



# Minutes

## Ordinary Meeting of Council

Wednesday 24 May 2023 6pm



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## **1 Official opening, welcome and acknowledgment**

The Presiding Member declared the meeting open at 6:05pm and welcomed members of the public to the meeting.

The Presiding Member informed members of the public that the meeting was being recorded and streamed live on the internet. She further advised that while all care is taken to maintain privacy, visitors in the public gallery and members of the public submitting a question, may be captured in the recording.

## **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>arrived 6:28pm</i> )
Cr Bryn Jones	North Ward
Cr Rachel Pemberton	City Ward
Cr Adin Lang	City Ward
Cr Jenny Archibald	East Ward
Cr Su Groome	East Ward
Cr Fedele Camarda	Beaconsfield Ward
Cr Ben Lawver	Hilton Ward
Cr Frank Mofflin	Deputy Mayor/Hilton Ward
Mr Glen Dougall	Chief Executive Officer
Mr Matt Hammond	Director City Business
Ms Michelle Brennand	Director Community Development
Mr Russell Kingdom	Director Planning, Place and Urban Development
Mr Graham Tattersall	Director Infrastructure
Ms Melody Foster	A/Manager Governance
Ms Aimee Sabbatino	A/Manager Economic Development & Marketing
Ms Marie Vitanza	Meeting Support Officer

*There were approximately 90 members of the public and no members of the press in attendance.*

### **2.2 Apologies**

Cr Geoff Graham	Beaconsfield Ward
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## 2.3 Leave of absence

Nil

## 3. Applications for leave of absence

Nil

## 4. Disclosures of interest by members

Cr Rachel Pemberton declared an impartiality interest in item number FPOL2305-3, as in her work role with Westcycle she received vouchers from the markets to use as a prize and has no personal benefit.

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

Cr Doug Thompson declared an impartiality interest in item number FPOL2304-3, as he is a customer of this business and has been for a number of years.

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

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

**The following questions were taken on notice at the Ordinary Meeting of Council held on 26 April 2023:**

David Hudson spoke in relation to items not on the Agenda and asked the following questions:

### **Question 1**

Why is the footbridge to the passenger terminal closed?

**Response:** The City is of the understanding that the Public Transport Authority has closed the pedestrian bridge due to structural safety concerns.

### **Question 2**

Can Council and/or the CEO approach the PTA and see what's happening with the foot bridge?

**Response:** The City has contacted the PTA to seek an update of the future of the pedestrian bridge. The response provided is that it is the intention to develop up some options with input from various stakeholders in the near future to put to their Minister.



### **Question 3**

Why don't the festivals reach the East end of Fremantle and surrounding streets?

**Response:** The Mayor Hannah Fitzhardinge noted that question 3 is considered a statement.

## **6. Public question time**

**The following speakers made a statement in relation to item PC2305-5:**

Paul Gamblin  
Traci Gamblin

**The following speakers made a statement in relation to item FPOL2305-3:**

David Parker  
Warren Thomas  
Philip Dawson

**Tom Cockle asked the following question in relation to item FPOL2305-3:**

### **Question 1:**

Now that you know the council owns and controls the Fremantle markets, will you consider a full tender process or will you maintain your singular approach with FMPL?

**Cr Doug Thompson entered the meeting at 6:28pm.**

**The following speakers made a statement in relation to item FPOL2305-3:**

Roslyn Drayton  
Bruno Ramalho  
John Dowson  
Stacey Motyer  
Tim Foster  
Adrian Radford

**Joel Rawlings asked the following question in relation to item FPOL2305-3:**

### **Question 1:**

How do we put these unverified facts in a business plan and expect people to make rational and relevant decisions on them?



**The following speakers made a statement in relation to item FPOL2305-3:**

Natasha Atkinson (*provided letters of support*)  
Chrissie Maus

**Ian Kerr asked the following questions in relation to item FPOL2305-7:**

**Question 1:**

What was the terms of reference for this study?

**Question 2:**

Who did the study and why was there no community engagement?

**Question 3:**

Why does the report not include any options with continued cat service for South Fremantle?

**Question 4:**

Why do the maps in the report variable cut off North Fremantle?

**The following speakers made a statement in relation to item FPOL2305-7:**

Susan Allwood  
Stephanie Williams

**Jude Shapiro asked the following question in relation to item FPOL2305-7:**

**Question 1:**

How will the homeless be serviced by a replacement if the cat bus is cancelled?

**The following speakers made a statement in relation to item FPOL2305-7:**

Sue McCracken  
Gina Blakemore  
Bobby Wilson  
Peter Newman  
Lilia Green

**Joel Rawlings asked the following question in relation to item FPOL2305-7:**

**Question 1:**

Due to the financial constraints, how does this justify a \$330,000 rent reduction to the operators of the Fremantle Markets as proposed in the business plan?



**Sof Ali asked the following questions in relation to item FPOL2305-7:**

**Question 1:**

Can the council approach Notre Dame and ask them for a fee towards the Cat Bus for the students that use that bus as well?

**Question 2:**

Could the council approach Mindaroo Project and ask them if they would be willing to contribute?

**Question 3:**

Can we approach City of Cockburn and extend beyond and take it down to North Coogee?

**Jane Zandi spoke in relation to an item not on the Agenda and asked the following question:**

**Question 1:**

On top of this booking system, we note that the Moores gallery is regularly empty when 2 of our submissions for this year were rejected. Is this booking system going to change and improve for groups like ours?

**Response:** The Mayor advised to leave details with the Director Community Development and meet with City officers to discuss this matter further.

**The following speaker made a statement in relation to matters not on the agenda:**

Simon Naber

**David Hutson spoke in relation to an item not on the Agenda and asked the following questions:**

**Question 1:**

Can you please provide an adequate response to my questions taken on notice at the Council Meeting held on 26 April 2023?

- 1. Why is the footbridge to the passenger terminal closed?*
- 2. Can Council and/or the CEO approach the PTA and see what's happening with the foot bridge?*
- 3. Why don't the festivals reach the East end of Fremantle and surrounding streets?*



**Question 2:**

Who contacted the PTA from the Council?

**Response:** Mayor Hannah Fitzhardinge advised question is rhetorical and not something the Council needs to respond to.

**Question 5:**

What the response was and from whom? What is the time frame?

**Question 6:**

What are they going to do, and are they going to provide you with the engineering testing results to determine it was unsafe? How did they determine it was unsafe?

**Question 7:**

When there is an incident and something happens, who is at fault? Can you approach the PTA to get an answer?

**Question 8:**

Why isn't the east end in Fremantle included?

**Question 9:**

Why was the City of Perth, Perth Fringe Festival organising an event in Fremantle?

**The following speaker made a statement in relation to matters not on the agenda:**

Pat Morris

## **7. Petitions**

Cr Andrew Sullivan presented a petition from a local South Fremantle resident containing 356 signatures requesting the following:

*We, the residents of Fremantle and Visitors, petition the Minister of Transport and the City of Fremantle Council's.*

*Finance & Policy Committee to prevent the cancellation of the Fremantle Cat Bus Service.*

*At present, this service is in jeopardy of being cancelled due to funding issues. The Fremantle Cat Bus Service is a respected commodity valued by all who use this all-inclusive service.*



*We demand that the Minister of Transport and the City of Fremantle Councils Finance & Policy Committee continue this highly regarded and used facility for both residents and visitors of the Fremantle area.*

## **8. Deputations**

### **8.1 Special deputations**

Nil

### **8.2 Presentations**

Nil

## **9. Confirmation of minutes**

### **COUNCIL DECISION**

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

**Council confirm the minutes of the Ordinary Meeting of Council dated 26 April 2023.**

**Carried: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Fedele Camarda, Cr Ben Lawver, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**

## **10. Elected member communication**

Cr Doug Thompson requested the letters of support for the Fremantle Markets (item FPOL2305-3), provided by Natasha Atkinson during public question time be tabled.



## 11.3 Finance, Policy, Operations and Legislation Committee 10 May 2023

### FPOL2305-3 PROPOSAL FOR MAJOR LAND TRANSACTION FREMANTLE MARKETS

<b>Meeting date:</b>	10 May 2023
<b>Responsible officer:</b>	Director City Business
<b>Decision making authority:</b>	Committee
<b>Attachments:</b>	1. Business Plan – Fremantle Markets Lease Renewal April 2023
<b>Confidential attachments:</b>	1. Market Valuation <i>(Confidential – provided under separate cover)</i>

#### SUMMARY

**The purpose of this report is to present a business plan outlining the details of the proposed disposal of 74 South Terrace Fremantle (the Fremantle Markets) by way of lease for council consideration.**

**This report recommends that Council receive the business plan and authorise the Chief Executive Officer to advertise the business plan in order to seek feedback on the proposed disposal in line with section 3.59 of the *Local Government Act*.**

#### BACKGROUND

The Fremantle Markets is a collection of vibrant shops, stalls and entertainment, ranging from fresh produce, food and beverage, to crafts, gifts and buskers, providing a cultural experience rich in history and tradition.

The Fremantle Markets have become an icon in the Western Australian tourism landscape and remain one of the most visited and well known attractions in the State.

Sir John Forrest laid the foundation stone on Saturday 6 November 1897. Since this time, the Fremantle Markets have developed a unique and vibrant identity. With a wide ethnic base built over many years of immigration, the markets not only play an important role in perpetuating WA's heritage and tradition but offer a fantastic atmosphere and engaging display of cultural richness.

Over 150 stalls are housed in a Victorian building listed by the National Trust and Heritage Council in 1980. The precinct, which includes the Sail & Anchor Hotel, the Norfolk Hotel, the Warders Cottages and Scots Church, is also listed on the Commonwealth Government's Heritage Commission Registrar of the National



Estate. It is also part of the Zone of Influence in the proposal for World Heritage Listing for the Fremantle Prison.

In June 2008 the City of Fremantle entered into a lease with Fremantle Markets Pty Ltd (FMPL) for the property located at 74 South Terrace known as the Fremantle Markets. The lease was for a period of 18 years and 4 months. The lease is now reaching the end of its term and the City is proposing to enter into a new lease with FMPL for a further 10 years with two further terms (options) of 5 years and 5 years (a 20 year term in total). Pending council approval of the proposed terms it is intended that the current lease would be rescinded and new lease terms brought into effect within the 2023 calendar year. The terms of the proposed disposal as outlined in the business plan (attachment 1) constitute a major land transaction as defined in the *Local Government Act 1995* (Act).

Under the terms of the Act, a local government is required to develop and advertise a business plan if a proposed disposal of property is considered a major land transaction.

A disposal of property is considered as a major land transaction if the consideration under the transaction, together with anything done by the local government for achieving the purpose of the transaction, is more than either –

- (i) \$10 000 000; or
- (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year, which in the case of the City and the expenditure from its municipal fund in FY21-22, is an amount of \$8,119,514.

Before entering into a Major Land Transaction the Council must first prepare a Business Plan, advertise the availability of the Business Plan for comment and then consider any submissions received in relation to the proposed transaction. As required a Business Plan has been developed (attachment 1) and provides the details of the proposed disposal. This report seeks approval from council to advertise the Plan and seek submissions from the community on the proposal.

## **FINANCIAL IMPLICATIONS**

Based on a current market valuation and the essential terms agreed to in principle by the proposed lessee, the disposal is expected to generate the following positive impact on the City's budget over the term of the proposed lease, not including Consumer Price Index (CPI) adjustment over the term.

- Base rent – approx. \$550,000 per annum
- Turnover rent – approx. \$250,000 per annum



- Impact to budget over first term (10 years) = approx. \$5,500,000 in base rent received plus approx. \$2,500,000 in turnover rent received totalling \$8,000,000.
- Impact to budget over first further term (5 years) = approx. \$2,750,000 in base rent received plus approx. \$1,250,000 in turnover rent received totalling \$4,000,000.
- Impact to budget over second further term (5 years) = approx. \$2,750,000 in base rent received plus approx. \$1,250,000 totalling \$4,000,000.

The total revenue impact to the City's budget over the full term of the disposal would be approximately \$11,000,000 in base rent, and up to an additional \$5,000,000 in turnover rent, with any adjustments to CPI being in addition to this.

The proposed lease will also include provision to upgrade the building itself to the value of up to approximately \$3,000,000. It is proposed that these funds will be provided by the proposed lessee to fund the works.

The works to be funded by the proposed lessee's contribution include the following:

- Structural integrity works
  - Service yard roof demolition and construction of replacement roof.
  - Remediation and repair of entry gates and parapet wall on Parry Street side.
- Services and equipment works
  - Electrical switchboards and cabling replacement
  - Fire hydrants, exit signage and emergency lighting, detection and alarm systems.
  - Fire extinguishers
  - Fire engineered solutions to omit fire hose reels
  - Connection to natural gas supply and reticulation to replace LPG bottle system
- Traffic Management works
  - Installation of bollards at all market building entry points
- Adaption works
  - Refurbishment of fruit and vegetable hall to new standard stalls and all services upgrade including hydraulic, electrical and mechanical.
  - Second common use scullery installed for stall holders.



## **LEGAL IMPLICATIONS**

The City is required to dispose of property in line with the requirements of the *Local Government Act 1995*. Under section 3.58 of the Act, a Local Government can dispose of property in the following ways:

- (a) the highest bidder at public auction; or
- (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (c) If before agreeing to dispose of the property it gives local public notice of the proposed disposition and invites submissions to be made.

As per section 3.59 of the *Local Government Act 1995*, a local government is required to develop and advertise a business plan if a proposed disposal of property is considered a major land transaction under the Act.

A disposal of property is considered as a major land transaction if the consideration under the transaction, together with anything done by the local government for achieving the purpose of the transaction, is more than either —

- (i) \$10 000 000; or
- (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year, which in the case of the City and the expenditure from its municipal fund in FY21-22, is an amount of \$8,119,514.

Before entering into a Major Land Transaction the Council must first prepare a Business Plan, advertise the availability of the Business Plan for comment and then consider any submissions received in relation to the proposed transaction.

A business plan is to include an overall assessment of the major land transaction and is to include details of:

- its expected effect on the provision of facilities and services by the local government; and
- its expected effect on other persons providing facilities and services in the district; and
- its expected financial effect on the local government; and
- its expected effect on matters referred to in the local government's current community strategic plan; and
- the ability of the local government to manage the undertaking or the performance of the transaction

The business plan must be advertised publicly allowing for public submissions, with submissions to be considered by council with absolute majority required.



To guide decision making in determining the most suitable approach to disposing of the City's commercial property, council adopted the Leasing of City property in a competitive manner policy. The policy provides guidance on the most suitable process to undertake while factoring in consideration for existing tenants that make a substantial contribution to the economic vibrancy of Fremantle.

The policy states that for investment properties:

- Approaching the conclusion of lease terms (between 6-12 months prior to expiry of lease), interested parties will be given an opportunity to compete in an open and competitive manner to lease investment properties, except for the following circumstances:
  - A property is leased to a tenant that:
    - is paying full commercial market rate or above, and
    - adds significant value to Fremantle's overall tenancy mix and appeal for visitors. Or
  - A property is to be leased for six months or less. Or
  - A property is not logistically accessible to any other party except for the current lease holder

In determining the most suitable approach to the disposal, the Fremantle Markets was assessed in line with the policy as both paying full commercial market rate, and adding significant value to Fremantle's overall tenancy mix and appeal (both of which are demonstrated later in this document). Due to the significant nature of this business for sub-tenants and the operations of the Fremantle Markets and the need for reinvestment in the facility itself, it was considered appropriate to review renewal of the lease prior to the twelve month expiration date.

As per this determination, the City is proposing the renewal of terms with the current tenant rather than seeking a new tenant. The proposed terms have been presented in this business plan (as per section 3.59 of the Act), and the City will provide statewide public notice of the proposed disposal via this business plan, inviting submissions to be made by the public (as per section 3.58 [3] a & b of the Act).

## **CONSULTATION**

The business plan process invites submissions from the community on the proposed disposal and any feedback received will be provided to council prior to making a decision.

The current tenant has been consulted in relation to the proposed terms, which have been agreed to by both parties.



## **OFFICER COMMENT**

### **Lease History**

Prior to the current lease being proposed the property has been leased under the following arrangements:

- 5 May 1980 – 1 June 1992
  - Lessee: Donaldson & Murdoch Investments Pty Ltd
  - Term: 15 years (Lease surrendered prior to expiry due to the new lease below)
  - Rent - \$34,804.68 per annum
  
- 1 June 1992 – 30 April 2010
  - Lessee: Donaldson & Murdoch Investments Pty Ltd (subsequently assigned in 1995 to John Edward Victor Murdoch and Damman Pty Ltd)
  - Term: 161 months (13.4yrs) plus 5 year option
  - Rent - \$135,000 per annum (rent reviews to occur every 18 months)
  
- 10 June 2008 – 31 October 2026 (Current)
  - Lessee: Fremantle Markets PTY LTD
  - Term: 18 Years
  - Rent: Base rent \$550,000 per annum + 26% gross revenue performance adjustment

In the lead up to the expiry of the lease which was due to expire in April, 2010, council undertook a comprehensive process prior to entering into the most recent lease. The process included the following key milestones:

- September 2005 – Council advertised a Business Plan relating to a proposal to lease the Fremantle Markets to Fremantle Markets Pty Ltd for a period of 21 years.
- November 2006 – Council resolved to proceed with the proposed lease, subject to the further negotiation of a number of matters.
- July 2007 – Council resolved to conclude the negotiations in relation to the proposed lease to Fremantle Markets Pty Ltd, and associated documents, and to then prepare and advertise this second Business Plan relating to the proposed Major Land Transaction.



- November 2007 – Second Business Plan advertised.
- June 2008 – Current lease approved and commenced.

The lease that commenced in 2008 is now approaching its expiry (October 2026) and included the current essential terms:

- Lease commencement and expiry: 10/6/2008 - 31/10/2026
- Lease Holder: Fremantle Markets Pty Ltd
- Term: 18 years, 4 months
- Rent: Base rent - \$550,000 per annum plus:
- CPI increase every 18 months, plus;
  - 1% increase in December 2009 & June 2011
  - 1.5% increase in December 2012 & June 2014; and
  - 2% increase in December 2015 & June 2017.
- Annual Performance Adjustment fee payable in July 2014 and every July for the remainder of the term (if applicable) – Lessee to pay Lessor 26% of its gross revenue above the base rent at that time.

Recent Council decisions regarding the premises and the current lease include:

- Fremantle Markets Essential Works and Lease Extension Proposal (C2006-9 10 June 2020)
- Fremantle Markets Refurbishment Works Tender (FPOL2106-9 23 June 2021)

### **Essential Terms for Proposed Disposal**

As detailed in the Business Plan the following essential terms have been agreed upon by the City and FMPL for the proposed disposal:

- Lease term: 10 years
- First further term: 5 years
- Second further term: 5 years
- Commencement date: Current lease to be rescinded and new lease terms to be brought into effect within the 2023 calendar year.
- Rent: Base rent - \$550,000 per annum
- Rent Review: Every 18 months capped at lesser of CPI or 5%, with a market review every 2nd Rent Review Date (every 3 years). Market rent reviews to have a cap (increase) and a collar (decrease) of 6%.
- Annual Performance Adjustment: Fee payable on 1<sup>st</sup> anniversary of lease commencement date and every anniversary for the remainder of the term (if applicable) – Lessee to pay Lessor 26% of its gross revenue above the base rent at that time.
- Preventative Maintenance Contribution: A minimum annual preventative maintenance contribution of \$50,000 to be made by the tenant, adjusted annually at the lessor of CPI or 3%.



## **Scenario Analysis - Options for Disposal**

In line with section 3.58 of the Local Government Act, three potential scenarios exist for the disposal of this particular property. Each present benefits and risks.

The scenarios include:

- Scenario 1 - The current tenant and any other interested parties participate in a public tender process, and the current tenant is selected as the successful proponent.
- Scenario 2 - The current tenant and any other interested parties participate in the process, and the current tenant is not selected as the successful proponent.
- Scenario 3 – The City renews the lease with the current operator in line with the City’s Leasing in a competitive manner policy.

### *Scenario 1 – Public Tender Process – Current Tenant Selected*

If the City was to run a public tender process, the existing tenant would be eligible to participate in the process.

The key benefit associated with this scenario is that it would enable the ability to assess the market and alternative operators/models in an open and transparent manner through a competitive process. This would address any concerns relating to the fact that the lease of the current premises has been held by the same tenant since 1980.

Notwithstanding these benefits, a number of risks are also associated with this scenario even if the current tenant was selected as the successful tenderer through an open and competitive process. These include:

- Loss of existing stallholders due to the uncertainty related to impending expiry of lease with the current operator while the public process is undertaken. Sub-leases of stallholders are currently unable to be renewed beyond 2026 until a new head lease with the operator is resolved.
- Proposed refurbishment works, which the current tenant has committed to funding, may be delayed due to the public process impacting timelines associated with tender process for construction works. This would delay the delivery of priority works for another 12 months or longer, given the preferred construction window of February 2024 may be missed.
- Carrying out this process would be inconsistent with the City’s Leasing of City property in a competitive manner policy.



*Scenario 2 – Public Tender Process – Current Tenant Not Selected*

Similar to scenario 1, the key benefit associated with this scenario is that it would enable the ability to assess the market and alternative operators/models in an open and transparent manner through a competitive process.

However a scenario under which a public tender process is carried out and the current tenant was not successful was considered to carry the greatest risk out of all three scenarios as well as a significant financial opportunity cost. The following risks in addition to those identified in Scenario 1 have been identified:

- Reduction in future lease revenue for the City due to likelihood of a new operator requesting substantial rental incentives, discounts and fit-out contributions.
- Property becoming vacant for a significant period of time if a new operator is unable to deliver on proposed model.
- Significant opportunity cost associated with the transition period for a new operator taking on the site, estimated to be between 3 and 5 years. This could include but not be limited to:
  - During this time the rental income would likely return to base rent (\$550K) relatively quickly as existing operator runs out existing stall holder leases. Assuming 50-60% decline in turnover rent over 18-month period resulting in potential opportunity cost of up to \$115K to the City.
  - The City would be required to invest funds in refurbishment works in the absence of the proposed capital contribution to fund these from the existing tenant. (Potential opportunity cost between \$2-3m).
  - Based on current market conditions the City would assume no rental income for at least 12 months as new tenant transitions in. The request for 12 months rent free (minimum) is common in the current market. (Potential opportunity cost of \$800K).
  - In total, potential opportunity cost to the City of up to \$3.8 million in lost rental revenue and capital contributions to transition to a new operator.

*Scenario 3 – Provide New Lease to Current Tenant*

As the method of disposal being proposed, scenario 3 was considered to mitigate many of the risks associated with scenarios 1 and 2. The following benefits were also identified:

- Much shorter transition of business being 12-18 months to get back to business as usual, as the lease is renewed, and works being funded by the current lessee's capital contribution are carried out.
- Market rent would be paid over the entire period, and the proposed works would be funded by the lessee, rather than the City, effectively



eliminating the potential opportunity cost of up to \$3.8 million associated with transitioning to a new operator.

- Greater certainty provided to 157 small businesses (existing stallholders) in a much shorter period of time.

In further assessing scenario 3 as the preferred option, the following was also considered as demonstrating the capability and experience of the current tenant, having grown the markets over the term of the previous lease/s to achieve the following:

- The Fremantle Markets is considered an iconic destination in the context of the WA tourism industry and features in the marketing of all major tourism stakeholders including TWA, Destination Perth, Tourism Australia.
- There are 157 businesses operating in the Fremantle Markets equating to approximately 400 jobs.
- Up to 33.5 million people have visited the Markets since the start of the current lease in June 2008 and average of 2.6 million per year in the period leading up to covid in March 2020.
- FMPL has invested approximately \$4.5 million in to promoting and advertising the markets, its traders and Fremantle as a whole. Current annual marketing budget is \$370k.
- FMPL has invested approximately at least \$370k on building preventative maintenance over the term and more on the general maintenance of the building.
- In 2008 a study commissioned by FMPL indicated there is over \$40 million spent within the Fremantle Markets per year. FMPL believes this is now closer to \$55-\$60 million per year.
- The Fremantle Markets have been winners in 2013, 2014, 2015 and hall of fame in the Fremantle Chamber Business Awards for Tourism. The Fremantle Markets have been finalists in 2013, 2015 for the WA Tourism Awards as a Major Tourist Attraction.

Based on the assessment of risk, potential opportunity cost and adherence to the City leasing in a competitive manner policy, officers recommended method of disposal is via scenario 3, the details of which have been provided in the attached business plan.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required



**COMMITTEE RECOMMENDATION ITEM FPOL2305-3**  
**(Officer's recommendation)**

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

**Council:**

- 1. Endorse the Business Plan outlining the proposed disposal of 74 South Terrace (the Fremantle Markets), as shown in Attachment 1.**
- 2. Authorise the Chief Executive Officer to advertise the attached Business Plan in line with the requirements of section 3.59 of the *Local Government Act 1995*.**
- 3. Note submissions received via the Business Plan process will be presented to Council as part of the consideration for approval of the proposed Business Plan following the conclusion of the business plan process.**

**PROCEDURAL MOTION**

**The following procedural motion was moved:**

**Moved: Cr Marija Vujcic      Seconded: Cr Fedele Camarda**

The item be deferred for a period of 90 days so the City can provide further legal advice and for the two proposals, thus far received, to be included in the deliberations of elected member on the matter of the Fremantle Markets lease.

**Lost: 2/10  
For**

**Cr Marija Vujcic, Cr Fedele Camarda,  
Against**

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

The Mayor, Hannah Fitzhardinge asked Cr Marija Vujcic to table the legal advice noted in her statement. Cr Vujcic agreed.



**COUCIL DECISION ITEM FPOL2305-3**  
**(Officer's and Committee recommendation)**

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

**Council:**

- 1. Endorse the Business Plan outlining the proposed disposal of 74 South Terrace (the Fremantle Markets), as shown in Attachment 1.**
- 2. Authorise the Chief Executive Officer to advertise the attached Business Plan in line with the requirements of section 3.59 of the *Local Government Act 1995*.**
- 3. Note submissions received via the Business Plan process will be presented to Council as part of the consideration for approval of the proposed Business Plan following the conclusion of the business plan process.**

**Carried: 10/2**

**For**

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

**Against**

**Cr Marija Vujcic, Cr Fedele Camarda**



## 11.2 Finance, Policy, Operations and Legislation Committee 26 April 2023

Cr Fedele Camarda left the meeting at 8.19pm prior to consideration of the following item.

### **FPOL2304-3 PROPOSED LEASE FOR WALYALUP CIVIC CENTRE – RETAIL SPACE**

<b>Meeting date:</b>	24 May 2023
<b>Responsible officer:</b>	A/Manager Economic Development and Marketing
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	Nil
<b>Confidential attachment:</b>	1. For Eyes Optometrist Pty Ltd submission <i>(Confidential – provided under separate cover)</i>

#### **SUMMARY**

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

**The applicant proposes a retail optometrist store in a 168m<sup>2</sup> portion of the Walyalup Civic Centre. The space is located on Newman Court adjacent to the tenancy on the corner of William Street and Newman Court.**

**This report recommends that Council approve the proposed essential terms and authorise the Chief Executive Officer to finalise a Lease between the City of Fremantle and For Eyes Optometrist Pty Ltd based on the essential terms outlined in this report.**

#### **BACKGROUND**

The Walyalup Civic Centre retail premises was advertised by way of an Expression of Interest (EOI) which closed on 1 March 2023.

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

The City received one submission from For Eyes Optometrist Pty Ltd which meets the selection criteria of the EOI. The applicant proposes a retail offering in the 168m<sup>2</sup> tenancy.



Agreed lease terms are now being presented to Council for approval.

### **FINANCIAL IMPLICATIONS**

The proposed rent for the premises is \$38,640 per annum + GST. This is calculated at a rate of \$230m<sup>2</sup> per annum + GST.

Outgoings for the property have been estimated at \$90/sqm for the first year.

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

- Lessor contribution of up to \$30,000 towards lessee fit out.

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

The requested lease term is five (5) years, with two further five (5) year terms. With the final five (5) year term being on the agreement of both parties. The lease will also include a bank guarantee of \$19,320.

Rent will increase in line with CPI annually on the anniversary of the Lease Commencement Date, with a market rent review to occur at year five and year ten.

The fit-out contribution payment of up to \$30,000 towards lessee fit out has been requested as a contribution from the City. This includes basic fit out to floors, ceiling and walls, electrical and plumbing installation.

The City has already installed air-conditioning and will provide sufficient soundproofing to the wall with the adjoining tenancy prior to the Lease Commencement Date.

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

Ownership of any works delivered via the \$30,000 fit-out contribution will be retained by the City at the conclusion of the lease.

The fit-out contribution is currently budgeted for in the approved FY2022/23 budget.

The prospective tenant is estimating their own fit out contribution to be between \$250,000 and \$300,000.



Officers forecast that the net income for the terms of the lease, factoring in the fit-out contribution, will be in the vicinity of \$540,000.

## **LEGAL IMPLICATIONS**

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

1. Lease: The lease must comply with the requirements of Section 3.58 of *the Local Government Act 1995* and the *Commercial Tenancy (Retail Shops) Agreements Act 1985*.
2. Fit-out Contribution Agreement: The negotiated terms of this lease include a payment made by the City towards the lessee's fit out. The Fit-out Contribution Agreement will outline the agreed terms of how and when payments are made to the lessee for the fit-out contribution amount.

## **CONSULTATION**

The property was marketed via the following methods;

- An open EOI process
- City's website and various media channels
- Advertisement in the West Australian and Fremantle Herald
- Direct approach to potential candidates and use of Economic Development database.

## **OFFICER COMMENT**

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

Officers have determined that the proposed tenant is suitable, meets the selection criteria and will complement the existing Walyalup Civic Centre offering.

The presented proposal is for the remaining 168m<sup>2</sup> of retail space located on Newman Court. The site will be adjacent to the existing corner tenancy providing optimal frontage for a retail store.

The proponent has operated in Fremantle since 2015, is currently located on High Street and has more than 25 years' experience in the optical industry in Western Australia.

The following essential terms have been agreed upon by the City and the Proponent.



## Key Lease Terms

<b>Land Description</b>	<p><b>Land:</b></p> <p><b>Known as 16 Newman Court, Fremantle (formerly 8 William Street, Fremantle) and being land more particularly described as Lot 11 on Deposited Plan 412028 Certificate of Title Volume 2958 Folio 794</b></p> <p><b>Building:</b></p> <p><b>Walyalup Civic Centre</b></p> <p><b>Premises: That portion of the Land and the Building comprising 168m2 as outlined in blue on the plan annexed as Annexure 1.</b></p>
<b>Premises</b>	Retail Portion – 16 Newman Court, Fremantle
<b>Lessor</b>	City of Fremantle
<b>Lessee</b>	FOR EYES OPTOMETRIST PTY LTD ABN 18 607 043 827
<b>Bank Guarantee</b>	6 months rent Bank Guarantee or Bond required.
<b>Site Area</b>	168m2
<b>Lease Commencement Date</b>	TBA
<b>First Term</b>	5 Years
<b>Second Term</b>	5 Years
<b>Third Term</b>	5 Years (on the agreement of both parties)
<b>Annual Rent</b>	\$38,640 per annum + GST (\$230 per m2 per annum)
<b>Rent Review</b>	<p>Rent will increase in line with CPI annually on the anniversary of the Lease Commencement Date.</p> <p>Market rent reviews will occur at the end of the first and second term.</p>
<b>Incentives/contributions</b>	Lessor to provide a capital contribution of \$30,000 to the Lessee to contribute towards the proposed fit out of the property. Lessor to provide sufficient soundproofing to the wall with the adjoining tenancy prior to the Lease Commencement Date.
<b>Variable Outgoings/Outgoings</b>	<p>Outgoings will be charged at \$1,000 per month and will include but not be limited to;</p> <ul style="list-style-type: none"> <li>• Water use</li> <li>• Use of communal toilets and end of trip facilities</li> </ul>



	<ul style="list-style-type: none"> <li>• Exterior window cleaning</li> <li>• Building services</li> </ul> <p>The following outgoings will be charged on demand:</p> <ul style="list-style-type: none"> <li>• Electricity (based on sub-meter reading)</li> <li>• Council Rates</li> <li>• Emergency Service Levy</li> <li>• Land Tax</li> <li>• Statutory fees and charges</li> </ul> <p>The recurring monthly variable outgoings charge will form part of the Lease. Invoices are reconciled and audited annually. Outgoings will be capped at \$15,120 plus GST annually.</p>
<b>Legal Fees</b>	Each party will be responsible for their own costs.
<b>Public Liability</b>	Minimum of \$20 million
<b>Permitted Use</b>	Retail
<b>Special Conditions</b>	<p>1. Lessee’s Fit Out</p> <p>Fit out to Ground floor and First floor must commence within 90 days of the commencement of the Lease.</p> <p>2. Lessee’s Works</p> <p>(1) Lessee’s works definition;</p> <ul style="list-style-type: none"> <li>(a) Any alteration, improvement or development of the Premises including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out).</li> <li>(b) The excavation or demolition of any part of the Premises;</li> <li>(c) The removal, sale or disposal of any materials from the Premises.</li> </ul> <p>(2) The Lessee must not undertake works unless;</p> <ul style="list-style-type: none"> <li>(a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works. Consent may be withheld at absolute discretion or granted subject to conditions as the Lessor sees fit including but limited to any condition requiring</li> </ul>



	<p>amendment of the plan for the proposed Lessee’s Works in a manner deemed appropriate by the Lessor.</p> <p>(b) Planning approval under the local planning scheme (if applicable) and;</p> <p>(c) A building permit under the <i>Building Act 2011</i>(if applicable).</p> <p>(3) The Lessee shall be responsible for all costs of, or associated with, the Lessee’s Works including but not limited to costs of or associated with:</p> <p>(a) an application for planning consent;</p> <p>(b) an application for a building permit;</p> <p>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</p> <p>(d) construction or installation of the Lessee’s Works; and</p> <p>(e) Installation or upgrade of any services.</p> <p>(4) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</p> <p>(5) The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor’s public liability insurance.</p> <p>(6) The parties acknowledge and agree that any Lessee’s Works comprising structural improvements shall vest to the Lessor upon Termination of the Lease without cost.</p> <p>3. Assignment or Sub Letting</p> <p>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if:</p> <p>(a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the</p>
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	<p>financial and premises operations obligations under the Lease.</p> <ul style="list-style-type: none"><li>(b) All accounts are paid in full up until the date of the assignment or sub lease.</li><li>(c) The Lessee pays all costs associated with an assignment or sublease.</li><li>(d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST.</li></ul> <p>4. State of Emergency Clause</p> <p>The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.</p> <p>5. Use of Confidential Information</p> <p>“Confidential Information” means any information relating to the Lease, including but not limited to the provisions of the Lease.</p> <ul style="list-style-type: none"><li>(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease.</li><li>(b) The obligations of confidentiality in paragraph (a) will not apply to information which:<ul style="list-style-type: none"><li>(i) is generally available in the public domain except where such availability is as a result of a breach of this agreement; or</li><li>(ii) is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order.</li></ul></li><li>(c) The obligations imposed will survive the termination of the Lease.</li></ul> <p>6. Quiet enjoyment</p>
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	<p>Except as provided in the Lease and subject to the performance of the Lessee’s Obligations, the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.</p> <p>7. Parties to act in good faith</p> <p>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</p> <p>8. Maintenance Schedule</p> <p>A Maintenance Schedule, which stipulates responsibilities and obligations regarding maintenance of the Premises, will form part of the Lease Agreement</p> <p>9. End of Lease</p> <p>At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.</p>
<p><b>Premises</b></p>	<p>The diagram shows a site plan with two main areas outlined in green and blue. The green-outlined area is labeled '226M2' and the blue-outlined area is labeled '168M2'. Dimensions are provided in red: 11739, 9230, 15904, 14731, 9161, 7870, 18161, 15734, and 90.00°. The plan also shows 'NEWMAN COURT' and various building footprints and parking spaces.</p>



**VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

**OFFICER'S RECOMMENDATION**

**Moved Cr Jenny Archibald**

**Seconded Cr Rachel Pemberton**

Council authorise the Chief Executive Officer to finalise a Lease between For Eyes Optometrist Pty Ltd and the City of Fremantle for the property at 16 Newman Court, Fremantle based on the following essential terms:

<b>Land Description</b>	<p><b>Land:</b>  <b>Known as 16 Newman Court, Fremantle (formerly 8 William Street, Fremantle) and being land more particularly described as Lot 11 on Deposited Plan 412028 Certificate of Title Volume 2958 Folio 794</b></p> <p><b>Building:</b>  <b>Walyalup Civic Centre</b></p> <p><b>Premises: That portion of the Land and the Building comprising 168m2 as outlined in blue on the plan annexed as Annexure 1.</b></p>
Premises	Retail Portion – 16 Newman Court, Fremantle
Lessor	City of Fremantle
Lessee	FOR EYES OPTOMETRIST PTY LTD ABN 18 607 043 827
Bank Guarantee	6 months rent Bank Guarantee or Bond required.
Site Area	168m2
Lease Commencement Date	TBA
First Term	5 Years
Second Term	5 Years
Third Term	5 Years (on the agreement of both parties)
Annual Rent	\$38,640 per annum + GST (\$230 per m2 per annum)
Rent Review	Rent will increase in line with CPI annually on the anniversary of the Lease Commencement Date. Market rent reviews will occur at the end of the first and second term.



Incentives/contributions	Lessor to provide a capital contribution of \$30,000 to the Lessee to contribute towards the proposed fit out of the property. Lessor to provide sufficient soundproofing to the wall with the adjoining tenancy prior to the Lease Commencement Date.
Variable Outgoings/Outgoings	<p>Outgoings will be charged at \$1,000 per month and will include but not be limited to;</p> <ul style="list-style-type: none"> <li>• Water use</li> <li>• Use of communal toilets and end of trip facilities</li> <li>• Exterior window cleaning</li> <li>• Building services</li> </ul> <p>The following outgoings will be charged on demand:</p> <ul style="list-style-type: none"> <li>• Electricity (based on sub-meter reading)</li> <li>• Council Rates</li> <li>• Emergency Service Levy</li> <li>• Land Tax</li> <li>• Statutory fees and charges</li> </ul> <p>The recurring monthly variable outgoings charge will form part of the Lease. Invoices are reconciled and audited annually.</p> <p>Outgoings will be capped at \$15,120 plus GST annually.</p>
Legal Fees	Each party will be responsible for their own costs.
Public Liability	Minimum of \$20 million
Permitted Use	Retail
Special Conditions	<p>1. Lessee’s Fit Out</p> <p>Fit out to Ground floor and First floor must commence within 90 days of the commencement of the Lease.</p> <p>2. Lessee’s Works</p> <p>(1) Lessee’s works definition;</p> <p>(a) Any alteration, improvement or development of the Premises including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out).</p>



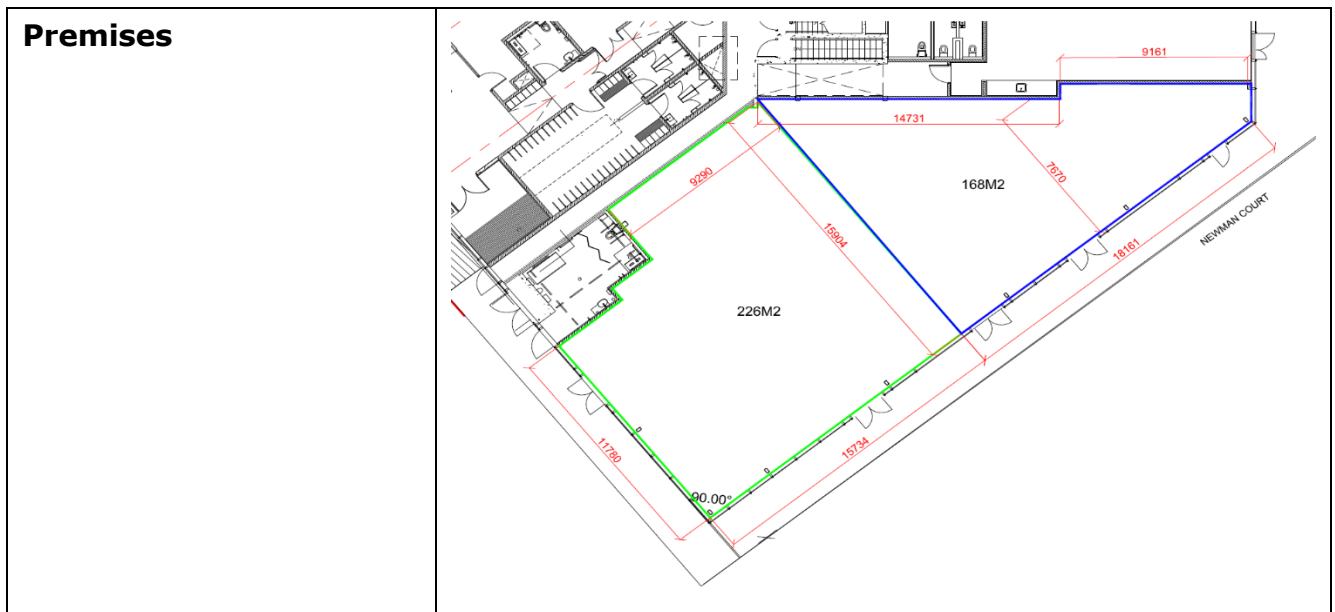
	<ul style="list-style-type: none"><li>(b) The excavation or demolition of any part of the Premises;</li><li>(c) The removal, sale or disposal of any materials from the Premises.</li></ul> <p>(2) The Lessee must not undertake works unless;</p> <ul style="list-style-type: none"><li>(a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works. Consent may be withheld at absolute discretion or granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor.</li><li>(b) Planning approval under the local planning scheme (if applicable) and;</li><li>(c) A building permit under the <i>Building Act 2011</i>(if applicable).</li></ul> <p>(3) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:</p> <ul style="list-style-type: none"><li>(a) an application for planning consent;</li><li>(b) an application for a building permit;</li><li>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</li><li>(d) construction or installation of the Lessee's Works; and</li><li>(e) Installation or upgrade of any services.</li></ul> <p>(4) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</p> <p>(5) The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor's public liability insurance.</p>
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	<p>(6) The parties acknowledge and agree that any Lessee's Works comprising structural improvements shall vest to the Lessor upon Termination of the Lease without cost.</p> <p>3. Assignment or Sub Letting</p> <p>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if:</p> <ul style="list-style-type: none"><li>(a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease.</li><li>(b) All accounts are paid in full up until the date of the assignment or sub lease.</li><li>(c) The Lessee pays all costs associated with an assignment or sublease.</li><li>(d) The assignee or sublessee (if required) has provided the Lessor with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST.</li></ul> <p>4. State of Emergency Clause</p> <p>The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.</p> <p>5. Use of Confidential Information</p> <p>"Confidential Information" means any information relating to the Lease, including but not limited to the provisions of the Lease.</p> <ul style="list-style-type: none"><li>(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease.</li><li>(b) The obligations of confidentiality in paragraph (a) will not apply to information which:</li></ul>
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	<ul style="list-style-type: none"> <li>a. is generally available in the public domain except where such availability is as a result of a breach of this agreement; or</li> <li>b. is required to be disclosed by an applicable law, including but not limited to the <i>Local Government Act 1995</i> or <i>Freedom of Information Act 1992</i>, or by court order.</li> </ul> <p>(c) The obligations imposed will survive the termination of the Lease.</p> <p>6. Quiet enjoyment</p> <p>Except as provided in the Lease and subject to the performance of the Lessee’s Obligations, the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.</p> <p>7. Parties to act in good faith</p> <p>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</p> <p>8. Maintenance Schedule</p> <p>A Maintenance Schedule, which stipulates responsibilities and obligations regarding maintenance of the Premises, will form part of the Lease Agreement</p> <p>9. End of Lease</p> <p>At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.</p>
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**AMENDMENT 1**

**Moved: Cr Rachel Pemberton**

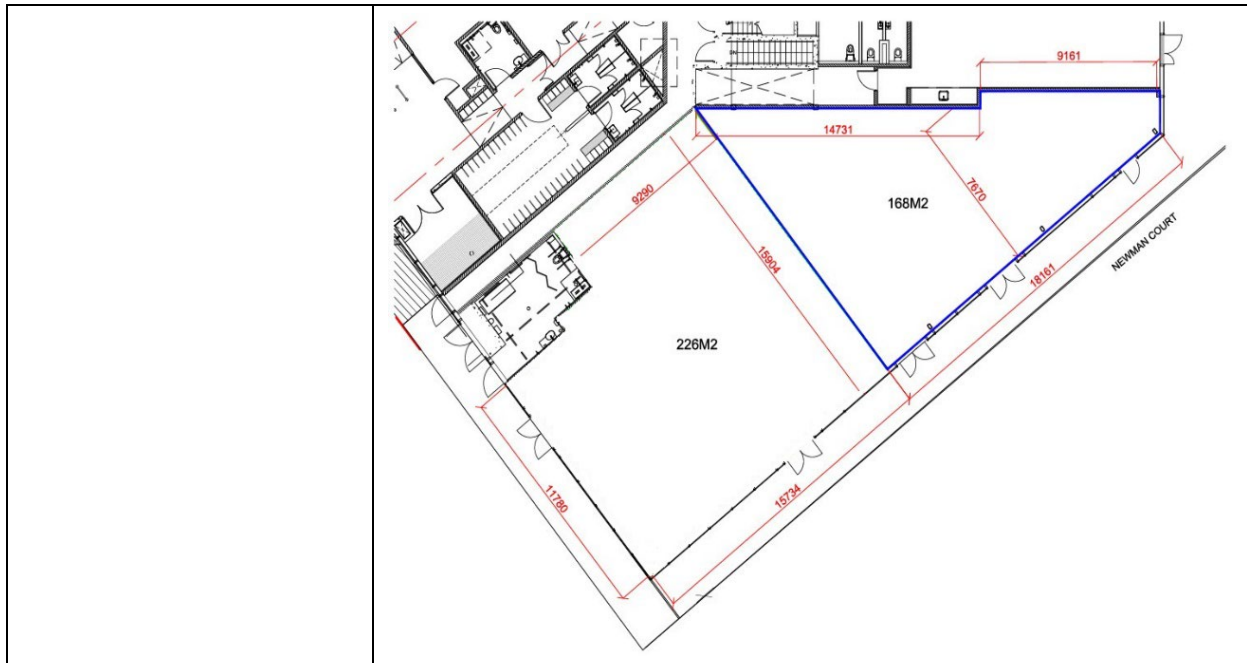
**Seconded: Cr Jenny Archibald**

**1. Amend the Variable Outgoings clause of the Lease to read as follows:**

<p><b>Variable Outgoings/Outgoings</b></p>	<p><i><b>A recurring monthly variable outgoing charge of \$1,000 per month will form part of the lease, with invoices to be audited and reconciled annually.</b></i></p> <p><i><b>These charges will be capped at \$15,120 + GST annually. Variable outgoings will include but not be limited to;</b></i></p> <ul style="list-style-type: none"> <li><i><b>• Water use</b></i></li> <li><i><b>• Use of communal toilets and end of trip facilities</b></i></li> <li><i><b>• Exterior window cleaning</b></i></li> <li><i><b>• Building services</b></i></li> </ul> <p><i><b>The following additional outgoings will be charged on demand, in addition to the monthly variable outgoing charge:</b></i></p> <ul style="list-style-type: none"> <li><i><b>• Electricity</b></i></li> <li><i><b>• Council rates</b></i></li> <li><i><b>• Emergency Service Levy</b></i></li> <li><i><b>• Land tax</b></i></li> <li><i><b>• Statutory Fees and charges</b></i></li> </ul>
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**2. Amend the diagram by removing green line to provide clarity on location of premises:**



**Amendment carried: 7/0**  
**Mayor Hannah Fitzhardinge, Cr Fedele Camarda, Cr Jenny Archibald, Cr Marija Vujcic, Cr Bryn Jones, Cr Rachel Pemberton, Cr Frank Mofflin**

**Reason for change:**

To provide further clarity on the payment of outgoings for this lease and location of premises.



**COUNCIL DECISION FPOL2304-3**

**(Committee Recommendation)**

**Moved: Mayor, Hannah Fitzhardinge      Seconded: Cr Bryn Jones**

**Council authorise the Chief Executive Officer to finalise a Lease between For Eyes Optometrist Pty Ltd and the City of Fremantle for the property at 16 Newman Court, Fremantle based on the following essential terms:**

<b>Land Description</b>	<p><b>Land:</b></p> <p><b>Known as 16 Newman Court, Fremantle (formerly 8 William Street, Fremantle) and being land more particularly described as Lot 11 on Deposited Plan 412028 Certificate of Title Volume 2958 Folio 794</b></p> <p><b>Building:</b></p> <p><b>Walyalup Civic Centre</b></p> <p><b>Premises: That portion of the Land and the Building comprising 168m2 as outlined in blue on the plan annexed as Annexure 1.</b></p>
<b>Premises</b>	<b>Retail Portion – 16 Newman Court, Fremantle</b>
<b>Lessor</b>	<b>City of Fremantle</b>
<b>Lessee</b>	<b>FOR EYES OPTOMETRIST PTY LTD ABN 18 607 043 827</b>
<b>Bank Guarantee</b>	<b>6 months rent Bank Guarantee or Bond required.</b>
<b>Site Area</b>	<b>168m2</b>
<b>Lease Commencement Date</b>	<b>TBA</b>
<b>First Term</b>	<b>5 Years</b>
<b>Second Term</b>	<b>5 Years</b>
<b>Third Term</b>	<b>5 Years (on the agreement of both parties)</b>
<b>Annual Rent</b>	<b>\$38,640 per annum + GST (\$230 per m2 per annum)</b>
<b>Rent Review</b>	<b>Rent will increase in line with CPI annually on the anniversary of the Lease Commencement Date.</b>



	<p><b>Market rent reviews will occur at the end of the first and second term.</b></p>
<b>Incentives/contributions</b>	<p><b>Lessor to provide a capital contribution of \$30,000 to the Lessee to contribute towards the proposed fit out of the property. Lessor to provide sufficient soundproofing to the wall with the adjoining tenancy prior to the Lease Commencement Date.</b></p>
<b>Variable Outgoings/Outgoings</b>	<p><b><i>A recurring monthly variable outgoing charge of \$1,000 per month will form part of the lease with invoices to be audited and reconciled annually.</i></b></p> <p><b><i>These charges will be capped at \$15,120 + GST annually. Variable outgoings will include but not be limited to;</i></b></p> <ul style="list-style-type: none"> <li><b><i>• Water use</i></b></li> <li><b><i>• Use of communal toilets and end of trip facilities</i></b></li> <li><b><i>• Exterior window cleaning</i></b></li> <li><b><i>• Building services</i></b></li> </ul> <p><b><i>The following additional outgoings will be charged on demand, in addition to the monthly variable outgoing charge:</i></b></p> <ul style="list-style-type: none"> <li><b><i>• Electricity</i></b></li> <li><b><i>• Council rates</i></b></li> <li><b><i>• Emergency Service Levy</i></b></li> <li><b><i>• Land tax</i></b></li> </ul> <p><b><i>Statutory Fees and charges</i></b></p>
<b>Legal Fees</b>	<p><b>Each party will be responsible for their own costs.</b></p>
<b>Public Liability</b>	<p><b>Minimum of \$20 million</b></p>
<b>Permitted Use</b>	<p><b>Retail</b></p>
<b>Special Conditions</b>	<p><b>1. Lessee’s Fit Out</b></p> <p><b>Fit out must commence within 90 days of the commencement of the Lease.</b></p> <p><b>2. Lessee’s Works</b></p> <p><b>(1) Lessee’s works definition;</b></p> <p><b>(a) Any alteration, improvement or development of the Premises</b></p>



	<p><b>including but not limited to the erection of any building, structure or fixture on the Premises (including tenancy fit out).</b></p> <p><b>(b) The excavation or demolition of any part of the Premises;</b></p> <p><b>(c) The removal, sale or disposal of any materials from the Premises.</b></p> <p><b>(2) The Lessee must not undertake works unless;</b></p> <p><b>(a) Prior written consent is obtained from the Lessor which will include the submission of a design of the proposed works. Consent may be withheld at absolute discretion or granted subject to conditions as the Lessor sees fit including but limited to any condition requiring amendment of the plan for the proposed Lessee's Works in a manner deemed appropriate by the Lessor.</b></p> <p><b>(b) Planning approval under the local planning scheme (if applicable) and;</b></p> <p><b>(c) A building permit under the <i>Building Act 2011</i>(if applicable).</b></p> <p><b>(3) The Lessee shall be responsible for all costs of, or associated with, the Lessee's Works including but not limited to costs of or associated with:</b></p> <p><b>(a) an application for planning consent;</b></p> <p><b>(b) an application for a building permit;</b></p> <p><b>(c) obtaining any other statutory approval required, including Water Corporation approval where necessary;</b></p> <p><b>(d) construction or installation of the Lessee's Works; and</b></p>
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	<p style="text-align: center;"><b>(e) Installation or upgrade of any services.</b></p> <p><b>(4) The Lessor reserves the right to appoint a Lessor representative to oversee all Lessee Works at the Premises and sign off on the completion of key items within the Lessee proposed design.</b></p> <p><b>(5) The Lessee will ensure that all Lessee contractors undertaking works at the premises are certified and provide to the Lessor on demand copies of the contractor’s public liability insurance.</b></p> <p><b>(6) The parties acknowledge and agree that any Lessee’s Works comprising structural improvements shall vest to the Lessor upon Termination of the Lease without cost.</b></p> <p><b>3. Assignment or Sub Letting</b></p> <p><b>(1) The Lessee must not assign or sublet any part of the Premises without prior Lessor approval. The Lessee will not unreasonably withhold consent to an assignment or sublease if:</b></p> <p style="padding-left: 40px;"><b>(a) The proposed assignee or sub-lessee has been demonstrated by the Lessee, to the satisfaction of the Lessor, has the ability to meet the financial and premises operations obligations under the Lease.</b></p> <p style="padding-left: 40px;"><b>(b) All accounts are paid in full up until the date of the assignment or sub lease.</b></p> <p style="padding-left: 40px;"><b>(c) The Lessee pays all costs associated with an assignment or sublease.</b></p> <p style="padding-left: 40px;"><b>(d) The assignee or sublessee (if required) has provided the Lessor</b></p>
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with a bank guarantee in an amount equivalent to equivalent to six months gross rental including GST.

**4. State of Emergency Clause**

The Lessor and Lessee will act in good faith to follow all actions determined by State or Federal Government in relation to a State of Emergency situation.

**5. Use of Confidential Information**

“Confidential Information” means any information relating to the Lease, including but not limited to the provisions of the Lease.

(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under the Lease.

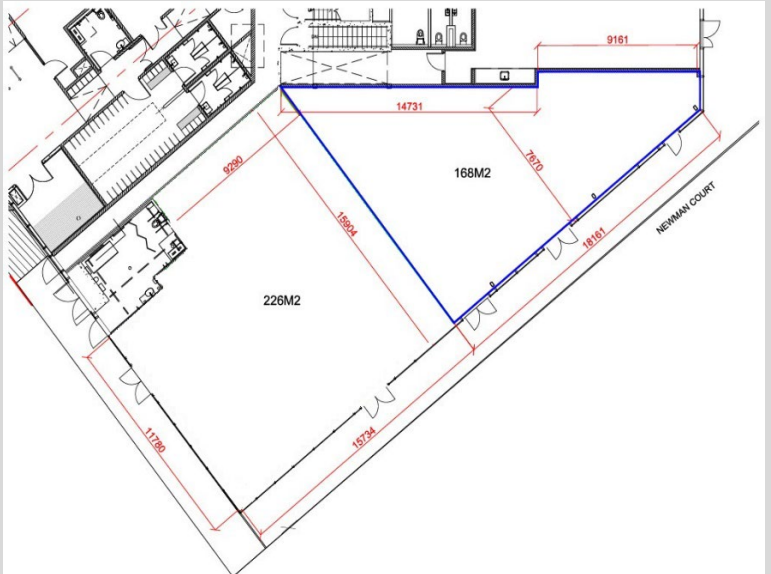
(b) The obligations of confidentiality in paragraph (a) will not apply to information which:

- a. is generally available in the public domain except where such availability is as a result of a breach of this agreement; or
- b. is required to be disclosed by an applicable law, including but not limited to the *Local Government Act 1995* or *Freedom of Information Act 1992*, or by court order.

(c) The obligations imposed will survive the termination of the Lease.

**6. Quiet enjoyment**



	<p><b>Except as provided in the Lease and subject to the performance of the Lessee's Obligations, the Lessee may quietly hold and enjoy the Premises during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.</b></p> <p><b>7. Parties to act in good faith</b></p> <p><b>Each party agrees to act in good faith throughout the term of the Lease and to not publicly disparage, denigrate or criticize the other party.</b></p> <p><b>8. Maintenance Schedule</b></p> <p><b>A Maintenance Schedule, which stipulates responsibilities and obligations regarding maintenance of the Premises, will form part of the Lease Agreement</b></p> <p><b>9. End of Lease</b></p> <p><b>At the end of the lease the Lessor reserves the right to advertise the premises available to Lease. The Lessee, subject to no default against the lease, will be entitled to reapply to lease the premises through the public process.</b></p>
<p><b>Premises</b></p>	 <p>The diagram is a site plan showing a triangular plot of land. The plot is divided into two sections: a larger section of 226M2 and a smaller section of 168M2. The plot is bounded by Newman Court to the east. Various dimensions are marked in red, including 11720, 15734, 15894, 14731, 7870, 16161, and 9161. The plan also shows existing buildings and structures on the plot.</p>

**Minutes – Ordinary Meeting of Council  
24 May 2023**



**Carried: 11/0**

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



## **FPOL2305-7          CAT BUS REVIEW**

**Meeting date:** 10 May 2023  
**Responsible officer:** Director Planning Place and Urban Development  
**Decision making authority:** Council  
**Attachments:** 1. CAT Bus Service Review – Summary, December 2022  
**Confidential Attachments:** Nil

### **SUMMARY**

**The central area transit (CAT) bus service was first introduced in 2000 as an evolution of the 1997-2000 City Clipper to assist with the influx of visitors attending special events and to link up with off-street parking facilities in the city centre. It has evolved into different iterations since being introduced.**

**The original intent of this CAT service has been diluted over time, and during the height of the COVID-19 pandemic in Perth the Blue CAT service to South Beach was reduced from a 10-minute to a 20-minute frequency and the Red CAT service was suspended. These changes were initially intended for a 12-month period but have continued up to the present time pending a comprehensive review of the CAT service to ensure it is meeting current requirements, potential alternative service options and funding arrangements, and because of the prolongation of COVID-related restrictions on visitation to WA.**

**Essentially, the remaining Blue CAT service provides a free bus service to South Fremantle, stop over to various tourism operations and access to significant sites around the CBD. The service is funded by the City to the value of 60% of the total cost and is managed and co-funded by the Public Transport Authority (PTA).**

**Council has received multiple reports of these reviews and held various discussions regarding the CAT service since June 2020. The purpose of this report is to draw together outcomes and conclusions from this review work and recommend to Council a final position in respect of the future of the CAT service, noting that the PTA has recently advised the City that a new contract for bus operations including the Fremantle CAT that will take effect in mid-2023 will involve a 30% increase in costs (including the City's share of the CAT bus cost) compared to costs under the current contract which expires end June 2023.**

**In consideration of all work undertaken to date, the following actions are recommended:**



- **Having regard to the review of the CAT service and its original intent, the City will no longer contribute financially to the service.**
- **The City will work with the PTA to seek to achieve:**
  - (a) **that the CAT service is wholly funded by the government, or,**
  - (b) **that PTA replaces the CAT service with normal Transperth buses to the South Fremantle precinct, commensurate with other residential precincts in Fremantle.**
- **The City will initiate an Expression of Interest (EOI) to investigate commercial opportunities for a 'hop on, hop off' service that responds to the original intent of the CAT service route, including:**
  - **Connecting city entry points (train/bus station, carparks, Victoria Quay's Passenger Terminal);**
  - **Connecting major visitor destinations (e.g., Fremantle Prison, Arts Centre, Maritime Museum/Victoria Quay, Walyalup Koort, Fishing Boat Harbour, etc).**

**Noting that the service should also:**

- **have flexibility around major events, cruise ship arrivals and seasonal/weekly demand;**
  - **aim to minimise costs to users, which may include sponsorship arrangements with PTA, City and key stakeholders (destinations / beneficiaries of the service.)**
- **As part of the future fine-grain movement around the city centre, the City will develop strategic urban design plans that include improved walkability and micro-mobility, increased tree canopy, and well-located and connected off-street parking facilities.**

## **BACKGROUND**

A Central Area Transit (CAT) bus service (or variation of it) has operated in Fremantle since 1997 (originally as the 'City Clipper'). The service has been periodically reviewed and has evolved over time into two CAT routes – a Blue CAT linking Fremantle city centre with South Fremantle (South Beach) via South Terrace and Marine Terrace, and a Red CAT route servicing city centre visitor attractions with a loop around High St, Ord/James St and Beach St. These services operate under a contractual agreement between the City of Fremantle and the Public Transport Authority (PTA), which, following previous short-term extensions, expires end June 2023. Under this contractual agreement the City of Fremantle pays 60% of the annual operating cost of the CAT service, and the Public Transport Authority (PTA) funds the remaining 40%.

In June 2020, in response to the impacts of COVID-19, Council resolved to temporarily suspend the Red CAT bus and to reduce the service level of the Blue CAT (which accounted for approximately 80% of all CAT patronage) for a



period of 12 months and requested that a review of these services be undertaken during that period. This service reduction was mutually agreed with the PTA and implemented in August 2020. The reduced CAT service was subsequently continued beyond the initial 12-month period pending completion of the service review and because of the prolongation of COVID-related restrictions on visitation to WA.

Council specified the parameters of the review and provided supplementary direction in considering an update report on the review in September 2020.

The review was submitted to Council in March 2021. In response, Council requested further information and stakeholder consultation. Key further action by officers required by this Council resolution included:

- Further investigate and obtain data on CAT bus patronage profile.
- Prepare a report on potential opportunities for Specified Area Rate contributions from landowners within 400m of the CAT routes towards CAT service costs, for Council's consideration.
- Negotiate with the PTA a further extension of the reduced service operating period to the end of the 2021/22 financial year and be open to negotiating a different funding model.
- Pursue further discussions with the City of Cockburn and Town of East Fremantle regarding potential financial support for maintaining and/or expanding the service.

The outcomes of these further actions were incorporated into a report to Council in March 2022 which stated that:

- The primary use of the service (during the time of the survey) is by local residents.
- Stakeholders consider the access provided by the service to key destinations within the City Centre (including the Fishing Boat Harbour, Victoria Quay, Arts Centre and Notre Dame) as important but not critical.
- Opportunities remain to continue exploration of extension and / or supplementing the service to connect with adjoining local government areas, but neither Cockburn nor East Fremantle currently have budget capacity or appetite to commit to this.

The most recent formal decision of Council in respect of the CAT service occurred at its Ordinary Meeting on 23 March 2022, after consideration of the abovementioned report. Council resolved to:

- 1. Notes the findings of the research conducted in June 2021, recognising that the passenger data was collected at a time service frequency was reduced and tourism was impacted by the WA borders being closed.*
- 2. Support the retention of a CAT bus service for reasons including that it:*
  - a. reduces traffic congestion and parking pressure in central Fremantle;*



- b. provides alternative transport options for high density residential areas to access the CBD and key destinations; and*
  - c. transports visitors around the city and between key destinations.*
- 3. Agrees to consider a 2022-23 budget allocation to complete the current Covid level CAT service contract with PTA (i.e. the Blue CAT only, at a 20-minute frequency) until the expiry of the contract in October 2022 (later extended to May, 2023).*
- 4. In recognition that no other CAT bus service in WA relies on more than one-third local government funding, agrees to consider a quarantined budget allocation of \$249,000, equal to one third of the total estimated cost of an indicative CAT Bus service (based on the pre-COVID PTA contract costings, i.e. one-third of \$1.117mil p.a., being \$249,000 over 8 months).*
- 5. Request the Mayor and CEO seek to secure additional funding for a service, the details of which has yet to be determined, with options to be explored including:*
  - a. Contribution from Fremantle Ports / State Government as part of activation of Victoria Quay;*
  - b. Paid parking to be introduced on Ord St and Marine Tce;*
  - c. A Special Area Rate to be paid by those properties within walking distance (400m) to the CAT bus service;*
  - d. Advertising on board the CAT buses;*
  - e. Charging a small fee to ride the CAT bus using a 'tap and go' EFTPOS facility or similar.*
  - f. Contribution from major Educational Institutions.*
- 6. Authorise the CEO to provide input into the PTA request for tender, based on the following:*
  - a. Service parameters – the CAT service, irrespective of exact route configurations, is to serve a similar catchment to the area previously served by the Blue and Red CAT routes. The service is to operate 7 days per week all year round with similar operating hours to the current service.*
  - b. The extent of PTA funding remains no less than their current funding proportion of the total service cost.*
  - c. A new tendered contract should include a 'New Stakeholders' clause which makes provision for another party or parties to become an additional contributor to the funding of the service (either from the commencement of the contract or at a later date), if agreed to by the City of Fremantle and the PTA.*
- 7. Request that a report be brought back to Council to finalise the preferred CAT Bus routes and frequencies once the cost of this service under the new PTA contract is known, and other funding sources have been identified in late 2022, based on agreed, prioritised principles.*



Since the Council meeting in March 2022 elected members have been presented with updated information on the matters referred to in the above resolution, especially the exploration of potential additional funding sources, CAT route options, and feedback from the PTA, at Informal Briefing Sessions on:

- 4 July 2022
- 13 March 2023

A key recent development has been the receipt of information from the PTA advising that the outcome of the tender process for the award of the new contract for bus operations in the region that include the Fremantle CAT services has resulted in a 30% increase in contract cost. The City's share of the total CAT service cost would increase by the same proportion if the City was to continue the current funding agreement with the PTA into the new contract period from July 2023 onwards.

### **FINANCIAL IMPLICATIONS**

Immediately prior to the COVID-19 pandemic the annual cost of the two CAT services (Blue and Red routes) was \$1.12m per year, with the City contributing \$670,000 (60%) towards this cost. Under the new PTA contract, this full service would require an increase of the City's contribution to \$985,000 per annum.

During COVID-19, the service was reduced to just the Blue CAT, at lesser frequency, resulting in the City's contribution being modified to \$252,000 per annum. Under the new rates, this contribution is increased to \$360,000 per annum.

The current budget in 2022/23 to fund the City's share of the reduced Blue CAT bus service is \$335,000. It is noted that when the budget was set, a substantial contingency was added to the \$252,000 based on predictions that the service rates were likely to rise dramatically between October 2022 and June 2023.

### **LEGAL IMPLICATIONS**

The City will need to notify the PTA of its position on the discontinuance or continuance of this service so the on-going contract for service may be finalised with their contractor.

### **CONSULTATION**

If Council supports the officer's recommendation to terminate all City of Fremantle financial support for a CAT service, it is proposed that in collaboration with the PTA the City uses its previous patronage data on bus usage for the Blue Bus within the South Fremantle community to assist the PTA with decisions around retaining the CAT service under alternative funding arrangements or replacing it



with standard Transperth bus services that might serve a similar catchment in the South Terrace/Marine Terrace corridor.

The City will need to notify relevant stakeholders of the Council's decision in relation to the CAT service once the decision is made.

### **OFFICER COMMENT**

The CAT bus has contributed directly to the Council's transport objectives, and indirectly to several of its economic, social and place-based objectives. The review of this service in several stages since late 2020 has provided the opportunity for Council to evaluate the scale of the CAT service's contributions towards these objectives, the value for money the service offers, and the opportunity costs of funding the service in terms of other City services or projects which forgo funding in favour of the CAT service. The conclusion of the review is a time for Council to consider whether strategic transport and other objectives continue to be effectively achieved through the CAT service or whether these objectives may be better achieved through other options.

The latest summary of the CAT Bus Service Review, December 2022, is included as **Attachment 1** to this Report. As well as the consideration of whether the service is meeting objectives, another consideration is whether Council should continue to financially support a Fremantle CAT bus service into 2023/24 and beyond noting the increase in costs by 30%. This cost needs to be considered against the value of current objective needs and outcomes.

The CAT review process has highlighted that there is an extensive range of options available and some complex considerations in assessing benefits of the current service or alternative options for the delivery of the City's objectives, making selection of the most appropriate option challenging.

Based on the assessment of options undertaken to date, and the direction Council has given to guide the review, the following factors including the most recent information available and future considerations are considered by officers to be key in determining whether the Council should continue to financially support a Fremantle CAT service.

**Ongoing  
relevance  
of original  
purpose  
Current  
usage**

The original purpose of the CAT bus was to provide a regular and frequent free service to visitors to the city centre, connecting off-street parking facilities and key destinations and special events.

The currently operating Blue CAT bus service connects the city centre to South Beach – a free service enjoyed primarily by commuters parking in South Fremantle and local residents in the catchment around the South Terrace and Marine Terrace corridors. This is significantly different to the original intent of 1997 when the Clipper Service was introduced.



- Who pays** The City currently contributes 60% of the total annual service operating cost under the current 60:40 funding arrangement with PTA. In 2022/23 this has equated to a budget allocation of \$335,000 for the City's share of the reduced frequency Blue CAT service.  
The following stakeholders have been consulted as part of the review and although they have indicated general support for the service, no additional funding sources have been secured:
- PTA
  - Department of Education / John Curtin CA / CBC
  - Notre Dame University
  - Fremantle Ports and Fishing Boat Harbour
  - Chamber of Commerce
  - Destination Marketing Working Group
  - Tourism WA
  - Town of East Fremantle
  - City of Cockburn
- Future costs and opportunity costs** The PTA has informed the City that if the current CAT service continues under the new contract the PTA has recently awarded, the value of the City's contribution will increase by approximately 30%. This is a very significant increase and could be considered a 'tipping point' at which the benefits of the CAT service to the part of the community it serves are now outweighed by the direct costs that would be incurred from 2023/24 onwards, and also by the opportunity costs in terms of other services to the community that are currently constrained by directing budget allocation to the CAT service.
- Connecting central area destinations** There is an opportunity to return to a 'destinations based' service through pursuing a commercial operator. Such a service could be tailored to fluctuating visitor demand, seasonal changes and special events. The City could lead this work and continue to liaise with PTA to see what partnering arrangements and/or funding subsidies may be available (noting that the Cottesloe CAT is procured by the Town of Cottesloe, privately operated, runs only for special events, and is subsidised by PTA.)
- A walkable, legible and accessible City** As part of urban design work to be undertaken on the city centre, core components will be around making Fremantle more walkable, legible and accessible. This will include investigations around micro-mobility options for people to access key destinations around the city centre – within the context of the city centre being one, major destination as a whole.



**An EOI for a New Service**

An EOI can be initiated for a commercially-based service that goes back to the original intent of the inner city clipper route. It should also take the opportunity to build in flexibility around patron-demand and funding sponsorship.

Key elements of the EOI should include:

<b>Bus Routes</b>	<ul style="list-style-type: none"> <li>• <b>Connecting city entry points (train/bus station, carparks, Victoria Quay’s Passenger Terminal);</b></li> <li>• <b>Connecting major visitor destinations (e.g., Fremantle Prison, Arts Centre, Maritime Museum/Victoria Quay, Walyalup Koort, Fishing Boat Harbour, etc);</b></li> </ul>
Demand Driven	<ul style="list-style-type: none"> <li>• Have flexibility / additional services around major events, including cruise ship arrivals;</li> <li>• Look at tailoring the service to seasonal demand variations, as well as fluctuations in weekly demand (i.e., weekend service demand being higher than Monday to Friday);</li> </ul>
Funding	<ul style="list-style-type: none"> <li>• Run service as a commercial enterprise;</li> <li>• Aim to minimise costs to users;</li> <li>• Explore advertising options and cross-promotion with other visitor operators / products;</li> <li>• Identify options around sponsorship arrangements with PTA, City and key stakeholders (destinations / beneficiaries of the service), if the service cannot be fully self-funded.</li> </ul>

**Future tourism related opportunities**

As indicated in the officer’s recommendation associated with this report, an opportunity exists to investigate the development of a tourism-oriented service in lieu of the current CAT service.

A number of services exist across Perth that focus primarily on delivering a tourism-oriented product and provide an example of the type of service that could respond to visitor demand, connect visitors to key city centre destinations and events, and integrate with destination marketing.

The Perth City Explorer is a large double decker bus that operates within the Perth CBD providing a ‘hop-on hop-off’ service and is specifically targeted at visitors. The route includes Kings Park, Northbridge, Optus Stadium, Crown Perth, The Bell Tower, the Boat House, city shopping malls, The Mint, Art Gallery and discount shopping centre Watertown.



The service is delivered by a commercial operator and requires the purchase of a 24 hour ticket or 48 hour ticket, ranging from between \$40-\$45 for an adult ticket.

The Sunset Explorer is another service that operates in Perth's northern suburbs and offers a similar double decker bus and hop-on hop-off service. The Sunset explorer runs between Scarborough Beach and Whitfords public library stopping at North Beach and Hillarys on the way.

This service was developed as a partnership between Destination Perth, City of Stirling, City of Joondalup and Hillarys Boat Harbour, with each partner contributing funds to subsidise the service. The service is run by the same commercial operator that delivers the Perth City Explorer.

This service is run seasonally (over spring and summer), and while it was initially provided as a free service, anecdotal feedback from participating partners suggests a fee was introduced (in addition to partner contributions) in the most recent season and was met with a significant reduction in usage.

Notwithstanding the need to further investigate a suitable commercial model, a hop-on hop-off service in Fremantle could potentially connect key tourism orientated sites on a regular frequency loop that stops at attractions and locations including but not limited to:

- Fishing Boat Harbour and Bathers Beach
- Victoria Quay incorporating the WA Maritime Museum
- Historic West End incorporating the WA Shipwrecks Museum
- Walyalup Koort, incorporating the Visitors Centre and allowing for a transfer point between cruise ship shuttles and the hop-on hop-off service
- Cappuccino Strip and Fremantle Markets
- Fremantle Prison and Fremantle Arts Centre
- Key event locations depending on major event programming

It is also suggested that given the tourism focus, the service would incorporate guided commentary, either recorded or delivered by the driver as a value add for visitors and to enable further dispersal of visitors as they get off the bus.

It is recommended an EOI process be delivered in order to seek feedback from potential operators on potential operating models and routes that would deliver an engaging and commercially sustainable service with Fremantle's city centre.

## **Conclusion**

In conclusion, taking account of all the issues that have been considered through the lengthy review process that has been undertaken since late 2020, officers consider that:



- the current CAT service no longer effectively responds to the original strategic transport intent, essentially it can no longer be described as 'fit for purpose'.
- the City should cease funding the CAT service and request that the PTA considers either wholly funding the service or replaces it with standard Transperth bus services through South Fremantle servicing the current Blue CAT corridors, similar in catchment and frequency as that of comparable suburbs.
- an opportunity exists to custom-design a flexible, commercially operated 'hop on, hop off' bus service that connects visitors with key city centre destinations and events. This should be progressed as soon as possible through seeking expressions of interest, e.g. from existing tour bus operators.
- other strategic movement issues around walkability, legibility and accessibility should be investigated as part of the strategic urban design work to be undertaken on the city centre.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.

### **COMMITTEE RECOMMENDATION ITEM FPOL2305-7** **(Officer's recommendation)**

**Moved: Mayor, Hannah Fitzhardinge**

**Seconded: Cr Ben Lawver**

Council:

1. Having concluded a strategic review of the CAT service and its original intent, resolves to cease contributing financially to the service from the end of the 2022/23 financial year, and informs the PTA accordingly.
2. Works with the PTA to seek to achieve:
  - (a) the CAT service continuing on the basis of it being wholly funded by the WA government through the PTA, or,
  - (b) the PTA replacing the CAT service with normal Transperth fare paying buses servicing the areas of South Fremantle within the current Blue CAT catchment, commensurate with other residential precincts across the City of Fremantle.
3. Supports to initiate an Expression Of Interest (EOI), as detailed in this report, to investigate commercial opportunities for a 'hop on, hop off' bus service that responds to visitor demand, connects visitors to key city



centre destinations and events, and integrates this with destination marketing.

4. As part of the future fine-grain movement around the city centre, the City develops strategic urban design plans that include improved walkability and micro-mobility, increased tree canopy, and well-located and connected off-street car parking facilities.

### **AMENDMENT 1**

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

**Add Part 5 to the recommendation along the lines of:**

- 5. Convenes a reference group to advocate to the PTA for service redesign to address the need for improved regular service buses in the South Fremantle area effective immediately. This Group would include community representatives.***

**Amendment carried: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**

#### **Reason for amendment:**

That the community have demonstrated enthusiasm to research, promote and advocate for public transport in South Fremantle and this could assist the City in putting forward a compelling case to the PTA.

### **AMENDMENT 2**

**Moved: Cr Rachel Pemberton      Seconded: Cr Adin Lang**

- 1. Having concluded a strategic review of the CAT service and its original intent, resolves to cease contributing financially to the service *under the current funding arrangement* from the end of the 2022/23 financial year, and informs the PTA accordingly.**
- 2. Works with the PTA to seek to achieve:**
  - (a) the CAT service continuing on the basis of it being *wholly or primarily* funded by the WA government through the PTA *and/or other funding partners*, or,**
  - (b) the PTA replacing the CAT service with normal Transperth fare paying buses servicing the areas of South Fremantle within the current Blue CAT catchment, commensurate with other residential precincts across the City of Fremantle.**



- 3. *Supports Requests officers* to initiate an Expression Of Interest (EOI), as detailed in this report, to investigate commercial opportunities for a 'hop on, hop off' bus service that responds to visitor demand, connects visitors to key city centre destinations and events, and integrates this with destination marketing.**

**Amendment carried: 11/1**

**For**  
Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang  
**Against**  
Cr Marija Vujcic

**Reason for amendment:**

To allow for further negotiations with the PTA, and other potential funding partners, about retaining a version of the CAT bus under a new funding model, and possibly a new service model.

The Council supports the provision of a bus service that enables visitors and residents to get around the central area quickly and easily without the use of a private vehicle and is willing to contribute towards the cost. However, continuing to pay 60% of the rising cost of providing the CAT is unsustainable for a city with a relatively small rate base.

**Cr Adin Lang moved amendments (3-6) in parts, as follows:**

**AMENDMENT 3**

**Moved: Cr Adin Lang                      Seconded: Cr Marija Vujcic**

**Proposed amendments by Cr Adin Lang**

- 1. Having concluded a strategic review of the CAT service and its original intent, resolves to cease contributing financially to the service, *maintaining the current service until the end of September 2023, under the current funding arrangement from the end of the 2022/23 financial year, and informs the PTA accordingly. that replacement arrangements are required from that time forward, noting that the proposed 2023-24 annual budget will require an adjustment to accommodate \$84,000 for the additional 3 months service.***



**Amendment carried: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**

**Reason for amendment:**

To ensure residents and visitors in Fremantle are not left without a viable transport option.

**AMENDMENT 4**

**Moved: Cr Adin Lang**

**Seconded: Cr Marija Vujcic**

2. *Request the Mayor and CEO ~~Works with~~ approach the relevant State Ministers and Departments for Transport, Tourism ~~PTA~~ and the Local Fremantle State Member to seek a commitment from the WA Government to achieve:*
  - a) *The CAT service (~~Red and Blue at 10 min intervals~~), or a shuttle bus service covering the same areas, continuing on the basis of it being wholly or primarily funded by the WA government ~~through the PTA, or, and/or other funding partners or~~*
  - b) *In the event the service defined in part (a) does not service South Fremantle, the PTA replacing the Blue CAT service in that area with normal Transperth fare paying buses ~~servicing the areas of South Fremantle within the current Blue CAT catchment~~, commensurate with other residential precincts across the City of Fremantle and in recognition that South Beach is an important regional destination.*
  - c) *Request PTA immediately re-allocate their 40% of CAT funding into an increased service for the 532 from October 1st 2023 until the services defined in (a) and (b) above have been delivered.*

**Amendment lost: 4/8**

**For**

**Cr Su Groome, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Adin Lang**

**Against**

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

**Reason for amendment:**

To ensure residents and visitors in Fremantle are not left without a viable transport option.



### **AMENDMENT 5**

**Moved: Cr Adin Lang**

**Seconded: Cr Su Groome**

3. ~~Supports to~~ *The City* initiate an Expression Of Interest (EOI), ~~as detailed in this report,~~ to investigate:
- a) Commercial opportunities for a 'hop on, hop off' bus service that responds to visitor demand, connects visitors to key city centre destinations and events, and integrates this with destination marketing.
  - b) *Commercial opportunities for e-scooter hire vendors to help provide an alternative mode of transport in place of the CAT Bus.*

**Amendment lost: 5/7**

**For**

**Cr Ben Lawver, Cr Andrew Sullivan, Cr Bryn Jones, Cr Adin Lang, Cr Su Groome,**

**Against**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,**

**Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,**

**Cr Marija Vujcic, Cr Rachel Pemberton,**

#### **Reason for amendment:**

To ensure residents and visitors in Fremantle are not left without a viable transport option.

### **AMENDMENT 6**

**Moved: Cr Adin Lang**

**Seconded: Cr Marija Vujcic**

*5. Meet with Notre Dame to negotiate a financial contribution toward a future CAT as part of the new MOU currently being discussed.*

**Amendment lost: 4/8**

**For**

**Cr Marija Vujcic, Cr Ben Lawver, Cr Fedele Camarda, Cr Adin Lang**

**Against**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald,**

**Cr Su Groome, Cr Frank Mofflin, Cr Doug Thompson,**

**Cr Bryn Jones, Cr Andrew Sullivan, Cr Rachel Pemberton,**

#### **Reason for amendment:**

To ensure residents and visitors in Fremantle are not left without a viable transport option.



Cr Bryn Jones left the meeting at 9:52pm and returned at 9:54pm.

Mayor, Hannah Fitzhardinge moved the motion as amended to read as follows:

**COUNCIL DECISION ITEM FPOL2305-7**  
(Committee recommendation, as amended)

Moved: Mayor, Hannah Fitzhardinge      Seconded: Cr Frank Mofflin

**Council:**

1. **Having concluded a strategic review of the CAT service and its original intent, resolves to cease contributing financially to the service *under the current funding arrangement maintaining the current service until the end of September 2023*, and informs the PTA, *noting that the proposed 2023-24 annual budget will require an adjustment to accommodate \$84,000 for the additional 3 months service.***
2. **Works with the PTA to seek to achieve:**
  - (a) **the CAT service continuing on the basis of it being *wholly or primarily* funded by the WA government through the PTA *and/or other funding partners*, or,**
  - (b) **the PTA replacing the CAT service with normal Transperth fare paying buses servicing the areas of South Fremantle within the current Blue CAT catchment, commensurate with other residential precincts across the City of Fremantle.**
3. ***Requests officers* to initiate an Expression Of Interest (EOI), as detailed in this report, to investigate commercial opportunities for a 'hop on, hop off' bus service that responds to visitor demand, connects visitors to key city centre destinations and events, and integrates this with destination marketing.**
4. ***Convenes a reference group to advocate to the PTA for service redesign to address the need for improved regular service buses in the South Fremantle area effective immediately. This Group would include community representatives.***

**Carried: 10/2**  
**For**

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

**Against**  
**Cr Marija Vujcic, Cr Adin Lang**



## PROCEDURAL MOTION

At 10:15pm the following procedural motion was moved:

### COUNCIL DECISION

Moved: Mayor, Hannah Fitzhardinge      Seconded: Cr Bryn Jones

**That the meeting be continued beyond 3 hours.**

**Carried: 12/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang

## 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 Bryn Jones

The following items be adopted en bloc as recommended:

<b>FPOL2305-8</b>	<b>NOTICE OF MOTION – MAKING LOCAL STREETS SAFER FOR PEDESTRIANS – CR RACHEL PEMBERTON</b>
<b>C2305-1</b>	<b>PROPOSED PUBLIC ROAD CLOSURE OF A SETBACK PORTION OF HAMPTON ROAD FREMANTLE – FOR AMALGAMATION WITH 136-140 HAMPTON ROAD, FREMANTLE</b>
<b>C2305-2</b>	<b>SCHEDULE OF PAYMENTS – APRIL 2023</b>
<b>C2305-3</b>	<b>STATEMENT OF INVESTMENTS</b>

**Carried en bloc: 12/0**

Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang



**FPOL2305-8 NOTICE OF MOTION – MAKING LOCAL STREETS SAFER FOR PEDESTRIANS – CR RACHEL PEMBERTON**

**Meeting date:** 10 May 2023  
**Responsible officer:** Chief Executive Officer  
**Decision making authority:** Council  
**Attachments:** 1. Nil

**ELECTED MEMBER SUMMARY**

Fremantle is fortunate to be a very walkable city. The City’s Integrated Transport Strategy states that:

*The City will prioritise transport modes as ranked below:*

1. *Pedestrians*
2. *Bicycles*
3. *Public transport*
4. *Freight vehicles*
5. *Private motor vehicles.*

However, many of Fremantle’s small/narrow local streets, struggle to meet this objective. As our population density increases, and the number of private vehicles increase, it becomes less safe or unappealing for people to walk and ride around local neighbourhoods. In a community that supports sustainable and active transport, this is a growing concern.

Some examples of the situations referred to in the NOM are shown below:

Yilgarn Street, White Gum valley (near the corner of Wright Street) where there is no footpath and very little opportunity for a footpath:

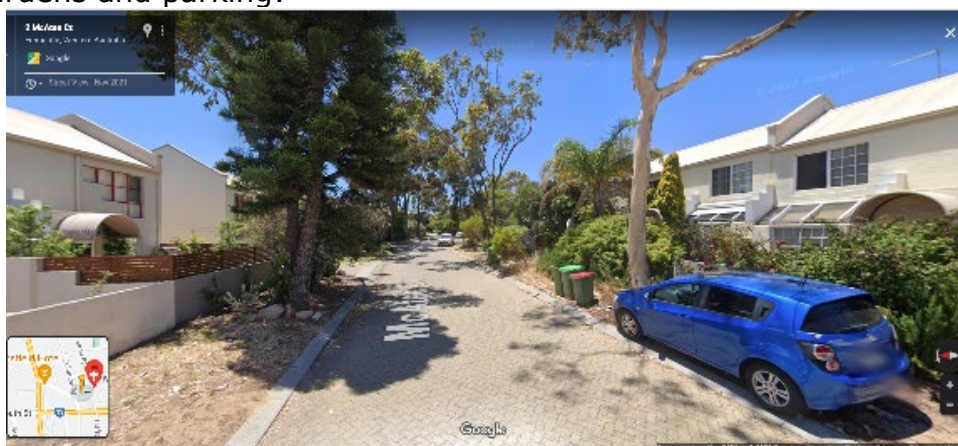




Douglas Street, Fremantle - no footpath possible due to width:



McAtee Court, Fremantle - which also has no footpath possible due to large trees, verge gardens and parking:



Lily Street, South Fremantle – where cars park on both sides of the street using the footpath:





Kellow Place, Fremantle - a footpath may be possible here (at the expense of some verge plantings), but at a significant cost. Perhaps making it a shared street would be a better outcome?



There are many other examples of these scenarios throughout Fremantle, particularly in the older areas such as the suburbs of Fremantle, South Fremantle and North Fremantle where parking pressures continue to be an issue for locals.

However, there are some relatively easy, low-cost strategies and treatments that have been implemented in other parts of Perth (and beyond) that may help to address this issue in a consistent manner.

Friend Street in the new Knutsford St development precinct is a new local and narrow street that has been classified as a shared street, with signage to clearly indicate this to all users (shown below). This is a relatively simple and low-cost solution that could be implemented in other streets where the only option is for pedestrians and cars to mix.



This signage could be further enhanced by adding the blue on road Safe Active Streets paint markings, (as shown below), which may be suitable in some streets in Fremantle.



If the City is serious about supporting sustainable active transport and ensuring the most vulnerable road users are at the top of the hierarchy, then we need to take action that supports this. These treatments will also help to facilitate the city’s Urban Forest plan to plant more trees.

Clause 4.11 in the Local Parking Law, adopted by this Council in 2021 states that vehicles may not “obstruct a footpath or pedestrian refuge”. However, this does not appear to be enforced by officers. The Council may need to consider if implementing shared streets or Safe Active Streets in some areas may be a more workable solution in some situations than restricting and infringing parking. City officers have been working on this issue since January and an internal working group has met to consider options. It is requested that this work is now brought to Council to consider.

### **OFFICER COMMENT**

Officers are currently completing a report for the June FPOL meeting which includes an updated Policy for Traffic Calming priorities and warrant assessments; the report also provides an update in respect to the administrative procedure and guideline assessments for determining suitable and appropriate traffic treatments for a range of scenarios across the City – this includes provision for improving pedestrian safety and amenity in small local streets.

This report will address the issue raised in this Notice of Motion.



## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

### **COUNCIL DECISION ITEM FPOL2305-8** **(Committee Recommendation)**

**Moved: Mayor, Hannah Fitzhardinge**

**Seconded: Cr Bryn Jones**

#### **That Council:**

- 1. Request officers to provide a report and recommendations to the June FPOL outlining opportunities to improve pedestrian safety and amenity, specifically in small local streets where there is:**
  - no footpath currently**
  - no space or opportunity for footpaths**
  - or car parking in narrow streets that frequently obstructs footpaths**

**Carried en bloc: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**



## 11. Reports and recommendations from officers

### **C2305-1 PROPOSED PUBLIC ROAD CLOSURE OF A SETBACK PORTION OF HAMPTON ROAD FREMANTLE – FOR AMALGAMATION WITH 136-140 HAMPTON ROAD, FREMANTLE**

**Meeting date:** 24 May 2023  
**Responsible officer:** A/Manager Economic Development and Marketing  
**Decision making authority:** Council  
**Attachments:** 1. Application from Method Planning  
**Confidential attachments:** Nil

#### **SUMMARY**

**On 08 March 2023, the Finance, Policy, Operations and Legislation Committee (FPOL) resolved to advertise the proposed closure of the setback portion (Lot 2146) Hampton Road, Fremantle for amalgamation with 136-140 Hampton Road, Fremantle.**

**This report provides Council with the results of a 36-day public advertising period from Monday 17 April 2023 to Monday 22 May 2023.**

**During the advertising period, the City has not received any objections resulting from the public advertising or the public utility services. Further details are noted within the Consultation section of this report.**

**The road setback area of 81m<sup>2</sup> represents the remaining parcel of road widening on Hampton Road between Wray Avenue and South Street, Fremantle.**

**This report recommends that:**

**Council, in accordance with Sections 58 and 87 of the *Land Administration Act 1997*, note the results of public advertising and proceed with the proposed partial closure of the setback portion of Hampton Road, Fremantle (Lot 2146) for amalgamation with 136-140 (Lot 303) Hampton Road, Fremantle.**

#### **BACKGROUND**

Certificate of Title details

The subject setback area of Hampton Road, Fremantle is described on Crown Land Certificate of Title Volume 3125 Folio 842 being Lot 2146 as shown on Diagram 70723 ('Setback').

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24 May 2023**



The setback land, with an area of 81m<sup>2</sup>, was dedicated as public road pursuant of Section 56 of the *Land Administration Act 1997* on 10 October 2001 and shares the 35m western boundary line with 136-140 Hampton Road, Fremantle.

No's 136-140 Hampton Road, Fremantle is described on Certificate of Title Volume 1805 Folio 746 being Lot 303 on Diagram 69422 ('Title'). The Title has a shared ownership with four registered owners.



**Figure 1 - setback area noted as Lot 2146 fronting 136-140 Hampton Road, Fremantle**



Figure 2 Hampton Road frontage and portion of road closure.

## FINANCIAL IMPLICATIONS

There are no financial implications. The fee paid by the property owners covers the cost of public advertising and public utility comments.

In addition, the owners have agreed to cover all costs associated with the proposed road closure and amalgamation.

The setback is Crown land and the owners will be required to pay the Crown the value of the land at settlement. The City is not entitled to any consideration for the land.

## LEGAL IMPLICATIONS

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

All public road closures for the purpose of amalgamation with an adjoining property require a 35-day public comment period before being submitted to the Department of Planning, Lands and Heritage (DPLH), in accordance with Section 58 of the *LAA*. In this instance an additional day is included for the Anzac Day public holiday increasing the public comment period to 36 days.

## CONSULTATION

In accordance with Section 58 of the *LAA*, the City has carried out a 36-day public advertising period from Monday 17 April 2023 to Monday 22 May 2023 in the following areas:

- Advertising in the Fremantle Herald (Have Your Say)
- Public comment invited on the City's "My Say Freo" website
- Writing to public utility service providers for comments
- Hard copy details were made available from the City of Fremantle Customer Service Counter



The City has not received any public comments or submissions during the 36 day advertising period ending on the 22 May 2023. For noting, this Council meeting agenda deadline is 19 May 2023 which is prior to the end of public consultation, should any comments be received between Saturday, 20 May – Sunday, 21 May, they will be included into this report as additional information.

As part of the consultation process, the City has written to each of the public utilities with assets both within the setback area (Lot 2146) and in the vicinity of the setback area fronting 136-140 Hampton Road, Fremantle. The resulting responses and recommendations are noted in the table below. No objections were received.

Public Utility Services	Comments	Support/Object Officer Comments
ATCO Gas	<p><b>ATCO Reference: LM23288</b></p> <p>ATCO Gas Australia (ATCO) has <b>no objection</b> to the proposed application, based on the information and plan provided.</p> <p>Advice notes:</p> <ol style="list-style-type: none"> <li>1. Anyone proposing to carry out construction or excavation works must contact 'Before You Dig Australia' (<a href="http://www.byda.com.au">www.byda.com.au</a>) to determine the location of buried gas infrastructure. Refer to ATCO document AGA-O&amp;M-PR24- <i>Additional Information for Working Around Gas Infrastructure</i> <a href="https://www.atco.com/en-au/for-home/natural-gas/wa-gas-network/working-around-gas.html">https://www.atco.com/en-au/for-home/natural-gas/wa-gas-network/working-around-gas.html</a></li> <li>2. Proposed construction and excavation works need to be managed in accordance with the ATCO document <i>Additional Information for Working Around Gas Infrastructure - AGA-O&amp;M-PR24</i> <a href="https://www.atco.com/en-au/for-home/natural-gas/wa-gas-network/working-around-gas.html">https://www.atco.com/en-au/for-home/natural-gas/wa-gas-network/working-around-gas.html</a></li> </ol> <p>Please accept this email as ATCO's written response.</p>	No objection



<p>Water Corporation</p>	<p>Thank you for providing the opportunity for the Water Corporation to comment on the proposed amalgamation.</p> <p>It is noted that you did a Dial Before You Dig request that indicated the water asset, which doesn't impact the proposal, but what should also have been noted is that there is a significant sewer asset – the South St Collection Sewer) – within the existing Lot 303 as highlighted in the plot attachment. This also will be in the proposed Road Closure as depicted with the dashed blue line.</p> <p>The Water Corporation would like an easement over the sewer to protect it, and the owner of the lot must be made aware of this encumbrance as there cannot be any building over this sewer. I'm not sure of the exact cost, but I believe around \$1000 to put an Easement on title.</p> <p>The Water Corporation has no objection to the proposed amalgamation, except for the request of an easement.</p>	<p>No objection – subject to an easement to protect the WC asset.</p> <p>The Officer has forwarded the Water Corporation easement requirements to the applicant's representative in an email dated 02 May 2023. An acknowledgement was received from the applicant's representative and one of the property owners.</p>
<p>NBN Services</p>	<p>A Telstra pit is located in the footpath area which confirms Telstra and NBN conduit and cables run under the footpath. From what I understand the footpath is outside the proposed resumption so NBN would have no concern with the proposal.</p>	<p>No objection.</p> <p>Officer confirms that the setback (paved area) is not located on the footpath.</p>
<p>Telstra</p>	<p>Telstra's plant records indicate that there are no Telstra assets within the area of the proposal. Subject to your compliance with the below conditions, Telstra has not objections to the road closure.</p> <p>Telstra would also appreciate due confirmation when this proposed acquisition proceeds so as to update its Cadastre records.</p>	<p>No objection</p> <p>Officer comment. The Telstra compliance notes relate to a future development application after the completion of the partial road closure/amalgamation of Lot 2146.</p>



Western Power	Western Power does not have any objection at this time to the proposed public road closure of L2146 Hampton Rd. Fremantle. As there are overhead powerlines adjacent to the Lot on Baker Street with an overhead service to the dwelling the following should be considered prior to any works commencing on the site. If further information is required, a project will need to be submitted via a website to perform a detailed assessment.	No objection  Officer comments. The closure and amalgamation of Lot 2146 would be required prior to the City accepting a Development Application over current Lot 2146.
TPG	As per checking the requested area which was Lot 2146 Hampton Road, Fremantle (Setback). There are no TPG Assets.	No objection

Below: Dial Before You Dig (DBYD) results – search on 3<sup>rd</sup> February 2023.

<b>Atco Gas</b>	<b>Contains gas lines within the vicinity - outside the setback area.</b>
NBN Services	Contains infrastructure within the setback area
Water Corporation	<ul style="list-style-type: none"> <li>• Contains a critical water pipeline on the western side of Hampton Road and not within the setback area.</li> <li>• A Sewer Line runs under the property including setback and continues west across Hampton Road.</li> <li>• A drainage pipe runs under Hampton Road and not within the setback area.</li> </ul>
Telstra (WA)	Fibre optic and/or major network present along the setback area.
Western Power	Contains overhead power lines and underground cables located within the vicinity
BP Refinery Kwinana	BP Refinery Kwinana do not have any active pipelines in the designated location.
TPG Telecom (WA)	Has assets affected within the setback area



## OFFICER COMMENT

The proposed amalgamation of the setback area of Hampton Road Reserve with 136-140 Hampton Road, Fremantle is consistent with the boundary lines of the adjoining properties. Earlier discussions with the Applicant in August 2021 confirmed that the City of Fremantle no longer required the setback land for future road widening.

The City's Planning Officers have noted that the proposal would need to be zoned under the Local Planning Scheme 4 (LPS4).

The City has not received any objections during the 36 day public advertising period from Monday 17 April 2023 to Monday 22 May 2023.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

### **COUNCIL DECISION ITEM C2305-1** **(Officer Recommendation)**

**Moved: Mayor, Hannah Fitzhardinge      Seconded: Cr Bryn Jones**

#### **Council**

- 1. In accordance with Sections 58 and 87 of the *Land Administration Act 1997*, proceed with the proposed public road closure of the setback portion of Hampton Road, Fremantle as described on Crown Land Title Volume 3125 Folio 842 being Lot 2146 on Diagram 70723 for the purpose of amalgamation with No's 136-140 Hampton Road, Fremantle as described on Certificate of Title Volume 1805 Folio 746 being Lot 303 on Diagram 69422 and:
  - a. Notes the results of public advertising – no objections received.**
  - b. Supports the proposal, and applies to the Minister for Lands to close and amalgamate the setback portion described in part 1 above, and**
  - c. Indemnifies the Minister for Lands against any claim for compensation that may arise from that closure and amalgamation.****

**Carried en bloc: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**



## C2305-2 SCHEDULE OF PAYMENTS – APRIL 2023

<b>Meeting date:</b>	24 May 2023
<b>Responsible officer:</b>	Procure to Pay Team Lead
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Schedule of Payments and Listings 2. Purchase Card Transactions <i>Attachments viewed electronically</i>

### 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 April 2023, 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 April 2023, is provided within Attachments 1 and 2.

### FINANCIAL IMPLICATIONS

A total of \$7,204,273.27 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;*
    - (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 April 2023 by payment type:

<b>Payment Type</b>	<b>Amount (\$)</b>
Cheque / EFT / Direct Debit	\$ 4,592,719.04
Purchase card transactions	\$ 32,667.47
Salary / Wages / Superannuation	\$ 2,578,887.76
<b>Total</b>	<b>\$ 7,204,274.27</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 April 2023.

**VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required



**COUNCIL DECISION C2305-2**  
**(Officer's Recommendation)**

**Moved: Mayor, Hannah Fitzhardinge      Seconded: Cr Bryn Jones**

**Council:**

- 1. Accept the list of payments made under delegated authority, totalling \$ 7,204,274.27 for the month ending 30 April 2023 including the Cheque /EFT/ Direct Debits as contained within Attachment 1.**
- 2. Accept the detailed transaction listing of Purchase Card expenditure, totalling \$32,667.47 for the month ending 30 April 2023, as contained within Attachment 2.**

**Carried en bloc: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**



## **C2305-3 STATEMENT OF INVESTMENTS – APRIL 2023**

<b>Meeting date:</b>	24 May 2023
<b>Responsible officer:</b>	Manager Financial Services
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	1. Statement of Investments – April 2023

### **SUMMARY**

**This report outlines the investment of surplus funds for the month ending 30 April 2023 and provides information on these investments for Council consideration.**

**This report recommends that Council receive the Investment Report for the month ended 30 April 2023, as provided in Attachment 1.**

**The investment report provides a snapshot of the City’s investment portfolio and includes information as at 30 April 2023 in relation to:**

- **Portfolio details;**
- **Portfolio credit framework;**
- **Portfolio liquidity;**
- **Portfolio fossil fuel summary;**
- **Interest income; and**
- **Investing activities.**

### **BACKGROUND**

In accordance with the Investment Policy adopted by Council, the City of Fremantle 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 into appropriately rated and liquid investments, until the City requires the money for operational expenditure.

The City 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, and achieving a suitable return on those investments.



## FINANCIAL IMPLICATIONS

Investment interest earned year to date is \$1,242,750 against a YTD budget of \$994,703 and a full year amended budget of \$1,110,950. Interest earnings year to date are higher than budget, with \$157,876 being earned in April. The Reserve Bank of Australia (RBA) board raised its cash rate 25 basis points to 3.85% - the highest since April 2012. Current investment markets continue to offer attractive interest rates.

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 4.04% for the month of April 2023. The City's actual portfolio return in the last 12 months is 2.19%, which compares on par with the benchmark Bloomberg AusBond Bill Index reference rate of 2.37% (refer to 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

The City's Investment Portfolio Manager has provided a comprehensive Investment Report for the month ending 30 April 2023 which can be viewed in the Attachment. A summary of the investment report is provided below.

### 1. Portfolio Details

As at 30 April 2023, the City's investment portfolio totalled \$43.87m. The market value of this investment was \$44.27m at that time, which takes into account accrued interest.

The investment portfolio is made up of:

Cash Investments (<= 3 months)	\$ 5.37m
Term Deposits (> 3 months)	\$ 38.50m
TOTAL	\$ 43.87m



Of which:

Unrestricted cash	\$ 34.62m
Restricted cash (Reserve Funds)	\$ 9.25m
<b>TOTAL</b>	<b>\$ 43.87m</b>

The current amount of \$34.62m held as unrestricted cash represents 41.56% of the total adopted budget for operating revenue (\$83.31m).

## 2. Portfolio Credit Framework

The City’s Investment policy determines the maximum amount to be invested in any one Tier, or any one financial institution within a Tier, 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 noted below.

### Portfolio Credit Framework limits

The Portfolio Credit Framework limits prescribe the limit of investments that may be made within any Tier of financial institutions. The maximum allocation to be invested in each Tier, and the City’s actual investment allocation in those Tiers as at 30 April 2023, is outlined below.

Tier	Allocation	Allocation %	Maximum Allocation %	% Used of Maximum Allocation	% Available of Maximum Allocation	% Exceeded of Maximum Allocation
Tier 1	8,213,501.63	18.72%	100.00%	18.72%	81.28%	0.00%
Tier 2	27,151,744.49	61.90%	60.00%	100.00%	0.00%	3.17%
Tier 3	8,500,000.00	19.38%	35.00%	55.37%	44.63%	0.00%
Tier 4	0.00	0.00%	15.00%	0.00%	100.00%	0.00%
	43,865,246.12					

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

Within each Tier, the Counterparty Credit Framework limits prescribe the limit of investments that may be made with any one financial institution. The maximum percentage of investments to be held with any one financial institution, within a given Tier, are outlined 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.

Credit quality	Maximum % of total investments
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)

At the time of placing funds for investments, the amount invested in any financial institutions and the maximum allocation per Tier as per the Investment Policy are met. However, as investments mature and are redeemed over time the investment portfolio volume in the Tiers could be impacted. Noting that decisions around the redemption of investments are based on the cashflow requirements at the time of investments maturing. At the reporting date, the portfolio marginally exceeded the credit framework in relation to maximum allocations to Tier 2 investments by 3.17%. The City will redeem the next Tier 2 investment to mature in May and reallocate funds to another Tiers to return the portfolio to less than 60% of investments.

The City’s funds invested as at 30 April 2023, relative to the Counterparty Credit Framework limits were as follows:



As highlighted in the chart above, the City’s portfolio of investments as at 30 April 2023 is compliant with the City’s investment policy.

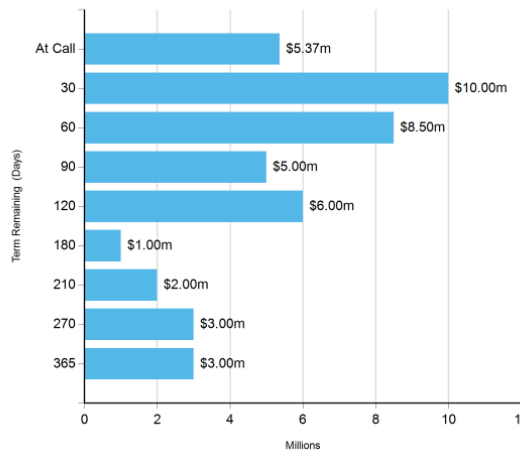
**3. Portfolio Liquidity Indicator**

The City’s 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 April 2023. Currently, all investments will mature in one year or less.

Face Value by Term Remaining

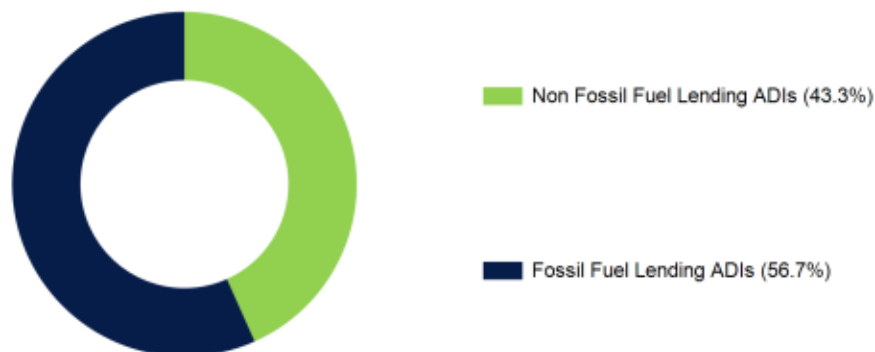


**Portfolio Summary by Fossil Fuels Lending Authorised Deposit-Taking Institutions (ADIs)**

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).

As at 30 April 2023, \$19m (43.3%) of the City’s portfolio was invested in “Green Investments”.

**Fossil Fuel vs Non Fossil Fuel Lending ADI**



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



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

Per Attachment 1 (Note 9), interest income earned during April 2023 from matured investments was \$106,730.

#### **5. Investing Activities**

In April 2023, four term deposits totalling \$6m matured and out of a total of \$3.0m were reinvested across 2 term deposits. \$1m from the matured AMP term deposit was redeemed on 28 April and received on 3<sup>rd</sup> May.

Full details of the institutions invested in, interest rates, number of days and maturity date for investments held as at 30 April 2023 are provided in Attachment 1.

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

Simple majority required.

#### **COUNCIL DECISION C2305-3 (Officer's Recommendation)**

**Moved: Mayor, Hannah Fitzhardinge**

**Seconded: Cr Bryn Jones**

**Council receive the Investment Report for the month ending 30 April 2023, as provided in Attachment 1.**

**Carried en bloc: 12/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**



## **C2305-4            MONTHLY FINANCIAL REPORT - APRIL 2023**

**Meeting date:** 24 May 2023  
**Responsible officer:** Manager Financial Services  
**Decision making authority:** Council  
**Attachments:** 1. Monthly Financial Report – April 2023

### **SUMMARY**

**The monthly financial report for the period ending 30 April 2023 has been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.**

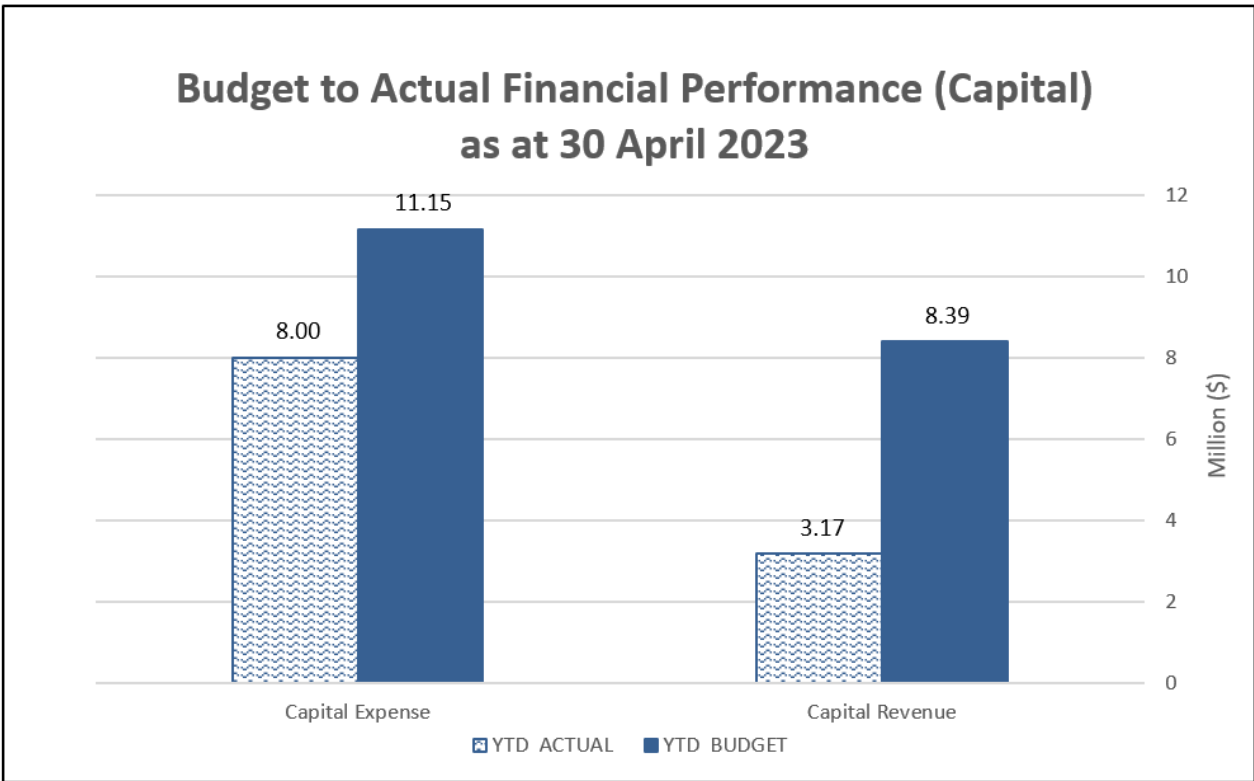
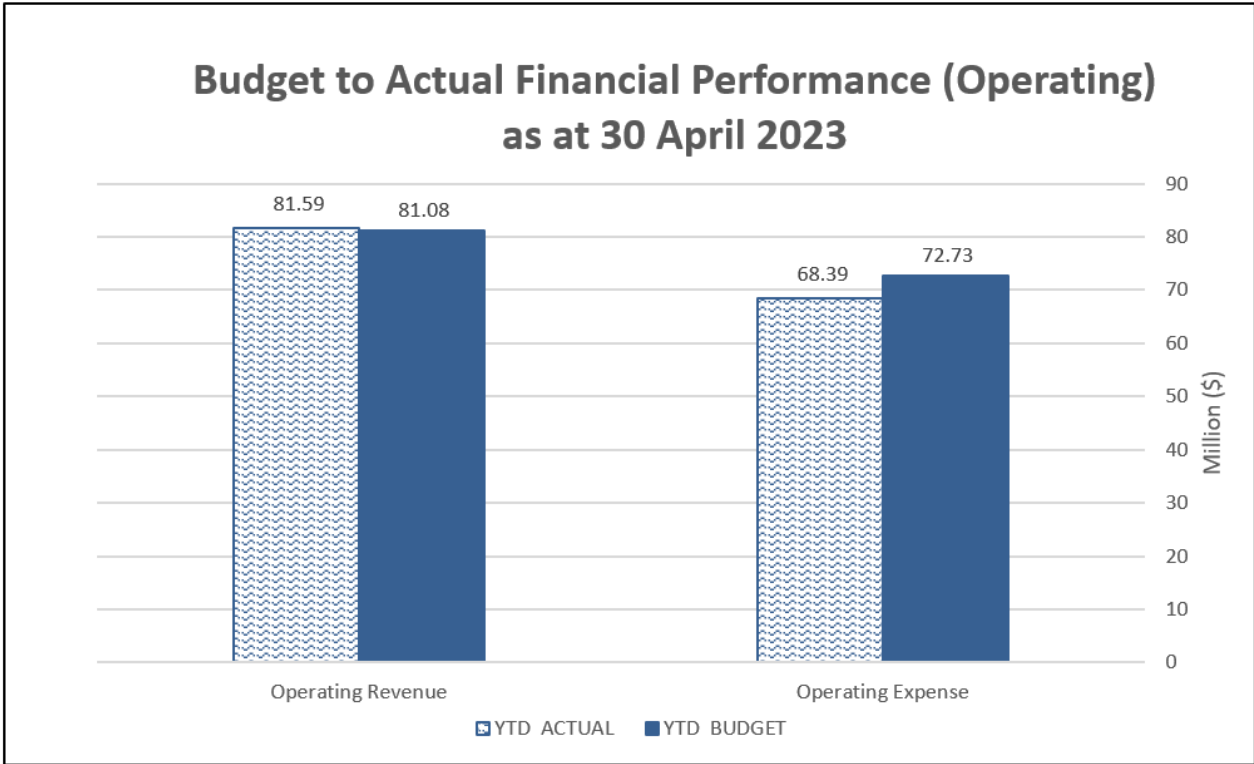
**This report provides an analysis of financial performance up to April 2023 based on the following statements:**

- **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.**

**This financial report for the period ended 30 April 2023 is prepared considering accrued interest on borrowings (loans) and prepaid insurance premiums, also including carry forward adjustments and mid-year budget amendments.**

### **BACKGROUND**

The following graph and table provide a high-level summary of the Council's year to date financial performance as at 30 April 2023.





## RATE SETTING STATEMENT – BY NATURE AND TYPE FOR THE PERIOD TO 30 April 2023

Below is a summary of the year-to-date Rate Setting Statement, by Nature and Type, to 30 April 2023. The detailed Statement can be found in the attached Financial Report.

Description	YTD Amended Budget	YTD Actual	Variance	Variance
	\$M	\$M	\$M	%
<b>Opening Surplus</b>	<b>14.40</b>	<b>10.58</b>	<b>(3.82)</b>	<b>(26.55%)</b>
<b>Operating</b>				
General Rate Revenue	53.19	53.16	(0.03)	(0.06%)
Revenue (Exc. Rates)	27.89	28.43	0.54	1.94%
Expenses	(72.73)	(68.39)	4.34	5.98%
Non-Cash Adj.	9.47	8.65	(0.82)	(8.66%)
	<b>17.82</b>	<b>21.85</b>	<b>4.03</b>	<b>22.62%</b>
<b>Investing</b>				
Capital Revenue	8.39	3.17	(5.22)	(62.19%)
Capital Expenses	(11.15)	(8.00)	3.15	28.19%
	<b>(2.76)</b>	<b>(4.83)</b>	<b>(2.07)</b>	<b>75.00%</b>
<b>Financing</b>				
Repayment Loans & Leases	(2.19)	(2.35)	(0.16)	7.37%
Reserve Transfers	(1.80)	(2.59)	(0.79)	44.08%
	<b>(3.99)</b>	<b>(4.94)</b>	<b>(0.95)</b>	<b>23.87%</b>
<b>Closing Surplus/(Deficit)</b>	<b>25.47</b>	<b>22.66</b>	<b>(2.81)</b>	<b>(11.02%)</b>

## STATEMENT OF COMPREHENSIVE INCOME – BY NATURE AND TYPE FOR THE PERIOD TO 30 April 2023

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

Description	YTD Amended Budget \$	YTD Actual \$	Variance \$	Variance %
<b>Operating Income</b>				
Rates (including Annual Levy)	53,375,534	53,340,371	(35,163)	(0.07%)
Service Charges	758,804	1,199,155	440,351	58.03%
Op. Grants, Subsidies & Contributions	2,562,834	1,857,218	(705,616)	(27.53%)
Fees and Charges	21,266,177	21,663,289	397,112	1.87%



<b>Interest Earnings</b>	1,450,203	1,648,134	197,931	13.65%
<b>Reimbursement Income</b>	1,018,589	1,157,302	138,713	13.62%
<b>Other Income</b>	653,253	721,654	68,401	10.47%
<b>Total</b>	<b>81,085,394</b>	<b>81,587,122</b>	<b>501,728</b>	<b>0.62%</b>
<b>Operating Expenses</b>				
<b>Employee Costs</b>	(34,185,740)	(32,001,258)	2,184,482	6.39%
<b>Employee costs - Agency Labour</b>	(1,471,241)	(1,478,354)	(7,113)	(0.48%)
<b>Materials and Contracts</b>	(23,247,932)	(21,399,095)	1,848,837	7.95%
<b>Depreciation – Non-Curr. Assets</b>	(9,465,938)	(9,673,479)	(207,541)	(2.19%)
<b>Interest Expenses</b>	(437,108)	(424,709)	12,399	2.84%
<b>Utility Charges</b>	(1,697,939)	(1,442,201)	255,738	15.06%
<b>Insurance Expenses</b>	(885,195)	(828,868)	56,327	6.36%
<b>Other Expenditure</b>	(1,341,849)	(1,125,041)	216,808	16.16%
<b>Total</b>	<b>(72,732,942)</b>	<b>(68,373,004)</b>	<b>4,359,938</b>	<b>5.99%</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 tracking against budget, and 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

### **Summary of financial performance**

As at the end of April 2023, the City has a closing funding surplus of \$22.66m, under the year to date amended budget by \$2.8m.

There is an additional operating surplus of \$4.07m for the period ended 30 April 2023, offset by the audit adjustment of \$3.82m for the carry forward funds from 2021-22 FY. Net surplus attributable to operating activities is \$0.25m.



Capital expenditure is underspent by \$3.14m and some of the projects will be carried to 2023/24FY.

Recognised capital revenue is lower than budgeted by \$5.2m. According to the accounting standard AASB 15 Revenue from Contracts with Customers, grants income can only be recognised as revenue to the extent of contract obligation fulfilled and matched to the cost incurred. The unspent grants between the grants received and the cost of incurred is recorded as contract liability. In April, the City has a reconciliation of unspent grants and derecognised \$4.7m unspent capital grants and \$0.64m unspent operating grants. These unspent grants were transferred to from revenue account to contract liability account.

Interest income remains higher than budget due to increasing interest rates generating strong investment returns. Overall parking revenue continues to be the primary contributor to increased fees and charges revenue. Underspend in salary and wages are due to vacant positions. Expenditure on materials & contracts and utilities has fallen behind budget mainly due to timing difference of receipt of invoices.

Depreciation expenditure is over budget based on depreciation run from the asset register. The asset register remained open to 2022FY until the annual financial statements were signed off in April 2023. Depreciation reported for the previous months' meetings was based on budget. In April, Depreciation was run from the asset register and completed projects capitalised.

In summary, year to date, as at the end of April 2023, the surplus is under the YTD amended budget by \$2.8m. This is mainly due to favourable variances against the year-to-date budget for the following:

- Increased Service Charge of \$440k;
- Increased Fees and Charges revenue of \$397k;
- Increased Interest Earnings of \$198k;
- Budget savings of operating expenditure of \$4.35m; and
- Budget savings of capital expenditure of \$3.14k.

These favourable variances were offset by:

- Below-budget carry forward funds from the 2021-22 financial year of \$3.82m compared to the amended budget;
- Below-budget Reserve Transfers (Capital and operating) of \$790k;
- Below-budget Capital Grants and Subsidies/ Contributions for the development of Assets of \$5.2m: and
- Below-budget Operating Grants Income of \$706k.



### **Accounting methods**

The City manages its finances in line with the requirements of the Local Government Act 1995, associated regulations and Australian accounting standards.

The City carries out accounting on both an accrual basis and a cash basis.

Accrual accounting requires accounting transactions to be recognised and recorded when they occur, regardless of whether payment/receipt has been made at that time, in accordance with the Australian Accounting standards.

The City accounts for Rates, Service Charges, Interest income on term deposits, Insurance expenses and Interest expenses on borrowings (loans) & leases on an accrual basis.

The remainder of income and expenditure items are recognised and recorded at the period they are encountered.

### **Explanation of Material Variances & YTD Performance**

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 the 2022-23 financial year for reporting material variances as 10% together with the minimum value of \$100,000 (Refer Item C2201-1 from Council meeting on 20 July 2022).

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.

Building on the favourable opening surplus for the year, the following items explain the City's major variances in operating performance for this financial year, as highlighted in the year-to-date Rate Setting Statement as at 30 April 2023:





Description	Variance Amount (\$)	Comment
<b>Net current assets at start of financial year - surplus/(deficit)</b>	<b>(3,822,299)</b>	<b>▼ (27%)</b>
<b>Major Variances:</b>		
Carry forward funds from the 2021-22 financial year	(3,822,299)	The operating results for 30 June 2022 have been adjusted by \$4,243,000 due to the adjustment of Assets Held for Sale. The City has properties held for sale with a value of \$4,243,000. The adjustment excluded the properties from net current assets as they were reassessed to be restricted assets. The sale proceeds will be transferred to reserve account once they are sold, which have been budgeted in 2022/23 financial year. The closing balance of net current assets is therefore reduced by \$4,243,000.
<b>Service Charges (Underground Power)</b>	<b>440,351</b>	<b>▲ 58%</b>
<b>Major Variances:</b>		
300244 - P-12019 Design and construct - Hilton - Underground power	440,351	Service charge of \$1.2m for underground power was levied in 2022/23FY as the work carried out in this financial year. The \$440k is to be received in the next 6 years as the City agreed to offer a 7-year interest free payback period.
<b>Operating Grants, Subsidies and Contributions</b>	<b>(705,616)</b>	<b>▼ (28%)</b>
200821 - P12157 - Program - Reveal Aboriginal Artist 2023	(163,926)	Accounting variance - The variance is an unspent grant. The project is expected to be carried forward to 23/24FY.
100447 - Provide legal aid - State Baseline	(153,576)	Accounting variance - The variance is an unspent grant as at 30 April. The project is expected to be completed in this financial year.





Description	Variance Amount (\$)	Comment
200819 - P-12156 Local Government Partnership Fund	(50,000)	Accounting variance - Grants of \$96,934 received from Department of Communities (\$50,000 budgeted) and no expenditure incurred. Contract is finalised and partial payment will incur in this financial year. The project is to be carried forward to 23/24FY.
100406 - Operate Fremantle arts centre	(48,136)	Less sponsorship received than budgeted.
200466 - P-11708 Plan-Coastal monitoring	(43,500)	Timing variance – Grants to be received in this financial year.
200150 - P-11980 Design and construct - Western Power Streetlight LED	(37,508)	Timing variance – Grants to be received in this financial year.
<b>Interest Income</b>	<b>197,931</b>	<b>▲ 14%</b>
<b>Major Variances:</b>		
100527 - Receive investment income - Unrestricted Funds	248,047	Favourable variance - Investment interest earned is higher than budgeted. Current investment markets continue to offer attractive interest rates.
<b>Reimbursement Income</b>	<b>138,713</b>	<b>▲ 14%</b>
<b>Major Variances:</b>		
100691 Containers for Change	46,781	Favourable variance - More income received from containers for change program.
100599 Operating recycling facility	38,059	Favourable variance - More income received from recycling centre OP shop.
100686 Administer Long Service Leave Transfers	37,291	Received \$37,291 of long service leave entitlement for staff transferred from other councils.
<b>Utility Charge</b>	<b>255,738</b>	<b>▲ 15%</b>
Water Expense	45,098	Timing variance - mainly due to timing difference of receipt of invoices.
Gas Expense	48,410	Favourable variance - \$18K from Leisure Centre and \$28k savings from Civic Centre and Library.






Description	Variance Amount (\$)	Comment
Electricity Expense	162,231	Timing variance - mainly due to timing difference of receipt of invoices Favourable variance - Savings of \$40k from Civic Centre and Library due to installation of solar panel.
<b>Other Expenditure</b>	<b>216,808</b>	 <b>16%</b>
<b>Major Variances:</b>		
100394 - Support CAT bus service	27,830	Timing variance – Waiting for invoice to be received.
100528 - Allocate arts development funding	30,800	Timing variance - The second round of funding is opened in March and to be awarded later in this financial year.
Train and develop elected members	47,740	Timing variance - actual training and development expenses were lower than anticipated.
Support the mayor and councillors	55,834	Timing variance - actual sponsorship expenses were lower than anticipated.
<b>Capital Grants and Subsidies/Contributions for the development of Assets</b>	<b>(5,233,419)</b>	 <b>62%</b>
300157 - P-11882 Design and construct - Fremantle Golf Course	(4,110,215)	Accounting variance - Unspent grants to be carried forward to 23/24 FY as the tender negotiations are ongoing.
300251 - P-12027 Design and construct - Griffiths Park - Upgrade	(247,000)	Timing variance – Grants from federal government to be received in this financial year.
300337 - P-12095 Resurface - MRRG - Lefroy Rd EB/WB	(153,232)	Accounting variance – the variance is unspent grants which is expected to be spent in this financial year. The project has been delayed due to the weather events.
300197 - P-10412 Design and construct - Booyembara Park Masterplan	(150,000)	Timing variance – Grants to be received once project completed.
300218 - P-11992 Design & construct-South Beach-Changerooms	(116,862)	Accounting variance – the variance is unspent grants which is expected to be carried forward to 23/24FY.

**Minutes – Ordinary Meeting of Council**  
**24 May 2023**



<b>Description</b>	<b>Variance Amount (\$)</b>	<b>Comment</b>
300198 - P-11819 Design and construct - Dick Lawrence - Playspace	(90,000)	The grant application submitted in June. The project is to be carried forward to 23/24FY.
<b>Capital Expense - Purchase Community Land &amp; Buildings</b>	<b>1,066,958</b>	 <b>29%</b>
<b>Major Variances:</b>		
300119 - P-11842 Design and construct-Westgate Mall courtyard	86,504	RFQ being developed, waiting on approval from business owners. The project is expected to be carried forward to 23/24FY.
300218 - P-11992 Design & construct-South Beach-Changerooms	156,862	Timing Variance - Year to date invoicing lower than forecast due to extended schematic design phase including consultation with the Working Group.
300309 - P-10223 Design and construct - Arts Centre - Roof	196,406	Delays on site due to weather and structural works requirements identified once the asbestos was removed and access to the roof void obtained.
300121 - P-11843 Design and construct- Markets Building Services	600,000	This project has been delayed, which is expected to be carried forward to 23/24FY.
<b>Capital Expense - Purchase Infrastructure - Parks</b>	<b>630,515</b>	 <b>26%</b>
<b>Major Variances:</b>		
P-10077 Program-Parks-Infrastructure	218,688	Timing variance - various infrastructure renewal projects are in the design and procurement phases and have experienced delays due to resource availability. Carry forward forecast.
P-12096 Design and construct - Pioneer Park - Bore	81,400	Timing variance - project in procurement phase and works are due to be completed by June.
300288 - P-12130 Parking - Leighton Beach	37,609	Timing Variance – works have commenced on site and will be completed this Financial Year.



Description	Variance Amount (\$)	Comment
300262 - P-12048 Design and construct - Paddy Troy Mall - Lighting	37,452	Timing Variance - The project has been split in to two phases. Phase one is complete. Phase two is being undertaken as nightworks in to minimise business disruption and is programmed for construction in May-June 23.
300332 - P-12100 Design and construct - Dick Lawrence - Irrigation	50,000	Timing variance – design phase was prolonged to ensure works align with planned Hilton Park Master Plan project.
300316 - P-12127 Design and construct - Hilton Bowling Club - Green	148,799	Timing Variance – Contract awarded, works commence on site in May 23 after lead time for materials.
<b>Capital Expense - Purchase Furniture and Fittings</b>	<b>253,373</b>	 <b>93%</b>
<b>Major Variances:</b>		
300353 - P-12159 Tenancy Fitout	50,000	No further expenditure expected in 22/23FY while tender process is underway. To be carried forward to 23/24FY.
300256 - P-12036 Purchase - Parking licence plate recognition cameras	180,000	No expenditure in 22/23FY. To be carried forward to 23/24FY.
<b>Capital Expense - Purchase Infrastructure - Other</b>	<b>959,127</b>	 <b>27%</b>
300162 - P-11878 - Design and construct - Walyalup Koort – Public Artwork	104,449	Project delayed and extension/roll forward due to feasibility report of artwork concept and site currently being completed. This project is to be carried forward to 23-24FY.
300110 - P-11823 Design and construct-Port Beach coastal adaptation	787,102	Timing Variance – sand nourishment works complete, awaiting invoice.
<b>Reserve Transfers</b>	<b>(790,475)</b>	 <b>44%</b>
<b>Major Variances:</b>		
Transfer from Reserve (Restricted) – Capital	(916,105)	Timing variance: variance is primarily attributed to an underspend on capital



Description	Variance Amount (\$)	Comment
		works, therefore, the required funding from Reserves is less than budgeted year to date.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

### **COUNCIL DECISION C2305-4** **(Officer's Recommendation)**

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

**Council receive the Monthly Financial Report, as provided in Attachment 1, 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 April 2023.**

**Carried: 11/1**  
**For**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**

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



## 12. Reports and recommendations from committees

### 11.1 Planning Committee 3 May 2023

Cr Rachel Pemberton left the meeting at 10:30pm prior to consideration of the following item and did not return.

#### PC2305-5 PROPOSED MRS AMENDMENT 1400/41 - NORTH FREMANTLE URBAN PRECINCT (MAJOR AMENDMENT)

**Meeting Date:** 3 May 2023  
**Responsible Officer:** Manager Strategic Planning and City Design  
**Decision Making Authority:** Council  
**Attachments:** 1. MRS amendment 1400/41 report - North Fremantle Urban Precinct  
**Confidential attachments:** Nil

#### SUMMARY

The Western Australian Planning Commission (WAPC) is inviting comment on a proposed major Metropolitan Region Scheme (MRS) amendment (1400/41) for the 'North Fremantle Urban Precinct'.

The WAPC considered the potential impact of the Future of Fremantle Planning Study and propose an amendment to rezone approximately 23.93ha in North Fremantle (adjacent to Port Beach) from an industrial zone to an Urban Deferred zone and Parks and Recreation reserve. Under the proposed MRS amendment, the following matters would require resolution prior to the transfer to the urban zone:

- finalisation or substantial progression of the Future of Fremantle project;
- confirmation of regional road and transport requirements in the locality;
- confirmation of coastal foreshore reserve requirements;
- consideration of the Fremantle Port buffer.

WAPC provide the intent of the amendment is to facilitate redevelopment of the site for primarily mixed-use commercial and residential uses, with areas of public open space, following the lifting of Urban Deferment, Local Planning Scheme (LPS) amendment and detailed local structure planning.

Council has previously indicated support in principle for an MRS Amendment in this location (PC2204-12, 27 April 2022) and proposed an interim zoning of 'Urban Deferred'. The City is pleased that the WAPC also supports an 'urban deferred' zoning to enable important broader



planning matters to advance sufficiently before urban development should proceed.

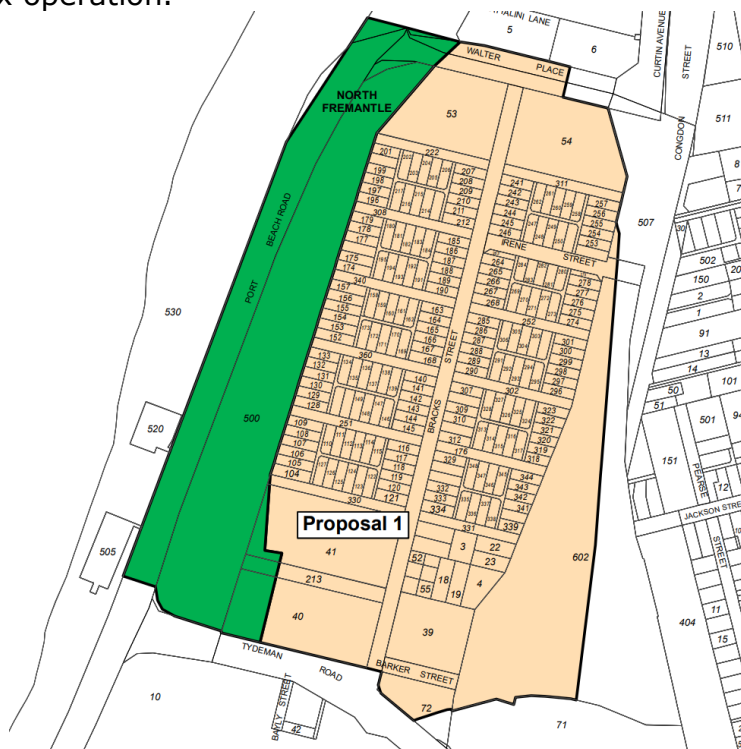
Officers consider the previous planning concerns made by Council to still be relevant and recommend these be included in a formal submission to the WAPC during the current consultation period (closes 30 June 2023).

## BACKGROUND

### Proposed amendment and subject site

The Western Australian Planning Commission (WAPC) is inviting comment on a proposed major Metropolitan Region Scheme (MRS) amendment (1400/41) for the 'North Fremantle Urban Precinct'.

The amendment proposes rezoning approximately 23.93 ha in North Fremantle from the industrial zone to the urban deferred zone and parks and recreation reserve. The site is bound by Port Beach Road to the west, Primary Regional Road reserve to the east, Tydeman Road and Freight Rail Reserve to the south, and Walter Place to the north (refer to figure 1). The land has historically been used for industrial purposes including a fuel terminal and lubricant depot by Viva Energy Australia (formerly Shell Australia), a former Standard Wool site and a former Caltex operation.



North Fremantle Urban Precinct  
Proposed major amendment  
as advertised

26 October 2022

Proposal 1



Proposed Amendment:  
 Parks and recreation reservation  
 Urban deferred zone



Figure 1. Subject site of proposed major MRS amendment (1400/41) for the 'North Fremantle Urban Precinct'.

WAPC provide the urban deferred zoning is to ensure that the MRS amendment process does not prejudice or pre-empt the Future of Fremantle Planning Committee (FFPC) outcomes. Under the proposed MRS amendment, the following matters would require resolution prior to the transfer to the Urban zone:

- finalisation or substantial progression of the Future of Fremantle project
- confirmation of regional road and transport requirements in the locality
- confirmation of coastal foreshore reserve requirements
- consideration of the Fremantle Port buffer.

### **Council's Previous Resolution**

Council resolution, 27 April 2022 (Item PC2204):

*Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's preliminary comments on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Development Precinct (RLS/1012), are as follows:*

1. *The exploration of alternative land uses for the North Fremantle Development Precinct is reasonable given the vacant, and largely cleared, and underutilised status of the land in this precinct. A component of 'Urban' zoning may present as one logical option for a part of the site given its prime location, subject to the WAPC being satisfied that the loss of this land to industrial use (whether related to Fremantle Port or other industrial land needs) would not be contrary to the objectives of the Commission's Economic and Employment Lands Strategy: non-heavy industrial. However, due to:*

- *the land's past industrial use and proximity to Fremantle Port;*
- *the site's juxtaposition to two spatially under-serviced coastal recreation nodes of critical regional significance (i.e., the Port Beach and Leighton Beach nodes), the known vulnerability of this particular section of coastline to coastal hazards, and the unpredictable coastal impacts that redevelopment of the port may cause;*
- *the need to review and resolve the regional and local transport and access considerations in a manner that facilitates improved urban form and connectivity for the Leighton/North Fremantle Peninsula rather than induce further fragmentation or create disconnected cells; and,*
- *the 'Future of Fremantle' work, and the impact of future development on the subject site to the wider area, including the desire for full economic, land-use and built-form integration with the surrounding areas,*

*the rezoning exercise is considered premature. There are several issues that the City considers need a greater degree of resolution prior to any of the subject site being suitable for rezoning, including as follows:*



- a. *Determination of the extent of land required for an enlarged coastal foreshore Parks and Recreation Reserve, taking into account the need for the portion of the reserve inland of the year 2120 coastal erosion hazard line to provide sufficient space for environmental conservation and public recreational needs, noting that to meet these needs community infrastructure to service Port Beach as a second beach 'node' to relieve pressure on Leighton Beach and accommodate growing population demands for beach use will be required.*
  - b. *The land being capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services.*
  - c. *Future of Fremantle planning has sufficiently advanced to a stage that depicts clear objectives to guide future urban integration and development in the area.*
  - d. *Regional road and rail planning requirements have been resolved and provision made for them in a manner that compliments and re-integrates the existing and future urban environments.*
2. *Having regard to point 1 a) above, the City requests the WAPC to engage in further discussions with the City of Fremantle, the proponents and other relevant stakeholders to review the extent of land required to be included within an expanded Parks and Recreation Reserve in order to meet the long-term recreational demands upon this precinct in addition to addressing the risks and impacts of coastal processes.*
3. *Having regard to point 1 d) above, the City requests that planning for the North Fremantle Development Precinct be expanded to include all of the Primary Regional Road and Railway reserve land, and the existing urban zoned land located to the east (from Tydeman Road to the North Fremantle railway station), including the North Fremantle town centre, with the aim of delivering an integrated urban environment.*
4. *Subject to resolving the appropriate extent of land required for inclusion in the coastal foreshore Parks and Recreation Reserve as referred to in point 2 above, and developing the integrated transport and urban planning outcome referred to in point 3 above, the City considers that the remaining land subject to the rezoning proposal and the land to the east could more appropriately be considered for a MRS 'urban deferred' zoning in the first instance, to allow for more planning imperatives to be demonstrably implementable prior to a transfer to the Urban zone. The lifting of urban deferred status should be tied to demonstration of the matters referred to in point 1b and 1c above having been satisfactorily addressed.*



**CONSULTATION**

The procedures for WAPC to amend the MRS are prescribed by the *Planning and Development Act 2005*. The procedure for a substantial alteration to the Scheme (referred to as a major amendment) involves:

- Formulation of the amendment by the WAPC.
- Referral to the EPA for environmental assessment.
- Completion of an environmental review (if required) to EPA instructions.
- **\*Public submissions** on the proposed amendment (close 5pm, 30 June 2023).
- Consideration of submissions (including hearings where requested).
- Referral of WAPC recommendations, with or without any modifications in response to submissions, to the Minister for Planning.
- Approval by the Governor.
- Consideration by both Houses of Parliament, who can disallow the amendment.
- Amendment takes legal effect when no longer subject to disallowance after 12 sitting days.
- Where the WAPC has agreed to the parallel amendment of a LPS under section 126(3) of the Planning and Development Act, the LPS amendment becomes effective upon gazettal of the MRS amendment.

*\*Denotes current stage.*

**OFFICER COMMENT**

Officers consider the comments previously made by Council to still be relevant. Council has noted that exploration of alternative land uses for the North Fremantle Development Precinct is reasonable given the vacant, and largely cleared, status of the land in this precinct. However, there are several issues that need a greater degree of resolution prior to the subject site being suitable for an urban redevelopment zoning. The issues Council previously noted are provided below along with the corresponding comment from the WAPC amendment report that addresses the comment.

City of Fremantle’s Previous Comment	WAPC amendment report response
The loss of industrial land and the land being located within the Fremantle Port Buffer area.	The <i>Central Sub-regional Planning Framework</i> primarily reflects the sites industrial use. A small strip along the northern and eastern boundary of the site is within the Activity Centre - Frame around the North Fremantle District Centre. The Framework states that in frame areas, there is an opportunity to investigate higher residential densities and the potential expansion of the core area (commercial and mixed uses) over time. The



	<p>proposed Urban Deferred zone and Parks and Recreation reserve is considered to be a logical transition and continuation of the urbanisation of the locality which is consistent with the general intent of the Framework.</p>
<p>The land’s proximity to Fremantle Port.</p>	<p>As the amendment area is partly located within the port buffer areas 1 &amp; 2, and any development is constrained by the port buffer considerations including built form, land use and density, this matter, and the need for these constraints on future development considering the future of Fremantle Port, is to be addressed prior to the lifting of Urban Deferment.</p> <p>Requires resolution prior to the transfer to the Urban zone:</p> <ul style="list-style-type: none"> <li>• consideration of the Fremantle Port buffer.</li> </ul>
<p>An expanded Parks and Recreation reserve area to meet the long-term recreational demands of the precinct.</p>	<p>As the proposed coastal foreshore reserve and any additional recreational area in this location is to be finalised having regard to the Future of Fremantle Planning Committee (FFPC) outcomes, this has been included as a requirement to be considered prior to the lifting of Urban Deferment.</p> <p>The department’s officers have noted the reserve boundary can also be modified at the final approval stage of the amendment to urban deferred zone and Parks and Recreation reserve.</p> <p>Requires resolution prior to the transfer to the Urban zone:</p> <ul style="list-style-type: none"> <li>• confirmation of coastal foreshore reserve requirements.</li> </ul>
<p>A consideration of the wider transport and urban area to deliver an integrated urban environment.</p>	<p>As there is uncertainty on the regional road network which has yet to finalised this has been included as a matter to be addressed prior to the lifting of Urban Deferment.</p> <p>Requires resolution prior to the transfer to the Urban zone:</p> <ul style="list-style-type: none"> <li>• confirmation of regional road and transport requirements in the locality.</li> </ul>
<p>The provision of essential services</p>	<p>The Water Corporation advises that it may be possible to extend water and sewerage services to the site as a</p>



<p>and staging and financing of services.</p>	<p>standalone development, provided that the developers fund extensions and upgrades to the surrounding networks. The extent of any upgrades will be determined by the land use mix and development yields in the local structure plan.</p>
<p>Future of Fremantle planning being sufficiently advanced to a stage that depicts clear objectives to guide future urban integration and development in the area.</p>	<p>The area is within the FFPC area of consideration. The Future of Fremantle project is in the early stages and is estimated to be completed by mid-2024. A multi-disciplinary team is to develop a future focused Land Use Plan incorporating a highly integrated land use, transport and infrastructure response and supporting Economic Development Strategy for bringing economic growth, investment and employment into Fremantle.</p> <p>Requires resolution prior to the transfer to the Urban zone:</p> <ul style="list-style-type: none"> <li>• finalisation or substantial progression of the Future of Fremantle project.</li> </ul>

While the amendment to an Urban Deferred zoning and Parks and Recreation reserve and the 'lifting of the deferment' include consideration of the issues Council previously provided comment on (refer to above), there may be scope for discussions on matters with the WAPC, specifically the Parks and Recreation reserve boundary, prior to finalising the amendment and Urban Deferred zoning.

Officers at the Department of Planning, Lands and Heritage have advised that there will be two stages where the WAPC can determine whether to modify the proposal to include further land into the MRS Parks and Reserve (P&R) reservation. These are:

<b><u>Modification of the amendment at final approval Stage</u></b>	<b><u>Modification at the Lifting of Urban Deferment Stage</u></b>
<p>The WAPC could modify the amendment at the final approval stage by extending the P&amp;R reservation (i.e. reducing the Urban Deferred zone) if there was sufficient certainty from the Future of Fremantle work which confirmed that a wider foreshore reserve was required.</p>	<p>Prior to any Urban Deferred area being transferred to Urban, the WAPC will need to confirm whether a wider foreshore is required. If a wider foreshore is required, this area would not go to Urban but remain Urban Deferred to be reserved as P&amp;R in a future MRS amendment.</p>

The intent of the amendment is to facilitate redevelopment of the site for primarily mixed-use commercial and residential uses, with areas of Public Open Space, following the lifting of Urban Deferment, Local Planning Scheme (LPS) amendment and detailed local structure planning.



In conclusion, Officers recommend a submission similar to the preliminary comment Council previously provided that emphasises the need for further discussion, prior to a rezoning, between the WAPC, City and other stakeholders regarding proposed Parks and Recreation reserve boundary to:

- Adequately provide for the precinct/region's coastal recreational needs.
- Establish clear planning policy around managing coastal processes / predicted inundation and impact on land.
- Ensure compatibility with short-term port operations (including Port Buffer) and long-term Future Fremantle planning directions including sustainability, economics, land use, population density, transport, etc).

Following this, the urban deferred zoning could be considered for the remaining land. Additional criteria are suggested as conditions for the WAPC to lift the urban deferred zoning, including:

- finalisation or substantial progression of the Future of Fremantle project
- confirmation of regional road and transport requirements in the locality
- confirmation of coastal foreshore reserve requirements
- consideration of the Fremantle Port buffer.

## **FINANCIAL IMPLICATIONS**

Providing comments on a proposed MRS amendment to WAPC does not have any financial implications for the City.

## **LEGAL IMPLICATIONS**

Nil

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required

## **COMMITTEE RECOMMENDATION ITEM PC2305-5** **(Officer's recommendation)**

**Moved: Cr Bryn Jones**

**Seconded: Cr Frank Mofflin**

Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's submission on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Urban Precinct (1400/41), is as follows:

1. refers the WAPC to its initial comments, Council Meeting 27 April 2022 (Item PC2204), and adds the following comments to assist with clarifying the key planning issues that require resolution prior to any of the site being suitable for rezoning:



- 1.1 COASTAL RECREATIONAL NEEDS – A clear government position on the extent of land required for precinct/regional recreation and beach access in this location, considering this in context of the (a) Leighton Foreshore Masterplan and (b) predicted growth / future demand for public land in this location; the current line of delineation is considered by council to be indicative only;
  - 1.2 COASTAL EROSION – a clear government position on coastal management and what erosion predictions will underpin planning decisions, in particular, what extent of land loss will be planned for in this location that will potentially impact on a reduced width of the proposed Parks and Recreation Reserve;
  - 1.3 TRANSPORT – a clear government position on the future transport network in North Fremantle, in particular, (a) the extension/ alignment/ design capacity of Curtin Avenue, (b) freight and passenger rail, (c) potential pedestrian connection under rail corridor to the North Fremantle local centre;
  - 1.4 FUTURE PORT PLANNING – a clear government position on the future redevelopment plans being developed through Future Fremantle Committee, in particular, intensity of land uses and the associated transport / access requirements within the North Fremantle peninsula;
  - 1.5 PORT BUFFER ZONE – the current planning impact of the port buffer zone restricts potential urban development to non-residential uses. This may force a short-term planning outcome on the subject site that runs contrary to the proper and orderly planning of the broader neighbourhood / precinct. Can the buffer zone be amended, or, should urban development wait until the buffer zone is no longer required?
2. Confirms the Council's willingness and deep interest in working collaboratively with all relevant government agencies to help deliver an acceptable planning framework for the key issues listed above, to enable high quality sustainable development in North Fremantle.

**Carried: 3/2**

**For:**

**Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin**

**Against:**

**Cr Andrew Sullivan, Cr Su Groome**



### **Additional officer comment**

As a result of the discussion at Planning Committee on 3 May 2023, there appeared to be a lack of clarity around the officer comments regarding a future required set-back for urban development. To clarify, the following additional comment is provided:

Until such time that a detailed coastal plan is developed that clearly demonstrates what land is required for community recreation, beach related activities and services (as well as climate change mitigation and managed retreat) it is premature to 'draw a line on a plan' that defines a suitable area for future urban development. At present, there are various opinions about what land width may be required as well as agreement around existing beaches and whether these should have local or more regional status. Transport planning is also part of this discussion. This work requires a degree of rigor and broader input from government that will provide a broader metropolitan planning framework and the establishment of coastal planning principles.

### **AMENDED OFFICER'S RECOMMENDATION**

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

**Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's submission on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Urban Precinct (1400/41), is as follows:**

- 1. Refers the WAPC to its initial comments, Council Meeting 27 April 2022 (Item PC2204), and adds the following comments to assist with clarifying the key planning issues that require resolution prior to any of the site being suitable for rezoning:**
  - 1.1 COASTAL RECREATIONAL NEEDS – A clear government position on the extent of land required for precinct/regional recreation and beach access in this location, considering this in context of the (a) Leighton Foreshore Masterplan and (b) predicted growth / future demand for public land in this location;**
  - 1.2 COASTAL EROSION – a clear government position on coastal management and what erosion predictions will underpin planning decisions, in particular, what extent of land loss will be planned for in this location that will potentially impact on a reduced width of the proposed Parks and Recreation Reserve;**



- 1.3 TRANSPORT – a clear government position on the future transport network in North Fremantle, in particular, (a) the extension/ alignment/ design capacity of Curtin Avenue, (b) freight and passenger rail, (c) potential pedestrian connection under rail corridor to the North Fremantle local centre;**
  - 1.4 FUTURE PORT PLANNING – a clear government position on the future redevelopment plans being developed through Future Fremantle Committee, in particular, intensity of land uses and the associated transport / access requirements within the North Fremantle peninsula;**
  - 1.5 PORT BUFFER ZONE – the current planning impact of the port buffer zone restricts potential urban development to non-residential uses. This may force a short-term planning outcome on the subject site that runs contrary to the proper and orderly planning of the broader neighbourhood / precinct. Can the buffer zone be amended, or, should urban development wait until the buffer zone is no longer required?**
- 2. *In light of 1.1 to 1.3 above, the council believes it is premature to fix a cadastral boundary between Parks and Recreation Reserve and Urban Deferred Zone, as indicated on the advertised MRS amendment, and requests that this boundary alignment is also considered 'deferred' until the full coastal planning work is concluded.***
  - 3. Confirms the Council's willingness and deep interest in working collaboratively with all relevant government agencies to help deliver an acceptable planning framework for the key issues listed above, to enable high quality sustainable development in North Fremantle.**



## **AMENDMENT 1**

Moved: Cr Su Groome

Seconded: Cr Andrew Sullivan

Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's submission on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Urban Precinct (1400/41), is as follows:

1. Refers the WAPC to its initial comments, Council Meeting 27 April 2022 (Item PC2204), and adds the following comments to assist with clarifying the key planning issues that require resolution prior to any of the site being suitable for rezoning:
  - 1.1. COASTAL RECREATIONAL NEEDS – An ~~clear government position~~ *evidence based assessment* on the extent of land required for precinct/regional recreation and beach access in this location, considering this in context of the: (a) Leighton Foreshore Masterplan; ~~and~~ (b) *existing demand and capacity at the Leighton node; and, (c) predicted growth / future demand for public land in ~~this location~~ the vicinity of Port Beach as determined through the Future of Fremantle studies.*
  - 1.2. COASTAL EROSION – an ~~clear government position~~ *evidence based assessment of coastal hazards* ~~coastal management and what erosion predictions~~ *to ensure the reserve is of sufficient width to maintain a functional coastal foreshore reserve into the future and to protect infrastructure and property. will underpin planning decisions, in particular, what extent of land loss will be planned for in this location that will potentially impact on a reduced width of the proposed Parks and Recreation Reserve;*
  - 1.3. TRANSPORT – a clear government ~~position on the future plan for the future regional and local~~ transport network in North Fremantle, ~~in particular,~~ *to deliver a well-integrated urban destination and resolve:* (a) the extension/ alignment/ *urban design and capacity of Curtin Avenue, including its inter-relationship with Stirling Highway;* (b) freight and passenger rail; ~~and, (c) potential pedestrian connection under rail corridor to the required urban connectivity from the North Fremantle local town centre through the site to the foreshore node;~~
  - 1.4. FUTURE PORT PLANNING – a clear government position on the future redevelopment plans being developed through Future Fremantle Committee, in particular, *the type and* intensity of land uses *proposed* and the associated transport / access requirements within the North Fremantle peninsula;



- 1.5. PORT BUFFER ZONE – *Acknowledging the current planning impact of the port buffer zone currently restricts potential urban development to non-residential uses. This may force a, deliver a process that avoids short-term planning outcomes on the subject site that runs contrary to the proper and orderly planning of the broader neighbourhood / precinct. Can the Urban zoning within the existing buffer zone be amended, or, should urban development wait until the should only proceed once the buffer zone is no longer required. ?*

2. *With regard to 1.1 to 1.2, further notes that:*

- 2.1. *The Amendment Report prepared by the WAPC states that North Fremantle Coastal Hazard Risk Management and Adaptation Plan provided by the proponent calculates the coastal foreshore reserve as having a width of between 28.1 and 70m by 2115. This is incompatible with the infrastructure and access requirements of a regional beach.*
- 2.2. *Studies undertaken for the Leighton Beach development identified the need for a minimum 150m foreshore reserve and that subsequent to this assessment the sea-level rise coefficient has increased such that the current recreational assets may be compromised within the 100-year planning horizon.*
- 2.3. *That regular summer demand currently exceeds capacity within the available reserve at Leighton Beach, demonstrating that the assessment in determining the recreational access needs for that section of foreshore reserve has proved to be inadequate and highlighting the need for ample provision in the Port Beach Node to accommodate current and future demand.*
- 2.4. *The cumulative impact of intensive development within the amendment area combined with other urban planned infill in Fremantle and North Fremantle, and most notably the future Fremantle Ports redevelopment, will create significant additional beach use and infrastructure needs.*
- 2.5. *Over recent decades the Port Beach node has suffered one of the highest levels of coastal erosion in the Metropolitan area. The severity of the coastal erosion to the south of Tydeman Road has given rise to a coastal retreat strategy in this area which will result in additional demand for recreational infrastructure within the foreshore area to the north of Tydeman Road.*



- 3. In light of ~~1.1 to 1.3~~ the above, the Council **believes** *advises the proposed ~~it is premature to fix a~~ cadastral boundary between the Parks and Recreation Reserve and Urban Deferred Zone ~~is not supported by evidence and is inadequate for future needs and risks. Council recommends that an additional portion of the proposed Urban Deferred zone west of Bracks Street will need to be rezoned to Parks and Recreation Reserve prior to any redevelopment in order to meet these needs.~~ , ~~as indicated on the advertised MRS amendment, and requests that this boundary alignment is also considered 'deferred' until the full coastal planning work is concluded~~***
- 4. Confirms the Council's willingness and deep interest in working collaboratively with all relevant government agencies to help deliver acceptable *legislative and* planning frameworks for the key issues listed above, to enable high quality sustainable development ~~in-of the~~ North Fremantle.**

**Amendment carried: 11/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Andrew Sullivan, Cr Marija Vujcic, Cr Adin Lang**

**Reason for change:**

The primary reason for the proposed amendments to the Officer's Recommendation is for Council to highlight those matters that must be addressed as part of the further coastal assessment, and as part of the Future of Fremantle Study, and ultimately to the satisfaction of the WAPC.

Clearly, the P&R reserve proposed in the current amendment is significantly narrower than will ultimately be required and is not shaped/configured to support a relocated and expanded Port Beach functioning as a primary recreation node. The amendments to the Officer's Recommendations seek to highlight Council's serious concerns in this regard so that they can be clearly noted by the WAPC as part of the determination of this amendment and be fully addressed before any land is subsequently transferred to the Urban zone.

The reasons for amending parts 1.3 to 1.5, and part 4, is to emphasise the need to comprehensively integrate the planning for the North Fremantle Peninsula including the lands being considered as part of the Future of Fremantle Study. The Fremantle Regional Strategy 1994 and subsequent transport studies have failed to deliver an acceptable plan for the peninsula capable of correcting the unacceptable fragmentation of land, communities, environments and recreation assets that has occurred over time. Acceptable outcomes are unlikely to be delivered through the business-as-usual approach to land use and transport planning or through unintegrated developer-led projects. The Future of Fremantle



study provides an opportunity to deliver clear direction especially in relation to overcoming the fragmentation and blight that stems from current transport planning for the area.

The amendments to the recommendation seek to highlight the need for a more holistic and integrated planning approach. This will likely require a whole-of-precinct approach to planning that precedes and even overrides the conventional MRS approach. The amendments suggest the need to challenge and change the legislative framework to ensure the planning and projective delivery for the North Fremantle Peninsula responds to the unique opportunities and challenges associated with delivering a sustainable Future of Fremantle.

*(The above reason for change is a summary only. The full reasons for change can be viewed in the Council [Additional Documents](#)).*

**COUNCIL DECISION C2305-4**  
**(Amended Officer's Recommendation, as amended)**

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

**Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's submission on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Urban Precinct (1400/41), is as follows:**

**1. Refers the WAPC to its initial comments, Council Meeting 27 April 2022 (Item PC2204), and adds the following comments to assist with clarifying the key planning issues that require resolution prior to any of the site being suitable for rezoning:**

- 1.1. COASTAL RECREATIONAL NEEDS – *An evidence based assessment on the extent of land required for precinct/regional recreation and beach access in this location, considering this in context of the: (a) Leighton Foreshore Masterplan; (b) existing demand and capacity at the Leighton node; and, (c) predicted growth / future demand for public land in the vicinity of Port Beach as determined through the Future of Fremantle studies.***
- 1.2. COASTAL EROSION – *an evidence based assessment of coastal hazards to ensure the reserve is of sufficient width to maintain a functional coastal foreshore reserve into the future and to protect infrastructure and property.***
- 1.3. TRANSPORT – *a clear government plan for the regional and local transport network in North Fremantle-to deliver a well-integrated urban destination and resolve: (a) the extension/ alignment/ urban design and capacity of Curtin Avenue, including its***



***inter-relationship with Stirling Highway; (b) freight and passenger rail; and, (c) required urban connectivity from the North Fremantle town centre through the site to the foreshore node;***

**1.4. FUTURE PORT PLANNING – a clear government position on the future redevelopment plans being developed through Future Fremantle Committee, in particular, *the type and intensity of land uses proposed* and the associated transport / access requirements within the North Fremantle peninsula;**

**1.5. PORT BUFFER ZONE – *Acknowledging* the port buffer zone *currently* restricts potential urban development to non-residential uses, *deliver a process that avoids* short-term planning outcomes on the subject site that run contrary to the proper and orderly planning of the broader neighbourhood / precinct. *Urban zoning within the existing* buffer zone-should only proceed once the buffer is no longer required.**

**2. With regard to 1.1 to 1.2, further notes that:**

**2.1. *The Amendment Report prepared by the WAPC states that North Fremantle Coastal Hazard Risk Management and Adaptation Plan provided by the proponent calculates the coastal foreshore reserve as having a width of between 28.1 and 70m by 2115. This is incompatible with the infrastructure and access requirements of a regional beach.***

**2.2. *Studies undertaken for the Leighton Beach development identified the need for a minimum 150m foreshore reserve and that subsequent to this assessment the sea-level rise coefficient has increased such that the current recreational assets may be compromised within the 100-year planning horizon.***

**2.3. *That regular summer demand currently exceeds capacity within the available reserve at Leighton Beach, demonstrating that the assessment in determining the recreational access needs for that section of foreshore reserve has proved to be inadequate and highlighting the need for ample provision in the Port Beach Node to accommodate current and future demand.***

**2.4. *The cumulative impact of intensive development within the amendment area combined with other urban planned infill in Fremantle and North Fremantle, and most notably the future Fremantle Ports redevelopment, will create significant additional beach use and infrastructure needs.***



- 2.5. Over recent decades the Port Beach node has suffered one of the highest levels of coastal erosion in the Metropolitan area. The severity of the coastal erosion to the south of Tydeman Road has given rise to a coastal retreat strategy in this area which will result in additional demand for recreational infrastructure within the foreshore area to the north of Tydeman Road.**
- 3. In light of the above, the Council advises the proposed-cadastral boundary between the Parks and Recreation Reserve and Urban Deferred Zone is not supported by evidence and is inadequate for future needs and risks. Council recommends that an additional portion of the proposed Urban Deferred zone west of Bracks Street will need to be rezoned to Parks and Recreation Reserve prior to any redevelopment in order to meet these needs.**
- 4. Confirms the Council’s willingness and deep interest in working collaboratively with all relevant government agencies to help deliver acceptable legislative and planning frameworks for the key issues listed above, to enable high quality sustainable development of the North Fremantle.**

**Carried: 11/0**

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,  
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Doug Thompson,  
Cr Bryn Jones, Cr Andrew Sullivan, Cr Marija Vujcic, Cr Adin Lang**



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

Nil

### **14. Urgent business**

Nil

### **15. Late items**

Nil

### **16. Confidential business**

Nil

### **17. Closure**

**The Presiding Member declared the meeting closed at 10:32pm.**