



Minutes

Finance, Policy, Operations and Legislation Committee

Wednesday, 13 November 2019, 6.00pm

These minutes are confirmed

A handwritten signature in black ink, appearing to read "Hannah Fitzhardinge".

10 February 2020

Cr Hannah Fitzhardinge
Presiding Member

Date



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As no further nominations were received, the Acting Chief Executive Officer, Paul Garbett announced Cr Hannah Fitzhardinge as the Presiding Member of the Finance, Policy, Operations and Legislation Committee until the next ordinary elections in October 2021.

At 6.03 pm the Presiding Member, Cr Hannah Fitzhardinge assumed the chair.

The Presiding Member called for nominations for the position of Deputy Presiding Member. Cr Jenny Archibald nominated for the position of Deputy Presiding Member.

As no further nominations were received, the Presiding Member announced Cr Jenny Archibald as the Deputy Presiding Member of the Finance, Policy, Operations and Legislation Committee until the next ordinary elections in October 2021.

4. DISCLOSURES OF INTERESTS

Nil

5. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

6. PUBLIC QUESTION TIME

The following member/s of the public spoke in relation to item FPOL1911-3.

Christine Duckham
Louise Corteen
Fiona Scarfe

The following member of the public spoke in relation to item FPOL1911-2.

Louis De Villiers

The following member of the public spoke in relation to item FPOL1911-8.

Ian Hutchinson

The following member/s of the public spoke in relation to item FPOL1911-4.

Georgie Adeane

7. PETITIONS

The Acting Chief Executive Officer, Paul Garbett presented a petition that was submitted to Administration from Doug Fishwick of Tuart Place. The petition is signed by ** requesting the following:

For Fremantle Council to create designated disable parking spaces for paraplegics and anyone else who may need them outside 24 High Street Tuart Place.

8. DEPUTATIONS

8.1 SPECIAL DEPUTATIONS

Nil

8.2 PRESENTATIONS

Nil

9. CONFIRMATION OF MINUTES

Cr Hannah Fitzhardinge noted the minutes of the Finance, Policy, Operations and Legislation Committee meeting were confirmed as a true and accurate record at the Ordinary Meeting of Council held 16 October 2019.

9. ELECTED MEMBER COMMUNICATION

Nil

10. REPORTS AND RECOMMENDATIONS

10.1 COMMITTEE DELEGATION

FPOL1911-2 INTEGRATED WEED MANAGEMENT PROGRAM

Meeting date:	13 November 2019
Responsible officer:	Manager Parks and Landscape
Decision making authority:	Finance, Policy, Operations and Legislation committee acting under delegation 1.1
Agenda attachments:	1. Nil
Additional information:	1. Nil

SUMMARY

The purpose of this report is for Council to consider the petition on the use of glyphosate and the City's current integrated weed management program. The City is responsible for managing land inclusive of parks, gardens, foreshore reserves, bushland reserves, road reserves, drainage sumps and City owned or managed land. The majority of City managed land requires vegetation and weed management and glyphosate is currently used in the weed management program.

This report recommends that the Finance, Policy, Operations and Legislation committee acting under delegation 1.1:

1. Note the petition received from Mr De Villiers requesting Council:
 - a. Ban the spraying of glyphosate in the City of Fremantle parklands and public spaces.
 - b. Develop and research less toxic and environmentally friendly alternatives to the use of glyphosate in parklands and public spaces in the City of Fremantle.
 - c. Increase the steam weeding to reduce the City of Fremantle's chemical use.
2. Request officers continue with the City's current integrated weed management program, noting the management controls to mitigate the risk to staff, contractors and the public for the use of herbicide, including Glyphosate, and within existing operational resources and budgets.
3. Request officers continue with the trials of alternative weed control practices and management and implement the effective trials within existing operational resources and budgets where possible.
4. Request officers submit details of the proposed herbicide reduction program and management practices and/or service level amendments through the annual budget cycle for consideration.

BACKGROUND

At the Ordinary Meeting of Council on 24 July 2019, Cr Jenny Archibald presented a petition, received from Mr De Villiers, containing approximately 154 signatures requesting Council:

- Ban the spraying of glyphosate in the City of Fremantle parklands and public spaces.
- Develop and research less toxic and environmentally friendly alternatives to the use of glyphosate in parklands and public spaces in the City of Fremantle.
- Increase the steam weeding to reduce the City of Fremantle's chemical use.

Council has considered the topic of herbicide and glyphosate reduction on a number of occasions since the introduction of the chemical free trials around 1997 and in addition to endorsing chemical free contracted services.

Most recently, at the Ordinary Meeting of Council on 27 April 2016, Council considered the City's integrated weed management program and:

1. *Accepts the cost of and continues with the City's current integrated management approach to the control of weeds in parkland, streets and bushland in the City of Fremantle.*
2. *Consider the Australian Pesticides and Veterinary Medicines Authority's assessment of glyphosate report when released and any implications for the City of Fremantle's weed management approach.*

Glyphosate

The City utilises glyphosate as part of its weed management program. Glyphosate is a broad spectrum, systemic herbicide and is highly effective and cost efficient in the management of broad scale landscapes. The use of herbicides including Glyphosate is regulated by the Australian Pesticides and Veterinary Medicines Authority (APVMA). In 2016, following the IARC assessment of Glyphosate, the APVMA noted the following:

"The report released in 2015 by IARC, an agency affiliated with the World Health Organisation (WHO), classified glyphosate as 'probably carcinogenic to humans', following a hazard-based, strength-of-evidence assessment of publicly available scientific information.

The IARC assessment looked at the intrinsic toxic potential or 'hazard' of the chemical glyphosate as a cancer-causing agent only. Indoor emissions from burning wood and high temperature frying, some shift work, and consumption of red meat are also classified as probably carcinogenic to humans and are in the same category as glyphosate. Agents classified by IARC in the highest category (carcinogenic to humans) include all alcoholic beverages, consumption of processed meat, solar and ultraviolet radiation (ie sunlight), diesel engine exhaust, post-menopausal oestrogen and oestrogen-progestogen therapy, outdoor air pollution, occupational exposure as a painter, and soot and wood dust.

When making an assessment of the hazards associated with these agents they did not consider actual use and exposure affects the final overall risk (risk = hazard x exposure).

For example, realistic use situations, the formulation or application technology, or the risk of glyphosate causing cancer when used according to the label instructions in a registered chemical product.

As part of the regulatory process undertaken by the APVMA and pesticide regulators in other countries, a hazard assessment is just one part of the overall risk assessment required to determine the risks for people using a registered chemical product.

It is not the role of IARC to consider how a formulated chemical product is used, or how risks can be mitigated, for example, by following the safety directions on a product label. According to the IARC Preamble, the Monographs “identify cancer hazards even when risks appear to be low in some exposure scenarios.” This means the findings of IARC hazard assessments cannot be directly compared with the risk assessments conducted by regulatory authorities for the purposes of approval or registration of a pesticide product—such regulatory assessments include consideration of appropriate risk mitigation measures to allow safe use.” (Source: APVMA Website)

In response to the IARC assessment of Glyphosate, the APVMA noted the following:

“The Australian Pesticides and Veterinary Medicines Authority (APVMA) is aware of recent international decisions concerning glyphosate.

Products containing glyphosate are registered for use in Australia, and APVMA approved products containing glyphosate can continue to be used safely according to label directions. Australian law requires appropriate warnings on product labels, which include relevant poisons scheduling, first aid, and safety directions detailing personal protective equipment when handling and using products containing glyphosate. The APVMA reminds users of the importance of following all label instructions.

As the national regulator for agricultural chemicals, we continue to track and consider any new scientific information associated with safety and effectiveness of glyphosate, including information from other regulators.

In 2016, following the IARC assessment, the APVMA considered glyphosate and found no grounds to place it under formal reconsideration again. The APVMA completed a review of glyphosate in 1997, which set Australia’s health based guidance values at a level that remains protective. Different labels have different purposes.” (Source: APVMA Website)

The City recognises and understands the communities concerns with herbicide control of weeds in public space. This report outlines the City’s current integrated weed management program and discusses some opportunities for herbicide reduction / removal (including glyphosate), risk minimisation strategies and program changes.

FINANCIAL IMPLICATIONS

Alternative weed control methods or risk minimisation strategies will have reasonably significant additional budget requirements. Some order of magnitude costs are shown in Officers Comment and subject to approval to progress, will be refined and submitted through the annual budget process for consideration.

LEGAL IMPLICATIONS

Nil

CONSULTATION

The City will provide general information on the integrated weed management program on the website. The major annual weed control programs will be publically advertised on the City's website and social media channels. These will include the City's:

- turf weed treatment programs
- annual natural areas weed control program
- verge mowing program
- hydrothermal (steam) weed control program.

For smaller localised works such as spot spraying of garden beds, signage is displayed at the entries to the work area so the public is made aware chemical weed control activities are taking place. These works are often undertaken on a more ad-hoc basis in response to weed growth, favourable weather conditions and scheduled maintenance visits. This site specific approach to notification allows the public to select whether or not they wish to attend a park if weed control works are being undertaken nearby. This is a more practical approach as it is site specific, direct notification to the public who are immediately using the area and may not have checked the website prior to attending a park. A proposal is made to improve signage information beyond the regulatory requirements in the officer comment section.

OFFICER COMMENT

Comment on Petition

At the Ordinary Meeting of Council on 24 July 2019, Cr Jenny Archibald presented a petition, received from Mr De Villiers, containing approximately 154 signatures. The petition had 3 requests and officer comment is provided below.

1. *Request 1: Ban the spraying of glyphosate in the City of Fremantle parklands and public spaces.*

The City is working towards a reduction in herbicide use as outlined in the body of this report. The program is being delivered within the existing operational resource and budget availability. However, should Council decide to enforce a ban on the spraying of glyphosate within the City's reserves, natural areas and City managed land, the following implications would need to be considered:

- amenity of parks and reserves
- aesthetics
- impacts on biodiversity and condition of natural areas
- increase in cost of management.

A phased approach of herbicide reduction initially in higher use areas is recommended to allow the City to transition land management practices. The City's current trials, opportunities for community risk mitigation strategies, proposed integrated weed management program changes and glyphosate/herbicide alternatives present a range of ways to continue to reduce the City's herbicide use.

2. *Develop and research less toxic and environmentally friendly alternatives to the use of glyphosate in parklands and public spaces in the City of Fremantle.*

The City is trialling a range of alternatives to herbicide's as they become available on the market and alternative land management practices within existing budget and resources. If results of trials are favourable, officers will implement them within the available budget, or if additional budget is required, a request will be made through the Council budget process. The trials are outlined in the body of this report.

3. *Increase the steam weeding to reduce the City of Fremantle's chemical use.*

The City has been utilising hydrothermal weed control (steam weeding) for an extended period of time in the weed management program. The most effective and efficient use has been found to be on hard surfaces such as footpaths, pavements and road kerbs. The opportunities to increase hydrothermal weed control have been discussed in the body of this report and will be presented to Council through the budget process.

Current Integrated Weed Management Program

The City is responsible for maintaining public open space inclusive of parks, gardens, foreshore reserves, bushland reserves, road reserves, drainage sumps and City managed land. The majority of the City's public open space requires vegetation and weed management. Weed control is undertaken for a number of reasons, which include:

- Maintaining the amenity of public open space
- Providing playing fields for sporting events
- Ensuring the survival of desirable plant species to maintain biodiversity
- Maintaining the aesthetics of the City to the standard the community expect
- Managing fire fuel loads.

The City utilises a range of treatment methods as part of a holistic and integrated approach to its weed management responsibilities. The selection of weed control is based on the target species, desired outcome and site location. Treatment methods may include:

- Manual control by hand-pulling
- Suppression through mulching and planting
- Mechanical control such as mowing and slashing
- Chemical free control by hydro-thermal (steam)
- Herbicide control (which includes glyphosate).

The method of control is chosen by a range of factors including site type and conditions, location, level of tolerance for weeds on the particular site and desired outcome of control. An outline of the City's weed management program is shown in the following

table. Outside of these standard specified works, specialised treatments may be used for persistent weeds or specific weed outbreaks.

Area	Level of public use/access	Frequency of major treatment program	Weed control method	Herbicides used
Parks and reserves				
Turf	High	2 times annually	Manual Mechanical control Herbicide Hydro-thermal	Prodiamine, Spearhead
Turf edges (to trees and fences)	Medium	2-4 times annually	Mechanical control Herbicide Hydro-thermal	Glyphosate
Garden bed areas	Low	As required	Manual Mechanical Weed suppression Herbicide	Simazine, Glyphosate, Fusilade Forte
Playground softfall areas	High	4 times annually	Manual Hydro-thermal	Nil
Paths and hardstand including edges	High	2-4 times annually	Mechanical control Herbicide	Glyphosate
Natural areas				
Bushland, foreshore and coastal vegetation areas	Low	4 times annually	Manual Mechanical Herbicide	Glyphosate, Fusilade Forte, Metsulfuron Methyl, Access, Verdict
Paths, tracks and edges	High	4 times annually	Manual Mechanical Herbicide	Glyphosate, Fusilade Forte, Access, Verdict
Road reserves, car parks and drainage sumps				
Footpaths and road kerbs/traffic islands	High/low	2 times annually (suburban) 6 times annually (arterial roads and town centre)	Mechanical Hydro-thermal	Nil
Verges	Medium	4 times annually	Mechanical	Nil
Garden beds	Low	As required	Manual	Simazine,

Area	Level of public use/access	Frequency of major treatment program	Weed control method	Herbicides used
			Weed suppression Herbicide	Glyphosate, Fusilade Forte
Drainage sumps	Nil	2-4 times annually	Mechanical control Herbicide	Glyphosate
Council buildings or City managed land				
Fremantle Leisure Centre	High	As required	Manual Mechanical control Herbicide Hydro-thermal	Prodiamine, Spearhead (*Glyphosate free trial underway)
Fremantle Arts Centre	High	As required	Manual Mechanical control Herbicide	Glyphosate, Spearhead
North Fremantle Community Hall	High	As required	Manual Mechanical control Herbicide	Glyphosate, Spearhead
Fremantle PCYC	High	As required	Manual Mechanical control Herbicide	Glyphosate
Samson Recreation Centre	High	As required	Manual Mechanical control Herbicide	Glyphosate
South Fremantle Landfill Site	Nil	Annual	Mechanical control Herbicide	Glyphosate

Risk Minimisation and Chemical Schedule Reduction Strategy

The City recognises the public interest about the safety of herbicides used in the management of land. It is prudent for the City to continue to appropriately manage chemical use and to be aware of any potential risks or hazards to operators, the wider community and the general environment. Staff and contractors of the City of Fremantle are bound to adherence to the proper use and safety instructions of all herbicide products and are very aware of their duty of care to the public and themselves. The City also has a duty of care to its employees and to ensure that staff and Contractors handle and apply herbicides strictly in accordance with the manufacturer's instructions.

The legislated standard for poisons is created by the Australian Department of Health – Therapeutic Goods Administration and sets out categories of poisons in a schedule numbered 1-10. The Poisons Standard defines schedule 5 poisons as “Caution - Substances with a low potential for causing harm, the extent of which can be reduced through the use of appropriate packaging with simple warnings and safety directions on the label”. The Poison Standard describes schedule 6 chemicals as “Poison - Substances with a moderate potential for causing harm, the extent of which can be reduced through the use of distinctive packaging with strong warnings and safety directions on the Label”. Schedules 1-4 and 8-10 are largely used for pharmaceutical products and herbicides do not fall within these schedules.

Products containing glyphosate are categorised as schedule 5 poisons. Glyphosate is a broad spectrum, systemic herbicide. This means it is highly effective on a wide variety of common weeds and travels throughout the plant to kill the entire plant. There is no readily available glyphosate alternative on the market. The City has a strategy of using the lowest schedule herbicide available.

Integrated Weed Management Trials, Opportunities and Alternatives

The City is continuing to review its integrated weed management program and is undertaking trials of alternative weed control methods. Where these have proven effective at managing weeds and within existing or revised budget allocation they are adopted into the program. The City has recently implemented some small scale herbicide reduction and risk control trials and programs, limited to existing budget and resources, including:

- Hydro-thermal control of playground softfall areas
- Glyphosate free trial at Fremantle Leisure Centre
- Trialling glyphosate alternative herbicides
- Trialling non-scheduled pre-emergent herbicides and mulches to reduce the frequency and volume of herbicide application
- Barricade (Prodiamine) trial to reduce the use of scheduled herbicides (Spearhead)
- Improved garden bed management practices to reduce opportunities for weeds
- Improved turf management practices to reduce the opportunities for weeds.

Officers will continue to investigate and trial new herbicides, land management practices or technology if they are appropriate for certain parts of the weed management program. If the results of the trials are favourable, officers will implement them within the available budget, or if additional budget is required, a request will be made through the annual budget cycle.

Due to the specialised skills, training, equipment and seasonal nature of weed control works, a portion of the City's weed control program is undertaken by Contractors. The City acknowledges there have been instances of unacceptable performance by Contractors in the past in delivering the program. Officers are working to improve the management of Contractors through additional contract management training, improved works specifications and a focus on improved site management of contractors above regulatory requirements, and subject to resources and budget availability.

The following table highlights some of the current trials, opportunities for community risk mitigation strategies, integrated weed management program changes and glyphosate/herbicide alternatives. Please note that the budgets need to be developed in more detail and will be refined prior to the 2020/21 budget process for consideration.

Strategy	Proposed Program Change	Herbicide Management Outcome	Comment	Budget
Occupational Health and Safety				
Staff training	Continue to ensure all staff are up to date with	Safe handling and application of herbicides	Ensures staff, contractors and the public are	Existing operational budget

Strategy	Proposed Program Change	Herbicide Management Outcome	Comment	Budget
	training		adequately protected	
OSH Management	Ongoing reviews of Standard Operating Procedures through a risk review	Safe handling and application of herbicides	Ensures staff, contractors and the public are adequately protected	Existing operational budget
Herbicide Reduction and Removal Program				
Streetscape garden areas	Barricade trial program, hand weeding, weed suppressing mulch and hydro-thermal	Removal of glyphosate use	Trial underway to determine the efficacy of weed control and cost implications	Base Operating increase \$250-300k p/a*
Reserve garden areas and tree surrounds	Barricade trial program, hand weeding, weed suppressing mulch and hydro-thermal	Removal of glyphosate use	Trial underway to determine the efficacy of weed control and cost implications	Base Operating increase \$800-1,000k p/a*
Reserve hard surfaces	Mechanical and hydro-thermal only control to hard surfaces located within parks (e.g. paved BBQ/picnic area surrounds, footpaths)	Removal of glyphosate use	Weed control locations, quantity and scale of the program change needs to be quantified	Base Operating increase \$150-250k p/a*
Drainage sump weed management	Mechanical control only (slashing)	Removal of glyphosate use	Drainage sumps are not publically accessible and the risk of glyphosate exposure to the public is minimal	Base Operating increase estimate \$80-100k p/a*
Community facility weed management	Implementation of glyphosate reduction program around high profile community facilities: <ul style="list-style-type: none"> • Samson Recreation Centre • Nth Freo 	Removal of glyphosate use from weed control in landscape areas	Utilise mechanical and hydro thermal weed control	Base Operating increase estimate \$30-40k p/a*

Strategy	Proposed Program Change	Herbicide Management Outcome	Comment	Budget
	Community Hall <ul style="list-style-type: none"> • Arts Centre • PCYC • Meeting Place • Arthur Head cottages 			
Bushland, foreshore and coastal reserves conservation weed management	The removal of glyphosate use from natural areas could have significant effects on biodiversity	Reduction in Glyphosate use	Further studies and trials recommended prior to removal of glyphosate use to understand any implications on natural areas	To be confirmed following further research and trial periods
Reduce the schedule of herbicides to non-schedule or as low schedule as possible	Implement Barricade (Prodiamine) program to high profile reserve and sporting turf areas	Reduction in use of spearhead (Schedule 5 to non-schedule)	Trial underway to determine the efficacy of weed control and cost implications	Base Operating increase to be confirmed following trial
Notifications				
Improved information to public on integrated weed management program	Continue to update website information	Increased public awareness of the City's integrated weed management program		Existing Base Operating budget
Improved information to public on weed control program	Regular updates on website with upcoming herbicide based weed control works	Increased public awareness of the City's upcoming weed management program	Allows the community to be aware of current or future weed control works	Existing Base Operating budget
Site management during application				
Site signage strategy	Improved site information signage and numbers	Increased level of public awareness of herbicide use beyond statutory requirements		One off cost \$5-10k (signage development and purchase)
Spotter on site	Implement spotter during high profile reserve area	Increased level of public notification and	Would be utilised in highly used public open	Base operating increase

Strategy	Proposed Program Change	Herbicide Management Outcome	Comment	Budget
	herbicide application	management beyond statutory requirements	space	\$10-20k p/a
Timing of herbicide application	Exclusion of glyphosate application during peak use periods (school holidays and after 3pm on school days)	Reduced glyphosate application in peak use periods	Weed control may not be as effective due to weather conditions and seasonal growth variation leading to weed control occurring at non-optimum times	Existing base operating
Herbicide Record Management				
Data collection	Digital data collection of all herbicide applications (City and Contractor)	Improved data management to track long term trends in use and measure impacts of program change	Suitable data collection program is being investigated	Base Operating increase to be confirmed

*please note: the quoted budget estimates require verification based on development of a suitable specification to reach desired weed control service level and quantification of areas for treatment.

Options for progression

Council has a number of ways to progress with herbicide and glyphosate reduction and/or removal from the weed management program. These may include:

1. Adopt a total ban (immediate or at the adoption of the next budget) on glyphosate use in the weed management program noting the following options:
 - a. With an operational budget increase: The weed management service level will be maintained or a slightly decreased with expected implications on aesthetics, amenity, biodiversity and fire management.
 - b. Within existing operational budget: The weed management service level will be significantly decreased with associated implications on aesthetics, amenity, biodiversity and fire management.
2. Adopt a total ban (immediate or at the adoption of the next budget) on chemical weed management in the weed management program noting the following options:
 - a. With an operational budget increase: The weed management service level will be significantly decreased with expected implications on aesthetics, amenity, biodiversity and fire management.
 - b. Within existing operational budget: The weed management service level will be significantly decreased with associated significant implications on aesthetics, amenity, biodiversity and fire management.
3. Continue with the existing weed management program noting the following options:
 - a. With an operational budget increase: A budget investment program in the annual budget cycle will allow the staged reduction and removal of herbicide

from the program while monitoring the impacts on the existing weed management service level with associated implications on aesthetics, amenity, biodiversity and fire management.

- b. Within existing operational budget: The current weed management service level and program will be maintained.

Given the implications of options 1 and 2 on the service level for weed control and budget, officers recommend option 3a to continue with the existing weed management program and remove herbicide use in a more progressive way. Officers will develop the budget estimates further, including options for staged implementation, and submit them for consideration in the annual budget cycle. The progression of herbicide reduction will also impact on existing operational Contracts which will need to be renegotiated with the Contractors or retendered at the end of the Contract cycle with the revised scope. Officers will provide regular updates to Council to show the effects of the progression of program implementation.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

The Finance, Policy, Operations and Legislation committee acting under delegation 1.1:

1. Note the petition received from Mr De Villiers requesting Council:
 - a. Ban the spraying of glyphosate in the City of Fremantle parklands and public spaces.
 - b. Develop and research less toxic and environmentally friendly alternatives to the use of glyphosate in parklands and public spaces in the City of Fremantle.
 - c. Increase the steam weeding to reduce the City of Fremantle's chemical use.
2. Request officers continue with the City's current integrated weed management program, noting the management controls to mitigate the risk to staff, contractors and the public for the use of herbicide, including Glyphosate, and within existing operational resources and budgets.
3. Request officers continue with the trials of alternative weed control practices and management and implement the effective trials within existing operational resources and budgets where possible.
4. Request officers submit details of the proposed herbicide reduction program and management practices and/or service level amendments through the annual budget cycle for consideration.

AMENDMENT 1

Moved: Cr Jenny Archibald Seconded: Cr Sam Wainwright

Add an additional part 5 to read as follows;

5. Request officers identify locations representative of the weed management areas across Fremantle, in which a glyphosate free weed management program can be trialled, and submit a budget request at the 19/20 mid-year budget review for consideration.

Amendment carried: 6/0

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

Reason for change:

- Implementation of glyphosate free trial areas in areas representative of the City landscape management sites such as:
 - Parks
 - Playing fields
 - Garden beds
 - Street gardens
- The timing of mid-year review will allow officers time to identify the sites and develop new management practices, specifications and works contracts including budget requirements.
- The trials can be measured to understand the potential impacts on budgets, resources and service levels (amenity, aesthetics, costs, biodiversity etc.).
- The information from the trials can be used to inform the expansion of glyphosate free areas in future years.

AMENDMENT 2

Moved: Cr Adin Lang Seconded: Cr Jenny Archibald

Minor amendment to part 4 to include the words shown in green italics, to read as follows;

4. Request officers submit details of the proposed herbicide reduction program and management practices and/or service level amendments (*including baseline herbicide volumes used preferable from 2019*) through the annual budget cycle for consideration.

Amendment carried: 6/0

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

COMMITTEE DECISION ITEM FPOL1911-2
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

The Finance, Policy, Operations and Legislation committee acting under delegation 1.1:

- 1. Note the petition received from Mr De Villiers requesting Council:
 - a. Ban the spraying of glyphosate in the City of Fremantle parklands and public spaces.**
 - b. Develop and research less toxic and environmentally friendly alternatives to the use of glyphosate in parklands and public spaces in the City of Fremantle.**
 - c. Increase the steam weeding to reduce the City of Fremantle's chemical use.****
- 2. Request officers continue with the City's current integrated weed management program, noting the management controls to mitigate the risk to staff, contractors and the public for the use of herbicide, including Glyphosate, and within existing operational resources and budgets.**
- 3. Request officers continue with the trials of alternative weed control practices and management and implement the effective trials within existing operational resources and budgets where possible.**
- 4. Request officers submit details of the proposed herbicide reduction program and management practices and/or service level amendments (*including baseline herbicide volumes used preferable from 2019*) through the annual budget cycle for consideration.**
- 5. *Request officers identify locations representative of the weed management areas across Fremantle, in which a glyphosate free weed management program can be trialled, and submit a budget request at the 19/20 mid-year budget review for consideration.***

Carried: 6/0

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

FPOL1911-4 OPERATION AND AGREEMENT FOR SOUTH BEACH MARKETS

Meeting Date:	13 November 2019
Responsible Officer:	Manager Economic Development and Marketing, and Manager of Communications and Events
Decision Making Authority:	Finance, Policy, Operations and Legislation committee acting under delegation 1.1
Agenda attachments:	1. Nil
Additional information:	1. Nil

SUMMARY

This report proposes that at the conclusion of the Licence agreement between the City and Georgie Adeane T/A Sunset Markets, for a portion of South Beach Reserve, that an Expression of Interest is advertised for the purpose of market activation which will be managed by an Events agreement.

BACKGROUND

Council resolved 28 November 2012 to allow Georgie Adeane to run a multicultural food market trading as Sunset Markets for a trial period from January 2013 to April 2013 at Bathers Beach Fremantle. As the trial was deemed successful, the City continued to renew Ms Adeane's Licence with the Sunset Markets trading between late November and April 2013 to 2016.

Due to the opening of Bathers Beach House and a new Kidogo Arthouse Lease, which extended the lease area outside of the building, the area the markets could safely operate was heavily reduced. With only three point of egress to Bathers Beach and the markets attracting large visitor numbers it became apparent that the area was over activated when Sunset Markets were in operation.

It was proposed to transfer the markets to South Beach Reserve which was approved by Council by Delegated Authority 25 October 2015.

The City entered into a Licence with Ms Adeane for a term of five years effective 14 November 2015 expiring 13 November 2020 for the permitted use of markets every Saturday of the market season between the hours of 2.00pm and 10.00pm. As Sunset Markets runs from late November until April each year this up and coming season (November 2019 until April 2020) will be the last under this Licence.

The conditions of the Licence obligates the City to provide bins free of charge when the markets are in operation and contribute \$14 000 towards generator hire given that South Beach Reserve has no ground power for the markets to access.

Ms Adeane has requested a further five year term at the expiry of her current Licence under the same conditions of her existing agreement.

Under the City's Leasing of City Property in a competitive manner policy, approaching the conclusion of lease terms interested parties will be given an opportunity to compete in an open and competitive manner to lease investment properties, except in the following circumstances;

1. The property is leased to a tenant that;
 - a. is paying full commercial rate or above; and
 - b. Adds significant value to Fremantle's overall tenancy mix and appeal for visitors. or
2. A property is leased for six months or less. or
3. A property is not logistically accessible to any other party other than the current tenant.

Officers do not consider there to be any circumstances where there is an exception for advertisement not to occur.

That being said, officers are of the opinion that the Leasing of City Property in a competitive manner policy is not the most appropriate policy to manage the markets activation at South Beach Reserve. This policy was built for the purpose of leasing and licensing City investment and vested property and not recreational lands for the use of events.

It's proposed that given the size and frequency of the Sunsets Markets any future agreement for market activation should be managed by an Event agreement as opposed to a Licence agreement under the Leasing of City Property in a competitive manner policy.

For this to occur, an Expression of Interest for the location at South Beach Reserve is advertised for the purpose of a market so that interested parties, including Ms Adeane, may apply via a transparent process.

FINANCIAL IMPLICATIONS

Licence

Under the Licence agreement Ms Adeane pays \$306.85 + GST per week that the markets are held.

As no power facilities exist at South Beach markets the City contributes \$14 000 per year towards generator power. The total cost of generator power for a season is approx. \$40 000.

The City also provides bins at no charge for the entire season which equates to a waste cost of \$22 000 per year to the City.

On average, the operations of the market costs the City \$30 000 per year.

Events

Under an event agreement the following fees would apply;

Booking fee: \$104.00

Hire fee for South Beach and Wilson Park \$5520 x 19 dates (high impact / full day / commercial / 3 sectors @ \$1,840 per sector): \$104,800

Bond: \$10 000

Ground Restoration bond: \$10,000

Additional cleaning public toilets: \$650

Bin hire: \$22,000 per annum

Generator and lighting tower equipment will need to be arranged and provided by the operator, as will additional toilet facilities.

To ensure this is a financially viable venture the City is proposing a three year sponsorship agreement in order to retain an annual market event series at South Beach.

The proposed three year sponsorship agreement will offer a 50% subsidy on hire fees reducing this to \$52,400

This totals a cost of \$95,154 per year payable by the operator.

LEGAL IMPLICATIONS

No legal implications.

CONSULTATION

Officers will advertise the opportunity for a period of four weeks. Advertisement will occur via the following channels:

- West Australian News Paper
- Newsbites column in the Fremantle Herald newspaper.
- Fremantle Herald newspaper
- City's social media channels.
- City's e-newsletters.
- Direct email to the City's contact databases.

OFFICER COMMENT

Ms Adeane has requested a further licence term of five years to continue to operate the markets at South Beach Reserve.

On average the markets attract approx.5 000 patrons every Saturday. A Licence for use of the land is not the most appropriate agreement to manage the markets and doesn't ensure that all safety requirements and event management processes are followed correctly. Further to this the Leasing of City's Property in a competitive manner policy relates to the leasing of City investment and vested buildings and not recreational reserve.

Officers acknowledge Ms Adeane has developed the markets over the last seven years. However, the markets, while being a large form of activation for South Fremantle, are a commercial operation and moving forward their continued operation must not financially burden the City.

Ms Adeane will be eligible to reapply to operate the markets through the EOI process.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge Seconded: Cr Jenny Archibald

The Finance, Policy, Operations and Legislation committee acting under delegation 1.1:

1. Notify Ms Georgie Adeane formally that the Licence between the City of Fremantle and Georgie Adeane for a portion of South Beach Reserve will terminate 13 November 2020 and that a new Licence term will not be considered.
2. Approve advertisement of an Expression of Interest for a Portion of South Beach Reserve for the purposes of market activation based on the following key terms;
 - a. Booking fee: \$104.00
 - b. Hire fee for South Beach and Wilson Park \$5520 x 19 dates (high impact / full day / commercial / 3 sectors @ \$1,840 per sector): \$104,800
 - c. Bond: \$10 000
 - d. Ground Restoration bond: \$10,000
 - e. Additional cleaning public toilets: \$650
 - a. Bin hire: \$22,000 per annum
 - b. Three year sponsorship agreement of 50% subsidy on hire fees.

PROCEDURAL MOTION

At 7.16pm the following procedural motion was moved:

COMMITTEE DECISION

Moved: Cr Doug Thompson Seconded: Cr Andrew Sullivan

The item be deferred to the next appropriate Finance, Policy, Operations and Legislation Committee to allow further consideration and discussion of the issues raised before making a decision.

Carried: 6/0
Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

FPOL1911-1 INFORMATION REPORT - NOVEMBER 2019

FREMANTLE VISITOR CENTRE LONG TERM LOCATION

Responsible officer: Manager Customer Service and Visitor Information
Agenda attachments: Nil
Additional information: Nil

On 8 May 2019, at the Finance, Policy, Operations and Legislation Committee it was requested a report be brought back to Council which further considers the longer term location of the Fremantle Visitor Centre.

A State Government Authority is currently in preliminary discussions over the commercial lease space in the new City of Fremantle Civic Centre with the intention of creating a Visitor Centre. Whilst these discussions are in their early stages, the City would like to explore the potential for possibly co-locating the Fremantle Visitor Centre with the State Authority Visitor Centre as a further option for the most appropriate longer term location of the Visitor Centre. The outcome of these discussions may impact the location for the Visitor Centre.

Officers will explore all options for the longer term location of the Visitor Centre, including the current Town Hall location, a shared or stand-alone premise within the Kings Square precinct, or a potential location in a high foot traffic area near Pioneer Park. To ensure a more informed recommendation is provided to Council for consideration, it is intended that a report will be brought back to Council by June 2020.

COMMITTEE DECISION ITEM FPOL1911-1
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge Seconded: Cr Adin Lang

Council receive the following information report for November 2019:

- 1. Fremantle Visitor Centre Long Term Location.**

Carried: 6/0
Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

FPOL1911-3 PROPOSED CITY OF FREMANTLE CAT MANAGEMENT LOCAL LAW 2020

Meeting date:	13 November 2019
Responsible officer:	Manager Governance
Decision making authority:	Committee
Agenda attachments:	1. Proposed City of Fremantle Cat Management Local Law 2020
Additional information:	Nil.

SUMMARY

The purpose of this report is for Council to consider initiating the process to create a City of Fremantle Cat Management Local Law 2020. A copy of the proposed local law is attached.

Should Council support the recommendation to initiate adoption of a City of Fremantle Cat Management Local Law 2020, a public consultation period will apply, following which the proposed local law, along with any submissions received, will go back to Council for final approval. Council approval is sought to adopt the proposed Cat Management Local Law 2020 for advertising giving particular attention to the proposed prohibited areas.

BACKGROUND

At the Ordinary Council Meeting held on 25 September 2019 Councillor Adin Lang raised a motion including the recommendation that the City of Fremantle initiate the adoption of a Cat Management Local Law:

“Cats pose a huge challenge to our local native animals and biodiversity. To protect our natural environment, the issue of cats and their impact on the environment ought to be considered. Furthermore, the health of individual free-ranging cats across our city should also be considered.”

In June 2019 the WA State Government declared feral cats a pest in an effort to protect vulnerable native wildlife from extinction.

A Cat Management Local Law would focus on creating cat prohibited areas, such as our natural bushland areas, to assist in the improvement of cat management within Fremantle with a focus on protecting our natural environment, as well as the health of individual cats.”

Council supported Councillor Lang’s motion and made the following decision:

“Council support the initiation of the process of making a City of Fremantle Cat Management Local Law that is practical and effective and that aims to provide real improvements to environmental outcomes including creating the ability for council to declare certain natural areas from which cats are restricted and any other measures that prove effective preventing predation.”

In addition to making provision for the control of cats in the City's natural areas it is proposed that this cat local law also include more general provisions to outline and clarify the way in which cats (relating to the maximum number of cats) can be kept (no more than 3 cats) without a specific approval and the process for approval.

The purpose for proposing a standard number of cats that may be kept is to allow the City the ability (should it be required) to deal with cases where a resident may keep cats to the extent that while they may not necessarily cause a health hazard or require a referral to the RSPCA, they are in such numbers that it presents a nuisance to the community.

It is intended that anyone who has more than three cats can keep existing cats that are registered with the City but once and if the local law is made, cannot not add any more or substitute them without approval.

The City intends to **continue** to run the feral animal control program for foxes, feral cats and rabbits, undertaken by independent contractors. This program may involve actual trap setting if evidence of animal activity is discovered during site assessment.

The following areas have been recommended as cat prohibited areas as the City considers them to be significant natural areas which may benefit from additional protection from predation. This would mean, under the proposed local law, that if any registered cat is caught one of these areas the owner would be committing an offence and be subject to a fine.

Proposed cat prohibited areas:

- | | |
|-----------------------------|--------------------------------------|
| 1. Booyeembara Park | 6. Leighton Beach Reserve |
| 2. Sir Fredrick Samson Park | 7. South Beach Reserve |
| 3. Bathers Beach Reserve | 8. Cantonment Hill |
| 4. Port Beach reserve | 9. North Fremantle Foreshore Reserve |
| 5. Rocky Bay Reserve | (including Prawn Bay) |

FINANCIAL IMPLICATIONS

The approximate existing annual cost for the feral animal control program, which may use trapping based on evidence of feral animal presence in natural areas, is **\$27,000** per year.

The approximate additional annual cost for mandatory trap setting for cats in significant natural areas, based on trapping in all 9 cat prohibited areas for 4 day periods, twice a year, is **\$23,760**.

The potential approximate reduction in annual cost to the feral animal program based on overlap with mandatory trap setting for cats in the 9 proposed cat prohibited areas is potentially **\$6,600**.

This means the net additional cost per year, based on undertaking a mandatory trapping program twice a year may be approximately **\$17,160**.

Each individual 4 day program of mandatory trapping across all 9 areas is estimated to cost \$11,880.

LEGAL IMPLICATIONS

The ability to create a local law falls under the *Cat Act 2011*. The City does not currently have a regulatory instrument relating to the control of cats within the City of Fremantle and the proposed City of Fremantle Cat Management Local Law 2020 has been drafted based on similar instruments that currently exist within other local governments in WA.

A local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under Section 79 of the *Cat Act 2011*.

- (a) the registration of cats;
- (b) removing and impounding cats;
- (c) keeping, transferring and disposing of cats kept at cat management facilities;
- (d) the humane destruction of cats;
- (e) cats creating a nuisance;
- (f) specifying places where cats are prohibited absolutely;
- (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;
- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;
- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- (j) the regulation of approved cat breeders, including record keeping and inspection;
- (k) fees and charges payable in respect of any matter under this Act.
- (l) offences and penalties up to \$5,000; if the offence is continuing in nature, the local law can make a further penalty of \$500 per day. Local laws can also specify a minimum penalty.

The procedure for making a local law is set out in Section 3.12 of the *Local Government Act 1995*, as summarised below:

- **Council initiate process** - s3.12(2) of the *Local Government Act 1995* (the Act) & Regulation (3) *Local Government (Functions and General) Regulations 1996* - Council to resolve to initiate the local law and include in the resolution the purpose and effect of the local law.
- **Local public notice** – s3.12(3) of the Act - The local government must give local public notice for at least a six (6) week period, advising that the local law is published on the local government’s website and that copies may be inspected or obtained from the local government’s office.
- **Notification to the Minister** - s13.12(3b) of the Act - Send notification to the Minister as soon as the public notice is given (after advertisement appears in the paper).
- **Considering submissions** – s3.12(4) of the Act - After the last day for submissions, Council to consider any submissions made and may make the local law as proposed or make amendments that are not significantly different from what was proposed (by absolute majority).
- **Gazettal notice** – s3.12(5) of the Act - After making the local law, the local government is to publish it in the Gazette.

- **Giving public notice** – s3.12(6) of the Act - After the local law has been published in the Gazette, Council is to give local public notice stating the title of the local law; summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and advising that copies of the local law may be inspected or obtained.
- **Explanatory Memoranda** – s3.12(7) of the Act - After Gazettal to provide an Explanatory Memoranda to the government (WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL).
- **Commencement of local laws** - s3.14 of the Act - The local law will come into effect the 14th day after publication.
- **Review by Government** - s3.17 of the Act - Final point of the process where the local law can be amended or repealed via the Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL).

CONSULTATION

Section 3.12(3) of the *Local Government Act 1995* states that the local government must give local public notice for at least a six week period (42 days), advising that the local law is published on the local government’s website and that copies may be inspected or obtained from the local government’s office.

However, the City’s community engagement policy, section 3.6, states the following:

The City will not commence an engagement process between the last council meeting of the calendar year and the first council meeting of the new-year, unless there is a legal requirement, council direction or other unavoidable necessity to do so.

An additional 14 days will be added to any engagement period that falls between 15 December and 15 January and 7 days before and 7 days after Easter Sunday.

As the proposed advertising period for this local law falls over this period of time the City will be adding an additional two week period (14 days) to the required six week time frame and will also be including additional days to replace any public holidays that fall within that period.

OFFICER COMMENT

The purpose of the *Cat Act 2011* was to introduce measures to: reduce the large number of stray cats being euthanized each year; encourage responsible cat ownership; and provide for better management of the unwanted impacts of cats on the community and environment.

The Department of Local Government, Sport and Cultural Industries provide the following advice on their website, in regards to making a local law relating to cats:

A local government needs to consider what elements of cat control they wish to regulate and only decide to make a local law if:

- the Act, *Cat Regulations 2012*, the *Cat (Uniform Local Provisions) Regulations 2013* or any other written law do not already cover that matter; and
- there appears a sufficient need for additional regulation in that area.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

The Finance, Policy, Operations and Legislation Committee acting under delegation 1.1:

1. Give notice, in accordance with the provisions and processes of the *Local Government Act 1995*, of Council's intention to make a City of Fremantle Cat Management Local Law 2020 (Attachment 1), the purpose and effect of which is as follows:

Purpose: To make provisions about the keeping of cats, to control the number of cats that can be kept, the places where cats can be kept and prescribe areas in which cats are prohibited.

Effect: To extend the control over cats which exist under the *Cat Act 2011*.
2. Initiate local public notice in accordance with section 3.12 of the *Local Government Act 1995*.
3. Consider all public submissions received at the conclusion of the advertising period.

Amendment 1

Moved: Cr Adin Lang

Seconded: Cr Andrew Sullivan

Add an additional part 4 and part 5 to the Officer's Recommendation, as follows:

4. **Amend the text of the proposed Cat Management Local Law 2020 as contained in Attachment 1 to the item, to add the following locations to the schedule of Cat Prohibited Areas in Schedule 3 of the local law:**
 10. **Hollis Park, Sandown Park and other land within the boundary of the former South Fremantle landfill site, South Fremantle (lot 39 Daly Street, 17 Cockburn Road and Hollis Park Reserve).**
 11. **The Royal Fremantle Golf Course, 359 High Street, Fremantle.**
 12. **The Fremantle Public Golf Course, 20 Montreal Street, Fremantle.**
5. **The City of Fremantle acknowledges that Clontarf Hill is not under the City's management control, however should the land be vested to the City in the**

future and retained as a natural area, then the City would also consider making this a Cat Prohibited Area under the Cat Management Local Law 2020, by means of an amendment to the local law.

Amendment carried: 6/0

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

Reason for change:

South Fremantle landfill site – the Hollis Park portion of the location is under rehabilitation, and is the starting point for the Cockburn Community Wildlife Corridor. Evidence-based trapping may already be occurring here subject to pre-control surveys identifying feral animal activity.

Fremantle Golf Courses (both public and private) – these areas are directly connected to Booyeembara Park and it's reasonable to expect native animals would move throughout this entire green-space. Evidence-based trapping may already be occurring across both golf courses subject to pre-control surveys identifying feral animal activity.

To acknowledge Clontarf Hill as a significant natural area which may benefit from protection from predation.

COMMITTEE DECISION ITEM FPOL1911-3
(Officer's recommendation)

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

The Finance, Policy, Operations and Legislation Committee acting under delegation 1.1:

1. **Give notice, in accordance with the provisions and processes of the *Local Government Act 1995*, of Council's intention to make a City of Fremantle Cat Management Local Law 2020 (Attachment 1), the purpose and effect of which is as follows:**

Purpose: To make provisions about the keeping of cats, to control the number of cats that can be kept, the places where cats can be kept and prescribe areas in which cats are prohibited.

Effect: To extend the control over cats which exist under the *Cat Act 2011*.

2. **Initiate local public notice in accordance with section 3.12 of the *Local Government Act 1995*.**
3. **Consider all public submissions received at the conclusion of the advertising period.**

- 4. Amend the text of the proposed Cat Management Local Law 2020 as contained in Attachment 1 to the item, to add the following locations to the schedule of Cat Prohibited Areas in Schedule 3 of the local law:**
- 10. Hollis Park, Sandown Park and other land within the boundary of the former South Fremantle landfill site, South Fremantle (lot 39 Daly Street, 17 Cockburn Road and Hollis Park Reserve).**
 - 11. The Royal Fremantle Golf Course, 359 High Street, Fremantle.**
 - 12. The Fremantle Public Golf Course, 20 Montreal Street, Fremantle.**
- 5. The City of Fremantle acknowledges that Clontarf Hill is not under the City's management control, however should the land be vested to the City in the future and retained as a natural area, then the City would also consider making this a Cat Prohibited Area under the Cat Management Local Law 2020, by means of an amendment to the local law.**

Carried: 6/0

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

10.2 COUNCIL DECISION

FPOL1911-5 NEW LEASE AND SUB LEASE AT 123 BEACH STREET, FREMANTLE

Meeting date:	13 November 2019
Responsible officer:	Manager Economic Development and Marketing
Decision making authority:	Council
Agenda attachments:	1. Nil
Additional information:	1. Nil

SUMMARY

This report recommends that council approve a lease between the City and the Minister for Lands for 123 Beach Street, Fremantle (Portion of Lot 1941 on Plan 123981 Volume LR30307 Folio 561) and approve a sub-lease between the City and Albarossa Pty Ltd for 123 Beach Street, Fremantle.

BACKGROUND

Albarossa Pty Ltd trading as 'the Kiosk' has a lease with the City of Fremantle for 123 Beach Street, Fremantle that expires 16 March 2028. Albarossa requested in 2017 that council consider the following changes to the lease:

1. Change of the lease permitted use from 'café' to 'restricted tavern'
2. A variation of the current lease area by approximately 217m² from 240m² to 457m².
3. Extension of the current lease term from 2028 to 2038.

The property is located on a Crown Land Reserve 4720 vested to the City by a management order with the permitted use of 'Parks and Recreation'. The City is entitled to lease or licence any portion of the reserve for a term not exceeding 21 years subject to the approval of the Department of Planning, Lands and Heritage (DPLH).

The permitted use change from 'café' to 'tavern' would allow the lessee to apply for a change in liquor licence from 'restaurant' to 'restricted tavern'. This would enable the lessee to expand their business, extend trading hours and accommodate small groups and functions that are currently restricted by the table service requirement of the restaurant liquor licence. However, it is not within the City's power to grant the first request due to the nature of the management order on the Land.

The lease permitted use of 123 Beach Street is 'café' which DPLH interpret as complementary to the reserve's permitted use 'Parks and Recreation'. The change of lease permitted use to 'tavern' is interpreted by DPLH as a commercial operation outside of the reserve management order and will not be approved by the Minister for Lands. DPLH will allow approval if the leased land is excised from the reserve and leased directly to the City – the City would then sub-lease to Albarossa with the permitted use of 'restricted tavern'

At Ordinary Council dated 12 July 2017 council resolved the following;

1. Support the concept put forward for the lease area by Albarossa Pty Ltd in the agenda report to the Finance, Policy, Legislation and Operations Committee dated 12 July 2017.
2. Support the intention of Albarossa Pty Ltd to apply for a change from a 'restaurant' liquor licence to 'restricted tavern' liquor licence at 123 Beach Street, Fremantle, as long as it does not include the sale of take-away packaged liquor, and includes a requirement for the venue to operate as a 'best practice' venue where alcohol is served as an accompaniment to food/entertainment.
3. In regards to property 123 Beach Street, Fremantle (Portion of Lot 1941 on Plan 123981 Volume LR30307 Folio 561), request that officers apply to the Department of Lands to excise the portion of Reserve 4720 shown in the agenda attachments to the Finance, Policy, Legislation and Operations Committee dated 12 July 2017.
4. Request that officers negotiate with Department of Lands on the terms of the City's lease for the excised portion of land.
5. Request that officers negotiate with Albarossa Pty Ltd on the terms of their sub-lease with the City for the excised portion of land.
6. Request that officers present at the next appropriate council meeting, the proposed lease terms with Department of Lands and the proposed sub-lease terms with Albarossa Pty Ltd.

FINANCIAL IMPLICATIONS

All costs associated with the new lease and sub lease, including but not limited to legal, survey fees, document preparation, lodgement and legal fees, will be the financial responsibility of Albarossa. This also includes reimbursing the City for any rent incurred from the lease in addition to normal annual market rental amount it pays under the sub lease to the City.

An independent market valuation has determined the market rent for the sub lease to be \$23 000 pa + GST.

Historically in other scenarios where land has been excised due to the lease permitted use being outside of the permitted use of a reserve, DPLH have determined an annual rental of 25% of market rate. This was granted by DPLH given the City's annual expenditure on the entire reserves management where the leased area, regardless of being excised from the reserve, was located.

However, DPLH have advised in this case, that unless the City can show its planned annual expenditure to the excised area of 457m² the annual rent for the lease will be 100% market rate. DPLH has determined the lease rent to be \$23 000 pa + GST.

As the City will be sub leasing the excised portion of land, and not be financially responsible for any annual expenditure, the cost of the annual rent charged by DPLH will be passed to Albarossa.

Albarossa has accepted that they will be paying a market rent to the City under the sub lease in addition to reimbursing the City for the rent incurred by lease which will be 100% market rate.

Sub lessee costs

Lease rent: \$23 000 pa + GST

Sub lease rent: \$23 000 pa + GST plus outgoings

Outgoings: sub lessee responsibility

Costs associated with lease and land being excised: sub lessee responsibility

The City will not incur any costs from entering into a lease with the Minister of Lands or sub lease with Albarossa Pty Ltd.

LEGAL IMPLICATIONS

If the recommendations of this report are approved, the process will be as follows:

1. DPLH will be required to finalise the leased area to be excised from the reserve.
2. The City will then enter into a lease directly with the Minister for Lands for the excised area with the permitted use of 'restricted tavern' and at the same time,
3. The City will finalise a sub-lease with Albarossa

The lease and sub lease will comply with Section 3.58 of the *Local Government Act 1995* and the *Commercial (Retail) Tenancy Act 1985*.

CONSULTATION

Should Council approve the sub lease, details of the updated agreement will be advertised in a state newspaper in accordance with Section 3.58 of the *Local Government Act 1995*. This will provide members of the community with 14 days to submit any objections in the writing to the City.

OFFICER COMMENT

Council's consideration of the application from Albarossa and resolution dated 12 July 2017 was outside of the City's Leasing of City Property in a competitive manner policy as the current lease with Albarossa does not expire until 2028. However, as Albarossa's request aims to add visitors to the area by further activation and redevelopment of the premises the application was deemed worthy of consideration.

Currently the Kiosk operates between 7.00 am and 3.00 pm on weekdays and 7.00 am and 4.30 pm on weekends serving breakfast and lunch. A change of the liquor licence from restaurant to restricted tavern will allow an expansion of the Kiosk's operating hours

with the option to cater for small groups and functions providing a tapas style dinner menu.

The restricted tavern licence permits the sale of alcohol for consumption without the requirement it be served with food and without the requirement for the patron to be seated. Special conditions have been included in the sub lease terms to reasonably restrict the approval of a tavern licence in line with the lessee's proposal.

Albarossa have received development approval (dated 15 June 2018) from the Department of Biodiversity, Conservation and Attractions who are the approving body for the Beach Street Reserve. The approvals are for a change of land use to restricted tavern, and alterations to the existing building with the proposed development valued at approximately \$350 000 - \$400,000.

Works include the addition of a decking and toilets to the rear of the building, installation of a new bar and service counter, extended dry store and office space, and new finishes, fittings and furniture.

Albarossa have also received conditional liquor license approval from the Department of Racing, Games and Liquor for a restricted tavern liquor licence subject to the sub lease being finalised and all redevelopment works being completed.

DPLH have proposed the following terms for a Lease between the City and the Minister for Lands for 123 Beach Street, Fremantle;

Property Description	123 Beach Street, Fremantle
Annual Rental	\$23 000 plus GST
Lease commencement date	1 July 2020
Payment	Six monthly
Market rent review	Biennially
Lease permitted use	Restricted Tavern
First Term	Five years
Second Term	Five years
Third Term	Five Years

Based on the Lease terms Officers have negotiated the following terms for the sub lease between the City and Albarossa Pty Ltd;

Property Description	123 Beach Street, Fremantle
Sub Lessee	Albarossa Pty Ltd
Property Owner	Minister of Lands
Head Lessee	City of Fremantle
Site Area	457m2
Sub Lease Commencement Date	1 July 2020
Lease Term	Five (5) years
Further Term	Five (5) years

Second Further Term	Five (5) years
Annual Rent	\$23 000 plus GST
Head Lease Rent	\$23 000 plus GST The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister for Lands, each year of the lease term.
Rent Review	CPI – Annually on the anniversary of the lease commencement date based on the Consumer Price Index. Market – by an independent market valuation at the commencement of each further term. The market valuation will be based on the existing infrastructure at the commencement of the lease and will not include any improvements or developments by the Lessee.
Outgoings/Variable Outgoings	To include but not be limited to; <ul style="list-style-type: none"> • Council Rates • Emergency Service Levy • Land Tax • Building Insurance • Water Rates/Usage • Electricity • Gutter Cleaning • Building Insurance • Air Conditioning maintenance/servicing • Pest Control • General maintenance
Lease Associated Fees	<ol style="list-style-type: none"> 1. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to; <ol style="list-style-type: none"> a) All Solicitor fees associated with the both the lease and sub lease. b) All contractor and consultant fees in association with the agreement including any survey and valuation services. c) All stamp duty and lodgement fees 2. The sub lessee will reimburse the City, the total amount of rent charged to the City by the State, each year of the lease term. 3. The sub lessee will be financially responsible for all development to the property required complying with the sub leases permitted use.

<p>Special Conditions</p>	<p>1. In regards to the liquor licence;</p> <ul style="list-style-type: none"> a) The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern restricted licences. b) The sale of packaged liquor for consumption off the licensed premises is prohibited. c) Seating for a minimum of 150 seats for the use of patrons is to be provided on the licensed premises at all times except in the case of a private function or special event. d) Food shall be available to patrons during all trading hours. e) The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'. f) No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater. g) A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours. h) A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director. i) Entertainment and music on the licensed premises is to be maintained at a volume that complies with the <i>Environmental Protection Act 1986</i> at all times. <p>2. The sublessee must have DA approval prior to commencement of the lease.</p>
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	<ol style="list-style-type: none"> 3. A list of all proposed works to the building and additions will be required as an annexure to the sub Lease document. 4. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease. 5. The applicant will advise the City within 48 hours of the liquor licence being approved or denied. 6. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted. 7. The City will approve the Sub Lessee connecting the additional toilets to the existing pump subject to; <ol style="list-style-type: none"> a) The Lessee is financial responsibility for 50% of maintenance, repair and servicing costs associated with the pump. b) Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.
<p>Condition Precedent (Lease will be terminated)</p>	<ol style="list-style-type: none"> 1. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands. 2. The sub lease is subject to approval by the Minister for Lands. 3. The sub lease is subject to the unconditional approval of the liquor licence.

Should Council approve the Lease and Sub Lease terms, DPLH will then finalise 123 Beach Street, Fremantle to be excised from the Reserve to enable both the lease and sub lease to be finalised.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

1. Approve the lease between the City of Fremantle and Minister for Lands, 12 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years
 - f. Rent: \$23 000 per annum + GST
 - g. Market rent review: Biennially
 - h. Permitted use: Restricted Tavern

2. Approve the sub lease between the City of Fremantle and Albarossa Pty Ltd, 123 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years
 - f. Rent: \$23 000 per annum + GST
 - g. Permitted use: Restricted Tavern
 - h. Condition precedent:
 - i. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands for 123 Beach Street, Fremantle
 - ii. The sub lease is subject to approval by the Minister for Lands.
 - i. Special conditions;
 - i. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to;
 - i. Solicitor fees for both lease and sub lease.
 - ii. All stamp duty and lodgment fees
 - ii. All contractor and consultant fees in association with the agreement including any survey and valuation services.
 - iii. The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister of Lands, each year of the lease term.
 - iv. The sub lessee will be financially responsible for all development of property required complying with the sub leases permitted use.
 - j. In regards to the restricted tavern liquor license;
 - i. The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern

- restricted licences.
- ii. The sale of packaged liquor for consumption off the licensed premises is prohibited.
 - iii. Seating for a minimum of 150 seats for the use of patrons are to be provided on the licensed premises at all times except in the case of a private function or special event.
 - iv. Food shall be available to patrons during all trading hours.
 - v. The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'.
 - vi. No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater.
 - vii. A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours.
 - viii. A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director.
 - ix. Entertainment and music on the licensed premises is to be maintained at a volume that complies with the *Environmental Protection Act 1986* at all times.
- k. The sublessee must have DA approval prior to commencement of the lease.
 - l. A list of all proposed works to the building and additions will be required as an annexure to the sub lease document.
 - m. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease.
 - n. The applicant will advise the City within 48 hours of the liquor licence being approved or denied.
 - o. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted.
 - p. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;
 - i. The Lessee is financial responsibility for 50% of maintenance, repair and servicing costs associated with the pump.

- ii. Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.

AMENDMENT 1

Moved: Cr Doug Thompson Seconded: Cr Sam Wainwright

Amend part p. i. of the recommendation to change 50% to 100%, to read as follows;

- p. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;
 - i. The Lessee is financial responsibility for ~~50~~100% of maintenance, repair and servicing costs associated with the pump.

Carried: 6/0

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

COMMITTEE RECOMMENDATION ITEM FPOL1911-5

Moved: Cr Hannah Fitzhardinge Seconded: Cr Jenny Archibald

Council:

1. Approve the lease between the City of Fremantle and Minister for Lands, 12 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years
 - f. Rent: \$23 000 per annum + GST
 - g. Market rent review: Biennially
 - h. Permitted use: Restricted Tavern
2. Approve the sub lease between the City of Fremantle and Albarossa Pty Ltd, 123 Beach Street, Fremantle based on the following:
 - a. Lease area: 123 Beach Street, Fremantle
 - b. Lease commencement date: 1 July 2020
 - c. First term: Five years
 - d. Second term: Five years
 - e. Third term: Five years

- f. Rent: \$23 000 per annum + GST**
- g. Permitted use: Restricted Tavern**
- h. Condition precedent:**
 - i. The sub lease is subject to the City entering into a lease agreement with the Minister for Lands for 123 Beach Street, Fremantle**
 - ii. The sub lease is subject to approval by the Minister for Lands.**
- j. Special conditions;**
 - i. The sub lessee will be responsible for all fees associated with the sub lease, including but not limited to;**
 - a) Solicitor fees for both lease and sub lease.**
 - b) All stamp duty and lodgment fees**
 - ii. All contractor and consultant fees in association with the agreement including any survey and valuation services.**
 - iii. The sub lessee will reimburse the City, the total amount of rent charged to the City by the Minister of Lands, each year of the lease term.**
 - iv. The sub lessee will be financially responsible for all development of property required complying with the sub leases permitted use.**
- k. In regards to the restricted tavern liquor license;**
 - i. The lessee will be permitted to sell and supply liquor in accordance with the provisions of section 41(1)(c) of the Act as it relates to tavern restricted licences.**
 - ii. The sale of packaged liquor for consumption off the licensed premises is prohibited.**
 - iii. Seating for a minimum of 150 seats for the use of patrons are to be provided on the licensed premises at all times except in the case of a private function or special event.**
 - iv. Food shall be available to patrons during all trading hours.**
 - v. The selling or supplying of beverages in a such a way that would encourage rapid consumption of liquor is prohibited including but not limited to unadulterated spirits or liqueur in a shot glass, drinks known as 'laybacks', shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs'.**
 - vi. No liquor is to be supplied mixed with energy drinks. For the purpose of this condition 'energy drink' has the same meaning as formulated caffeinated beverage within the Australia New Zealand Food Standards Code with a composition of 145mg/L of caffeine or greater.**
 - vii. A range of non-alcoholic and low strength alcohol drinks will be available during all trading hours.**
 - viii. A closed circuit television video ("CCTV") surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during normal trading hours and until one (1) hour after**

trading ceases. Images recorded via the CCTV system must be retained for at least twenty eight (28) days and must be made available for viewing or removal by the Police or other persons authorised by the Director.

- ix. Entertainment and music on the licensed premises is to be maintained at a volume that complies with the *Environmental Protection Act 1986* at all times.
- I. The sublessee must have DA approval prior to commencement of the lease.
 - m. A list of all proposed works to the building and additions will be required as an annexure to the sub lease document.
 - n. The liquor licence application must be submitted to Racing, Liquor and Gaming no later than 30 days from Council approval of the sub lease.
 - o. The applicant will advise the City within 48 hours of the liquor licence being approved or denied.
 - p. Redevelopment will be completed by no later than 12 months from the date the conditional liquor licensing is granted.
 - q. The City will approve the sub lessee connecting the additional toilets to the existing pump subject to;
 - i. The Lessee is financial responsibility for *100%* of maintenance, repair and servicing costs associated with the pump.
 - ii. Should there be an impact or interruption to the services of the public toilets as a result of the pump connection by the Sub Lessee, the Sub Lessee will be financially responsible for any costs to resolve the issue.

Carried: 6/0

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

FPOL1911-6 BUDGET AMENDMENTS - OCTOBER 2019

Meeting date:	13 November 2019
Responsible officer:	Manager Finance
Decision making authority:	Council
Agenda attachments:	Nil
Additional information:	Nil

SUMMARY

To adopt various budget amendments to the 2019/2020 budget account numbers as detailed below in accordance with the Budget Management Policy. The budget amendments have nil effect to the overall budget.

This report recommends that Council approves the required budget amendments to the adopted budget for 2019/20 as outlined in the report.

BACKGROUND

In accordance with the Budget Management Policy this report provides details of proposed amendments to the 2019/2020 budget on a monthly basis to Council (via FPOL) to adopt budget amendments to:

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

FINANCIAL IMPLICATIONS

The financial implications are detailed in this report.

LEGAL IMPLICATIONS

Local Government Act 1995:

Section 6.2 (1)

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

Section 6.8 (1) and (2)

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

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

Where expenditure has been incurred;

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

Local Government (Financial Management) Regulations 1996:

Regulation 33A

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

CONSULTATION

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

OFFICER COMMENT

The following amendments to budget account numbers to the adopted budget for 2019/2020 are submitted to Council for approval as outlined below.

1. Budget amendments for proposed expenditure for an additional purpose

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

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
1.1	New capital project for renovation of Fremantle Netball clubrooms, kiosk and toilet fully grant funded from Fremantle Netball Association.					
	300XXX.1606	P----- Renovation Fremantle Netball Club Buildings	0		(140,000)	140,000
	300XXX.4222	P----- Renovation Fremantle Netball Club Buildings	0	140,000		(140,000)
1.2	Replacement of the current agenda and minutes management system, funded from savings of other activities and end of year municipal surplus for 2019-20 (year ending 30 June 2020)					
	100012.6824	Maintain business systems - Other	(10,000)		10,000	0

	100077.6824	Maintain corporate GIS system	(10,000)		10,000	0
	100079.6823	Maintain and develop spatial data sets	(20,000)		20,000	0
	XXXXXX.3915	End of financial year municipal surplus	(30,000)		30,000	0
	XXXXXX.6823	Maintain Council Agenda and Minutes System	0		(70,000)	70,000

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

CEO has the delegated authority under the Budget Management Policy to incur expenditure for a purpose identified within the budget for which there is insufficient funds allocated, where:

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

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

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
N/A						

3. Carried forward projects estimate budget amendments

The budget amendments below are to adjust the carried forward project estimates and to amend the carried forward budget to reflect the final position at the end of financial year.

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
N/A						

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

COMMITTEE RECOMMENDATION ITEM FPOL1911-6

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Doug Thompson

Council approve the required budget amendments to the adopted budget for 2019/2020 as outlined below:

Item	Account #	Account Details	2019/20 Adopted Budget	Revenue Increase/ (Decrease)	Expenditure (Increase)/ Decrease	2019/20 Amended Budget
1.1	New capital project for renovation of Fremantle Netball clubrooms, kiosk and toilet fully grant funded from Fremantle Netball Association.					
	300XXX.1606	P----- Renovation Fremantle Netball Club Buildings	0		(140,000)	140,000
	300XXX.4222	P----- Renovation Fremantle Netball Club Buildings	0	140,000		(140,000)
1.2	Replacement of the current agenda and minutes management system, funded from savings of other activities and end of year municipal surplus for 2019-20 (year ending 30 June 2020)					
	100012.6824	Maintain business systems - Other	(10,000)		10,000	0
	100077.6824	Maintain corporate GIS system	(10,000)		10,000	0
	100079.6823	Maintain and develop spatial data sets	(20,000)		20,000	0
	XXXXXX.3915	End of financial year municipal surplus	(30,000)		30,000	0
	XXXXXX.6823	Maintain Council Agenda and Minutes System	0		(70,000)	70,000

Carried: 6/0

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

FPOL1911-7 CONSIDERATION OF RENT REDUCTION - FREMANTLE PUBLIC GOLF COURSE

Meeting date: 13 November 2019
Responsible officer: Manager of Economic Development and Marketing
Decision making authority: Council
Agenda attachments: Nil
Additional information: Nil

SUMMARY

Main Roads Western Australia (MRWA) is now preparing to progress their proposal for upgrading the intersection at High Street and Stirling Highway between Carrington Street and Marmion Street.

To accommodate the proposed road alignment along High Street and retain existing significant trees, a portion of the Class A and Class C reserves were required to be vested to MRWA for the purpose of road reserve. This has impacted the City's former community facility at 26 Montreal Street, Fremantle Public Golf Course and Booyeembara Park.

Officers are progressing with a project for the golf course redesign and new building facilities to cater to the golf course and community facility. This includes a program of works for the golf course design being actioned. Officers aim to work where possible to maintain options for the golf course to continue to operate in some capacity whenever possible.

Given the public knowledge that the City will be progressing with the redesign of the course in the New Year and the demolition of the community facility at 26 Montreal Street Evergreen Golf Pty Ltd has already occurred the City's lessee is already seeing a considerable drop in patronage to the course.

This report is for Council to consider a reduction of 50% in rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course, effective from 1 December 2019, for the remainder of the current lease, expiring 7 November 2022, or until the new redesigned golf course and facilities are delivered, whichever occurs first. This report also recommends that no annual rent increases occur during the same period.

BACKGROUND

The City entered into a Lease with Evergreen Golf Pty Ltd for a term of seven years effective 8 November 2001 expiring 7 November 2008 with two further terms of seven years' each. The last of these terms has been exercised with the Lease expiring 7 November 2022.

Mr Billingham was originally an employee of Evergreen Golf Pty Ltd at the commencement of this Lease, becoming a partner in 11 July 2008, and sole Director in 23 December 2016.

Mr Billingham has a proven track record with the City as a Lessee and operator of a public facility which caters to 12 regular golf clubs. Under the terms of the current Lease the Lessee is responsible for all maintenance of the course and grounds, including upgrading fairways and greens as required. This has been proactively scheduled by the Lessee.

At the Special Meeting of Council 29 August 2018 Council resolved that as part of the primary concept objectives the golf course objectives would be;

1. *Retain 9 holes*
2. *Retail par 34*
3. *Minimum impact on trees.*
 - a. *Lost trees replaced through landscape strategy.*

The new road alignment has a significant impact on the northern section of the golf course, the impact results in the loss of two holes (#3 and #6). To maintain the function of the golf course, MRWA and the City engaged the services of golf course architects to evaluate the impact and provide a number of options for an effective redesign of the golf course.

The scope for this work was based upon providing a golf course with similar functionality, accommodating:

- A 9 hole golf course.
- Minimum par 34.
- Maximised course length – minimum >2000m (currently 2465m).
- Similar sized driving range facility (including an equivalent number of bays).
- Comparable practice facilities including putting green.
- Similar size / function of clubhouse facility.
- Full irrigation system.
- Minimal tree removal - offset by new tree planting.
- Safety compliance.
- Suitable car parking and access.
- Minimal impacts on Booyeembara Park (see below).

While Council has endorsed a scope for the golf course redevelopment, Mr Billingham has advised that he would like the opportunity to consider financially contributing for additional features in the course design. These items potentially include;

- Floodlighting to the driving range to allow for night usage.
- Cover to the driving range to cater for weather conditions.
- Simulator golf.
- Pro shop/buggy bays.

These items are subject to the final costings and consideration by officers within the design of the course and facilities.

At the meeting dated 26 June 2019 Council considered the option of an offer to Lease with Evergreen Golf Pty Ltd and resolved the following;

1. "Approve Evergreen Golf Pty Ltd as qualifying for an exemption under city policy "leasing of City Property in a competitive manner" in accordance with clause 1.1 a) where it states 'A property is leased to a tenant that is paying full commercial market rate or above, and adds significant value to Fremantle's overall tenancy mix and appeal for visitors'.
2. Approve an offer to lease between Evergreen Golf Pty Ltd and City of Fremantle, based on the following;
 - a. Evergreen Golf Pty Ltd agreement to vary the current lease to allow the requirements for land resumption of the Fremantle Public Golf Course land in accordance with the requirements for land resumption to facilitate the proposed road widening works on High Street, Fremantle.
 - b. This offer for lease and preferred future golf course design including any financial contribution from the lessee being accepted by the Lessee no later than 30 days from formal offer by the City. Extension of this time frame will be at the discretion of the City.
 - c. Reasonable endeavours, but no guarantee of inclusion, of Lessee design conditions being provided by the City.
 - d. The Lessee is responsible for any development costs associated with any lessee requested additions to the public golf course design outside of the City's scope.
 - e. Ministerial agreement being provided for the proposed lease.
 - f. Permitted use: public golf course.
 - g. Rent: to be determined by an independent market valuation excluding any financial contribution by the lessee.
 - h. Lease term: ten years with any further term subject to council approval prior to the lease being finalised.

Evergreen Golf has finalised the variation of the current lease to allow for the land to be excised by MRWA. The offer to lease has also been finalised between Evergreen Golf and the City.

The City aims to provide a formal offer of the design plans for redevelopment to Evergreen Golf by the end of 2019.

FINANCIAL IMPLICATIONS

The current Lease receives a rent of \$90,829.34 + GST per annum plus outgoings.

2018/19 Council Rates and State Government Emergency Services Levy for the premises is \$17,271.61.

A reduction of the rent by 50% will equate a revised annual rent of \$45,414.67.

The City is acting as a conduit for compensation discussions between MRWA and Mr Billingham due to the impact of the High Street widening to his business. This will include but not be limited to financial loss during the redevelopment of the golf course, closure of Montreal Street during High Street works and retention of staff. Officers also intend to use best endeavours to recover the loss of income from the 50% reduction of rent for Evergreen Golf from MRWA, should Council approve the rent reduction.

LEGAL IMPLICATIONS

There are no legal implications for this item.

CONSULTATION

The City is continuing to engage with Evergreen Golf (and its internal stakeholders) in respect to the redesign of the golf course and associated works.

OFFICER COMMENT

Independent Golf Clubs must nominate their courses for next year and to-date Evergreen Golf has been notified by 5 clubs with a combined total of 158 members, that they will be utilising alternate courses in the New Year. It is expected that all clubs that regularly operation out of the Fremantle Public Golf Course will do the same. Evergreen Golf has advised that clubs represent 40% of their total turnover. Evergreen Golf has also not been able to offer vouchers for Christmas this year given the impending works. The vouchers normally equates to \$6k to \$7k in gross revenue.

While the City will work with Evergreen Golf to allow levels of operation during the redevelopment the lack of a full course and works onsite will deter patronage.

The works on High Street will close down Montreal Street for a period of time. While Main Roads have indicated they will accommodate signage stating that the course is still open; this will still impact traffic to the course and act as a further deterrent.

It is expected that MRWA will commence the High Street project shortly which will result in the golf course losing holes 3 and 6. There is scope in the golf course consultant's brief to develop an interim golf course design to maintain a functional golf course for the period before the commencement of construction of the new golf course.

While discussions are occurring with MRWA regarding compensation to Evergreen Golf due to the High Street widening, an agreement is subject to negotiation and in part reliant on actual financials after all works are completed to the High Street widening and course redevelopment. Evergreen Golf need to manage and operate a business in the interim and will be heavily impacted without a fully operational course and less patronage.

To accommodate the courses interim operation Officers are recommending a reduction in the current rent by 50% effective from 1 December 2019. Officers propose to make best efforts to pursue MRWA for the loss of income to the City, from this rental deduction during the current compensation discussions regarding the financial impact to the Fremantle Public Golf Course.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required

OFFICER'S RECOMMENDATION

Moved: Cr Hannah Fitzhardinge Seconded: Cr Jenny Archibald

Council:

1. Approve;
 - a. A reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, by 50%, reducing the annual rent to \$45,414.67 per annum plus GST, effective from 1 December 2019.
 - a. The 50% reduction of rent will be effective until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.
 - b. No rental increases will occur between 1 December 2019 until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.
2. Note the City will make best efforts to pursue reimbursement of the 50% loss of income from Main Roads Western Australia.

AMENDMENT 1

Moved: Cr Jenny Archibald Seconded: Cr Doug Thompson

Amend part 1 a. of the officers recommendation to remove the words in red strikethrough and insert the words in green italics, to read as follows;

1. Approve;
 - a. *Officers negotiate* a reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, **by up to 50%**, ~~reducing the annual rent to \$45,414.67 per annum plus GST,~~ *subject to evidence of financial loss as a result of the proposed works,* effective from 1 December 2019.

Carried: 6/0

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

COMMITTEE RECOMMENDATION ITEM FPOL1911-7

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Jenny Archibald

Council:

- 1. Approve;**
 - a. *Officers negotiate* a reduction of rent for Evergreen Golf Pty Ltd for the Fremantle Public Golf Course at 20 Montreal Street, Fremantle, *up to 50%, subject to evidence of financial loss as a result of the proposed works*, effective from 1 December 2019.**
 - b. The 50% reduction of rent will be effective until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.**
 - c. No rental increases will occur between 1 December 2019 until the lease expiry of 7 November 2022 or until the redevelopment of the golf course and building facilities are completed, whichever occurs first.**
- 2. Note the City will make best efforts to pursue reimbursement of the 50% loss of income from Main Roads Western Australia.**

Carried: 6/0

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

11. 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.

Nil

12. 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.

Nil

13. LATE ITEMS

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

Nil

14. CONFIDENTIAL BUSINESS

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

At 7.46pm Cr Adin Lang left the meeting.

PROCEDURAL MOTION

At 7.46pm the following procedural motion was moved:

COMMITTEE DECISION

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Andrew Sullivan

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

Carried: 5/0

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

At 7.46pm members of the public were requested to vacate the meeting.

At 7.48pm Cr Adin Lang returned to the meeting.

FPOL1911-8 COAST CAFE

Meeting date: 13 November 2019
Responsible officer: Manager Parks and Landscape, Manager Economic Development and Marketing
Decision making authority: Council
Agenda attachments: Nil
Additional information: Nil

REASON FOR CONFIDENTIALITY

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

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

PROCEDURAL MOTION

At 8.12pm the following procedural motion was moved:

COMMITTEE DECISION

Moved: Cr Hannah Fitzhardinge Seconded: Cr Andrew Sullivan

That the meeting come out from behind closed doors.

Carried: 6/0
Cr Hannah Fitzhardinge, Cr Doug Thompson, Cr Adin Lang,
Cr Sam Wainwright, Cr Jenny Archibald, Cr Andrew Sullivan

15. CLOSURE

The Presiding Member declared the meeting closed at 8.12 pm.