(27,928,688)	(24,306,733)	3,621,955	12.97%
<b>Depreciation – Non-Curr. Assets</b>	(9,710,367)	(9,609,924)	100,443	1.03%
<b>Interest Expenses</b>	(558,388)	(580,736)	(22,348)	(4.00%)
<b>Utility Charges</b>	(1,895,700)	(1,789,445)	106,255	5.61%
<b>Insurance Expenses</b>	(990,261)	(975,081)	15,180	1.53%
<b>Other Expenditure</b>	(2,441,963)	(1,338,620)	1,103,343	45.18%
<b>Total</b>	<b>(82,750,431)</b>	<b>(77,622,276)</b>	<b>5,128,155</b>	<b>6.20%</b>

Further explanation of material variances can be found under Officer's Comments below.

### FINANCIAL IMPLICATIONS

This report is provided to enable Council to assess how revenue and expenditure are tracked against the budget. It is also provided to identify any budget issues of which the Council should be informed.





## **LEGAL IMPLICATIONS**

Local Government (Financial Management) Regulation 34 requires a monthly financial activity statement and an explanation of any material variances to be prepared and presented to an ordinary council meeting.

## **CONSULTATION**

Nil

## **OFFICER'S COMMENT**

Year to date, as at the end of June 2022, the City of Fremantle is carrying an additional surplus of \$21,852,812 over the budget anticipated, which is mainly due to:

Favourable variances against the year-to-date budget:

- Additional carry forward funds from the 2020-21 financial year of \$11.3m;
  - Note: This reported opening position is a draft position as presented at the time of preparation of this report and is subject to change on account of the end-of-year closing journals, accruals etc. A final opening position for the 2021-22 financial year will be determined upon completion of the City's external audit.
- Increased Fees and Charges revenue of \$978k;
- Increased Reimbursement and Other Income of \$487k;
- Reduced operating expenditure of \$5.1m; and
- Reduced capital expenditure of \$16.0m which will be carried forward to the next financial year.

These favourable variances were partially offset by:

- Reduction in Capital Grants, Subsidies and Contributions for the development of Assets of \$6.0m; and
- Unrealised (as compared to budget) Proceeds from Disposal of Assets of \$4.9m.

Furthermore;

An unfavourable variance of \$249k for Rates Income is also being reported. This is largely due to a significant adjustment to reflect the reduced valuation of the Woolstores Shopping Centre and Carpark, as notified by Landgate. The valuation decreased by approximately \$2m, resulting in a reduction in expected Rates revenue of \$133k.








## Explanation of Material Variances

In accordance with regulation 34(5) of the Local Government (Financial Management) Regulations 1996 and AASB 1031 Materiality, Council adopted the level to be used in statements of financial activity in FY2021/22 for reporting material variances as 10% or \$100,000, whichever is greater (Refer Item C2106-1 from Council meeting on 23 June 2021).




The material variance thresholds are adopted annually by Council and indicate whether actual expenditure or revenue varies materially from the year to date budget. The following is an explanation of significant operating and capital variances to budget as identified in the Rate Setting Statement by Nature and Type.

The below comments are to be read in conjunction with the Rate Setting Statement in the attached Monthly Financial Report – June 2022:

Description	Variance Amount	Comment
<b>Net current assets at the start of the financial year</b>	<b>11,337,279</b>	 <b>304.43%</b>
		The explanation for the above variance was reported to Council via FPOL2202-3 [Draft Annual Financial Statements 2020-21] on 23 March 2022 and also explained in previous monthly financial reports for 2021-22.
<b>Profit on Sale of Assets</b>	<b>727,000</b>	 <b>100%</b>
<b>Major Variances:</b>		
Other Property and Services Program (Assets)	727,000	Timing variance: Quarry Street properties remained unsold in the 2021-22 financial year, therefore the anticipated profit has not been realised.
<b>Reimbursement Income</b>	<b>221,808</b>	 <b>22.06%</b>
<b>Major Variances:</b>		
Containers for Change	60,293	Favourable variance: Due to higher interest from the community, the number of containers received for recycling has increased more than anticipated.
Administer Long Service Leave transfers	57,736	Favourable variance: Staff Long Service Leave reimbursements were received from other local authorities due to staff movement. No budget is allocated for this item.
Operate recycling facility	47,075	Timing variance: This is an income that the City receives from the Town of East Fremantle for its residents using the City's recycling centre. However, the favourable variance is due to prior






Description	Variance Amount	Comment
		year income being accounted for in the current financial year.
Lease Union Store 41-47 High Street Fremantle	35,229	Favourable variance: This is related to lease rental income generated from the Union Store. There was no budget allocated for this lease.
<b>Other Revenue</b>	<b>264,872</b>	 <b>60.64%</b>
<b>Major Variances:</b>		
Miscellaneous Revenue – Monitor financial accounting processes	140,565	Favourable variance: Recoupment of various unclaimed bonds that have been held in the Trust Fund for more than 10 years, and have now been transferred to the Municipal Fund.
WCC Flood Damage	47,605	Favourable variance: Receipt of an insurance settlement for the WCC flood damage claim.
<b>Employee Costs</b>	<b>153,637</b>	 <b>0.39%</b>
<b>Major Variances:</b>		
Employee Costs	578,173	Favourable variance: Saving is due to various positions in the staff establishment being vacant throughout the year. However, this saving will be utilised to cover the overspent position in the agency labour budget.
Employee Costs – Agency Labour	(424,536)	Unfavourable variance: Overspend on agency labour during the first half of the year. Most of these items were addressed during the Mid-Year Budget Review. However, three items were overlooked when requesting approval for Budget Amendments.
<b>Materials and Contracts</b>	<b>3,621,955</b>	 <b>12.97%</b>
<b>Major Variances:</b>		
Maintain PC's tablets printers and accessories	300,152	Favourable variance: Actual lease expenses for computers have been less than budgeted.
Collection & Disposal - Domestic - FOGO	252,042	Timing variance: Delay in receiving and processing invoices.
Domestic - collect & dispose - recycled waste	198,435	Timing variance: Delay in receiving and processing invoices.
Maintain fixed and wireless network infrastructure	163,780	Timing variance: Mainly due to delays in receiving and processing invoices. Consultancy fees and equipment replacement budgets were not utilised in full, therefore a saving of \$85k is expected.








Description	Variance Amount	Comment
P-12043 Program - Strategic Community Plan Review	152,660	Timing variance: The operating project will be carried forward to the 22/23 financial year.
Operate and maintain parking ticket machines	137,723	Favourable variance: Actual parking ticket machine maintenance/replacement costs have been less than anticipated.
Maintain internet cloud and other hosted technologies	127,733	Favourable variance: Delay in receiving invoices. However, some savings are expected.
Maintain Road Drainage	108,576	Timing variance: Delay in receiving and processing invoices. However, some savings are expected.
Conduct Street arts festival	103,633	Timing variance: Delay in receiving and processing invoices.
Monitor and remediate contaminated sites	100,000	Favourable variance: No audit fees were incurred on contaminated sites for the current year. Therefore the budget remained unspent.
P-12063 Purchase - Telephony system	95,000	Timing variance: Operating project to be carried forward to FY 22/23.
Collect & dispose waste - commercial	89,799	Timing variance: Delay in receiving and processing invoices.
Maintain Sports Grounds	84,433	Favourable variance: Reactive maintenance costs have been less than anticipated.
Sweep suburbs and dispose of tailings	79,211	Timing variance: Delay in receiving and processing invoices.
Maintain Soft Landscaping - Recreation Reserves	78,381	Favourable variance: Reactive maintenance costs have been less than anticipated.
Maintain trees - road reserves and carparks	76,454	Favourable variance: Reactive maintenance costs have been less than anticipated.
Prepare statutory financial reports	75,277	Timing variance: City is yet to receive the 20/21 audit fee invoice from the Office of Auditor General.
<b>Other Expenditure</b>	<b>1,103,341</b>	 <b>45.18%</b>
<b>Major Variances:</b>		
Contribute to the operations of Regional Resource Recovery Centre	561,430	Favourable variance: The budget was set up to capture the loan repayments and any associated costs related to the loan from the Resource Recovery Group (RRG). As per the Accounting Standard, these repayments need to be accounted for as a reduction of the loan liability. Therefore, Finance has corrected the accounting treatment.
Support South Fremantle Football Club	275,000	Timing variance: A draft agreement with South Fremantle Football Club has been finalised.







Description	Variance Amount	Comment
		The arrears will be paid in the 22/23 financial year.
Support CAT bus service	128,331	Timing variance: Delay in processing invoices (for May and June). However, actual costs have been less than the budget therefore some savings are expected.
<b>Capital Grants and Subsidies/ Contributions for the development of Assets</b>	<b>6,042,666</b>	 <b>43.22%</b>
<b>Major Variances:</b>		
P-11823 Design and construct-Port Beach coastal adaptation	2,619,227	Timing variance: Project has been delayed due to finalising the Sand Nourishment contract. However, the grant is expected to be received in full next financial year.
P-11843 Design and construct- Fremantle Markets Building Services	1,700,000	Timing variance: The tender evaluation is still in progress. Therefore, the project will be carried forward to the next financial year.
P-12058 Design and construct - Booyeembara Park - Bike trail	806,825	Timing variance: LotteryWest grant payments are associated with the project milestone achievements. Therefore, the grant is to be received in the 22/23 financial year upon completion of the next milestone.
P-10412 Design and construction - Booyembara Park Masterplan	404,075	Timing variance: A cash-in-lieu contribution is expected from Development WA.
P-12027 Design and construct - Griffiths Park - Upgrade	247,000	Timing variance: Grant is expected to be received in the 22/23 financial year.
<b>Proceeds from Disposal of Assets</b>	<b>4,930,846</b>	 <b>99.08%</b>
<b>Major Variances:</b>		
P-11052 Disposal-9 Quarry St	2,250,000	Timing variance: Sales of properties have been delayed and will be carried forward to the next financial year.
P-10458 Disposal-7 Quarry St	2,720,000	
<b>Capital Expense Purchase – Community Land &amp; Building</b>	<b>8,909,004</b>	 <b>45.49%</b>
<b>Major Variances:</b>		
P-11882 Design and construct - Fremantle Golf Course	3,078,464	Timing variance: Project is currently on hold as per the Council decision in December 2021. Project to be carried forward to the 22/23 financial year.
P-11843 Design and construct- Fremantle Markets Building Services	2,270,133	Timing variance: The Tender evaluation is still in progress. The project will be carried forward to the 22/23 financial year.








Description	Variance Amount	Comment
P-12066 Design and construct - Naval Store	920,000	Timing variance: The project is being deferred and will be carried forward to the 22/23 financial year.
P-11670 Design and construct-Leisure Centre Pool Roof	714,767	Timing variance: The Tender evaluation is still in progress. The project will be carried forward to the 22/23 financial year.
P-11829 Design and construct-Kings Square Commercial tenancy	208,739	Timing variance: Commercial tenancy fitout has not been completed yet due to delays in progressing the airconditioning. The project will be carried forward to the 22/23 financial year.
P-11842 Design and construct-Westgate Mall courtyard	200,725	Timing variance: The project is expected to be completed in FY 22/23 and the unspent amount will be carried forward to the next financial year.
P-12068 Design and construct-70 Parry St Fit out	164,870	Timing variance: Stage 1 of the project is completed but stage 2 is to be completed in early 22/23. The remaining budget will therefore be carried forward to the 22/23 financial year.
<b>Capital Expense Purchase – Infrastructure Roads</b>	<b>491,134</b>	 <b>17.94%</b>
<b>Major Variances:</b>		
P-12047 Road safety - Wiluna and Hope - Intersection	190,636	Timing variance: Project works are in progress and are expected to be completed in the 22/23 financial year.
P-12002 Resurface - MRRG - Hampton Rd (SB)	67,898	Timing variance: Project works are in progress and are expected to be completed in the 22/23 financial year.
P-12005 Resurface - MRRG - South Tce 1 (NB&SB)	50,134	Timing Variance: Project works are in progress and are expected to be completed in early FY 22/23.
P-12001 Resurface - MRRG - Hampton Rd (NB)	46,771	Timing variance: Project works are in progress and are expected to be completed in the 22/23 financial year.
P-12018 Install - South Beach - Solar lighting	46,091	Timing Variance: Project works are in progress and are expected to be completed in July 2023.
<b>Capital Expense Purchase – Infrastructure Paths</b>	<b>121,907</b>	 <b>73.88%</b>
<b>Major Variances:</b>		
P-12049 Footpath - Duffield Ave	77,848	Timing variance: Project works are still ongoing and are expected to be completed in July 2023.
P-12000 Program - Doepel St - Trees	26,000	Timing variance: Project works have been delayed therefore the budget will be carried forward to the 22/23 financial year.





Description	Variance Amount	Comment
<b>Capital Expense Purchase – Infrastructure Parks</b>	<b>3,071,951</b>	 <b>62.80%</b>
<b>Major Variances:</b>		
P-12058 Design and construct - Booyeembara Park - Bike trail	1,398,554	Timing variance: Construction works are forecasted for the second quarter of the 22/23 financial year. Therefore, the budget is to be carried forward.
P-10412 Design and construction - Booyembara Park Masterplan	404,075	Timing variance: Project works have been delayed to align with the Golf Course Clubhouse and Community Facility project and the budget will therefore be carried forward.
P-10295 Design and construct-Kings Square Public Realm Newman	400,090	Favourable variance: Project has reached practical completion. Savings are from the reduction of works scope related to the High Street area. This saving will be utilised for the Town Hall fire suppression system project.
P-12027 Design and construct - Griffiths Park - Upgrade	342,327	Timing variance: Initially, the project was tendered in November 2021, with all offers rejected due to not meeting minimum requirements. The project was re-tendered in May 2022 and is under evaluation. The construction works are expected to commence early in the 22/23 financial year.
<b>Capital Expense Purchase – Infrastructure - Other</b>	<b>2,872,536</b>	 <b>72.46%</b>
<b>Major Variances:</b>		
P-11823 Design and construct-Port Beach coastal adaptation	2,499,925	Timing variance: Project has been delayed due to delays in finalisation of the Sand Nourishment contract. Work will commence in the 22/23 financial year.
P-12138 Design and construct - John St Riverwall Replacement	170,808	Timing variance: In May the City was successful in obtaining a Riverbank grant. However, the project is expected to commence in FY 22/23. Therefore, the budget will be carried forward.
<b>Purchase Furniture &amp; Fittings</b>	<b>361,138</b>	 <b>97.93%</b>
<b>Major Variances:</b>		
P-12036 Purchase - Parking licence plate recognition cameras	180,000	Timing variance: Waiting for completion of preceeding Infrastructure work before installation of plate recognition camera. Therefore, the budget is to be carried forward to the 22/23 financial year.





Description	Variance Amount	Comment
P-11909 Software - Firewall security	50,000	Timing variance: The software has been ordered and is expected to be delivered early in the 22/23 financial year.
P-11077 Install-Kings Square Network infrastructure Queensgate	34,638	Timing variance: This project will commence once the WCC Data Centre is fully functional. Therefore, the budget is will be carried forward to the 22/23 financial year.
<b>Financing Activities - Repayment of Debentures</b>	<b>411,924</b>	<b>▼ 19.48%</b>
<b>Major Variances:</b>		
Manage Loans – SMRC	411,924	Accounting adjustment: Repayment of SMRC loan was budgeted under Material & Contract expenses, whereas actual repayment is now correctly recorded under Financing Activities.
<b>Reserve Transfers</b>	<b>(279,070)</b>	<b>▼ (4.34%)</b>
Transfer to Reserve (Restricted) - Capital	4,970,000	Timing variance: Variance is primarily due to the delay in the sale of Quarry Street properties.
Transfer from Reserve (Restricted) - Capital	(5,123,197)	Timing variance: Variance is primarily attributed to an underspend on capital works for various reasons mentioned above, therefore the required funding from Reserves is less than budgeted. Those works will be carried forward into next year.
Transfer from Reserve (Restricted) - Operating	(124,261)	Timing variance: Variance is primarily attributed to an underspend on operating works funded by Reserves. Those works will be carried forward into next year.
<b>Overall comments on Reserve Transfers:</b> Progress on some capital works projects slowed as the City experienced supply chain delays in relation to materials as a consequence of COVID-19. Officers continue to monitor for any issues that may result in delayed delivery and for any potential carry forwards to 2022-23.		

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required





**COUNCIL DECISION ITEM C2207-2**  
**(Officer recommendation)**

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

**Council receive the Monthly Financial Report, as provided in the Attachment, including the Statement of Comprehensive Income, Statement of Financial Activity, Statement of Financial Position and Statement of Net Current Assets, for the period ended 30 June 2022.**

**Carried: 9/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Frank Mofflin, Cr Doug Thompson, Cr Bryn Jones, Cr Marija Vujcic,  
Cr Andrew Sullivan, Cr Rachel Pemberton,**





### **13. Motions of which previous notice has been given**

**C2207-5                    ELECTED MEMBER MOTION - HIGH STREET PARKING  
ISSUES – CR MARIJA VUJCIC**

**This item was brought forward for discussion.**

### **14. Urgent business**

Nil

### **15. Late items**

Nil

### **16. Confidential business**

Nil

### **17. Closure**

**The Presiding Member declared the meeting closed at 8.55 pm.**