



Agenda

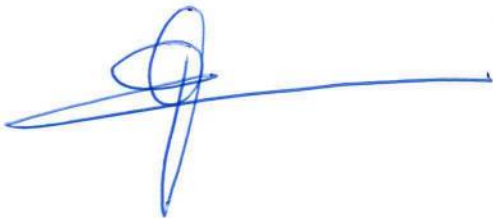
Ordinary Meeting of Council

Wednesday, 30 January 2019, 6.00pm

CITY OF FREMANTLE
NOTICE OF AN ORDINARY MEETING OF COUNCIL

Elected Members

An Ordinary Meeting of Council of the City of Fremantle will be held on **Wednesday, 30 January 2019** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in blue ink, consisting of a stylized 'P' and 'S' followed by a long horizontal line.

Philip St John
Chief Executive Officer

25 January 2019

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CITY OF FREMANTLE

Ordinary Meeting of Council

Agenda

1. Official opening, welcome and acknowledgement

We would like to acknowledge this land that we meet on today is the traditional lands of the Nyoongar people and that we respect their spiritual relationship with their country. We also acknowledge the Whadjuk people as the custodians of the greater Walyalup area and that their cultural and heritage beliefs are still important to the living Whadjuk people today.

2. Attendance, apologies and leaves of absence

Cr Bryn Jones is on a leave of absence.

3. Applications for leave of absence

Nil

4. Disclosures of interest by members

Elected members must disclose any interests that may affect their decision-making. They may do this in a written notice given to the CEO; or at the meeting.

5. Responses to previous public questions taken on notice

There are no responses to public questions taken on notice at a previous meeting.

6. Public question time

Members of the public have the opportunity to ask a question or make a statement at council and committee meetings during public question time.

Further guidance on public question time can be viewed [here](#), or upon entering the meeting.

7. Petitions

Petitions to be presented to council.

Petitions may be tabled at the meeting with agreement of the presiding member.

8. Deputations

8.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

There are no special deputation requests.

8.2 Presentations

Elected members and members of the public may make presentations to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

9. Confirmation of minutes

Officer's recommendation

That the minutes of the Ordinary Meeting of Council dated 12 December 2018 be confirmed as a true and accurate record, subject to the following amendments:

- 1. Item C1812-11- Management of Parking on Marine Terrace:**
 - a. Correct the mover and seconder of the Officer's Recommendation to read:
Moved: Mayor, Brad Pettitt Seconded: Cr Jon Strachan**
 - b. Correct the mover and seconder of the Council Decision to read:
Moved: Mayor, Brad Pettitt Seconded: Cr Jon Strachan**

10. Elected member communication

Elected members may ask questions or make personal explanations on matters not included on the agenda.

11. Reports and recommendations from committees

11.1 Planning Committee 16 January 2019

PC1901 -3 CADD STREET, NO. 21 (LOT 45), BEACONSFIELD - TWO, TWO STOREY GROUPED DWELLINGS - (CJ DA0416/18)

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development plans
2: Site photos

SUMMARY

Approval is sought for two, two storey Grouped dwellings at No. 21 Cadd Street, Beaconsfield (subject site). The application is presented to Planning Committee (PC) due to a submission received that cannot be satisfied through a condition of planning approval. The application also seeks the following merit based assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and relevant Council policies:

- Primary street setback
- Building height
- Lot boundary setback (boundary walls)
- Vehicle sightlines
- Land use

The proposal is not considered to meet the design principles for the primary street setback and as the proposal is not consistent with the established streetscape the application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for two, two storey Grouped dwellings at the subject site. The site is located on the western side of Cadd Street in Beaconsfield and is not heritage listed or located within a heritage area. The property has previously been cleared and is vacant from any buildings or vegetation.

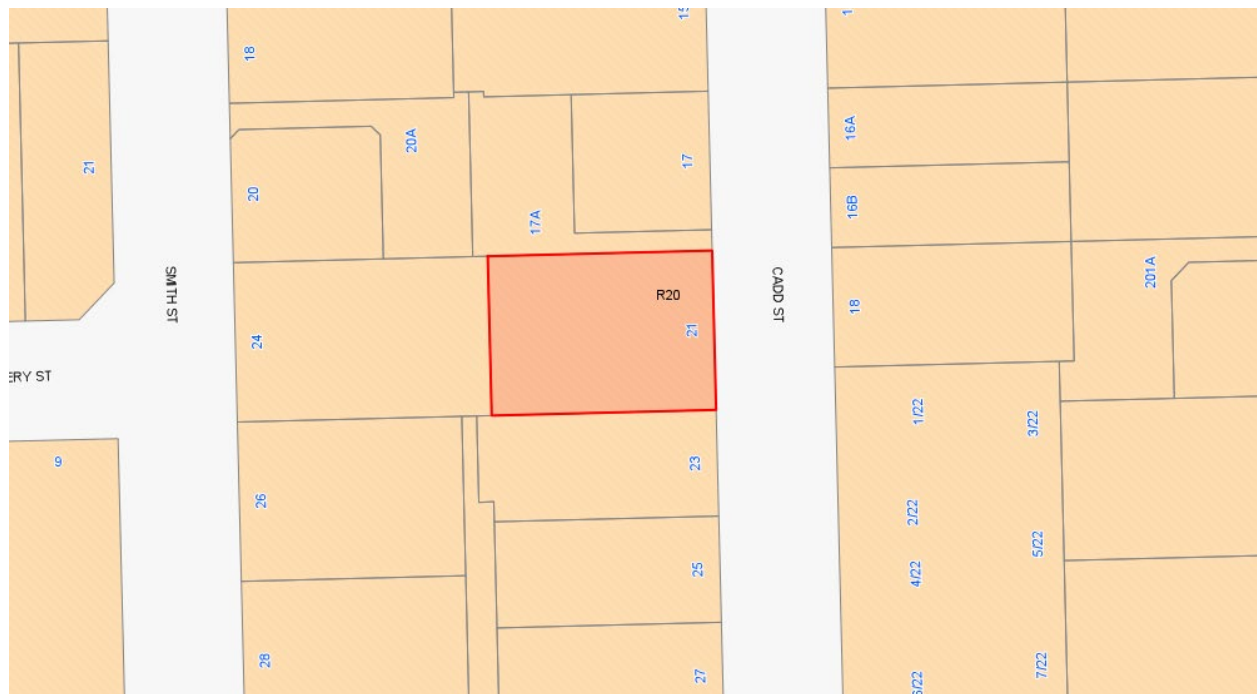
The most recent set of amended plans lodged by the applicant after feedback from officers (dated 11 December 2018) include the following amendment from the original submission:

- 300-400mm increase to southern lot boundary setback
- Change from nil setback to 1m setback for southern elevation of Carport
- Reduction in building height
- Reduction in shadow to southern neighbour to deemed to comply amount
- Minor alterations to windows
- Removal of carport door
- Additional front fence
- Increase in size to kitchen window on ground floor of rear dwelling

The changes have reduced the number of discretions on site, notably resulting in deemed to comply overshadowing and carport setbacks. The applicant has acknowledged that they have not made any changes to the primary street setback which officers have communicated is one of the key issues with this proposal.

Site/application information

Date received: 17 September 2018
 Owner name: Brett, Melanie, Dale and Sydney Montgomery
 Submitted by: Sid Thoo
 Scheme: Residential R20
 Heritage listing: Not listed
 Existing land use: Vacant
 Use class: Grouped dwelling
 Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal sought merit based assessments against the R-Codes and local planning policies. The advertising period concluded on 7 November 2018, and one (1) submission was received. The following issues were raised:

- Impact of the two storey dwellings on the streetscape.
- Homes are too large.
- Privacy impacted.

- Will lose access to northern sunlight.
- Lack of green space, particularly in front yard.

In response to the submission received, the applicant made a number of changes to the plans including, but not limited to, reducing the external wall height and amending the design to ensure the overshadowing meets the deemed to comply requirements.

The above concerns are discussed in further detail in the report below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies.

Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Primary street setback
- Building height
- Lot boundary setback (boundary walls)
- Vehicle sightlines
- Land use

The above matters are discussed below.

Background

The site is located in the Beaconsfield Local Planning Area on a lot bound by Cadd Street to the east, South Street to the north, Lefroy Road to the south and Smith Street to the west. The site has a land area of 1,012m² and is currently vacant. With a density of R20 allocated to the site, the site is zoned Residential and is not heritage listed or located within a heritage area.

A two lot survey strata subdivision was approved in October 2018 in the same format as the dwelling layout shown in this application.

Primary street setback

Element	Deemed to comply	Provided	Design Principle
Ground floor (wall less than 4m in height)	7m	6m (not including Carport)	1m
Upper floor (walls 4m or greater in height)	10m	5.7m	4.3m

The prevailing streetscape (as defined by LPP 2.9), is made up of the following dwellings:

- No. 13 Cadd - Vacant
- No. 15 Cadd – 7m (GF), 10.8m (UF) (two storey)
- No. 17 Cadd – 8.5m (single storey)
- No. 23 Cadd – 10.1m (single storey)
- No. 25 Cadd – 8m approx. (single storey)
- No. 27 Cadd – 9.1m (single storey)

The diagrams below demonstrate the required and proposed setback in the context of the existing streetscape:



Figure 1: Ground floor setback



Figure 2: Upper floor setback

The proposed primary street setback is not supported in accordance with the discretionary criteria of LPP 2.9 and the design principles of the R-Codes for the following reasons:

- The streetscape is occupied by predominantly single storey dwellings.
- There is only one two storey building in the in the prevailing streetscape and this is located 10.8m from the primary street.
- The road and/or lot layout does not prevent the upper floor from intruding into the streetscape by being particularly unusual. Nor is the topography of the site particularly restrictive.
- There are no mature, significant trees on site that could be used to justify the building having to be further forward on the lot.
- The development does not abut a corner lot with a dwelling that protrudes into the established streetscape.

It is therefore considered that to protect the integrity of the existing streetscape and meet the intent of the policy, that the dwelling should be setback to the prescribed street setback distance. As such the proposed setback is not supported.

Lot boundary setbacks (boundary walls)

Element	Deemed to comply	Provided	Design Principle
West (rear dwelling)	1.5m	Nil	1.5m
South - Garage (rear dwelling)	1m	Nil	1m

The two storey wall built to the boundary may have some impact on the western neighbour by way of building bulk. However, it is not considered, on balance, to have a significant impact on the amenity of the adjoining neighbour for the following reasons:

- The existing built form on the adjoining site is setback by approximately 13m.
- No major openings will have sunlight or ventilation restricted.
- The main outdoor living area for the site is also setback into the site and is unlikely to be significantly impacted.
- There are no privacy implications from the wall, with no windows proposed.
- The wall is located on the rear of the site and will not have implications on the streetscape.

The single storey boundary wall for the garage of the rear dwelling is also supported for the following reasons:

- The shadow cast from the garage wall will partially affect a Patio covered area of site. Notwithstanding this, the majority of the outdoor living area remains unaffected by shadow.
- The shadow thrown from the garage wall will not affect major openings.
- There is sufficient setback on the remaining lot boundary to ensure ventilation is accessed by the southern property.
- The wall is single storey, with the remainder of the buildings in the proposal setback to compliant distances.

Building height

Element	Deemed to comply	Provided	Design Principle
External wall height	6m	2.8 - 6.55m	0.55m

It is noted that much of the development has been amended since lodgement to reduce the external wall height to be less than 6m deemed to comply requirement. The element of discretion relates to a portion of the front dwelling which sits in the middle of the site (see diagram below provided by the applicant) and is setback from the southern property boundary.

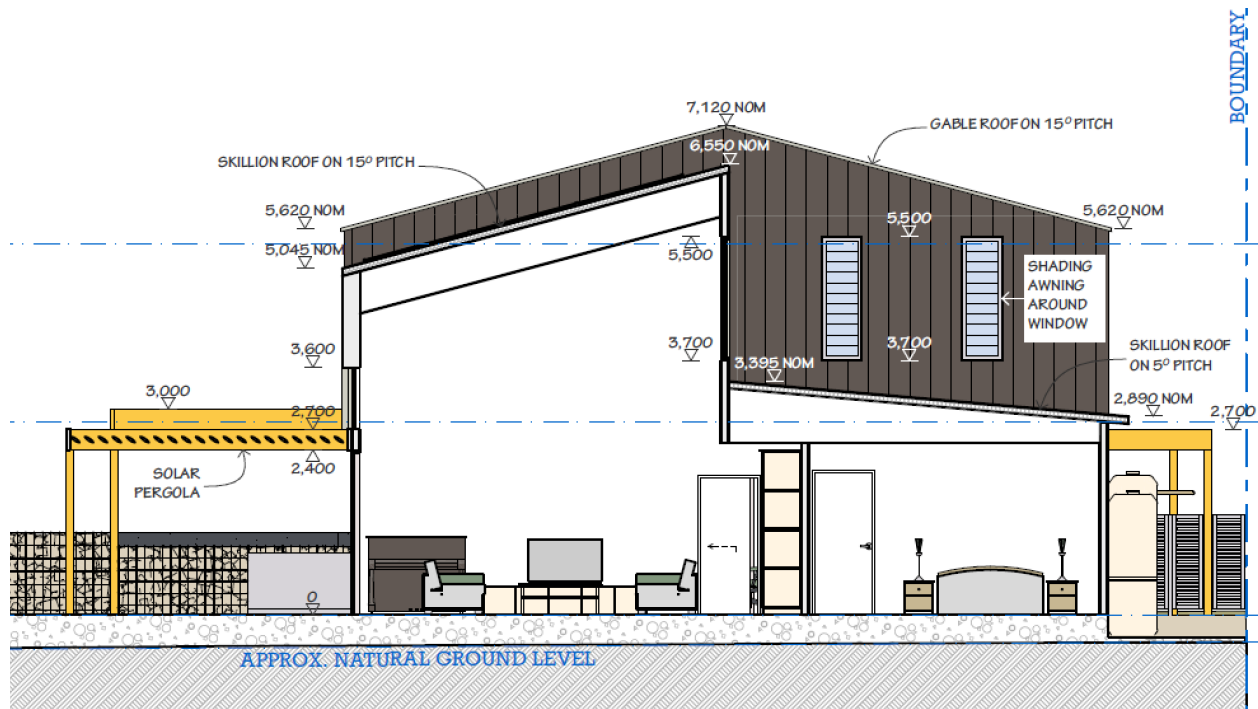


Figure 1: Internal section of front dwelling illustrating wall height discretion

The proposed discretion is supported against the requirements of the design principles for the following reasons:

- The area of additional wall height will throw some shadow over the southern property. This shadow will affect a side setback area and due to the setback of the wall, will not reach the windows of the neighbouring property.
- The additional 550mm of wall height is unlikely to impact on views of significance.
- The building bulk is setback by 7.5m which assists in reducing the impact of building bulk on the adjoining site.

Vehicle sightlines

Element	Deemed to comply	Provided	Design Principle
Front dwelling adjoining carport	Truncated or reduced to 750mm height	Visually permeable fence (1.2m high)	No truncation, 450mm of fence
Rear dwelling battleaxe leg	Truncated or reduced to 750mm height	Truncated and clear of fence	Complies

The proposed fence proposed abutting the carport is shown to be somewhat permeable but up to 1.2m in high. This means that it intrudes into the area meant to remain clear of obstruction to allow for safe access to and from the site.

As a footpath abuts the lot boundary of the site, should the application be approved, it is recommended the fence be amended to comply through a condition of approval.

Land use

The proposed land use of Grouped dwelling, is a discretionary ('D') use in the Residential zone. A 'D' use means that the use is not permitted unless Council has exercised discretion by granting planning approval. In considering the proposed use, it is recommended Grouped dwellings be supported on the site in accordance with the objectives of the Residential zone and the Matters to be Considered (clause 67 Planning and Development (Local Planning Schemes) Regulations 2015) for the following reasons:

- The development of two dwellings on the site is consistent with the zoning and density of the site.
- The use is similar to the Single house built form characterising the area.
- There are no heritage implications arising from the proposal.
- Sufficient car parking is allocated and can be serviced from the road reserve.

It is also noted, that should this development be approved, there is also a two lot subdivision that has been approved. Should the lots be created, the dwellings would become Single house's which are a P use under the Scheme.

Notwithstanding the support for the land use on site, concerns relating to this application are focused on the execution of the built form design.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

Green Plan 2020

Encourage the retention of vegetation on private land.

1. The site has been cleared.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two, two storey Grouped dwellings at No. 21 (Lot 45) Cadd Street, Beaconsfield, as detailed on plans dated 11 December 2018, for the following reasons:

1. The proposal is inconsistent with the City of Fremantle's Planning Policy LPP 2.9 Residential Streetscape Policy.
2. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to the primary street setback.

COMMITTEE DECISION ITEM PC1901-3 **(Alternative recommendation)**

Moved: Cr Dave Hume

Seconded: Cr Jeff McDonald

Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the two, two storey grouped dwellings at 21 Cadd Street, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal in order to comply with the street setback requirements of LPP 2.9 Residential Streetscape Policy.

Carried: 4/2

For

Cr Ingrid Waltham,

Cr Bryn Jones, Cr Jeff McDonald, Cr Dave Hume

Against

Cr Adin Lang, Cr Jon Strachan

The above item is referred to the Ordinary Meeting of Council for determination in accordance with 1.1 or 2.1 of the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.

PC1901 -10 POTENTIAL SCHEME AMENDMENT - NOS. 7 & 9-15 QUARRY STREET, FREMANTLE - OUTCOMES OF PRELIMINARY ENGAGEMENT & OPTIONS FORWARD - ADDITIONAL INFORMATION

Meeting Date: 16 January 2019
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: Previous (Deferred) Report on Potential Amendment

SUMMARY

Council's Planning Committee considered the outcome of preliminary engagement on the potential rezoning of Lots 1, 2 and 8 Quarry Street in December 2018 but deferred the matter pending the provision of additional information on further zoning options available for the site.

This report provides the additional information requested but maintains the recommendation that Council not proceed with initiating a formal amendment for the site.

BACKGROUND

Council's Planning Committee considered a report on the outcomes of preliminary engagement on the potential rezoning of lots 1, 2 and 8 Quarry Street (attached) on 5 December 2018 and resolved to:

Defer to the next appropriate committee meeting to allow Officers to present more information on Option 5 (as described in item PC1812-15). This information is to allow Council to consider agglomeration of the densities across both sites, with an outcome that allows for a similar number, or additional, dwellings to the do-nothing option. The agglomeration zoning/density coding is anticipated to be in the R40-45 to R60 range.

The following additional information is provided in response. This information supplements the original report which is provided at Attachment 1.

OFFICER COMMENT

As has been outlined previously, the primary planning issue presented in this location relates to the potential to achieve density (i.e. yield) in a well-serviced location with established amenities, whilst appropriately managing the interface with adjoining development and land uses. Preliminary discussion with the Department of Planning, Lands and Heritage staff has confirmed that any proposal reducing potential yield in this location is very unlikely to be supported.

Having regard to the Planning Committee’s reason for deferral, the following further alternatives are available, based on mid to higher density residential zonings being applied across the entire site (i.e. all three lots). It assumes application of default (rather than tailored) scheme and R-Code provisions.

Option 5 – Other Zoning and Residential Density Combinations						
Density	R40		R60		R80	
Zoning	Residential	Mixed-Use	Residential	Mixed-Use	Residential	Mixed-Use
Building Height (multiple dwelling)	2-storeys (6m wall height, 9m ridge height)	2-storeys 7.5m as-of-right under Schedule 8	3-storey (9m wall height, 12m ridge height)	2-storey 7.5m as-of-right under Schedule 8	4-storey (12m wall height, 15m ridge height)	2-storey 7.5m as-of-right under Schedule 8
Pot. Yield (multiple dwelling)	29 Based on plot ratio of 0.6 and average apartment size of 85sqm		34 Based on a plot ratio of 0.7 and average apartment size of 85sqm		48 Based on a plot ratio of 1.0 and average apartment size of 85sqm	
Building Height (single/grouped dwelling)	2 storeys (6m wall height, 7m concealed roof, 9m ridge height) As per Local Planning Policy 2.9: Residential Streetscape Policy					
Pot. Yield (single/grouped dwelling)	18 based on average site area of 220sqm		27 based on average site area of 150sqm		34 based on average site area of 120sqm	

Only the R80 zoning option listed could result in an equal or greater yield than the current zoning, with up to 48 dwellings within the site, compared with the 41 dwellings possible currently (7 single/grouped plus 34 multiple).

Notwithstanding the theoretical density achievable, it should be acknowledged that the actual density constructed under any zoning scenario will strongly influenced by market demand, financial feasibility, design considerations and other development controls in the scheme (eg height limits). Because of the awkward configuration of the lots, it is quite possible that Lots 1 and 2 would not achieve their maximum density under the current zoning scenario, with previous exercises indicating a range of yield estimates between 20 and 36 dwellings. Commercial advice would be necessary to better gauge probable (as opposed to theoretical) yield, and robust analysis is likely to be necessary to obtain the support of the Department of Planning for any zoning option with a lesser theoretical yield (ie below R80).

A coordinated design outcome is more likely to be achieved through a consistent zoning and composite redevelopment, and this has been a key driver behind the investigation. Retaining the existing zonings will not necessarily prevent coordinated or good quality development, but it may preclude amalgamation of the sites and probable independent development of each. This would reduce the flexibility available to designers because of the smaller area of the sites as well as the requirement to contain development within individual lot boundaries (because buildings cannot legally span a cadastral boundary). The irregular shape of the lots is also likely to pose design challenges, with the southern truncation of lots 1 and 2 also restricting outlook to Fremantle Park.

A Local Development Plan (LDP) could be proposed to promote some greater coordination over the three lots but is only permissible with the support of the Western Australian Planning Commission, which is likely to consider this only to achieve a high density yield.

On balance, the previous officer recommendation is maintained. A Residential R80 rezoning with LDP to address interface could achieve similar results to the approach originally consulted on (albeit at a slightly lower density) however is likely to be of similar concern to the community. If Council wish to explore a lower density rezoning (ie R60 or below), it is recommended that this be done in consultation with the Department for Planning, Lands and Heritage, supported by design concepts and financial appraisal demonstrating its strategic infill benefits over and above those achievable under the current zoning.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the process of rezoning of the site, if undertaken in-house. Valuation impacts of any change of zoning to the City's landholding do not represent planning considerations and are consequently not further considered in this report.

LEGAL IMPLICATIONS

The process for a scheme amendment is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

CONSULTATION

Community engagement on the potential scheme amendment was undertaken in accordance with *Local Planning Policy 1.3 - Public Notification of Planning Proposals* for a 'preliminary scheme amendment' from 3 September 2018 to 10 October 2018. The outcomes of this process are outlined in the previous report on this matter, provided at Attachment 1.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

1. Note the submissions received during preliminary engagement on the potential amendment to Local Planning Scheme No. 4 to amend the zoning of 7 & 9-15 Quarry Street, Fremantle.
2. Resolve to not proceed with the initiation of a scheme amendment for 7 & 9-15 Quarry Street, Fremantle at this time.
3. Request preparation of a separate report to the next appropriate meeting of the Finance, Operations, Policy and Legislation Committee regarding disposal of 7 & 9-15 Quarry Street, Fremantle under the current zoning.

COMMITTEE RECOMMENDATION ITEM PC1901-10 **(Alternative recommendation)**

Moved: Cr Ingrid Waltham

Seconded: Cr Jon Strachan

The Planning Committee requests officers to prepare an alternative recommendation for consideration at the Ordinary Meeting of Council on 30 January 2019 which recommends Council to initiate an amendment to Local Planning Scheme No. 4 in relation to lots 1, 2 and 8 (numbers 7 and 9-15) Quarry Street, Fremantle based on the following:

- a. Zoning of all lots – Mixed Use**
- b. Residential density coding of all lots – R80**
- c. Special development controls – Maximum height of buildings to be in accordance with the Residential Design Codes requirements for R80 development, i.e. 12m external wall height and 15m pitched roof ridge height, except within 10m of adjoining Residential R25 zoned lots where height is to be restricted to 7.5m external wall height to mitigate building bulk impact on adjoining residential lots to the north-east.**

AMENDMENT 1

Moved: Cr Adin Lang

Seconded Cr Jon Strachan

To include the following wording:

and, subject to a scheme amendment as referred to above being approved, Council would intend to seek approval for amalgamation of the 3 Lots.

Amendment carried: 6/0
Cr Jon Strachan, Cr Ingrid Waltham,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

COMMITTEE RECOMMENDATION ITEM PC1901-10
(Alternative recommendation as amended)

Moved: Cr Ingrid Waltham

Seconded: Cr Jon Strachan

The Planning Committee requests officers to prepare an alternative recommendation for consideration at the Ordinary Meeting of Council on 30 January 2019 which recommends Council to initiate an amendment to Local Planning Scheme No. 4 in relation to lots 1, 2 and 8 (numbers 7 and 9-15) Quarry Street, Fremantle based on the following:

- d. Zoning of all lots – Mixed Use**
- e. Residential density coding of all lots – R80**
- f. Special development controls – Maximum height of buildings to be in accordance with the Residential Design Codes requirements for R80 development, i.e. 12m external wall height and 15m pitched roof ridge height, except within 10m of adjoining Residential R25 zoned lots where height is to be restricted to 7.5m external wall height to mitigate building bulk impact on adjoining residential lots to the north-east.**

and, subject to a scheme amendment as referred to above being approved, Council would intend to seek approval for amalgamation of the 3 Lots.

Carried: 6/0

**Cr Jon Strachan, Cr Ingrid Waltham,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

Reason for change

Applying a uniform zoning and density coding to all three lots would be more likely to facilitate an integrated redevelopment of all the subject land and achieve a better quality development outcome than development of lots 1&2 and lot 8 under their current, different, zonings and density codings. An R80 density coding would be likely to achieve a dwelling number yield similar to or slightly greater than the yield achievable under the current densities for all three lots, and therefore would be consistent with Council and State Government strategic policy objectives for urban infill.

ADDITIONAL OFFICER'S COMMENT

In response to the resolution of the Planning Committee on 16 January 2019 as set out above, officers have prepared an alternative recommendation that council resolve to initiate an amendment to the Local Planning Scheme to rezone lots 1, 2 and 8 (numbers 7 and 9-15) Quarry Street to Mixed Use with a residential density coding of R80 (with related special development controls relating to maximum building height).

Part 2 of the alternative officer's recommendation below sets out the recommended changes to the scheme text and maps to initiate this amendment to the scheme. It is recommended that the existing boundary of Sub Area 1 of the Fremantle Local Planning Area in Schedule 8 of the Scheme be modified to exclude lots 1, 2 and 8, as most of the development standards in this area are relevant to higher density R-AC3 density development, and instead these lots be placed within a new area called sub-area 1.1 with different height and boundary setback controls applicable to R80 development.

However for consistency reasons, development standards relating to street setbacks and car parking which already apply to the neighbouring Mixed Use R-AC3 properties are also recommended to apply in sub-area 1.1.

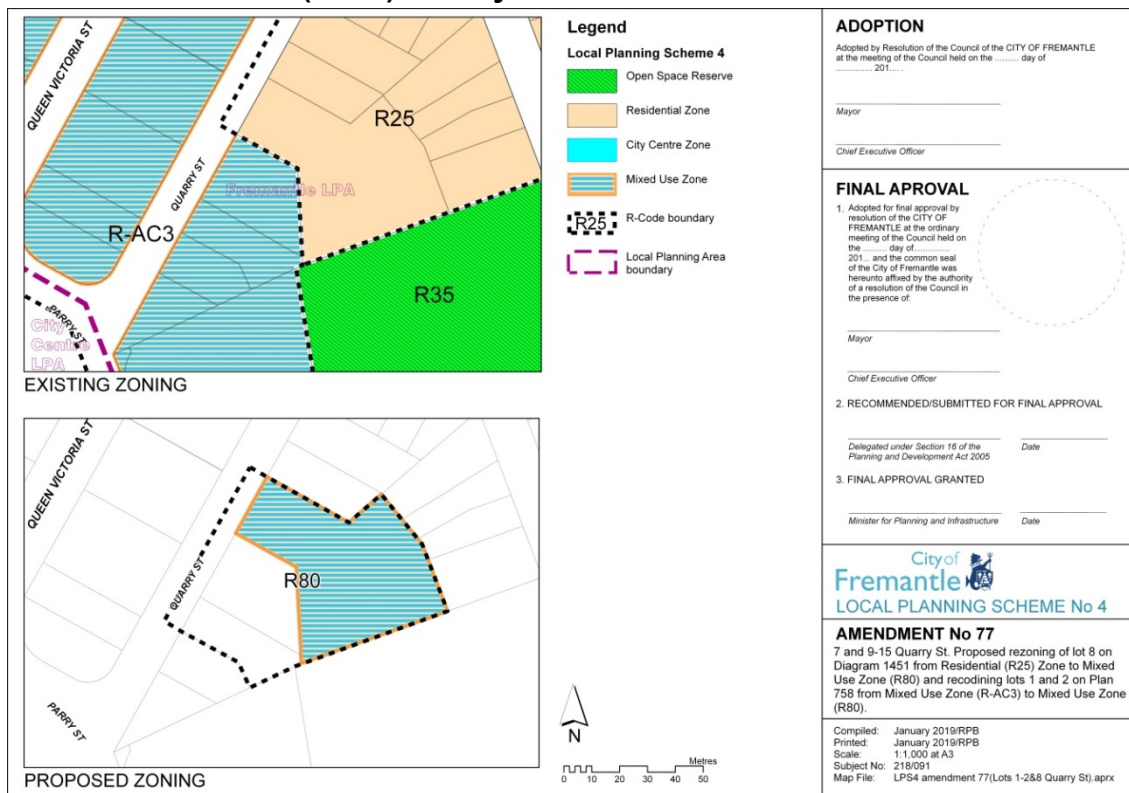
The resolution of the Planning Committee referred to an intention of Council to amalgamate lots 1, 2 and 8 subject to a scheme amendment being approved. Officers consider that the process of seeking approval for amalgamation could commence whilst the scheme amendment process is still in progress rather than waiting for final approval by the Planning Minister, and accordingly recommend a minor rewording to this effect in part 8 of the recommendation below.

Part 9 of the alternative recommendation below recommends that consideration be given to the disposal of the subject properties through a separate report to the next appropriate meeting of the Finance, Policy, Operations and Legislation Committee.

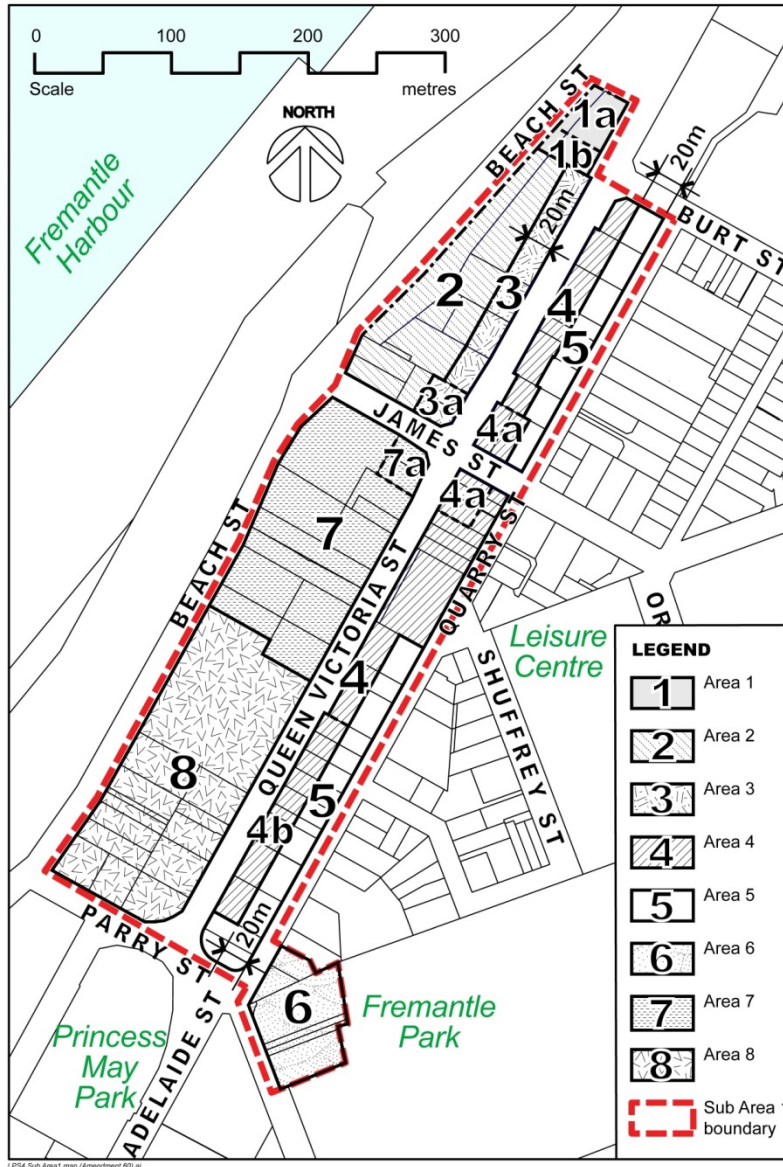
ALTERNATIVE OFFICER’S RECOMMENDATION

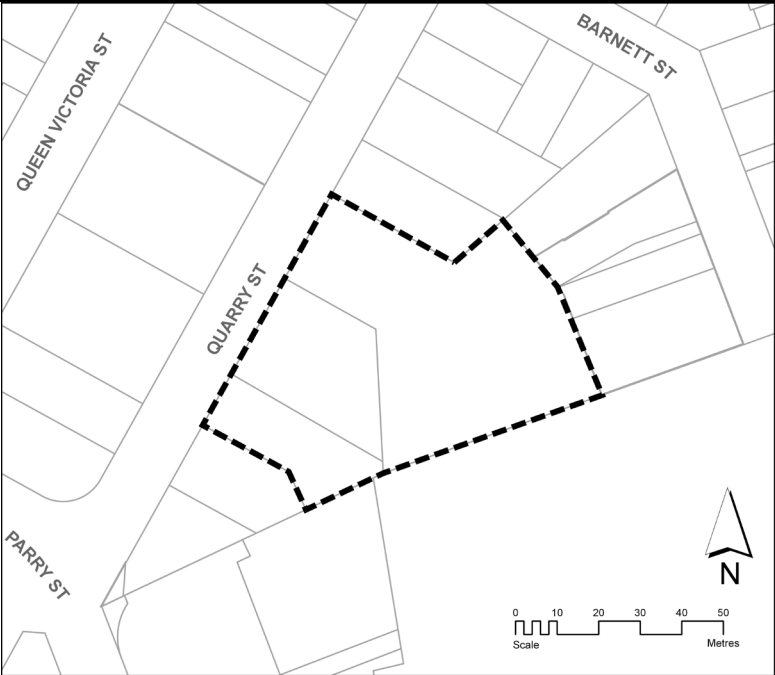

Council:

1. Note the submissions received during preliminary engagement on the potential amendment to Local Planning Scheme No. 4 to amend the zoning of 7 and 9-15 Quarry Street, Fremantle as detailed in the report considered at the meeting of the Planning Committee on 5 December 2018 and Attachment 1 to that report.
2. Resolve, pursuant to regulation 35(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, to prepare the following amendment to City of Fremantle Local Planning Scheme No. 4:
 - a. Amend the Scheme map to rezone Lot 8 (nos. 9-15) Quarry Street, Fremantle from Residential with a density coding of R25 to Mixed Use with a density coding of R80 and to apply a density coding of R80 to Lots 1 and 2 (no. 7) Quarry street as shown below:



- b. Modify Schedule 8 – Local Planning Areas (Development Requirements) Local Planning Area 2 – Fremantle 2.3.1 Sub Area 1 to delete Lots 1 and 2 (no. 7) Quarry Street from Area 6, and include Lots 1, 2 and 8 Quarry Street in a new sub-area 1.1 as follows:



<p>2.3.1.1</p>	<p>Sub area 1.1 – 7 and 9-15 Quarry Street</p>  <p>LEGEND</p> <p> Proposed LPA 2 Sub Area 2.3.1.1-Quarry St</p>
<p>Height Requirements</p>	<p>a) Clause 2.2 ‘Matters to be considered in applying general and specific height controls’ does not apply to Sub area 1.1.</p> <p>b) Maximum height of buildings shall be in accordance with the Residential Design Codes requirements for R80 development, i.e. 12m external wall height and 15m pitched roof ridge height, except within 10m of adjoining Residential R25 zoned lots where height is to be restricted to 7.5m external wall height to mitigate building bulk impact on adjoining residential lots to the north-east.</p>
<p>Building setbacks</p>	<p>a) Street boundary setbacks to Quarry Street shall be a minimum of nil and a maximum of 2m.</p> <p>b) All other lot boundary setbacks shall be in accordance with the Residential Design Codes requirements for R80 development.</p>
<p>Car parking</p>	<p>a) The provisions of clause 4.7.3 (a) (i) and (ii) of the Scheme do not apply in Sub Area 1.1.</p> <p>b) Council may waive car parking requirements in accordance with clause 4.7.3 for ground level non-residential uses subject to the development/use being able to generate interest and activity within the adjacent public domain.</p>

- 3. In its opinion, the Amendment is a standard amendment for the following reasons:**
 - (a) this scheme amendment is an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment;**
 - (b) this scheme amendment is an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;**
 - (c) this scheme amendment is an amendment that is not a complex or basic amendment.**
- 4. That the Mayor and Chief Executive Officer be authorised to execute the relevant Scheme Amendment documentation.**
- 5. That the Local Planning Scheme Amendment be submitted to the Environmental Protection Authority requesting assessment prior to commencing public consultation.**
- 6. That the amendment be advertised for a period of not less than 42 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.**
- 7. That the Local Planning Scheme Amendment be submitted to the Western Australian Planning Commission for information.**
- 8. That subject to progression of the scheme amendment as referred to in part 2 above, the Council intends to seek approval for the amalgamation of lots 1, 2 and 8 Quarry Street.**
- 9. Request preparation of a separate report to the next appropriate meeting of the Finance, Operations, Policy and Legislation Committee regarding disposal of 7 and 9-15 Quarry Street, Fremantle.**

PC1901 -11 MONUMENT HILL MEMORIAL RESERVE CONSERVATION PLAN - REVIEW

Meeting Date: 16 January 2019
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: Monument Hill Memorial Conservation Plan
 Recommendations: Status

SUMMARY

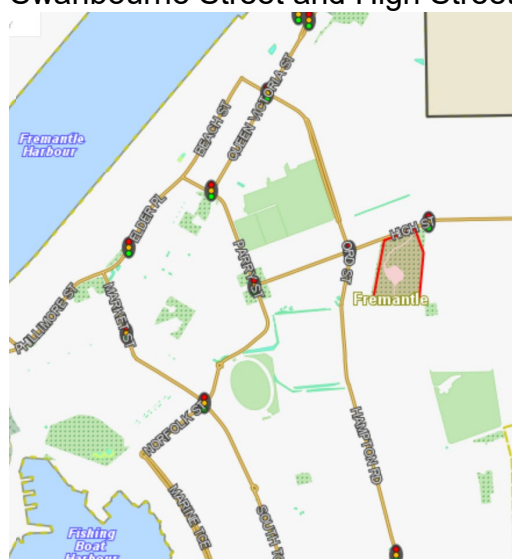
The City has received a request that it review the Monument Hill Memorial Reserve Conservation Plan ('Monument Conservation Plan'), adopted by Council in 2011. The City undertook an internal review of the document and recommends that 'Section 10: Implementation of Recommendations' be reviewed and updated to more explicitly address how requests for inclusion of new memorials on the reserve will be considered.

This report recommends that Council:

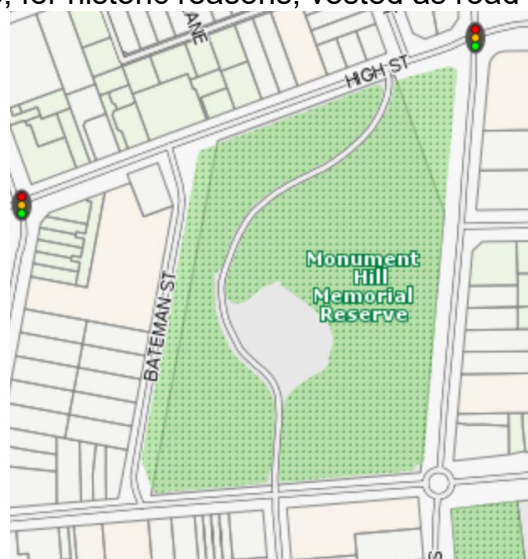
- Note the findings of the review.
- Support the review of Section 10 in relation to new inclusions on the Memorial.
- Consult with the Heritage Council, RSL and precinct groups in relation to the proposed modifications to the Conservation Plan, and
- Request that the matter of the appropriate use of the reserve be considered in the review of the Property Local Law.

BACKGROUND

Monument Hill Memorial Reserve is an approximately 4.5 ha reserve immediately east of the Fremantle city centre. The reserve is Crown land with the majority vested in the City for the purpose of 'Contemplation of Memorials, Look-out, Landscape and the Community', though small portions along Bateman Street and at the intersection of Swanbourne Street and High Street are, for historic reasons, vested as road reserve.



Location Plan



Site Plan

The reserve was vested in the Mayor and Councillors of the Municipality of Fremantle Municipal Council for use as a park in 1904. The foundation stone of the Fallen Sailor's and Soldiers' Memorial was laid on 25 April 1928, with the completed monument unveiled on Armistice Day 1928.

The site is included on the State Register of Heritage Places, listed on the City's Municipal Heritage Inventory as Category 1A and included on the City's Heritage List.

The Monument Hill Memorial Reserve Conservation Plan ('Monument Conservation Plan' or 'MHRCP') was prepared by Kelsall Binet Architects in 2009 to replace an earlier (2001) conservation plan. It was first considered by Council in June 2010 (PSC1006-121), with the outcomes of public comment considered in October 2010 (PSC1010-205). The final document was considered by Council on 25 January 2011 (PSC1101-15) at which meeting Council resolved that:

- 1. The Draft Monument Hill Memorial Reserve Conservation Plan be adopted**
- 2. It be noted that the implementation of all the recommendations contained within the draft plan will have to be further considered in the context of policy / local law development, and/or the standard budgetary and prioritisation process of the Council.**

The Conservation Plan has been operational for nearly 8 years during which time it has guided and informed decision making relating to the management, maintenance and use of the reserve. The efficacy of the Plan has been subject to on-going monitoring during that period.

The City has recently received a request that the Plan be reviewed given its age, the standard Heritage Council recommendation such documents be reviewed 5 yearly, and the significance of the place. Budget provision for this has not been made however a 'light touch' internal review of the document has been undertaken to:

1. Confirm the status of Plan recommendations;
2. Identify points of concern and areas for review based on experience in its implementation and the on-going monitoring the City's heritage staff undertake of conservation outcomes on City-managed properties.

This report outlines the conclusions of that review.

OFFICER COMMENT

The Conservation Plan details the history, physical attributes and significance of the reserve in detail. These components have not altered significantly and no modifications to these parts of the plan are considered necessary.

The Plan details a series of recommendations defining policy in relation to the management of the reserve, and management and maintenance works to be undertaken. It also recommends the preparation of several subsidiary documents to provide more detailed guidance on specific elements, such as a Conservation Planning Strategy, Management Plan and Interpretation Plan.

The Plan recommendations have been reviewed internally and a high level assessment of the operation and outcomes being achieved has been undertaken, with the following conclusions:

1. The policy recommendations remain relevant and appropriate.
2. The Burra Charter has been updated since the preparation of the document, making some of the detailed references to its wording out of date. The modifications do not, however, affect the direction or principles underpinning it, and so do not necessitate review of these components.
3. The conservation works recommended have been partially undertaken, with remaining lower priority works listed on the City's capital works program for future years, based on priority.
4. The day to day management and maintenance of the reserve is generally appropriately coordinated, with a high level of internal awareness of the Conservation Plan. Extension of some management principles relating to public use of the reserve into Local Laws may assist in implementation, and so should be considered. A recent example of this raised as a concern with the City relates to the flying of drones for recreation from the reserve. This is being considered as part of the Property Local Law review.
5. New proposals on the reserve are rare and so have been dealt with individually in the context of the policy direction set by the Plan. A recent experience has, however, highlighted the desirability of making the recommendations and procedures in relation to the installation of new memorials more explicit.

Recommendations to address items 4 and 5 are consequently made. No further changes to the Plan are considered necessary at this time.

Whilst best read in context, the recommendations of the plan and a brief summary of their status is provided in attachment 1.

Advocacy in relation to appropriate funding support to maintain and celebrate the City's heritage assets may assist in advancing funding-dependent recommendations (including the completion of conservation and improved interpretation works) in the future.

Preparation of a Management Plan to coordinate activities, whilst desirable, is not considered a sufficiently high priority at this time to justify the allocation of substantial resources towards it, given the generally successful coordination of management being achieved. Priority is instead being given to the review of the West End Conservation Area policy, the conduct of an audit of the city's heritage buildings, an update to the Victoria Hall Conservation Plan (ahead of its sale), and the assessment of development applications and provision of advice to property owners.

FINANCIAL IMPLICATIONS

Review of the Conservation Plan has not been identified as a priority and has therefore not been listed for budget consideration. Review of the Plan has consequently been undertaken in house. Budget for works recommended by the Plan are prioritised against other projects through the City's budgetary processes.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil. Consultation with the Heritage Council and RSL on the recommendations of this review is recommended.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM PC1901-11 **(Officer's recommendation)**

Moved: Cr Jon Strachan

Seconded: Cr Adin Lang

That Council:

- 1. Note the findings of the internal review of the Monument Hill Memorial Reserve Conservation Plan.**
- 2. Initiate a process to update the relevant sections (principally section 10) of the Monument Hill Memorial Reserve Conservation Plan to more explicitly define how requests for the installation of new memorials will be considered. As part of this process the City is to consult the Heritage Council, the Returned and Services League state and local branches, and the Arts Centre and Gibson Park Precinct Groups on any recommended modifications.**
- 3. Consider the matter of appropriate informal recreational activities on the reserve to align with its vested purpose and the recommendations of the Conservation Plan during the review of the Property Local Law.**

Carried: 6/0

**Cr Jon Strachan, Cr Ingrid Waltham,
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

11.2 Finance, Policy, Operations and Legislation Committee 23 January 2019

FPOL1901-3 SUBMISSION TO PARLIAMENTARY INQUIRY ON SHORT STAY ACCOMMODATION

Meeting Date: 23 January 2019
Responsible Officer: Director Planning & Strategic Projects
Decision Making Authority: Council
Agenda Attachments: Nil

SUMMARY

The Economics and Industry Standing Committee of the Legislative Assembly of the Parliament of Western Australia is conducting an inquiry into matters relating to the regulation of short-stay accommodation in WA. The Committee is inviting submissions on the matters covered by the inquiry, to be made by 25 January 2019.

Given the significant role played by short-stay accommodation in supporting Fremantle's visitor economy, it is recommended that the City of Fremantle makes a submission. This report sets out the content of a recommended submission by the City for Council's consideration and approval.

BACKGROUND

The Economics and Industry Standing Committee of the Legislative Assembly of the Parliament of Western Australia is conducting an inquiry into matters relating to the regulation of short-stay accommodation in WA, with particular reference to:

1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities.
2. The changing market and social dynamics in the short-stay accommodation sector.
3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms.
4. Approaches within Australian and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The Committee will report to the House by 27 June 2019, and to assist its inquiry it is inviting submissions on matters within the above terms of reference to be made by 25 January 2019.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

CONSULTATION

None applicable. The purpose of the report is to recommend a submission by the City in response to consultation being undertaken by the Economics and Industry Standing Committee.

OFFICER COMMENT

Given the significant role played by short-stay accommodation in supporting Fremantle's visitor economy, and the proactive approach taken by the City in recent years in managing certain forms of accommodation through the City of Fremantle Short Stay Accommodation Local Law, it is considered that the City can make a useful contribution to this parliamentary inquiry. The remainder of this report sets out the content of a recommended submission by the City for Council's consideration and approval. The structure of the submission is based on the four key issues identified in the terms of reference for the inquiry.

The forms and regulatory status of short-stay accommodation providers in WA, including existing powers available to local government authorities.

a) Short-stay accommodation is not new, but some business models are.

Various forms of short-stay accommodation, principally servicing tourists or business visitors, have existed across WA for many years. These include hotels, motels, backpackers/hostel style accommodation, serviced self-catering apartments in purpose-built developments, caravans/park homes/chalets on licensed Caravan Parks, and accommodation offered within residential dwellings either with or without the service of breakfast or other meals.

Most of these forms of accommodation are easily recognised, and already appropriately regulated for at a state and/or local government level. Provisions to assess and regulate the land use impacts associated with the development and use of buildings purposely developed for short-stay use are, in the view of the City of Fremantle, already adequately provided for through the *Planning and Development Act 2005* and local planning schemes prepared and administered under that Act. The model provisions for local planning schemes contained in Schedule 1 to the *Planning and Development (Local Planning Schemes) Regulations 2015* provide consistent categories for the zoning of land, and definitions of land uses, to be applied in individual local planning schemes across WA.

The regulation of building, health, fire and other safety matters, and consumer protection issues associated with short-stay accommodation are also well established through existing state legislation and the City of Fremantle considers adequate inspection and compliance powers are available at state and local level to administer these statutory requirements.

The City considers the primary issue that the Standing Committee's inquiry should focus on is the consequences - both positive and negative - of the use and management as short-stay accommodation of dwellings primarily intended for long-term residential occupation. Although this type of accommodation has existed to some degree for many years (e.g. traditional 'bed and breakfast' establishments), the rapid growth in recent years of online booking platforms aided by disruptive technologies has led to a major increase in the popularity of both providing and staying in conventional dwellings. This has tended to blur the boundary between traditional commercial operators/businesses and the emerging market typified by Airbnb members. This blurring can cause a number of tensions, particularly because a significant proportion of the accommodation offered for rental on Airbnb and similar online platforms is located in predominantly residential areas not traditionally associated with the supply of short-stay, tourist-orientated accommodation.

The City took a proactive approach to addressing this issue ten years ago. Although this pre-dated the major growth in 'Airbnb-type' accommodation offerings and booking technology, the City considers its approach has stood the test of time well and can offer a useful case study to the inquiry that could inform recommendations on a suitable framework for wider application.

b) City of Fremantle's approach to local regulation of short-stay accommodation.

In 2007-08 the City considered a number of options for dealing with the regulation of short stay accommodation in the form of dwellings used predominantly for that purpose, generally involving the owner/proprietor residing in another property.

The City concluded that it is difficult to satisfactorily deal with such uses through the planning development approval process, because rather than involving assessment of physical aspects of a development which can be objectively assessed (e.g. building design, number of parking spaces, etc.) the use of a dwelling which might otherwise be occupied as a main residence by an owner or long-term tenant as short stay accommodation raises more subjective issues of impacts that *may* occur, but do not occur *of necessity in every case*. Impacts from such use (in terms of potential nuisance to neighbours from noise disturbance, etc.) are more dependent on the manner in which the property is managed than on physical attributes of the use which are really no different to those involved with long term residential occupation of the same building.

The difficulty with attempting to assess impacts such as noise disturbance from comings and goings or social activities by short stay occupants of dwellings through the planning system is that they may equally apply to any long-term household which, through the lifestyle of its occupants, may create local nuisance to neighbours without any opportunity for control through the development approval process. Furthermore, planning enforcement is made difficult by the challenge of clearly distinguishing between short-term and long-term occupancy of a dwelling.

For these reasons, the City decided to adopt an approach of exempting the land use of short-stay accommodation in the form of occupation of single, grouped or multiple dwellings (where occupied by 6 or less people) from requiring development approval in all zones under the Local Planning Scheme. However, in parallel the City adopted a Short Stay Accommodation Local Law under the provisions of the *Local Government Act 1995*.

The City's reason for adopting this approach was based on evidence that the primary concerns of the local community about short stay accommodation in residential locations related to matters of adequate management of such accommodation and guest behaviour, rather than the use of the property per se. As explained above, the City considered that these issues could not be effectively addressed through the statutory planning process, but could fall within the scope of matters that may legitimately be included in a Local Law made under section 3.5(1) of the *Local Government Act 1995*.

In 2009 the Joint Standing Committee on Delegated Legislation considered, and accepted, the City's proposition that the City of Fremantle Short Stay Accommodation Local Law 2008 was within the City's lawmaking powers under the *Local Government Act 1995* and is not inconsistent with the *Planning and Development Act 2005*.

In summary, the City of Fremantle Short Stay Accommodation Local Law makes the following provisions:

- The proprietor of a dwelling intended to be used as short-stay accommodation must register the dwelling with the City, and must not use the property for such purposes without having been issued a certificate of registration by the City.
- A certificate of registration will not permit more than 6 persons to occupy a dwelling for short-stay accommodation purposes.
- The following conditions apply to all certificates of registration:
 - Each booking must be for a minimum stay of 2 consecutive nights.
 - A minimum of 1 on-site car parking space must be available for the exclusive use of occupants.
 - The manager of the short stay accommodation must be contactable, using contact details provided to the City, at any time of the day or night and the manager must respond, within 12 hours, to any contact made relating to the accommodation.
 - The proprietor must promptly inform the CEO of the City of any change that would affect the currency of the details of the registration.
- A breach of the local law is an offence punishable by a penalty of \$4,000 or modified penalty of \$400.

Since the local law took effect in March 2009, the City has found it to be a generally effective mechanism to regulate the use of dwellings for short-stay accommodation purposes. In particular, the requirements for registration of short-stay dwellings and conditions of registration requiring a minimum stay of 2 consecutive nights and a nominated manager to be contactable by neighbours or any other person on a '24/7' basis have proved very effective in minimising detrimental impacts such as so-called 'party house' one-night bookings by large groups.

Since the local law came into effect, the City has averaged less than 5 complaints per year regarding the operation of registered short-stay dwellings or the operation of alleged unregistered short stay accommodation. As of 1 December 2018, 222 properties within the City of Fremantle have current certificates of registration for use as short-stay accommodation. In August 2017 the City conducted a cross-check of properties registered for short-stay use against properties within the City of Fremantle being advertised for rental as short-stay accommodation on online booking platforms. This did not reveal any significant disparity between the number of properties advertised for rent on platforms such as Airbnb and the number of properties registered under the City's local law. In fact, the number of registered properties exceeded the number being advertised at the time of the check.

The City considers these statistics indicate a high level of voluntary compliance with the local law by short-stay accommodation operators, and a regulatory approach which balances the interests of accommodation operators, the amenity of neighbours and the resource capacity of the local government in a proportionate manner.

c) Suggested guiding principles for a regulatory framework

Based on its experience with the approach described in b) above, the City suggests that any recommendations the Standing Committee might consider making about regional or state-wide approaches to regulation of short-stay accommodation should be based on the following principles:

- A balanced and practical approach. Clear rules are needed regarding what type of approval is required, and in what circumstances, but at the same time local government does not have the capacity or resources to administer an overly burdensome regulatory framework.
- Flexibility. Consistency of definitions and regulatory approaches across different local government areas will assist all stakeholders, but a regulatory framework needs to be flexible enough to adapt to the local situation given the likelihood of significant variations in the nature, extent and impacts of short-stay accommodation in different locations across both metropolitan and regional WA.
- Simplicity and transparency. It is in the best interests of accommodation providers, the wider community, and regulatory agencies (especially local governments) to provide clear, simple approval and complaint resolution pathways which do not involve excessive 'red tape', are proportionate to the relatively low impact nature of such accommodation, and do not divert local government attention and resources away from dealing with issues of greater strategic significance.
- Blended regulation. A combination of proportionate government regulation and industry self-regulation by accommodation providers and booking platforms/agencies is a preferable approach.

The changing market and social dynamics in the short-stay accommodation sector.

The last decade has seen significant competitive pressures placed on a number of industries as a result of digital disruption. The introduction of Uber rideshare services has changed the way consumers procure transport, which has impacted market share for traditional taxi services. Similar trends have been seen within the short-stay accommodation sector with the introduction of AirBnB room share based services. Technology has been at the centre of the success of both of these examples, with consumers now able to book competitively priced accommodation or transport at the touch of a button via mobile applications.

Whilst technology has been an enabler for this kind of change, there has also been a shift towards a sharing economy. With the aid of technology consumers are now prepared to step outside of the realm of traditional hotel/B&B type models and start staying in people's homes with the primary drivers being affordability, choice and unique experiences. AirBnB users are able to choose anything from a luxury penthouse, a standard residential apartment, a cabin in a river boat or even a tree house in the forest.

The affordability, choice and uniqueness that models like AirBnB offer consumers adds significantly to a destinations ability to attract visitors, as this increase in supply and choice can help drive demand across a broader range of potential visitors.

Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms.

Whilst the emergence of new technology driven business models in the short stay accommodation sector have helped to drive choice and affordability, the ease at which short-stay accommodation suppliers have been able to engage with platforms such as AirBnB, Expedia and Booking.com has highlighted some concerns around the ability to regulate these operators both from a safety and a commercial land use perspective.

In the absence of a consistent regulatory framework, there is risk of room share and AirBnB providers not meeting health and safety requirements that established commercial accommodation operators would normally be required to adhere to. This has also raised questions around the ability to audit and regulate smaller room share based operators given the number and scale of listings.

The Hotel industry has also been vocal in identifying an 'uneven playing field'. This is primarily due room share based models not being subjected to the usual commercial overheads that hotels are, therefore enabling room share operators to provide significantly cheaper accommodation than hotels.

The City of Fremantle has responded to these issues by introducing a differential rate on registered short stay properties from 1 July 2018.

Approaches within Australian and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The City of Fremantle is aware of the following examples of approaches adopted under other jurisdictions, which it considers are relevant to the scope of the inquiry.

In New South Wales, an inquiry by the NSW Parliament's Legislative Assembly Committee on Environment and Planning led to publication of an options paper on short-term holiday letting by the NSW Department of Planning and Environment in 2017. Following the options paper, in June 2018 the NSW Government announced a whole-of-government framework for short-stay accommodation featuring the following key elements:

- Short-stay letting of residential properties is exempt from requiring planning approval whether the host/owner is present at the property or not, but for properties within Greater Sydney if the host is not present there is a 180 day per year limit on short-term letting.
- A mandatory Code of Conduct for short-stay accommodation operators and online booking platforms covering management issues such as noise and dealing with disruptive guests.
- Provisions for strata property management bodies to adopt strata by-laws prohibiting short-stay letting if the unit owner does not live in the property being let out.
- Recognition of the significant contribution short-stay accommodation booked through online platforms such as Airbnb makes to the Australian economy.

International examples:

San Francisco – local city ordinance (local law) introduced in 2015. This allows permanent residents of San Francisco to register to be a short-term rental host of a residential property which they own and occupy themselves for at least 275 nights per year. Renting out of the property when the host is not in occupation is limited to 90 nights per year. Registration does not override any strata property by-law that may prohibit short-term rental of a dwelling in a multi-unit development. The City of San Francisco local government has an 'Office of Short Term Rentals' which administers and enforces the local law.

Vancouver – City of Vancouver local law came into effect on 1 April 2018 requiring property owners intending to let a property for short stay accommodation to obtain a Short Term Rental Accommodation licence from the City. Only properties which are the principal residence of the owner (defined as where they spend over 180 days per year) may be licensed. 'Good neighbour' rules require licence holders to take responsibility for guests conforming with noise and parking management protocols.

London – short term rental of an entire residential property without planning approval limited to 90 days per year.

Many major European cities including Paris, Berlin, Madrid and Barcelona operate similar controls (with variations) that require properties used as short stay accommodation to be registered as such, and to be limited in use for a maximum number of nights per year (varied, but generally 120 nights per year or less) and/or to be limited to properties which are the owners' own principal place of residence.

The City of Fremantle offers the following observations in relation to these examples.

- A common theme of approaches to regulation is the use of a short stay accommodation registration or licensing system, with an onus on property owners/operators to register and comply with basic provisions relating to property use and responsible management. The approach already applied by the City of Fremantle through its Short Stay Accommodation Local Law is consistent with this trend.
- Major cities which have introduced relatively strict controls over short stay accommodation (particularly controls which limit the maximum number of nights per year accommodation may be let for) are destinations which experience mass tourism on a scale far in excess of that occurring in WA currently or within the foreseeable future. By way of comparison, according to Tourism WA statistics in the year ending 30 June 2018 WA received a total of approximately 2.5 million interstate and international visitors, compared to 15.5 million in NSW (mostly visiting Sydney) in the same period. In 2017, measuring international visitors alone, Berlin received 5.1 million, Madrid 5.5 million, Barcelona 8.9 million and Paris 16.1 million (source: Mastercard 2017 Global Destination Cities Index).
- In some of these overseas cities, there is evidence of distortion of local housing markets (particularly the supply and cost of long-term rental housing for local residents) caused by high concentrations of properties, including entire apartment blocks in some instances, in the most popular tourist localities being turned over to entirely short-stay accommodation. To a lesser degree this has also occurred in limited parts of Sydney and Melbourne, according to a recently published study by the Australian Housing and Urban Research Institute (*Technological disruption in private housing markets: the case of Airbnb*, published November 2018). Measures to restrict the availability of short-stay accommodation in some of the above mentioned cities has, at least in part, been justified as a response to effects on local housing markets. However, the City of Fremantle is not aware of any clear evidence that trends in short stay accommodation supply and demand are causing similar impacts within WA to any significant degree, and therefore it considers that mechanisms such as limiting the maximum number of nights in a year a property may be offered for rent on a short stay basis are not warranted, given the negative impact they would have on the availability of tourist accommodation and the practical difficulties and resource implications they would present in terms of compliance monitoring.

Conclusion

It is recommended that a submission be made by the City based on the contents of the Officer Comment section above. The deadline for submissions is 25 January, prior to the date of the January Ordinary Council Meeting on 30 January. Accordingly it is proposed to lodge the submission immediately after consideration of the item by FPOL Committee, and the Standing Committee will be advised that any additional or amended comments arising from consideration of the item by council on 30 January will be submitted immediately following the council meeting.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1901-3 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Endorse the submission by the Chief Executive Officer to the Legislative Assembly of WA's Economics and Industry Standing Committee inquiry into Short-Stay Accommodation, based on the contents of the report on the matter included in the agenda of the Finance, Policy, Operations and Legislation Committee meeting held on 23 January 2019.**

Carried enbloc: 7/0

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

FPOL1901-4 ADOPTION OF PROPOSED ADVOCACY POLICY

Meeting Date: 23 January 2019
Responsible Officer: Manager Communications and Media
Decision Making Authority: Council
Agenda Attachments: Advocacy Policy

SUMMARY

This report introduces the City of Fremantle’s Advocacy Policy and outlines the process the City will undertake to determine and act on its advocacy priorities.

This report recommends that Council:

Adopt the Advocacy Policy to assist Council to prioritise progress and evaluate the City’s advocacy program.

BACKGROUND

The City of Fremantle has a long and proud history of strong and robust advocacy, and this policy and associated activities are designed to provide further strategic direction and support.

Advocacy is the process of influencing others to create change. For the City of Fremantle, advocacy is primarily aimed at State and Federal Governments for projects, funding, services and infrastructure outside our own capacity or control.

The City advocates on behalf of the community on a wide range of issues, initiatives and services to achieve our vision of creating a destination city.

With Fremantle undergoing significant transformational change, it is more important than ever that the City manages the needs of its community proactively. For many key infrastructure and social projects, State and/or Federal Government funding and support is necessary to drive change and improvement.

This Advocacy policy is designed to provide a framework to plan and deliver advocacy activities to progress identified priorities of Council that will contribute to the City of Fremantle consolidating its position as Perth’s second city.

A key component of the policy is the internal reference group, chaired by the Chief Executive Officer and including the Mayor, Deputy Mayor and 2–3 Elected Members. This group will meet regularly to consider the City’s advocacy priorities, discuss progress against objectives and provide feedback on operational actions and initiatives on Council’s behalf.

The core advocacy program is formed from positions adopted by Council with City officers producing promotional materials – media statements, fact sheets and other collateral – to support and strengthen the City’s efforts to gain support from key stakeholders including State and Federal Government.

Activities currently identified for the City's advocacy program include (but are not limited to) the following objectives:

- improving public transport.
- furthering Fremantle's position as a tourism gateway.
- creating local jobs around a seven-day per week economy.
- connectivity – roads, rail/light rail, traffic bridge and bicycles.
- investment in Fremantle.

FINANCIAL IMPLICATIONS

Funding will be set aside in the City's operational budget to enable development of base materials to support advocacy efforts including, but not limited to, fact sheets, media statements, publications and photography/videography.

City officers' time will be allocated within existing resourcing to support core priorities as agreed by the CEO and advocacy working group.

Any advocacy activities that involve a greater level of resourcing/budget (i.e. major campaigns, community activations etc) will be referred to Council for direction.

LEGAL IMPLICATIONS

Nil

CONSULTATION

The City recognises that when addressing advocacy issues, we will increase our likelihood of success by working in collaboration with other organisations with similar aims. As such, to give our advocacy efforts the best chance of success, we will seek to position ourselves, where possible, in close partnership or alliance with appropriate organisations and bodies.

The City will keep the community informed on our advocacy activities including updates on issues, actions and outcomes.

OFFICER COMMENT

The City of Fremantle 2015–25 Strategic Community Plan is the overarching document that sets out the Council vision for achieving the key priorities and commitments on issues that matter to our community.

The Freo 2029 Transformational Moves document was prepared to support the Fremantle Activity Centre Structure Plan and illustrates how five key 'moves' will help to rejuvenate and revitalise the city as it approaches its 200th birthday.

Both the strategic community plan and the Freo 2029 Transformational Moves document are products of a major community visioning project conducted during 2013–14 that set the blueprint for Fremantle's future growth and direction.

This Advocacy Policy and associated advocacy positions and actions/initiatives are built from the issues and foundations of the Strategic Community Plan and reinforced by Freo 2029 Transformational Moves. The Advocacy Policy will be a further catalyst for defining the themes and priorities for how the City of Fremantle uses its voice on behalf of residents.

Advocacy focuses on what needs to be done to influence other stakeholders or parties that have an authority or significant influence on whether the City can achieve its aspirations and vision.

Our advocacy positions have been developed via a framework informed by our key strategic documents. Successful advocacy will result, or contribute to one, or a combination of the following:

- a change in government legislation, policy or practices, to the overall benefit of residents, the environment and/or local business.
- committed investment into/provision of local infrastructure and/or services by sources other than the City of Fremantle.
- funding for the City of Fremantle to deliver or implement services, projects and initiatives.
- promotion of an issue or information to key decision makers and other levels of government to influence positive change.
- promotion of, or raised awareness of, an issue or information to facilitate positive change in community behaviours or attitudes.

Successful advocacy outcomes ultimately result in a better quality of life for both existing and future residents.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1901-4 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Adopt the Advocacy Policy (included below) to assist Council to prioritise, progress and evaluate the City's advocacy program.**

Advocacy Policy

Policy scope

To provide direction for the City of Fremantle's advocacy initiatives, to outline roles and responsibilities and to support the Mayor and Elected Members, the Chief Executive Officer and City officers in their efforts to achieve positive changes to public policy or resourcing for the local community.

This policy applies to Council and City officers when planning and delivering advocacy initiatives and deciding how the City of Fremantle resources its efforts.

Elected Members play a key role in the development and maintenance of political relationships to support the City's strategic priorities and advocacy efforts.

City officers support the development and maintenance of the City's advocacy program and assist to determine priorities and approach.

Policy statement

Advocacy is the process of influencing others to create change. For the City of Fremantle, advocacy is primarily aimed at State and Federal governments for projects, funding, services and infrastructure outside our own capacity or control.

The City is committed to advocating on behalf of the community on a wide range of issues, initiatives and services to improve the quality of life for our residents and achieve our vision of creating a destination city.

Advocacy can take the form of making a submission, meeting with decision makers, collaboration with other councils and peak bodies, consultation, media and communications strategies and public campaigns.

The City of Fremantle 2015–25 Strategic Community Plan is the overarching document that sets out the Council vision for achieving the key priorities and commitments on issues that matter to our community.

This Advocacy policy, and associated advocacy positions and actions/initiatives, is built from the issues and foundations of the Strategic Community Plan and reinforced by the City's Freo 2029 Transformational Moves blueprint. The Advocacy policy will be a further catalyst for defining the themes and priorities for how the City of Fremantle uses its voice on behalf of residents.

Implementation

Advocacy reference group

To assist the City of Fremantle in its advocacy efforts, an internal reference group will act as a link between Council and City officers to ensure the City of Fremantle's advocacy priorities are supported at both a strategic and operational level.

The reference group will meet regularly, with its primary purpose to:

- advise the CEO on advocacy priorities
- assist the CEO to review and approve materials supporting and promoting advocacy efforts and
- provide a forum for reporting on progress.

Advocacy program

Advocacy positions will be established according to two main categories:

- core and
- campaign.

Core advocacy positions are those that align with an existing position of Council and its advocacy principles (as outlined in this policy) and can be resourced and advanced within operational budget.

For core advocacy, the City will prepare position statements, develop support materials, identify key stakeholders and possible funding opportunities, establish and maintain relationships with other levels of government/agencies and facilitate opportunities to advance these positions.

Campaign advocacy positions are those that sit outside of existing resourcing or budget requirements and/or require a further commitment by Council. These are where the nature of the project requires complex technical materials, extensive community engagement or further detailed research and analysis.

While the nature of advocacy requires a fluid and agile approach to capitalise on opportunities that arise, the reference group will refer advocacy positions that are above and beyond core activities to Council for direction.

Advocacy principles

The following principles reinforce the City of Fremantle's approach to advocacy:

Representative of local need – actions will be based upon policy and strategic positions adopted by Council, established via an evidence base either developed by Council or sourced from other agencies.

Leadership – the City will lead through advocacy on behalf of our community on key issues to protect and enhance the City of Fremantle, with an emphasis placed on working with advocating to State and Federal Governments.

Transparency – the City will be open and transparent in our advocacy objectives, activities and priorities.

Partnership and alliances – the City recognises that successful advocacy will depend on working in collaboration with other agencies and organisations with similar aims. As

such, we will look to partner on issues of joint importance and concern with a variety of local, state and national stakeholders.

Outcome focused – the City will seek to position its advocacy as providing solutions to problems, issues or concerns through the development of options that are proactive and innovative.

Relationships with other levels of government

Government at all levels – State, Federal and Local – has the common objective of enhancing the wellbeing of communities. Given we rely on funding and support from both levels of government, the City recognises the importance of maintaining strong relationships with all sides of politics. As such, the City will ensure that it develops and maintains regular engagement with other levels of government, including Ministers, local members and department officials.

Monitoring and evaluation

The City will review and confirm advocacy themes and priorities through:

- meetings of the advocacy reference group
- ongoing community engagement
- continuing work in the development of new and review of existing policy and strategy that guides service delivery.

Resources and budget

Funding will be set aside in the City's operational budget to enable development of base materials to support advocacy efforts including, but not limited to, fact sheets, media statements, publications and photography/videography.

City officers' time will be allocated within existing resourcing to support core priorities as agreed by the CEO and advocacy reference group.

Any advocacy activities that involve a greater level of resourcing/budget (i.e. major campaigns, community activations etc) will be referred to Council for direction.

Definitions and abbreviations

Nil.

Carried enbloc: 7/0
Cr Ingrid Waltham, Cr Hannah Fitzhardinge, Cr Doug Thompson,
Cr Adin Lang, Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

FPOL1901-5 FREMANTLE FOUNDATION FUNDING

Meeting Date: 23 January 2019
Responsible Officer: Director Community Development
Decision Making Authority: Council
Agenda Attachments: Fremantle Foundation Partnership for Support

SUMMARY

This report seeks council's consideration of the release of funding to the Fremantle Foundation that was quarantined in the adopted 2018/2019 budget for that purpose. Requirement for the release of funding to the Fremantle Foundation was that the Foundation presented to council a satisfactory proposal for the financial contribution.

This report recommends that the amount of \$40 000 in council's adopted 2018/19 budget for allocation to Fremantle Foundation be approved for release.

BACKGROUND

Council has previously provided financial support to the Fremantle Foundation, in particular to support their research project that produced the "Vital Signs" report providing a snapshot of the vital statistics for Fremantle.

Fremantle Foundation again requested consideration by council of funding in the draft 2018/2019 budget for a contribution of \$40 000. In adopting the 2018/2019 budget council quarantined the contribution to the Fremantle Foundation subject to receipt of a satisfactory proposal in regard to that funding.

Fremantle Foundation CEO and Board members presented a proposal to Elected Members in December 2018 regarding support to the Foundation on the basis of the benefit to the Fremantle community. The specific nature and details of the proposal are contained in the attached document titled "Partnership for Support" provided by the Foundation.

The proposal outlines a request for the City of Fremantle to provide partnership support for the Foundation's core operations as a means of assisting the Foundation to grow its capacity to "provide real impact in the community".

The proposal also highlights the history of the Fremantle Foundation, having now been in existence for eight years and having distributed \$1.6 million over that time to the Fremantle, Perth and WA community. As an example, since 2013 the Impact100 Fremantle initiative has provided over \$700 000 to charities to deliver support in the local community, with PCYC in Hilton most recently awarded this grant.

In its proposal the Fremantle Foundation demonstrated alignment with council's Strategic Community Plan and that any investment in the Foundation's core operating costs results in exponential funds generated for distribution in support of the community.

Fremantle Foundation is proposing an initial one year partnership with an associated financial contribution by council of \$40 000. Additionally, the proposal by the Foundation seeks a further two year agreement for financial support.

As outlined in the Fremantle Foundation's presentation "Partnership for Support":

"Further benefits to the City of Fremantle from having a thriving Fremantle Foundation include:

- Increased financial support for Fremantle community, reducing the ongoing need for external (outside of Fremantle) funding.
- Cost savings through resource sharing (via projects such as Fremantle's Vital Signs).
- Leveraging donor opportunities that may not otherwise be possible, increasing the community investment in the City of Fremantle (such as 20 Lives 20 Homes).

Throughout Australia's 38 community foundations there are strong examples of local councils supporting their growth and development.

With the Fremantle Foundation 10 year anniversary approaching in late 2020, a partnership with the City of Fremantle will help us to take an important step forward in our growth and development."

FINANCIAL IMPLICATIONS

An amount of \$40 000 is included in the 2018/2019 adopted budget for this purpose.

Consideration of financial contribution by council over the next two financial years will require consideration as part of council's annual budget process. Subject to council's resolution on this matter, officers will include an amount for consideration in the draft budget of \$40 000 in the 2019/2020 and 2020/2021 financial years for contribution to the Fremantle Foundation.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Officers have communicated and liaised with representatives of the Fremantle Foundation in regard to preparation and scheduling of their proposal to council for a financial contribution.

OFFICER COMMENT

Officers recommend that the proposal by the Fremantle Foundation for a financial contribution of \$40 000 in 2018/2019 in support of their work on behalf of the Fremantle community be supported by council.

Officers are also aware of the benefits more broadly of a local Foundation and that this model of local government partnering with such entities, whilst quite common on the East coast, is a demonstration of City of Fremantle leading the way in WA to seek new and innovative means of supporting its community.

In addition to the benefits to the community outlined in the proposal by the Fremantle Foundation, officers are also confident that the ongoing work of the Foundation provides research and data that can be accessed and used by council to assist its own planning and strategic decision making in regard to the community.

Subject to approval of this proposal officers will work with the Fremantle Foundation to further build the working relationship, including ensuring appropriate acknowledgment of the City's financial contribution.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1901-5 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Approves the release of the contribution to the Fremantle Foundation of \$40,000 quarantined for that purpose in the adopted 2018/2019 budget as a result of receipt by council of a satisfactory proposal by the Foundation.**
- 2. Approves the inclusion for consideration in future draft budgets in 2019/2020 and 2020/2021 of an amount of \$40,000 as a financial contribution forming a partnership with the Fremantle Foundation.**

Carried enbloc: 7/0

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

FPOL1901-6 DADAA LEASE - PORTION OF PRINCESS MAY PARK

Meeting Date: 12 December 2018
Responsible Officer: Manager Economic Development and Marketing
Decision Making Authority: Council
Agenda Attachments: Nil

SUMMARY

The City has a lease with DADAA Limited for the Old Boys School, 92 Adelaide Street, Fremantle.

DADAA are currently finalising their development application for the last stage of fit out, which will include air conditioning.. Due to heritage considerations, the air conditioning plant will need to be located on the side of the building which is outside the lease area. This requires the City of Fremantle to lease a 19.5m2 portion of Princess May Park to DADAA to facilitate the air conditioning plant.

This report recommends that Council approve a lease with DADAA Inc for a portion of Reserve 594 (Princess May Park) on the following terms;

1. Lease area: 19.5m2
2. Lease commencement date: 1 February 2019
3. Lease term: Eight years and eight months effective 1 February 2019 expiring 30 September 2027.
4. Further term: Ten years commencing 1 October 2027 expiring 30 September 2037.
5. Rent: peppercorn
6. Permitted use: Air condition plant and associated uses.
7. Condition precedent;
 - a) The lease will be subject to the lessee obtaining development approval for the installation of the air conditioning to 92 Adelaide Street, Fremantle.
 - b) The lease will be subject to approval by the Minister for Lands.
8. Special conditions;
 - a) The Leased area will be maintained solely by the Lessee.
 - b) All equipment installed in the leased area will be the sole responsibility of the lessee to service, maintenance and/or replace for the term of the lease.
 - c) At the termination of the lease, all equipment installed by the lessee will be removed by the lessee from the leased area unless otherwise agreed by the lessor.

BACKGROUND

Following the Council Resolution of 15 April 2015, the City called for proposals for tenants for the Old Boys School, 92 Adelaide Street Fremantle. 13 submissions were received and assessed by the selection panel. The application from DADAA Inc, in

partnership with Fremantle Foundation and the Department of Health, was assessed as the preferred proposal.

The City entered into a Lease with DADAA for the Old Boys School, 92 Adelaide Street, Fremantle for a term of eleven years effective 1 October 2016 and a further term of ten years effective 30 September 2027.

DADAA pay a rent of \$40,810.31 per annum plus GST with annual rent reviews occurring to Consumer Price Index and market reviews every five years.

The City completed restoration works on the building in early 2017. DADAA's proposed development application will include the installation of air conditioning and fit out to the gallery, media room, café and courtyard. The value of these works is estimated at \$1,300,000.

FINANCIAL IMPLICATIONS

As the new leased area can only be used in conjunction to the existing lease the rent for the 19.5m² will be a peppercorn arrangement.

LEGAL IMPLICATIONS

Princess May Park, including the three buildings that occupy the land is vested to the City under a Management Order from the Minister for Lands. The permitted use of the land is recorded as "preservation of heritage buildings, community purposes and parks, and that part the reserve comprising Lot 501 on deposited plan 76769 only, may also be used for commercial purposes". The final part of the description relates to Clancy's Fish Pub.

The City is entitled to lease or licence any portion of the land, for a total of 21 years, in line with the permitted use of the land and subject to Ministerial approval.

The lease will be drafted in line with the Local Government Act 1995 and Commercial Tenancy (Retail Shops) Agreements Act 1985.

The lease is subject to Ministerial for Lands approval as a requirement under the Management Order terms.

CONSULTATION

Nil

OFFICER COMMENT

DADAA provide multiple programs from the Old Boys School including;

- Inclusive cultural events access program
- Artist and cultural worker residency program
- Arts access program for school aged children
- Community studios and production facilities

- Academic research residency program and access library
- Community access band facilities and access program
- WA State Arts and Disability/Arts and Health and CACD administration centre
- Support, admin access and accommodation for emergent to small arts companies

Their remaining fit out will provide the opportunity for their remaining proposed programs and activation;

- Open access community print studio
- Digital access/production studio and app development program
- Community access cinema and outdoor screen facility
- Community access galleries
- Public café and courtyard with inclusive workforce
- Cultural facilities including captioning and audio description service

In conjunction with DADAA's use of the premises spaces are sublet for use by the Piano School, Fremantle Foundation and Circus WA. The building is also hired for use by individuals and groups and used for festivals (such as Fringe).

As opposed to varying DADAA's existing leased area it is recommended a separate lease is entered into for the 19.5m² with a lease term that runs in conjunction with the existing lease for 92 Adelaide Street, Fremantle.

The lease will be subject to development application approval (to be approved by the Heritage Council) and the permitted use of the lease is subject to approval by the Minister for Lands. Given these conditions will be condition precedents to the lease, it's appropriate it is a separate agreement to the current lease.

The permitted use of the lease will be for air conditioning plant and associated uses, with conditions included that all equipment is the responsibility of the lessee to maintain and/or replace for the term of the lease, and that all infrastructure installed by DADAA must be removed at the end of the lease unless otherwise agreed with the City.

The proposed location has been chosen to minimise visual impact and can be screened by products that are complimentary to the heritage building (details of which will be included in DADAA's development application). There will be no impact to existing vegetation or trees in this area.

Proposed leased area;



VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1901-6
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Approve a lease with DADAA Limited for a portion of Reserve 594 (Princess May Park) on the following terms;**
 - a) Lease area: 19.5m²**
 - b) Lease commencement date: 1 February 2019**
 - c) Lease term: Eight years and eight months effective 1 February 2019 expiring 30 September 2027.**
 - d) Further term: Ten years commencing 1 October 2027 expiring 30 September 2037.**
 - e) Rent: Peppercorn**
 - f) Permitted use: Air condition plant and associated uses.**
 - g) Condition precedent;**
 - i. The lease will be subject to the lessee obtaining development approval for the installation of the air conditioning to 92 Adelaide Street, Fremantle.**
 - ii. The lease will be subject to approval by the Minister for Lands.**
 - h) Special conditions;**
 - i. The Leased area will be maintained solely by the Lessee.**
 - ii. All equipment installed in the leased area will be the sole responsibility of the lessee to service, maintenance and/or replace for the term of the lease.**
 - iii. At the termination of the lease, all equipment installed by the lessee will be removed by the lessee from the leased area unless otherwise agreed by the lessor.**

Carried enbloc: 7/0

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

FPOL1901-7 LOCAL GOVERNMENT ACT REVIEW - COUNCIL SUBMISSION TO THE WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) DISCUSSION PAPER PHASE 2

Meeting Date: 23 January 2019
Responsible Officer: Manager Governance
Decision Making Authority: Council
Agenda Attachments: WALGA Advocacy positions Local Government Act Review – Phase 2
 Local Government Act Review - City of Fremantle consultation paper 2018 - Phase 2

SUMMARY

The purpose of this report is to formalise the City’s position in response to the Western Australia Local Government Association’s (WALGA’s) phase 2 discussion paper regarding the Minister for Local Government’s review of the *Local Government Act 1995*.

This report recommends that Council endorse the officers recommended response, to be submitted to WALGA, as a ‘Council endorsed submission’ before the deadline for submission on the 1 February 2019.

BACKGROUND

On 20 June 2017, the Minister for Local Government announced a review of the Local Government Act 1995. This is the first major review since the Act was introduced more than 20 years ago.

WALGA is conducting a comprehensive consultation process to provide Member Local Governments with as much opportunity as possible to contribute. This process will also assist WALGA to determine its advocacy position on whether proposed changes should be dealt with in Phase 1 or Phase 2.

While the process commenced in 2017, and the first phase amendments will be introduced to Parliament in late 2018/early 2019, the second phase of the review which includes preparing a new *Local Government Act* and the preparation of a Green Bill, which is scheduled to occur throughout 2019-20. This will comprise of a complete review of the *Local Government Act 1995* including policy development and consultation related to all areas of the Act together with a focus on the following subjects:

Agile	Smart	Inclusive
<ul style="list-style-type: none"> • Beneficial Enterprises • Financial Management • Rates 	<ul style="list-style-type: none"> • Administrative Efficiencies • Local Laws • Council Meetings • Interventions 	<ul style="list-style-type: none"> • Community Engagement • Integrated Planning and Reporting • Complaints Management • Elections

FINANCIAL IMPLICATIONS

There are no financial implications identified as a result of this report.

LEGAL IMPLICATIONS

There are no legal implications identified as a result of this report.

CONSULTATION

The consultation paper attached to this report was circulated to elected members seeking submissions in response to WALGA's discussion paper.

The grey text boxes contain WALGA's phase 2 recommendations, amended to reflect Council's existing position.

The green text boxes contain the previously adopted position of Council made at the Ordinary Council Meeting held on 27 September 2017 for information.

The orange text boxes contain submissions by elected members.

The content of the grey text boxes forms the officer recommendations to this report for consideration by Council.

OFFICER COMMENT

A Council endorsed response is needed by Friday 1 February 2019, to meet the WALGA prescribed deadline, so that an agenda item can be presented to the Zone Meetings leading up to the March 2019 State Council Meeting.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

1. Council supports:

1.1 the following general principles in response to the review of the *Local Government Act 1995*:

- a. Uphold the General Competence Principle currently embodied in the *Local Government Act 1995*.
- b. Provide for a flexible, principles-based legislative framework and
- c. Promote a size and scale compliance regime.

1.2 an amendment to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).

- 1.3 an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.
- 1.4 an amendment to regulation 30(3) of the *Local Government Act 1995*, to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.
- 1.5 that a review to remove the fees and charges from section 6.16 of the *Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services.
- 1.6 the deletion of section 6.20(2) of the *Local Government Act 1995*.
- 1.7 the review of section 6.28 of the *Local Government Act 1995* to examine the basis of rates.
- 1.8 the review of section 6.33 of the *Local Government Act 1995*, to be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.
- 1.9 the creation of an exemption under Regulation 4 of the *Local Government (Financial Management) Regulations* relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).
- 1.10 the review to remove fees and charges from section 6.61 of the *Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services
- 1.11 the amendment to the *Local Government Act 1995* to clarify that Independent Living Units should only be exempt from rates where they qualify under the *Commonwealth Aged Care Act 1997*;
- 1.12 Either:
 - a) To amend the charitable organisations section of the *Local Government Act 1995* to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or
 - b) To establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and
- 1.13 requests that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under section 6.26 of the *Local Government Act 1995*, be requested.

- 1.14 an amendment to rate equivalency payments made by LandCorp and other Government Trading Entities requiring them to be made to the relevant Local Governments instead of the State Government.
- 1.15 an amendment to section 6.56 of the *Local Government Act 1995* to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and service charges be recoverable and not be limited by reference to the 'cost of proceedings'.
- 1.16 resource projects covered by State Agreement Acts being liable for Local Government rates.
- 1.17 that section 3.53 of the *Local Government Act 1995* be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
- 1.18 the proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under schedule 2.1 of the *Local Government Act 1995*.
- 1.19 that schedule 2.1 clause 2(1)(d) of the *Local Government Act 1995* be amended so that the prescribed number of electors required to put forward a proposal for change be increased from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.
- 1.20 the amendment of schedule 2.2 clause 3(1) of the *Local Government Act 1995* so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.
- 1.21 an agreement between State and Local Government to facilitate the transfer of accrued leave entitlements for staff between the two sectors of Government.
- 1.22 an amendment to section 9.13 of the *Local Government Act 1995* to introduce a definition for 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.
- 1.23 the below amendments to the *Local Government Act 1995*:
 - a) Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the *Parliamentary Commissioner Act 1971*.
 - b) Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.
 - c) Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:

Abuse of process;

- Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;
- Unreasonably interfering with the operations of the Local Government in relation to complaint.

- 1.24 that section 5.28(1) (a) of the *Local Government Act 1995* be amended:
- a. so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and
 - b. to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.
- 1.25 an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.
- 1.26 an amendment to regulation 10 to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.
- 1.27 the amendment to the *Local Government (Administration) Regulations 1996* to consider allowing attendance at a meeting via technology from any location suitable to a Council, subject to local governments being provided with the ability to set ground rules in relation to the use of remote attendance by elected members and staff.
- 1.28 that suitable arrangements to determine a size and scale compliance regime should be prioritised.
- 1.29 that additional resources be provided to the Department of Local Government to ensure they are able to carry out this support function.
- 1.30 an amendment to sections 4.20 and 4.61 of the *Local Government Act 1995* to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections, providing that a pre-qualification outline be introduced to ensure the capacity to provide online voting and the quality of any service provided.
- 1.31 the Western Australian Local Government Association continuing to investigate online voting and other opportunities that may increase voter turnout.
- 1.32 an amendment to the *Local Government Act 1995* to require an Elected Member to take leave of absence when contesting a State or Federal election.
2. Council does not support:
- 2.1 the amendment to section 5.27 of *the Local Government Act 1995* so that Electors' General Meetings are not compulsory.

- 2.2 voting in Local Government elections remaining voluntary.
- 2.3 that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.
- 2.4 that elections should continue to be conducted utilising the first-past-the-post (FPTP) method of voting.

AMENDMENT 1

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

To amend the officer's recommendation, to add the parts shown in green and remove the parts shown in red strikethrough, as follows;

1. Council supports:

~~1.25 an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.~~

1.32 that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.

1.33 an amendment to section 54 of the Local Government (Financial Management) Regulations 1996 to include "renewable energy infrastructure" or similar as a prescribed service charge, under section 6.38(1) of the Act, to allow local governments to fund environmentally complementary initiatives on privately owned property.

2. Council does NOT support:

2.1 the amendment to section 5.27 of *the Local Government Act 1995* so that Electors' General Meetings are not compulsory.

2.2 voting in Local Government elections remaining voluntary.

~~2.3 that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.~~

2.3 that elections should continue to be conducted utilising the first-past-the-post (FPTP) method of voting as Fremantle council considers that preferential voting gives the most representative outcome for local government elections.

2.4 an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.

Amendment carried: 7/0

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

AMENDMENT 2

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

To amend the officer's recommendation, to delete part 2.1 shown in red strikethrough and move it to part 1.34 shown in green, as follows;

1. Council supports:

1.34 the amendment to section 5.27 of *the Local Government Act 1995* so that Electors' General Meetings are not compulsory.

2 Council does NOT support:

~~2.1 the amendment to section 5.27 of *the Local Government Act 1995* so that Electors' General Meetings are not compulsory.~~

Amendment carried: 4/3

For

Cr Doug Thompson, Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

Against

Cr Ingrid Waltham, Cr Hannah Fitzhardinge, Cr Adin Lang

Cr Hannah Fitzhardinge moved the officer's recommendation, as amended, to read as follows;

COMMITTEE RECOMMENDATION ITEM FPOL1901-7

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

1. Council supports:

1.1 the following general principles in response to the review of the *Local Government Act 1995*:

- a. Uphold the General Competence Principle currently embodied in the *Local Government Act 1995*.
- b. Provide for a flexible, principles-based legislative framework and
- c. Promote a size and scale compliance regime.

1.2 an amendment to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).

1.3 an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.

- 1.4 an amendment to regulation 30(3) of the *Local Government Act 1995*, to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.
- 1.5 that a review to remove the fees and charges from section 6.16 of the *Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services.
- 1.6 the deletion of section 6.20(2) of the *Local Government Act 1995*.
- 1.7 the review of section 6.28 of the *Local Government Act 1995* to examine the basis of rates.
- 1.8 the review of section 6.33 of the *Local Government Act 1995*, to be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.
- 1.9 the creation of an exemption under Regulation 4 of the *Local Government (Financial Management) Regulations* relating to AASB 124 'Related Party Transactions' of the Australian Accounting Standards (AAS).
- 1.10 the review to remove fees and charges from section 6.61 of *the Local Government Act 1995*, and allow Council to be empowered to set fees and charges for Local Government services
- 1.11 the amendment to the *Local Government Act 1995* to clarify that Independent Living Units should only be exempt from rates where they qualify under the *Commonwealth Aged Care Act 1997*;
- 1.12 Either:
 - c) To amend the charitable organisations section of the *Local Government Act 1995* to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations;
 - or
 - d) To establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and
- 1.13 requests that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under section 6.26 of the *Local Government Act 1995*, be requested.

- 1.14 an amendment to rate equivalency payments made by LandCorp and other Government Trading Entities requiring them to be made to the relevant Local Governments instead of the State Government.
- 1.15 an amendment to section 6.56 of the *Local Government Act 1995* to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and service charges be recoverable and not be limited by reference to the 'cost of proceedings'.
- 1.16 resource projects covered by State Agreement Acts being liable for Local Government rates.
- 1.17 that section 3.53 of the *Local Government Act 1995* be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.
- 1.18 the proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under schedule 2.1 of the *Local Government Act 1995*.
- 1.19 that schedule 2.1 clause 2(1)(d) of the *Local Government Act 1995* be amended so that the prescribed number of electors required to put forward a proposal for change be increased from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.
- 1.20 the amendment of schedule 2.2 clause 3(1) of the *Local Government Act 1995* so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.
- 1.21 an agreement between State and Local Government to facilitate the transfer of accrued leave entitlements for staff between the two sectors of Government.
- 1.22 an amendment to section 9.13 of the *Local Government Act 1995* to introduce a definition for 'responsible person' to enable Local Governments to administer and apply effective provisions associated with vehicle related offences.
- 1.23 the below amendments to the *Local Government Act 1995*:
 - d) Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the *Parliamentary Commissioner Act 1971*.
 - e) Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.

- f) Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:**
- Abuse of process;**
- Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;
 - Unreasonably interfering with the operations of the Local Government in relation to complaint.

1.24 that section 5.28(1) (a) of the *Local Government Act 1995* be amended:

- c. so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and**
- d. to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.**

1.25 an amendment to regulation 10 to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

1.26 the amendment to the *Local Government (Administration) Regulations 1996* to consider allowing attendance at a meeting via technology from any location suitable to a Council, subject to local governments being provided with the ability to set ground rules in relation to the use of remote attendance by elected members and staff.

1.27 that suitable arrangements to determine a size and scale compliance regime should be prioritised.

1.28 that additional resources be provided to the Department of Local Government to ensure they are able to carry out this support function.

1.29 an amendment to sections 4.20 and 4.61 of the *Local Government Act 1995* to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections, providing that a pre-qualification outline be introduced to ensure the capacity to provide online voting and the quality of any service provided.

1.30 the Western Australian Local Government Association continuing to investigate online voting and other opportunities that may increase voter turnout.

1.31 an amendment to the *Local Government Act 1995* to require an Elected Member to take leave of absence when contesting a State or Federal election.

1.32 that an individual local government should be able to determine whether their Mayor or President is elected by Council or by the community.

- 1.33** *an amendment to section 54 of the Local Government (Financial Management) Regulations 1996 to include “renewable energy infrastructure” or similar as a prescribed service charge, under section 6.38(1) of the Act, to allow local governments to fund environmentally complementary initiatives on privately owned property.*
- 1.34** *the amendment to section 5.27 of the Local Government Act 1995 so that Electors’ General Meetings are not compulsory.*

2. Council does NOT support:

- 2.1** voting in Local Government elections remaining voluntary.
- 2.2** that elections should continue to be conducted utilising the first-past-the-post (FPTP) method of voting as *Fremantle council considers that preferential voting gives the most representative outcome for local government elections.*
- 2.3** *an amendment to regulation 11 to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.*

Carried: 7/0

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

FPOL1901-8 METHOD FOR CONDUCTING THE 2019 LOCAL GOVERNMENT ELECTION AND OTHER POLLS

Meeting Date: 23 January 2019
Responsible Officer: Manager Governance
Decision Making Authority: Council
Agenda Attachments: Nil

SUMMARY

The purpose of this report is to seek Councils endorsement to declare that the Electoral Commissioner will conduct the 2019 elections as a full postal election.

This report recommends that Council:

1. **Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for:**
 - a. the conduct of the 2019 City of Fremantle ordinary election; and
 - b. the conduct of any other City of Fremantle elections or polls which may be required, up to but not including the 2021 ordinary election.
2. **Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995* that the method of conducting the following will be as postal elections:**
 - a. the 2019 City of Fremantle ordinary election; and
 - b. any other City of Fremantle elections or polls, which may be required, up to but not including the 2021 ordinary election.

BACKGROUND

At its meeting held 26 April 2017, Council declared the Western Australian Electoral Commission (WAEC) responsible for all elections in the City, and for the method of voting to be postal for the period 'up to but not including the 2019 election'.

The Western Australian Electoral Commissioner, David Kerslake, has written to the City offering to undertake the 2019 election as a full postal election. In order to accept the Commissioners offer, the Council is required to adopt a resolution, by absolute majority, declaring the Electoral Commissioner responsible for the conduct of the election by a postal ballot.

The recommendation provides for the WAEC to be responsible for the 2019 ordinary election and for any other election or poll that may arise prior to the 2021 ordinary election, this means that if any extraordinary vacancies should arise, the approvals are in place to proceed with an extraordinary election in the same format.

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

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

Since they were introduced in 1995, the number of local governments adopting postal elections has progressively increased. In 2013, 76 local governments held postal voting elections and in 2017, 85 local governments held postal voting elections.

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

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

FINANCIAL IMPLICATIONS

The Western Australian Electoral Commissioner has estimated the cost for the 2019 election, if conducted as a postal ballot, as \$105,000 including GST.

The estimate has been based on the following assumptions:

- 22,800 electors
- response rate of approximately 50%
- 0 vacancies
- the count to be conducted at the offices of the City of Fremantle
- appointment of a local Returning Officer
- regular Australia Post delivery service to apply for the lodgement of election packages.

This does not include the following costs:

- Additional non-statutory advertising.
- Any legal expenses other than those that are determined to be borne by the WAEC in a Court of Disputed Returns.
- One local government staff member to work in a polling place on election day, and
- Any additional postage rate increase by Australia Post.

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

Provision will be made during the 2019/2020 budget preparations.

LEGAL IMPLICATIONS

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

The election can be conducted as a:

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

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

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

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

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

CONSULTATION

Nil

OFFICER COMMENT

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

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

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

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

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1901-8 **(Officer's recommendation)**

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Declare, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for:

 - a. the conduct of the 2019 ordinary election; and
 - b. the conduct of any other elections or polls which may be required, up to but not including the 2021 ordinary election; and**
- 2. Decide, in accordance with section 4.61 (2) of the *Local Government Act 1995* that the method of conducting the following will be as postal elections:

 - a. the 2019 ordinary election; and
 - b. any other elections or polls, which may be required, up to but not including the 2021 ordinary election.**

Carried: 7/0

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

12. Reports and recommendations from officers

C1901-1 SUMMARY - MONTHLY FINANCIAL REPORTS - DECEMBER 2018

Meeting Date: 30 January 2019
Responsible Officer: Manager Finance
Decision Making Authority: Council
Agenda Attachments: Monthly Financial Report – 31 December 2018

SUMMARY







The Monthly Financial Report for the period ending 31 December 2018 has been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996.

This report provides an analysis of financial performance for December 2018 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.

BACKGROUND

The following table provides a high level summary of Council's year to date financial performance as at 31 December 2018.

Description	2018/19 YTD Budget	2018/19 YTD Actual	Variance Amount	Variance %	
	(A)	(B)	(C)=(B) – (A)	(D) =(C)/(A)	
OPERATING					
Revenue	\$60.64M	\$61.89M	\$1.25M	2.06%	
Expenses	(\$37.49M)	(\$36.72M)	\$0.77M	(2.05%)	
Operating Surplus/Deficit	\$23.15M	\$25.17M	\$2.02M	8.72%	
CAPITAL					
Revenue	\$8.28M	\$7.70M	(\$0.58M)	(6.97%)	
Expenses	(\$5.70M)	(\$4.87M)	\$0.83M	(14.60%)	
Overall Surplus/Deficit	\$26.39M	\$28.41M	\$2.02M	7.66%	

COMMENT

As detailed in the Statement of Comprehensive Income by Nature and Type operating income and expenses have mainly varied to the anticipated budget in the following categories:

Income	Variance	
Rates (including Annual Levy)	\$172,386	●
Fees and Charges	\$689,870	●
Operating Grants, Subsidies and Contributions	\$274,939	●
Other Revenue	\$93,628	●

Expenses	Variance	
Materials and Contracts	\$1,082,541	●
Employee Costs-Agency Labour	(\$330,937)	●
Utility Expense	\$104,101	●
Insurance Expense	(\$101,738)	●

MAJOR VARIANCE ANALYSIS

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 2018/2019 for reporting material variances as 10% or \$100,000, whichever is greater (Item C1806-3 refers Council meeting on 27 June 2018).

The following is an explanation of significant operating and capital variances identified in the Rate Setting Statement by Nature and Type:

Operating Revenue

Operating Grants, Subsidies and Contributions

YTD Budget	YTD Actual	Variance Amount \$	Variance %
1,179,834	1,454,773	274,939	23%

The variance is mainly due to the grants funds for following projects received ahead of anticipated budget:

- \$75,000 for P-11728 Program-FAC Revealed 2019. The total grants income for this program is \$250,000 with matching expenditure in this financial year. The required budget amendments will be addressed at mid-year budget review.
- \$91,727 for 100364 - Maintain road seals. This is related to the annual Main Road direct grants, which has been received. The budget will be adjusted at mid-year budget review.
- \$150,000 for P-10273 Purchase-FOGO bins. First payment due when supply contract signed, which was earlier than budgeted.

Operating Expenditure

Employee Cost – Agency Labour

YTD Budget	YTD Actual	Variance Amount \$	Variance %
133,248	464,185	(330,937)	(248%)

The variance is mainly due to hiring of agency labour being more than budgeted within Waste Collection Team (\$210k), Parks and Landscapes Team (\$46k) and Construction and Maintenance Team (\$47k). Agency staff has been utilised to replace vacant positions which is offset by savings in the staff establishment budget or cover a lost time injury. The additional budget required for the year will be addressed in the mid-year budget review.

Insurance

YTD Budget	YTD Actual	Variance Amount \$	Variance %
751,780	853,518	(101,738)	(14%)

The variance is mainly due to insurance credit received which was budgeted to offset expenditure rather than as an income budget as Other Revenue where the actual credit has been allocated. There is nil overall effect and this will be adjusted at mid-year budget review.

Capital Revenue

Capital Grants, Subsidies and Contributions

YTD Budget	YTD Actual	Variance Amount \$	Variance %
1,186,538	625,190	(561,348)	47%

The variance is mainly due to the anticipated grants funding not being received as expected in the budget for the following projects:

- \$200,000 for Project 10350 Construct Fremantle Park Sport and Community. This is a multi-year project. Full project spend will not be completed until approximately December 2019. Currently this project has been approved by council in November, awaiting conclusion of negotiation with preferred contractor. Contribution from DSR and clubs to be claimed at milestone stages throughout the project.
- \$124,841 for P-10329 Design and construct-Cantonment Hill. Project is experiencing delays for the approval of the signage content. Estimated construction commencement May 2019.
- \$120,000 for Project-11649 Design and construct-South Terrace Node 1. Claim can be made as soon as the accessibility tactiles have been installed. These are scheduled for the end of January 19.

- Road to Recovery grant (R2R) grant claim has been made in January 2019. Income should be received by February 2019.
 - \$53,200 for P-11751 Resurface R2R-Moran Ct.
 - \$32,000 for P-11754 Resurface R2R-Livingstone St.
 - \$24,669 for P-11750 Resurface R2R-McKenzie Rd.
 - \$24,510 for P-11752 Resurface R2R-John St.

- \$50,000 for P-10882 Design and construct-Stevens Reserve cricket nets. Grant to be received for relocation and upgrade of cricket training nets- Stevens Street Reserve. Additional scope items added by Fremantle District Cricket Club (FDCC), additional costs fully recoverable from FDCC.

Capital Expenditure

Purchase Assets – Roads

YTD Budget	YTD Actual	Variance Amount \$	Variance %
(1,305,768)	(1,155,161)	150,607	(12%)

The variance is mainly due to the following projects:

- \$86,767 for P-11421 Resurface MRRG-Marine Tce. Unable to access full area, requires 2nd visit to complete which is scheduled for March 2019.
- \$53,590 for P-10818 Resurface MRRG-McCombe Ave. Resurfacing works completed and awaiting invoice from MRWA for lines before reconciling any savings.

Purchase Assets – Plant and Equipment

YTD Budget	YTD Actual	Variance Amount \$	Variance %
(147,784)	(2,840)	144,944	(98%)

The variance is mainly due to the following projects:

- \$32,784 for P-11786 Purchase-Recycle yard-Bailer. Bailer has been installed and the invoice has been received in January 19.
- \$105,000 for P-11794 Purchase-Software parking application. Contract is being finalised with launch expected early March 2019.

Purchase Assets – Parks

YTD Budget	YTD Actual	Variance Amount \$	Variance %
(504,785)	(351,725)	153,060	(30%)

The variance is mainly due to the following projects:

- \$45,807 for P-11780 Install-Beach St Irrigation. Project is under construction with completion scheduled for January 2019.

- \$109,892 for P-10329 Design and construct-Cantonment Hill. Project is experiencing delays for the approval of the signage content. Estimated construction commencement May 2019.

Purchase Assets – Path

YTD Budget	YTD Actual	Variance Amount \$	Variance %
(134,789)	(18,903)	115,886	(86%)

The variance is mainly due to a costing error of \$95k worth of works which has been incorrectly costed to the wrong project. The adjustment to correct was processed in January reducing variance to \$20k.

Purchase Assets – Furniture and Fittings

YTD Budget	YTD Actual	Variance Amount \$	Variance %
(131,378)	(16,893)	114,485	(87%)

The variance is mainly due to the following projects:

- \$12,035 for P-11797 Purchase-Body cameras. Further body harnesses are to be purchased. Expected project saving of \$5,000.
- \$39,378 for P-11077 Install-Kings Square Network infrastructure Queensgate. No expenditure is expected until June.
- \$59,000 for P-11818 Purchase-Document Management System. Tender will be awarded in January.

Reserve Transfers

Transfer from Reserve – Capital

YTD Budget	YTD Actual	Variance Amount \$	Variance %
2,841,109	2,535,146	(305,963)	(11%)

The variance is mainly due to the following projects:

- \$79,971 for Project-11639 Civic Building Demolition – Kings Square. The Demolition Project is now complete. Savings for this project will be approx. \$79k. As this project was funded from reserve there is nil effect on the end of year position.
- \$105,000 for P-11794 Purchase-Software parking application. Currently awaiting final agreement/contract is to be finalised with supplier. Funds will be transferred from reserve as actual expenditure is incurred.
- \$92,100 for P-10325 Restoration-Naval Store Cantonment Hill. Project work is to begin on site January 2019 with an estimated completion date at the end of March 2019 and budget phasing will be adjusted to align with these timeframes. Funds will be transferred from reserve as actual expenditure is incurred.
- \$45,000 for P-10949 Program-Parking signs. Parking signs will be changed with the launch of the new parking app which is due to be launched early March. Funds will be transferred from reserve as actual expenditure is incurred.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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

CONSULTATION

Nil

OFFICER COMMENT

This report is provided to Council to assess operational issues affecting the implementation of projects and activities contained in the 2018/19 budget.

The overall performance for the City of Fremantle for the period ended 31 December 2018 resulted in an additional \$2,020,764 surplus being identified than anticipated, which is mainly as a result of :-

Reduction in anticipated surplus

- Reduced capital revenue of \$537,136;
- Reduced net transfer from reserve of \$365,478;

Increase in anticipated surplus

- Reduced capital expenditure of \$832,784;
- Increased opening surplus of \$74,769 carried forward from 2017/18 financial year;
- Increased operating revenue (excluding general rates) of \$1,083,270;
- Underspensing of operating expenditure of \$761,629;
- Increased general rates income of \$172,694.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council receives the City of Fremantle Monthly Financial Report including the Statement of Comprehensive Income, Statement of Financial Activity, Statement of Financial Position and Statement of Net Current Assets for the period ended 31 December 2018.

C1901-2 SCHEDULE OF PAYMENTS FOR THE MONTH OF DECEMBER 2018

Meeting Date:	30 January 2019
Responsible Officer:	Manager Finance
Decision Making Authority:	Council
Agenda Attachments:	Schedule of payments and listing 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 December 2018, as required by the *Local Government (Financial Management) Regulations 1996*.

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 December 2018, is provided within Attachment 1 and 2.

FINANCIAL IMPLICATIONS

A total of \$10,075,145.58 in payments were made this month from the City's municipal and trust fund accounts.

LEGAL IMPLICATIONS

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

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

(b) *the date of the meeting of the council to which the list is to be presented.*

(3) *A list prepared under sub-regulation (1) or (2) is to be —*

(a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*

(b) *recorded in the minutes of that meeting.*

CONSULTATION

Nil

OFFICER COMMENT

The following table summarises the payments for the month ending December 2018 by payment type, with full details of the accounts paid contained within Attachment 1.

Payment Type	Amount (\$)
Cheque / EFT / Direct Debit	\$7,809,799.75
Purchase card transactions	\$42,917.50
Salary / Wages / Superannuation	\$2,212,739.96
Other payments <i>(as outlined in Attachment 1)</i>	\$9,688.37
Total	\$10,075,145.58

Contained within Attachment 2 is a detailed listing of the purchase card transactions for the month ending December 2018.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

- 1. Accepts the list of payments made under delegated authority, totalling \$10,075,145.58 for the month ending December 2018, as contained within Attachment 1.**
- 2. Accepts the detailed transaction listing of credit card expenditure, for the month ending December 2018, as contained within Attachment 2.**

C1901-3 STATEMENT OF INVESTMENTS AS AT 31 DECEMBER 2018

Meeting Date: 30 January 2019
Responsible Officer: Manager Finance
Decision Making Authority: Council
Agenda Attachments: Investment Report – 31 December 2018

SUMMARY

This report outlines the investment of surplus funds for the month ending 31 December 2018 and provides information on these investments for Councils consideration.

This report recommends that Council receives the Investment Report for the month ending 31 December 2018.

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

- **Portfolio details as at December 18;**
- **Portfolio counterparty credit framework;**
- **Portfolio liquidity with term to maturity;**
- **Portfolio fossil fuel summary;**
- **Interest income earned for the month;**
- **Investing activities for the month;**

BACKGROUND

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

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

The City has committed to carbon neutrality, and will review and manage its investment portfolio to identify financial institutions which support fossil fuel companies (either directly or indirectly) and has limited these investments to the minimum whilst maintaining compliance with the investment policy.

FINANCIAL IMPLICATIONS

To date actual investment interest earned is \$743,291 against a year to date budget of \$709,359 which represents a positive variance of \$33,932. This variance will be continued to be monitored throughout the year. Future interest earnings will be determined by the cash flows of the City's surplus cash and movements in interest rates on term deposits.

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 2.61% (refer report point 8), which compares favourably to the benchmark Bloomberg AusBond Bill Index reference rate of 1.92% (refer to Report 8 - 0.48% for 3 month) on an annualised basis as at the end of December 2018.

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 oversight by the Australian Prudential Regulation Authority (APRA).

CONSULTATION

Nil

OFFICER COMMENT

A comprehensive Investment Report for the month ending 31 December 2018 can be viewed in Attachment 1 of this agenda item. A summary of the investment report is provided below.

1. Portfolio details as at 31 December 2018

At month end the City's investment portfolio totalled \$65.26m. The market value was \$65.71m; this value takes into account accrued interest.

The investment portfolio is made up:

At call account	\$ 8.94m
Term Deposits	\$56.32m
TOTAL	\$65.26m

Of which:

Unrestricted cash	\$27.66m
Restricted cash (Reserve Funds)	\$34.96m
Restricted cash (Trust Funds)	\$ 2.64m
TOTAL	\$65.26m

The current amount of \$27.66m held as unrestricted cash represents 35.43% of the total adopted budget for operating revenue (\$78.06m).

2. Portfolio counterparty credit framework (as at 31 December 2018)

The City’s Investment policy determines the maximum amount to be invested in any one financial institution or bank based on the credit rating of the financial institution. The adopted counterparty credit framework is as below:

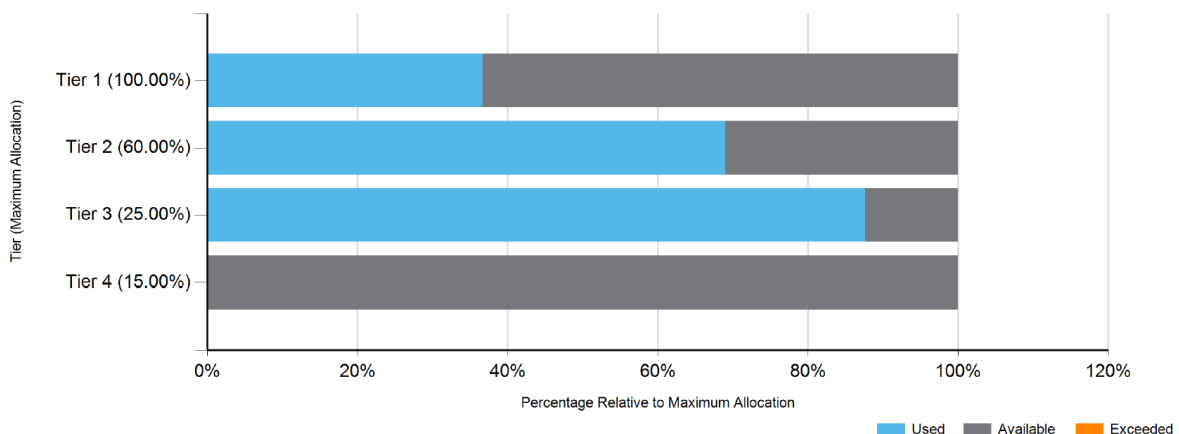
Counterparty credit framework

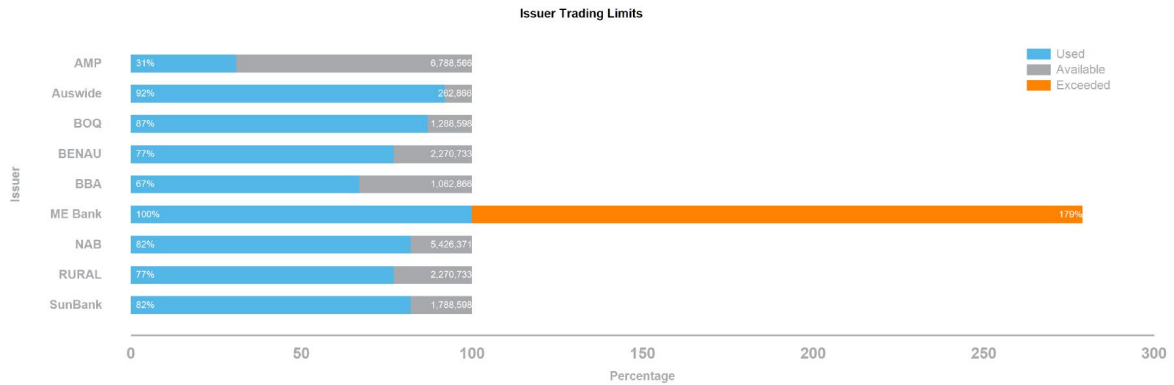
Investments are not to exceed the following percentages of average annual funds invested with any one financial institution or managed fund and consideration should be given to the relationship between credit rating and interest rate.

Credit quality	Maximum % of total investments
Tier 1 (excl. AAA government)	45%
Tier 2	15%
Tier 3	5%
Tier 4	(\$1m)

The following graphs provide details of the funds invested this at the end of this month as per the City’s investment portfolio relative to the threshold allowed by the investment policy as below:

Portfolio Credit Framework Amounts Relative to Maximum Allocations





Currently investment in the individual banks of ME Bank exceeded the adopted trading limits due to the following reasons:

- ME Bank’s rating was downgraded to BBB from A-, which moved this bank from Tier 2 to Tier 3 and therefore the allowable trading limit reduced from 15% to 5%.

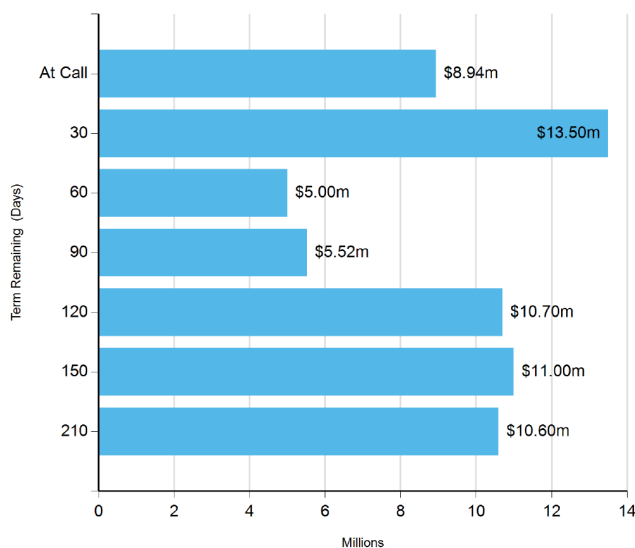
As term deposits mature with the above bank the City will reallocate the funds to ensure that the bank is within the adopted limit going forward. It should be noted the final maturity date for the bank extend to 16 August 2019. Future investment of funds to the above bank will be assessed based on the updated trading limits to ensure compliance with the City’s investment policy.

3. Portfolio Liquidity Indicator (as at 31 December 2018)

The below graph provides details on the maturity timing of the City’s investment portfolio. Currently all investments will mature in one year or less.

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.

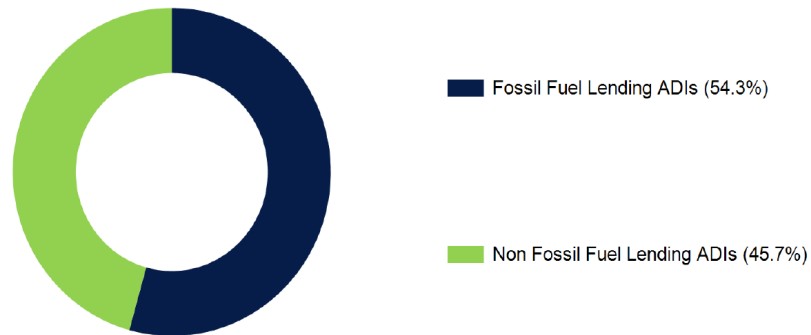
Face Value by Term Remaining



4. Portfolio Summary by Fossil Fuels Lending ADIs (As at 31 December 2018)

At the end of this month \$29.82m (45.7%) of the portfolio was invested in “Green Investments”; authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels (Non Fossil Fuel lending ADI’s).

Fossil Fuel vs Non Fossil Fuel Lending ADI



5. Interest Income for Matured Investments (For 1 December 2018 to 31 December 2018)

For this month \$205,979.45 in interest was earned from 4 matured term deposits.

6. Investing Activities (For 1 December 2018 to 31 December 2018)

During this month 6 term deposits were acquisitioned with a total value of \$14.56m invested.

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

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council receives the Investment Report for the month ending 31 December 2018.

C1901-4 INFORMATION REPORT - JANUARY 2019

CEO PERFORMANCE AND KPI'S

Responsible Officer: Director People and Culture
Agenda Attachments: Chief Executive Officer Key Performance Indicators (KPI) table (Confidential attachment under separate cover)

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

(a) a matter affecting an employee or employees

This report is to provide the details of the Key Performance Indicators (KPI) for the performance of the Chief Executive Officer (CEO).

In May 2018 Council:

- 1. Approved the recommended approach to the assessment and management of the Chief Executive's performance each year.**
- 2. Received and approved the assessment of the Chief Executive's achievement of KPI's in 2017.**
- 3. Approved the objectives and KPI's for 2018.**
- 4. Authorised the CEO Review Committee to make minor adjustments to KPI's as necessary.**

The CEO performance review Committee has finalised KPI's based on those approved for 2018, adding measures and actions to the outcomes agreed. The KPI's will be reviewed regularly by the Chairperson of the Committee, Cr Hannah Fitzhardinge and reported to the Mayor and Council.

The final KPI's are attached to this report as information.

OFFICER'S RECOMMENDATION

Council receive the CEO Performance and KPI's information report for January 2019.

13. Motions of which previous notice has been given

A member may raise at a meeting such business of the City as they consider appropriate, in the form of a motion of which notice has been given to the CEO.

14. Urgent business

In cases of extreme urgency or other special circumstances, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.

15. Late items

In cases where information is received after the finalisation of an agenda, matters may be raised and decided by the meeting. A written report will be provided for late items.

16. Confidential business

Members of the public may be asked to leave the meeting while confidential business is addressed.

17. Closure