



Agenda

Ordinary Meeting of Council

Wednesday 25 May 2022 6pm



Notice of an Ordinary Meeting of Council

Elected Members

An Ordinary Meeting Council of the City of Fremantle will be held on **Wednesday 25 May 2022** in the Council Chamber at the Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read "Glen Dougall".

Glen Dougall
Chief Executive Officer

20 May 2022



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1. Official opening, welcome and acknowledgement

Ngala kaaditj Whadjuk moort keyen kaadak nidja Walyalup boodja wer djinang Whadjuk kaaditjin wer nyiting boola yeye.

We acknowledge the Whadjuk people as the traditional owners of the greater Fremantle/Walyalup area and we recognise that their cultural and heritage beliefs are still important today.

2. Attendance, apologies and leave of absence

Cr Doug Thompson is on a leave of absence.

3. Applications for leave of absence

_____ requests a leave of absence from _____ to _____ inclusive.

4. Disclosures of interest by members

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

5. Responses to previous public questions taken on notice

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

6. Public question time

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

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

7. Petitions

Petitions to be presented to council.

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



8. Deputations

8.1 Special deputations

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

There are no special deputation requests.

8.2 Presentations

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

9. Confirmation of minutes

OFFICER'S RECOMMENDATION

Council confirm the minutes of the Ordinary Meeting of Council dated 27 April 2022.

10. Elected member communication

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



11. Reports and recommendations from committees

11.1 Planning Committee 4 May 2022

**PC2022-2 SOUTH TERRACE, NO. 2/284 (LOT 22) SOUTH FREMANTLE –
SECTION 31 STATE ADMINISTRATIVE TRIBUNAL
RECONSIDERATION FOR CHANGE OF USE FROM OFFICE TO
SHOP AND UNAUTHORISED SIGNAGE (JL DA0405/21)**

Meeting Date:	4 May 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Attachments:	1. Development Plan
Additional information:	1. Applicants Justification 2. Site Photos

SUMMARY

Approval is sought for a change of use from Office to Shop and associated existing signage at Unit 2, No.284 South Terrace, South Fremantle in a ground floor tenancy of the development on site.

On 1 December 2021, Planning Committee considered the application and made a decision to:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Shop and unauthorised signage at No. 2/284 (Lot 22) South Terrace, South Fremantle, as detailed on plans dated 15 September 2021, for the following reasons:

- 1. The proposal does not meet the parking requirements of Local Planning Scheme No. 4.***
- 2. The proposed Shop, by virtue of its opening hours until 8pm daily, does not meet the Local Planning Scheme No. 4 objectives of the Mixed Use zone due to its impact on the amenity of adjoining residential uses.***
- 3. The proposal would be detrimental to the residential amenity of adjoining properties under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015***

In January 2022, the applicant appealed the decision to the State Administrative Tribunal (SAT). The parties were invited to participate in onsite mediation (3 February 2022 and 17 March 2022), which included the participation of the business owners, owners of adjoining properties and owners of the property. Following the mediation, the SAT issued a direction inviting the City to reconsider an amended proposal.



The applicant has opted to amend the proposal by seeking temporary approval for a 12 month period and reduced opening hours for the business. The amended proposal is the subject of the current report.

The original application was referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4). These discretionary assessments include the following:

- **Land Use (Shop)**
- **On site car parking**
- **Unauthorised window signage**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use from Office to Shop of an existing 75m² commercial tenancy, on the ground floor of a mixed-use building at 284 South Terrace in South Fremantle. The original proposal included:

- Changing the approved use from Office to Shop so that the tenancy can be occupied for a Massage Parlour;
- Opening hours of 9am – 8pm (Monday – Sunday);
- Maximum of 2 employees onsite at anytime; and
- Unauthorised window signage 100% of windows.

The Planning Committee made a decision to refuse the above proposal on 1 December 2021. The applicant opted to lodge an appeal of the decision with the State Administrative Tribunal (SAT). Following SAT Mediation, the applicant submitted an amended application on 8 April 2022.



The amended proposal includes:

- Temporary approval for a period of 12 months,
- Reduced Window Signage from 90% to 47% coverage, and
- Reduced opening hours:

Original Application	Amended Application
9am – 8pm (Monday – Sunday)	9am-7pm, 4 days/week (Mon.-Thurs.);
	9am-6pm, 2 days/week (Fri. & Sun).
	Closed Saturday

The land use definition of a Shop under the City's LPS 4 is: *'A premise used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet.'* Uses such as massage parlours and tattoo studios as well as hairdressers, beauty therapists and nail bars have been consistently interpreted by the City of Fremantle (the City) as falling within the 'services of a personal nature' component of this definition since the gazettal of LPS4 in 2007.

Amended Development Details and plans are included as attachment 1.

Site/application information

Date received: 15 September 2021
Owner name: South Terrace Management Pty Ltd South Terrace
Development Trust
Submitted by: Metrowest
Scheme: Mixed Use
Heritage listing: South Fremantle Heritage Area
Existing land use: Office
Use class: Shop
Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The original proposal was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as it involves a use which requires consultation prior to obtaining approval and the application also involves a car parking shortfall. The advertising period concluded on 20 September 2021, and five submissions was received. The following issues were raised (summarised):

S

- A massage parlour is inappropriate for this site;
- The land use will result in carparking issues for the locality which is already under significant pressure and will impact local residents;
- The mix of Shops to small office offerings is also a concern, don't think the area needs more small shops,
- Bylaws of the strata should prevent this use,
- Concerned with the area becoming a 'red light district',
- Concerned that the community consultation signage was done correctly,
- Noise generated by the use is of concern,
- The City has made no provision for new car parking facilities in the locality to cater for more parking demands, and



- The present business at 2/284 South Terrace seems to operate at night-time when there is already a competing demand on car parking in the entire locality from existing hospitality businesses in the immediate vicinity.

As reiterated in the original report, the applicant submitted the following response (summarised):

- Concerns associated with an alleged illegal activity occurring within the premises need to be pursued with the Western Australian Police as the City doesn't have the jurisdiction to investigate or enforce such matters. The applicant's representative has also confirmed in writing that the business is not to be used for prostitution. Notwithstanding this, while anecdotal commentary has been provided by the community, there is not considered to be sufficient evidence to refuse the application on the basis of it potentially being an illegal use. As the use has not recommenced pending the outcome of this application, there is also no opportunity to review the operations.
- With regards to strata bylaws and enforcement of these provisions, this is a matter which would need to be pursued under Strata titles legislation which is not enforced or administered by the City.
- The City notes that the applicant will be advised the development will need address current acoustic requirements and must comply with the *Environmental Protection (Noise) Regulations 1997*.

The issue of car parking and land use is discussed further in the officer comment section below. These amendments are not considered to warrant readvertising as the application remain similar but with less signage, opening hours and a 12-month cessation date.

OFFICER COMMENT

Statutory and policy assessment

The proposals have been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this application the areas outlined below require discretionary assessment under LPS4:

- Land use (Shop)
- On site car parking
- Signage

The above matters are discussed below.

Background

The subject site is located on the eastern side of South Terrace, on the street block between Charles Street and King William Street. The site has a land area of approximately 1617m² and is currently occupied by a three-storey mixed-use building with residential apartments to the upper floors. The site is zoned Mixed Use and has a density coding of R30 but was developed to an R60 coding in



accordance with LPS4 cl. 4.2.5. The site is located within the South Fremantle Heritage Area.

On site car parking is provided on the ground level behind a vehicle gate. The site was developed with a Restaurant (corner tenancy), two shops (two southern units) and 3 office tenancies (remaining units between the Restaurant and Shop units) to the ground floor of the building along South Terrace.

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

- 18 March 2015 - DAP013/15 – Demolition of existing Building and construction of three storey mixed use development, including allocation of land uses. Approved by JDAP.
- DAPV007/16 – Minor alterations to Mixed use development approved as part of DAP013/15. This application was also approved by the JDAP.

The application was presented to PC in December 2021, with a recommendation from officers to approve. PC voted to refuse the application for the following reasons:

1. *The proposal does not meet the parking requirements of Local Planning Scheme No.4*
2. *The proposed Shop, by virtue of its opening hours until 8pm daily, does not meet the Local Planning Scheme No. 4 objectives of the Mixed-use zone due to its impact on the amenity of adjoining residential uses.*
3. *The proposal would be detrimental to the residential amenity of adjoining properties under Clause 67 of Planning and Development (Local Planning Scheme Regulations) 2015.*

It is noted that prior to a development application being received, the business commenced operating and had installed their signage. To officers' knowledge, the business ceased operations when requested and have not recommenced.

The applicant submitted an application for review of the City's decision to refuse the change of use to the State Administrative Tribunal (SAT). The parties were invited to participate in the onsite mediation (3 February 2022 and 17 March 2022), included the business owners, owners of adjoining properties and owners of the property. Following the mediation, SAT issued a direction inviting the City to reconsider an amended proposal.

The applicant submitted revised documentation and a written justification on 8 April 2022 which are the subject of this report.

Land Use (Shop)

A Shop is an 'A' use in the Mixed-Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and consultation has been undertaken with surrounding landowners and occupiers. In considering an 'A' use the Council will have regard to the matters to be considered in the Regulations. In this regard the following matters have been considered:



- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) *The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development*
- (n) *The amenity of the locality including the following:*
 - (i) *Environmental impacts of the development*
 - (ii) *The character of the locality*
 - (iii) *Social impacts of the development*
- (y) *Any submissions received on the application.*

It is considered that the proposed land use of Shop is consistent with the objectives of the Mixed-Use zone for the following reasons:

- The proposed Shop could make a positive contribution to the Mixed Use zone, complementing existing uses, and adding vitality to the centre.
- It is considered that the change in use would not be significantly detrimental to the amenity of adjoining and adjacent residential properties. The proposed use will cater for a limited number of patrons at any one time not only by limiting the floor area of the tenancy, but it also is to have a maximum of two staff working at any time. In light of the modest size of the unit and the stated nature of the proposed business, it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.
- An appropriate advice note is recommended to be included alerting the owners to the requirement for compliance with the *Environmental Protection (Noise) Regulations 1997* (as amended).

Noting the objections received to the proposal previously, the applicant has proposed that they be issued with a 12-month approval. This would enable them to demonstrate that they are a genuine massage business and that their impact on the community in regard to parking is not significant. At the end of this period, the applicant would need to submit another application for approval or cease operations.

On Site Car Parking

Element	Requirement	Proposed	Extent of Variation
Existing Tenancy (Office)	1 Bay per 30m ² gross lettable area (gla)	75m ² gla = 2 bays	1 bay
Proposed Tenancy (Shop)	1 bay per 20m ² of net lettable area (nla)	55m ² nla = 2 bays	1 Bay



Again, it is considered that the relaxation of parking requirements under clause 4.7.3 of LPS4 is appropriate for the following reasons:

- The total shortfall of onsite carparking remains unchanged from the already approved Office tenancy as per the original development approval for the site, being 1 bay. There are 2 car bays allocated to this unit in the strata plan, meaning they are not intended to be used by anyone other than the occupants of this tenancy (or visitors to).
- The site is surrounded by a number of publicly available parking bays (detailed below) and it is considered that the nature of the business is such that the turnover of occupants would be appropriately staggered over the opening periods of a business day due to nature of service and the one-to-one customer to staff member ratio typically experienced in these businesses.
- The immediate locality is occupied by a number of hospitality venues and residences, which typically demand greater parking after daytime business hours. To restrict the impact on the local community, reduced hours of operation are now proposed in the amended application to be limited to 9am-7pm Mondays to Thursdays inclusive, 9am-6pm on Fridays and Sundays and no opening on Saturdays. It is noted that although the existing approval of Office would have contemplated slightly less hours per day it does have the same shortfall of car bays when assessed against LPS4 requirements, so limiting the business to the amended proposed hours would assist in managing the impact on the locality.

Street	Bays available
South Terrace Between Louisa Street to Rose Street (western side)	6 bays
South Terrace Between Louisa Street to Rose Street (eastern side)	5 bays
South Terrace between Rose Street and King William (western side only)	7 bays
South Terrace between Rose Street and King William (eastern side only)	5 bays
South Terrace west side (South of King William)	4 bays (one hour)
South terrace east side (South of King William)	2 bays
<i>Total</i>	<i>Approximately 29 bays</i>

In relation to the above assessment, it is noted that the bay numbers are approximate as some of the parking areas are not individually marked. The majority of these bays are restricted to a maximum 1 - 2 hour stay limitation (shown below) which expected to be consistent with the potential time spent by a client of such a business.



Image 1: 2 hour parking areas shown in yellow, 1 hour shown in red

The applicant has advised that customers will be able to use bicycle racks on site. There are also end of trip facilities on site, with lockers and showers for staff usage.



Signage

The majority of the existing tenancy frontage to South Terrace is covered with signage of the business that occupied the unit.

LPP2.14 states that window signage is appropriate when:

- (a) Casual surveillance of the street is sufficiently maintained; and*
- (b) The advertisement is no more than 50% coverage of the total window area of the tenancy.*

However, following the SAT mediation, the application has opted to reduce the signage to meet the above criteria. The signs will be modified to occupy 47% coverage of the enabling some level of casual surveillance into and out of the business. A condition is recommended to ensure the existing window sign be modified and reduced to a maximum coverage of 50% of the existing window area onsite for this tenancy to allow for an acceptable level of casual surveillance and interaction with the street.

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of the Scheme and Council policy. Accordingly, the amended proposal is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



COMMITTEE RECOMMENDATION ITEM PC2022-2
(Officer's recommendation)

Moved: Cr Geoff Graham

Seconded: Cr Andrew Sullivan

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use from Office to Shop and unauthorised signage at No. 284 (Lot 22) South Terrace, South Fremantle, subject to the following condition(s):

- 1) This approval relates only to the development as indicated on the approved plans, dated 8 April 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2) Notwithstanding Condition 1, this approval is valid for a period of one (1) year from the date of this approval after which the use and signage shall cease and be removed from site, to the satisfaction of the City of Fremantle.**
- 3) Opening hours are restricted to:**
 - 9am - 7pm on Monday to Thursday;**
 - 9am-6pm on Friday and Sunday;**
 - Closed Saturday's**
- 4) Within 60 days from the date of this decision letter, the existing window signage be modified to not occupy more than 50% of the existing window area for the site to the satisfaction of the City of Fremantle.**

Advice notes:

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended).**

Carried: 6/0

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**

Cr Jenny Archibald. requested the item be referred to the Ordinary Meeting of Council. Seconded by Cr Geoff Graham.



ADDITIONAL OFFICER COMMENT

Condition 2 limits the approval to one year as requested by the applicant in their revised proposal. Amending the timeframe, from that requested by the applicant, may result in them not accepting the reconsidered decision and moving forward with the SAT process. Should Council wish to amend the temporary timeframe Condition 2 could be amended to read–

- *Notwithstanding Condition 1, this approval is valid for a period of 6 months from the date of this approval after which the use and signage shall cease and be removed from site, to the satisfaction of the City of Fremantle.*

OR

- *Notwithstanding Condition 1, this approval is valid for a period of 24 months from the date of this approval after which the use and signage shall cease and be removed from site, to the satisfaction of the City of Fremantle.*



11.2 Finance, Policy, Operations and Legislation Committee 11 May 2022

FPOL2205-4 ADOPTION OF THE CITY OF FREMANTLE LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2022 – FOR THE CONTROL OF SHARK FISHING

Meeting date:	11 May 2022
Responsible officer:	Manager Governance
Decision making authority:	Council
Attachments:	1. Local Government Property Amendment Local Law 2022 2. Table of submissions 3. Recfishwest submission 4. The South West Group submission 5. Animal Justice Party submission 6. Local Government Property Amendment Local Law 2022 showing minor amendments in red and green
Additional information:	1. Consolidated Local Government Property Local Law with changes indicated

SUMMARY

For council to consider the adoption of the City of Fremantle Local Government Property Amendment Local Law 2022 to control shark fishing from beaches.

This report recommends that Council consider the submissions received during the public consultation period and adopt the City of Fremantle Local Government Property Amendment Local Law 2022.

The purpose and effect of the City of Fremantle Property Amendment Local Law 2022 are as follows:

- Purpose:** the purpose of the City of Fremantle Local Government Property Amendment Local Law 2022 is to enable the City of Fremantle to provide additional controls and management of shark fishing on local government property to support increased public safety.
- Effect:** the effect of the City of Fremantle Local Government Property Amendment Local Law 2022 is that it will provide a framework for the control of shark fishing on local government property and will provide authority to enforce the law and administer fines.



BACKGROUND

Shark fishing from the City's beaches has come to prominence over the last 6 months, with increasing reports of sophisticated shark fishing practices, including the use of berley and blood to attract sharks, in waters where swimmers and other water users frequent the beaches along the coast of Fremantle and in particular Port Beach. These reports began to come forward with greater frequency since the shark attack incident at Port Beach in November 2021. This has raised concerns with other water users and swimmers.

It is believed that shark fishing from the shore, where the fishing is undertaken in a way that encourages sharks to hunt in these areas may be dangerous to regular swimming activities in these locations. This report provides information that will enable Council to consider the options available to better protect swimmers along the City's beaches, by restricting the areas in which fishing for sharks may occur.

An amendment to the City's property local law is considered to be the most suitable option available to prohibit shark fishing as the current State legislation related to this issue, (Fish Resources Management Act 1994) only offers regulation to fishing in regard to aquatic resources in Western Australia rather than in regard to safe fishing practises in areas shared by swimmers and other water users.

In response to these concerns, at the Finance, Policy, Operations and Legislation Committee held on 9 February 2022, Council resolved to give notice of its intention to make a City of Fremantle Local Government Property Amendment Local Law 2022.

Public notice of the proposed Local Government Property Amendment Local Law was advertised as prescribed and, in accordance with s13.2(3b) of the Local Government Act 1995, a copy of the local law was provided to the Minister for Local Government.

Since the City began the process to amend this local law new state legislation has been introduced which prohibits fishing with wire trace at Port Beach and Leighton Beach.

The Department of Primary Industries and Regional Development (DPIRD) made the following statement on the 13 February 2022:

"this prohibition will discourage fishing for large sharks in these waters, amid concerns from local residents that such practices may be attracting sharks close to popular swimming beaches. The new rule complements the existing ban on shark fishing in the adjacent Cottesloe Fish Habitat Protection Area, as well as the state-wide prohibition on the use of mammal and bird products, such as blood and offal, as berley."

It is intended that the amended local law will work in alignment with the new state legislation to ensure that fishing for sharks on any City of Fremantle Property (from the beach) ceases.



FINANCIAL IMPLICATIONS

Community Safety Officers will be responsible for compliance activities. Shark fishing is generally undertaken outside of regular patrol hours and will require additional patrols during peak times to monitor the activity, which may incur additional staffing costs. This will be monitored for need and effect once the amended local law is introduced.

LEGAL IMPLICATIONS

Section 3.5 of the Local Government Act 1995 confers the legislative function of local government to make local laws under the Local Government Act 1995 in addition to the legislative power to make local laws conferred on local governments by any other written law. A local law made under this section, is inoperative to the extent that it is inconsistent with the Local Government Act 1995 or any other written law.

Regulation 3 of the Local Government (Functions and General) Regulations 1996 requires that for the purposes of Section 3.12 of the Local Government Act 1995, the purpose and effect of any proposed local law must be included in the agenda and minutes of a meeting.

If Council resolves to amend a local law, the procedure is the same as the procedure for making a local law and is set out in Section 3.12 of the Local Government Act 1995, as summarised below:

- Council initiate process - s3.12(2)
- Public notice – s3.12(3)
- Notification to Minister - s3.12(3)(b)
- Considering Submissions – s3.12(4)
- Gazettal notice – s3.12(5)
- Public notice – s3.12(6)
- Explanatory Memoranda – s3.12(7)
- Commencement of local law - s3.14
- Review by government (Joint Standing Committee) - s3.17



CONSULTATION

Public notice of council's intention to make an amendment local law and invitation to make a submission law was given as follows:

- Fremantle herald - 19 February 2022
- My Say Freo - 18 February – 11 April 2022
- City notice boards - 18 February – 11 April 2022
- Sent to the Minister - 24 February 2022

At the closing date for receipt of public submissions on Monday 11 April 2022, **120** public submissions on the proposed amendment local law had been received.

Of those submissions 85 (70.8%) submissions supported the proposed amendment and 35 (29.2%) submissions did not support the proposed amendment.

A total of **51 of the 120** submissions received were made by Fremantle residents, of which 47 (92%) supported the proposed amendment and 4 (8%) did not support the proposed amendment

Attached to this report is a copy of all submissions received during the consultation period, listed by suburb. Copies of additional letters of submission from the following groups have also been attached for consideration:

- **The South West Group,**
"The South West Group support the City of Fremantle in seeking to tighten shark fishing provisions on urban beaches and furthermore encourage the State Government to explore the possibility of additional shark fishing prohibitions in the region."
- **Recfish west**
"The proposed shark fishing proposal put forward by the City of Fremantle is not supported."
- **Animal Justice Party**
"The AJP supports the proposed amendments and the reasons for amendment as set out by the City."

A roundtable meeting was conducted on Monday, 21 February 2022 with key stakeholders including surrounding local government representatives, WA Police, Department of Fisheries, Water Police, community and club representatives, and the South West Group.

The intent of this meeting was for all representatives to get an understanding of the new state government restrictions and proposed local law, identify any issues, and share ideas on how implementation and enforcement of the provisions may work. Attendees were encouraged to make a submission to formally share their feedback through the consultation process.



OFFICER COMMENT

Of those submissions that oppose the proposed amendment some supported the objectives of the amendment and suggested alternative wording to achieve the same effect. Others were adamant that such an amendment is not the responsibility of local government and should be managed by the State.

Given the number of submissions received that support the proposed amendment, particularly amongst those made by Fremantle residents, it is recommended that council continue with the process of adopting the City of Fremantle local Government Property Amendment Local Law 2022.

As required by the Act, the Department of Local Government, Sport and Cultural Industries was provided with a copy of the proposed amendment local law, and has provided the following feedback:

1. A suggestion that the next time this local law is reviewed that it be replaced and not amended. This suggestion has been noted and will be considered at the next review:

"Consolidation of local law

The Department notes that this will be the third time the City's principle local law has been amended.

As the definitive version of the local law is contained in the Government Gazette, this means a reader will need to consult four separate gazettes to identify the official wording of the local law. The number of gazettes needing to be consulted will continue to increase as future amendments occur over time.

The next time the City's local law is due for amendment, it is suggested that the local law be repealed and replaced with a new principle local law which incorporates all previous amendments."

2. Advice that the City will have the onus of proving that a person is specifically fishing for sharks under this amendment if they intend to pursue a prosecution:

"Clause 5.4 - Enforceability

The proposed clause 5.4 is supposed to place restrictions on people fishing for sharks.

However, if the City seeks to prosecute a person under this clause, the City will have the onus of proving that the person was specifically fishing for sharks as opposed to just fishing generally. The City will need to keep this in mind when enforcing the new provision."

3. A recommendation that minor typographical changes be made. These changes will have no impact on the application of the local law and have been included as recommended.



"Minor edits

The DLGSC recommended minor edits to an incorrect date and drafting preferences. All of the recommended minor edits have been incorporated into the amendment local law as none of these changes effected the intent of the amendment local law."

In addition, and in accordance with council's undertaking to the Joint Standing Committee on Delegated Legislation (to correct a typographical error when the Local Law was next reviewed) an additional minor amendment has been included to correct Clause 9.3(1) of the local law that incorrectly references an outdated version of the Associations Incorporations Act.

Amendment to principle local law	Justification
Insert the following new clause 5.4 and renumber subsequent clauses: 5.4 prohibited fishing activities A person must not fish for sharks – (a) by means of any fishing line that contains any metal wire or chain within one metre of any hook; (b) with use of blood or berley as a lure; (c) with use of a device such as a spear gun, hand spear, hawaiian sling or other like device.	This amendment is intended to allow the City to control shark fishing to better protect swimmers along its coast.
In clause 9.3(1)(c) delete "Association Incorporations Act 1987" and replace with "Associations Incorporations Act 2015".	At the Ordinary Council Meeting held on 28 July 2021 an undertaking was made to the Joint Standing Committee on Delegated Legislation to correct this error when the Local Law was next reviewed.
Insert new penalty: Undertaking prohibited fishing activities \$500	Add new penalty – to apply a penalty of \$500 to the new clause. This penalty is considerably higher than other penalties included in the existing schedule to highlight the inherent danger related to this provision.

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required



COMMITTEE RECOMMENDATION ITEM FPOL2205-4
(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Rachel Pemberton

Council:

- 1. Consider the submissions received through the community consultation period, in accordance with the provisions and processes of the Local Government Act 1995.**
- 2. Adopt the proposed City of Fremantle Local Government Property Amendment Local Law 2022 (Attachment 1). The purpose and effect of which is as follows:**

Purpose: The purpose of the City of Fremantle Local Government Property Amendment Local Law 2022 is to enable the City of Fremantle to provide additional controls and management of shark fishing on local government property to support increased public safety.

Effect: The effect of the City of Fremantle Local Government Property Amendment Local Law 2022 is that it will provide a framework for the control of shark fishing on local government property and will provide authority to enforce the law and administer fines.

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Doug Thompson, Cr Rachel Pemberton, Cr Andrew Sullivan**



FPOL2205-5 DELEGATED AUTHORITY REGISTER REVIEW 2022

Meeting date:	11 May 2022
Responsible officer:	Manager Governance
Decision making authority:	Council
Attachments:	1. Delegated Authority Register (Council Delegations) 2022/2023
Additional information:	Nil

SUMMARY

Council is required to undertake a review of delegated authority each financial year. All delegations have been reviewed to ensure that the Chief Executive Officer (CEO), Officers and Committees have the appropriate discretion to exercise delegated authority under the relevant legislation.

This report recommends that Council acknowledge that a review has been undertaken, and revoke all current delegated authority and adopt the reviewed delegations contained in the Delegated Authority Register 2022/2023, as attached.

BACKGROUND

In accordance with the provisions of the *Local Government Act 1995* (the Act), Council is required to review the authority it has delegated at least once every financial year. The City's current Delegated Authority Register was last reviewed and adopted by Council on 26 May 2021.

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

Section 5.42 of the *Local Government Act 1995* prescribes that Council may delegate certain powers and duties to the Chief Executive Officer.

A delegation authorises a person or class of persons to exercise powers that the Council would ordinarily exercise. The City of Fremantle has established a Delegated Authority Register to improve the timeliness and efficiency of decision making.

In some instances, Acts and Regulations require that Council make a direct appointment to a person or class of persons. These acts do not contain a provision to allow the CEO to make a sub delegation. For example, the *Food Act 2008* allows an Enforcement Agency (Local Government) to delegate authority but does not allow the CEO to sub-delegate that authority.



In addition, where legislation provides for the direct delegation to authorise a person or class of persons by other agencies or decision makers, no delegation is required from the local government. For example, The *Environmental Protection Act 1986* allows for the appointment and the granting of delegated authority directly to local government Environmental Health Officers by the Department of Environment Regulation.

Where an officer of the local government is authorised to perform a function under an Act or Regulation but has no discretion in how they perform that function, a delegation is not required.

This is known as “acting through”. For example, if a provision of an Act specified that a local government must refuse an application that does not contain the applicants’ name, there is no need for Council to provide delegation to officers to refuse applications for this reason as officers are unable to exercise any discretion, they must refuse the application.

CONSULTATION

Internal consultation was undertaken to ensure accuracy and to address all ‘best practice’ needs.

OFFICER COMMENT

A thorough review has been undertaken of the City's Delegated Authority Register with the intention of producing an up to date, comprehensive and workable register that complies with relevant legislation and meets the operational needs of the City of Fremantle.

There were no major amendments recommended to the council delegations contained in the Delegated Authority Register during this review.

The table below details the recommended changes to the council delegations contained in the Delegated Authority Register 2022/2023.

Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
1.1 Delegations to Committees of Council	1.1 Delegations to Committees of Council	Remove Strategic Planning and Transport Committee Reason: This committee has been removed from the adopted meeting schedule – delegation no longer required.



Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
		The Finance, Policy, Operations and Legislation Committee, Planning Committee and Strategic Planning and Transport Committee are Delegated committees are provided all of the above powers and functions of the local government in accordance with the following limitations: Reason: improve wording comment for limitations to the delegation. Amend the reporting requirements as follows: "All minutes of delegated committees must Finance, Policy, Operations and Legislation Committee Minutes shall record and identify each decision made under this delegation in accordance with legislative requirements." Reason: The current requirement only mentions FPOL minutes. This should be a requirement for all delegated committees.
2.5 Payments from municipal or trust fund	2.5 Payments from municipal or trust fund	Remove words "Trust Fund" from legislative reference. Reason: For consistency - there is no other reference listed this way in the rest of the register.
3.3 Food Act 2008 – Prohibition Orders	3.3 Food Act 2008 – Prohibition Orders	Remove "Director City Business" and add "Director Strategic Planning and Projects" to delegates Reason: As of 8 March 2022, Field Services reports to Director Strategic Planning and Projects –



Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
		delegation no longer required for Director City Business.
3.3 Food Act 2008 – Prosecutions	3.3 Food Act 2008 – Prosecutions	Remove “Director City Business” and add “Director Strategic Planning and Projects” to delegates Reason: As of 8 March 2022, Field Services reports to Director Strategic Planning and Projects – delegation no longer required for Director City Business.
3.5 Food Act 2008 Registration of food businesses	3.5 Food Act 2008 Registration of food businesses	Remove “Director City Business” and add “Director Strategic Planning and Projects” to delegates Reason: As of 8 March 2022, Field Services reports to Director Strategic Planning and Projects – delegation no longer required for Director City Business.
3.13 Litter Act 1979 Withdrawal of infringement notices	3.13 Litter Act 1979 Withdrawal of infringement notices	Remove “Director City Business” and add “Director Strategic Planning and Projects” to delegates Reason: As of 8 March 2022, Field Services reports to Director Strategic Planning and Projects – delegation no longer required for Director City Business.
3.22 Modification to the Heritage List and Municipal Heritage Inventory	3.22 Modification to the Heritage List and Municipal Heritage Inventory	Amend any reference to the Municipal Heritage Inventory to “Local Heritage Survey”. Reason: To update language – Municipal Inventories are now Local



Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
		Heritage Surveys under the Heritage Act 2018.
		Add the following limitation on delegation: "All actions are to be undertaken in compliance with relevant legislative, procedural and policy provisions." Reason: For consistency throughout the register.
---	3.24 Health (Miscellaneous Provisions) Act 1911 Powers of local government	New delegation to the CEO. Reason: For effective and time efficient decision making under the Health (Miscellaneous) Provisions Act 1911, such as registration of public buildings.
6.1 Fremantle Oval Development Plan	---	Delete Reason: Memorandum of Understanding was executed 26/10/2018.
6.2 Consideration of Preferred Status for Tender FCC911/18 Construction of Fremantle Civic Building and Library	---	Delete Reason: Tender awarded and construction of WCC complete.
6.3 Fremantle Leisure Centre Roof Replacement	---	Delete Reason: Tender accepted 12 May 2021 (FPOL2105-1).



Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
6.4 Walyalup Civic Centre – Contractor Engagement and Project Delivery	---	Delete Reason: WCC construction complete.

The following **administrative changes** have been made:

Delegation	Change	Reason
2.1 Administration of local laws	Amend delegation as follows: "Council delegates to the Chief Executive Officer the authority to undertake all actions, and processes and otherwise administer the City's local laws in accordance with..."	To improve grammar.
2.6 Determine grants and sponsorship allocations	Amend delegation as follows: "Council delegates to the Chief Executive Officer the authority to determine allocation of the City's grants, and sponsorships in accordance with "	To amend grammatical error.
3.20 City of Fremantle Local Planning Scheme No. 4 Enforcement and appeals	Amend legislative reference in delegation as follows: "Section Parts 13 and 14 Division 2 of Schedule 2, cl. 82"	To clarify legislative reference.
4.4 Referral arrangements – WAPC	Replace RES 2014/01 with RES 2021/01	RES 2021/01 was published in the Gazette 18 January 2022.
4.5 Development applications - Western Australian Planning Commission	Replace delegation 2017/02 with delegation 2022/03	New delegation published in 18 January 2022 Gazette.



VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

COMMITTEE RECOMMENDATION ITEM FPOL2205-5
(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Frank Mofflin

Council:

- 1. Revoke the Delegated Authority Register 2021/2022 and all council delegations contained within; and**
- 2. Adopt the Delegated Authority Register 2022/2023 provided in Attachment 1 and all council delegations contained within.**

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Doug Thompson, Cr Rachel Pemberton, Cr Andrew Sullivan**



FPOL2205-6 REVIEW OF ELECTED MEMBER RELATED POLICY

Meeting date:	11 May 2022
Responsible officer:	Manager Governance
Decision making authority:	Council
Attachments:	1. Proposed Council Code of Conduct 2. Division 3 Complaint Handling Policy 3. Elected Member Professional Development Policy 4. Elected Member Allowances and Reimbursements Policy 5. Elected Member and Chief Executive Officer Attendance at Events Policy
Additional information:	Nil

SUMMARY

For Council to review elected member related policy and code, following the Local Government Ordinary Election 2021.

The report recommends that the following policies are amended as outlined in this report:

- Council Members, Committee Members and Candidates Code of Conduct 2021
- Council Code of Conduct Division 3 Complaint Handling
- Elected Member Professional Development
- Elected Member Allowances and Reimbursements
- Elected Member and Chief Executive Officer Attendance at Events
- Coat of Arms, logo, and common seal
- Council decision making during electoral period
- Electoral activities and signage

BACKGROUND

The policies in this report apply specifically to elected members (and the Chief Executive Officer – for attendance at events) and are reviewed following each ordinary election to familiarise and gain the support of the newly elected council. Policy amendments may also be recommended to reflect contemporary practices, changes in legislation and Council direction, whilst clarifying working requirements.

A detailed report is provided below, outlining recommended amendments and other changes to these policies.

FINANCIAL IMPLICATIONS

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



LEGAL IMPLICATIONS

Divisions 8 and 9 - *Local Government Act 1995*

- Local government payments and gifts to its members
- Conduct of certain officials

Part 8 – *Local Government (Administration) Regulations 1996*

Section 7B - *Salaries and Allowances Act 1975* - Salaries and Allowances Tribunal

CONSULTATION

Internal consultation was sort from elected members at the beginning of this review and again following the first use of the current Council Code of Conduct Division 3 Complaint Handling Policy.

OFFICER COMMENT

The following tables provide the recommended amendments to elected member policies and the justification for that recommendation.

Copies of the current policies showing the amendments in red and green text will be attached to the report for reference for those policies recommended for amendment.

Where a policy is recommended for replacement a copy of the proposed policy will be attached to the report as the current policy (proposed to be replaced) is available on the City's website.

Council Members, Committee Members and Candidates Code of Conduct 2021

Nil Attachment as amendment is minor

The *Local Government (Model Code of Conduct) Regulations 2021* were gazetted on 2 February 2021 and took effect on 3 February 2021. This change immediately introduced a Model Code of Conduct that applies to council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel

Summary of proposed changes

This policy was recently adopted in line with 'model' legislation requirements and is not considered to need amendment other than with a contemporary template and formatting.

There will be no impact on the application of the policy



Council Members, Committee Members and Candidates Code of Conduct 2021

Nil Attachment as amendment is minor

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	Document is regularly reviewed/amended.

Council Code of Conduct Division 3 Complaint Handling

Attachment 1 - Proposed Council Code of Conduct Division 3 Complaint Handling Policy

The City's Council Members, Committee Members and Candidates Code of Conduct which is prescribed by the *Local Government (Model Code of Conduct) Regulations 2021* includes the following principles to be followed when adopting the Council Code of Conduct Division 3 Complaint Handling policy.

Summary of provisions:

Complaint about alleged breach

- A complaint must be made in writing in the form approved by the local government to an authorised person within 1 month of the occurrence of the alleged breach.

Dealing with complaint

- After considering a complaint, the local government must, unless it dismisses the complaint (only if related to behaviour at a meeting) or the complaint is withdrawn by the complainant, make a finding as to whether the breach has occurred.
- The person to whom the complaint relates must be given a reasonable opportunity to be heard, and a finding that a breach has occurred must be based on evidence that it is more likely that the breach occurred than that it did not occur.
- If the local government finds that a breach has occurred, it may —
 - take no further action; or
 - prepare and implement a plan to address the behaviour (in consultation with the person to whom the complaint relates) which may include 1 or more of the following requirements —
 - engaging in mediation.
 - undertaking counselling.
 - undertaking training.
 - other action considered appropriate.



Council Code of Conduct Division 3 Complaint Handling Attachment 1 - Proposed Council Code of Conduct Division 3 Complaint Handling Policy

- If the local government makes a finding the person to whom the complaint relates, must be given written notice of its finding and the reasons for its finding; and if its finding is that the breach occurred — what action is to be taken.

Dismissal of complaint

- The local government may only dismiss a complaint if the behaviour occurred at a council or committee meeting; and
 - the behaviour was dealt with by the person presiding at the meeting; or
 - the person responsible for the behaviour has taken remedial action in accordance with the local governments meeting procedures local law.
- If the local government dismisses a complaint, it must give both parties, written notice of its decision and the reasons for its decision.

Withdrawal of complaint

- A complainant may withdraw their complaint at any time before the local government makes a finding in relation to the complaint. The withdrawal must be in writing; and given to an authorised person.

Other provisions about complaints

- A complaint about an alleged breach by a candidate cannot be dealt with by the local government unless the candidate has been elected as a council member.
- The procedure for dealing with complaints may be determined by the local government to the extent that it is not provided for in this Division

The City's 'Council Code of Conduct Division 3 Complaint Handling policy' then determines the most appropriate and effective process to apply the above principles.

Summary of proposed changes

This policy was recently engaged for the first since adoption and was not considered robust in all expectations in terms of ease of use, financial implications of use and timeliness.

At the ordinary council meeting held on 23 February 2022, council made the following requests in relation to amending the division 3 complaints policy and these have been included:

"Review the steps taken in handling the complaint investigation and consider changes to encourage complainants to pursue mediation as the first step and give Council the opportunity to consider the outcome of such mediation."

"That a copy of the investigators report, minus attachments, be provided to the complainant and made publicly available on the City's Complaints Register."

Having considered councils feedback and further amendment in consultation with elected members, it is recommended that a replacement policy will better meet the



Council Code of Conduct Division 3 Complaint Handling
Attachment 1 - Proposed Council Code of Conduct Division 3 Complaint Handling Policy

needs of all parties better when addressing these minor behavioural complaints. Including concerns relating to timeliness and expense.

The proposed policy intends that division 3 complaints will be considered in the first instance by one of the City's complaints officers (Manager Governance and CEO) who will encourage and recommend mediation between the parties as a first step.

In addition, complaints will not automatically be referred to an external investigator and will only incur that expense and delay as recommended by a complaints officer who considers the complaint to be of a complex or potentially contentious nature or if the complaints officer has a conflict or perceived conflict of interest.

The outcome of all complaints, regardless of how they are considered, will be reported to council so that council will retain oversight and can make amendments to the process at any time if proving to be unsatisfactory:

- Complaints that are withdrawn through mediation, or otherwise, will be reported anonymously (e.g., 4 complaints were received and successfully mediated to a positive outcome)
- Complaints finalised by the Complaints Officer will be reported for information and oversight purposes (investigation reports will be prepared in the same way an external investigator would prepare a report and if the
- Complaints assessed by an investigator will be determined by council.

It is intended that complaints officers will undertake mediation training where it is considered appropriate by the Chief Executive Officer.



Elected Member Professional Development
Attachment 2 - Elected Member Professional Development Policy

In 2019, the *Local Government Legislation Amendment Act 2019* was passed by parliament. The Amendment Act addressed the complex and significant role that the

Mayor and Elected Members take on when elected to Council.

One of the significant changes to the Act included an introduction of compulsory universal training for candidates and Elected Members. In addition, changes to the Act also required the City to adopt a policy on continuing professional development for elected members.

Summary of proposed changes

This was last updated following the ordinary election of 2019 and is considered to require only minor amendment.

There will be no impact on the application of the policy

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.
Policy scope	Amend the policy scope to read as follows: The purpose of this policy is to outline the process associated with an elected member's attendance at professional development that will better enable elected members to undertake the functions of their role."	See above comment
Policy statement	Remove "This policy outlines the professional development that may be made available to Elected Members that will better enable Elected Members to undertake functions of their role."	This is the policy scope.



Elected Member Professional Development Attachment 2 - Elected Member Professional Development Policy		
Attending professional development	Include a statement that encourages elected members to prioritise professional development in areas they have official capacities (e.g. committee functions) Elected members are encouraged to prioritise professional development in the areas in which they have an official capacity, for example a relevant Committee function.	Recommended in Regulation 17 - Systems and Procedures Review for Legislative Compliance.
2. General conditions for undertaking professional development	Amend 2.3 and 2.4 to one budget allocation: 2.3 The City will allocate a general budget amount per financial year to cover costs associated with attendance at local government industry specific professional development, or while representing the City. 2.4 The City will allocate an individual budget amount for each elected member per financial year to cover costs associated with attendance at non-local government industry specific professional development .	To reference one budget allocation to align with current practice.
	Amend 2.7 and 2.8 to remove reference to advance payments in favour of reimbursement and renumber subsequent clauses appropriately: 2.7 All reasonable expenses incurred by the elected member at the direction of the Chief Executive Officer, incurred in connection with attendance will be paid by the City. Advance payments made to an elected member in lieu of reimbursements for attendance at professional development will be in accordance with the Local Government Industry Award 2010.	The city's accounting practices do not permit advance payments.



Elected Member Professional Development
Attachment 2 - Elected Member Professional Development Policy

	2.8 Advance payments are to be fully acquitted and payments not acquitted returned to the City within 10 working days of return from the conference/seminar.	
	Amend 2.9 as follows: 2.9 When the accommodation or the professional development organiser provides meals as part of the package a meal reimbursement allowance will not be payable for those occasions.	To use consistent language and recognise that the city's accounting practices do not provide for advance payments.

Elected Member Allowances and Reimbursements
Attachment 3 - Elected Member Allowances and Reimbursements Policy

Elected members are statutorily entitled to receive payment for undertaking the functions of an elected member and for their role in ensuring the good governance of the City. This payment takes the form of allowances and reimbursement of expenses.

It is recognised that the extent of payment is modest in comparison to the time and effort invested by elected members while representing the City of Fremantle and undertaking the functions of that role.

General provisions relating to elected member payments are prescribed under the Local Government Act 1995 and the Local Government (Administration) Regulations 1996, with the Salaries and Allowances Tribunal (SAT) making annual determinations on various limits relating to such payments.

In its most recent determination (April 2022) the Tribunal increased remuneration, fees, and annual allowance ranges provided to CEOs and elected members by 2.5%.

The Tribunal also determined to increase the child care reimbursement rate to \$35 per hour.

These increases will be applied at the start of the financial year 2022/2023.

Summary of proposed changes

We received an observation that the two separate headings relating to reimbursements was confusing – to clarify – these are in place as types of 'reimbursements' are treated differently under the Act:

1. reimbursements that have a set amount and conditions applied (ie only in relation to attendance of council or committee meetings) and



Elected Member Allowances and Reimbursements

Attachment 3 - Elected Member Allowances and Reimbursements Policy

2. reimbursements that have a more discretionary element to them – (ie activities while undertaking the role.)

An additional amendment considered for recommendation was to allow the Mayor, who does not wish for the City to make a vehicle available for the role, to receive an annual allowance for travel. However, the limit allowed for this is currently set by the Salaries and Allowances Tribunal (SAT) at \$50 per year so the Mayor will need to apply to be reimbursed for every kilometre travelled while under taking the role.

Therefore, a submission to the SAT is recommended in order to request that the annual allowance in lieu of reimbursement of payment related to travel be increased to a more realistic amount for all elected members but particularly where a Mayor wishes to avoid the City going to the expense of providing and maintaining a vehicle for that purpose.

There will be minor impacts on the application of the policy

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.
Policy statement	Payments and gifts to elected members is dealt with under Part 8 5, division 8 of the Local Government Act 1995 - Local government payments and gifts to its members 'Expenses that may be approved for reimbursement' . Under this regulation,	To correct a legislative reference.
Section 2. Prescribed reimbursements	Add the following paragraph under section 2. Prescribed reimbursements – Travel and childcare expenses relating to attendance at Council or Committee meetings are prescribed expenses and will be reimbursed at the elected member's request, in accordance with regulation 31 of the Local Government (Administration) Regulations 1996.	To clarify that there are two types of 'reimbursements' dealt with under the Act: - those that are set at a strict budget and for strict conditions (ie only in relation to attendance of council or committee meetings) and



Elected Member Allowances and Reimbursements
Attachment 3 - Elected Member Allowances and Reimbursements Policy

		- those that have a more discretionary element to them – (ie activities while undertaking the role.)																				
2.1 Travel expenses	Elected members who attend council or committee meetings are entitled to be reimbursed travel expenses Travel expenses will be calculated at the same rate contained in Section 30.6 of the Local Government Officer’s (Western Australia) Award 2021, as determined by the Salaries and Allowances Tribunal. <table><thead><tr><th></th><th colspan="3">Engine displacement (in cubic centimetres)</th></tr><tr><th></th><th>Over 2600cc</th><th>Over 1600cc to 2600cc</th><th>1600cc and under</th></tr></thead><tbody><tr><td></td><td colspan="3">Cents per kilometre</td></tr><tr><td>Motor vehicle</td><td>93.97</td><td>67.72</td><td>55.85</td></tr></tbody></table><table><thead><tr><th></th><th>Cents per kilometre</th></tr></thead><tbody><tr><td>Motorcycle</td><td>32.55</td></tr></tbody></table> Elected members who attend council or committee meetings are entitled to be reimbursed travel expenses		Engine displacement (in cubic centimetres)				Over 2600cc	Over 1600cc to 2600cc	1600cc and under		Cents per kilometre			Motor vehicle	93.97	67.72	55.85		Cents per kilometre	Motorcycle	32.55	Update to better reflect the salaries and allowances determination and to simplify travel expense provisions relating to attendance at meetings.
	Engine displacement (in cubic centimetres)																					
	Over 2600cc	Over 1600cc to 2600cc	1600cc and under																			
	Cents per kilometre																					
Motor vehicle	93.97	67.72	55.85																			
	Cents per kilometre																					
Motorcycle	32.55																					
2.2 Childcare costs	2.22.1 Child care costs Elected members are entitled to be reimbursed child care costs, while	Update to better reflect the salaries and allowances determination																				



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	attending council or committee meetings, to the maximum allowance as determined under the Salaries and Allowances Tribunal annual determination, or the actual cost per hour whichever the lower amount is. 2.2 Childcare costs Elected members will be reimbursed childcare costs incurred because of attendance at council and committee meetings. Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.	and to simplify child care expense provisions relating to attendance at meetings.
Section 3 Discretionary reimbursements	Add the following paragraph under section 3 Discretionary reimbursements – The following expenses may be reimbursed if incurred while undertaking a function of the role of elected member, at the elected member's request, in accordance with regulation 32 of the Local Government (Administration) Regulations 1996.	To clarify that there are two types of 'reimbursements' dealt with under the Act: - those that are set at a strict budget and for strict conditions (ie only in relation to attendance of council or committee meetings) and - those that have a more discretionary element to them – (ie activities while undertaking the role.)
3.1 Travel expenses	3.1 Travel expenses Elected members who travel while they are undertaking the functions of an elected member may be reimbursed: a. for motor vehicles - as calculated in accordance with the rate set under the Salaries and Allowances Tribunal annual determination, (Section 30.6 of the Local Government Officer's (Western	Update to better reflect the salaries and allowances determination and to simplify travel expense provisions relating to attendance at meetings.



**Elected Member Allowances and Reimbursements
Attachment 3 - Elected Member Allowances and Reimbursements Policy**

	Australia) Award 2021) <table><tr><td rowspan="4">Motor vehicle</td><td colspan="3">Engine displacement (in cubic centimetres)</td></tr><tr><td>Over 2600cc</td><td>Over 1600cc to 2600cc</td><td>1600cc and under</td></tr><tr><td colspan="3">Cents per kilometre</td></tr><tr><td>93.97</td><td>67.72</td><td>55.85</td></tr><tr><td rowspan="2">Motorcycle</td><td colspan="3">Cents per Kilometre</td></tr><tr><td colspan="3">32.55</td></tr></table> b. for electric cycles – \$0. 20 per kilometre, and c. for self-propelled cycles – \$0.10 per kilometre	Motor vehicle	Engine displacement (in cubic centimetres)			Over 2600cc	Over 1600cc to 2600cc	1600cc and under	Cents per kilometre			93.97	67.72	55.85	Motorcycle	Cents per Kilometre			32.55			
Motor vehicle	Engine displacement (in cubic centimetres)																					
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	Cents per kilometre																					
	93.97	67.72	55.85																			
Motorcycle	Cents per Kilometre																					
	32.55																					
3.2 Child care costs	a. to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination, or the actual cost per hour whichever the lower amount is. Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.	Update to better reflect the salaries and allowances determination and to simplify child care provisions relating to attendance at meetings.																				
3.3 Minor Hospitality	Elected members may be reimbursed reasonable minor hospitality costs, to a maximum of \$50 \$100 per occasion, incurred while attending informal meetings, functions, events and other	To consider increasing the 'minor hospitality' reimbursement to a level that better reflects hospitality costs that																				



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	hosting occasions while undertaking the functions of an elected member. The Mayor may be reimbursed reasonable minor hospitality costs to a maximum of \$250 per occasion, incurred while attending informal meetings, functions, events and other occasions while undertaking the functions of the Mayor.	may be provided by elected members within their role. (For example – providing light refreshments at community group meetings or purchasing raffle prizes for donation at community events) Mayoral increase to better accommodate the more formal settings in which the Mayor may host larger groups and or dignitaries within the role of Mayor.
3.4 Ward Newsletter	b. Printing and/or delivery costs will be reimbursed for only one a joint ward newsletter per ward, up to a maximum of six times per calendar year per ward.	Some clarification was requested, to clarify that this section: - refers to six separate newsletters and not the same one printed and distributed six times a intends that city fund ward newsletters will be approved by both ward members.
	Add the following note to this section: Note: individual elected members who chose to produce and publish newsletters that require no support from the City do so at their own discretion.	To clarify that elected members may produce and publish their own newsletters but that they do so at their own discretion.
3.6 Memberships	Add the following section: 3.6 Memberships Elected members may be reimbursed for one professional membership per	To clarify that the City may reimburse one professional membership for each elected member.



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	year that directly relates to supporting the functions of an elected member.	
5. Discretionary allowances paid in lieu of reimbursements	5.3 Equipment and stationary stationery Elected members will be eligible to receive the following to assist them to undertake the functions of an elected member. a. The Mayor will be provided with a mobile computer, and printing capabilities, compatible with the City's security and other systems. b. Elected members will be provided with access to a computer and printer for their use within the City's Civic area of the administration centre. c. Elected members will be supplied, as reasonably required to undertake the functions of an elected member, with: i. Business cards, and ii. letterhead template. d. Elected members will be supplied with a name badge at the commencement of their term of office upon request. Replacement name badges will be supplied, upon request, if lost, stolen, damaged or worn	Update the section to clarify that elected members will be provided with printing capabilities.
6. Mayoral Vehicle allowance	Remove the word 'allowance' from the title	For clarity
	Update the first paragraph of this section to read:	To clarify that the Mayor <i>may</i> request to have a



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	At the Mayors request, a serviced, maintained and insured Council owned vehicle will be made available to the Mayor for the purpose of undertaking the functions of an elected member.	vehicle made available as desired.
	Amend section 6.1(e) e. Any damage caused to the vehicle, which is not recoverable under council's insurance provisions, and where the Mayor has nominated an alternative driver, or an elected member is driving the vehicle and is deemed to be at fault, will be fully payable by that person	For clarification.
7. Insurance	Replace insurance provisions as follows: 7.1 Insurance The City will provide insurance cover for elected members for: a. Personal accident while undertaking the functions of an elected member, however, this cover does not include ordinary medical expenses. b. Professional indemnity for matters arising while undertaking the functions of an elected member provided the performance or exercise of the official duty is in the opinion of council, not illegal, dishonest, against the interests of the City or otherwise in bad faith. c. Public liability for matters arising while undertaking the functions of an elected member but subject to any limitations set out in the policy of insurance.	Updated to reflect current provisions as advised by LGIS.



Elected Member Allowances and Reimbursements
Attachment 3 - Elected Member Allowances and Reimbursements Policy

	7.1 Insurance The City will provide protection for elected members from LGIS (mutual indemnity Scheme) for: a. Personal injury – the personal accident protection can provide a lump sum payment for a permanent injury; weekly wage replacement for a temporary injury; non-Medicare medical expenses; and some out of pocket expenses following an accident injury in the course of your activity as an elected member. b. Motor vehicle – where you are authorised to use your private vehicle for the benefit of the council, you will be covered for damage to your vehicle and your liability. c. Liability protection – legal liabilities as the result of third-party injury or property damage claims, arising from your official capacity as an elected member. d. Travel – cover for travel on authorised business trips, including cover for overseas medical costs; emergency evacuation; flight cancellation; and loss of baggage and personal effects. Councillors' liability – cover for claims against you for any alleged wrongful acts arising out of your official duties.	
8. Policy Administration	Time Limit on Claims and Approval Process a. Elected members choosing to receive reimbursement of expenses in accordance with the provision of this	The Manager Governance is delegated the ability to process and approve reimbursements that fall within policy provisions.



Elected Member Allowances and Reimbursements
Attachment 3 - Elected Member Allowances and Reimbursements Policy

	policy should submit the appropriate Reimbursement of Expenses Form to the Chief Executive Officer Manager Governance, together with supporting documentation.	
	Dispute Resolution Any disputes in regard to regarding this policy will be referred to the Chief Executive Officer in the first instance. In the event that If the elected member and the Chief Executive Officer cannot reach an agreement, the matter will be reported to Council for a decision.	For 'plain english' purposes.
Forms	Remove authorisation boxes from all forms: Administrative use only Checked by Manager Governance: Signature:.....Date:..... Authorised by CEO: Signature:.....Date:.....	Requests and approvals are processed and recorded electronically.
	Update forms to allow for email submission	

Elected Member and Chief Executive Officer Attendance at Events Policy
Attachment 4 - Elected Member and Chief Executive Officer Attendance at Events Policy

In 2019, the *Local Government Legislation Amendment Act 2019* was passed in Parliament. The amendments to the Act included a new gifts framework and the



Elected Member and Chief Executive Officer Attendance at Events Policy
Attachment 4 - Elected Member and Chief Executive Officer Attendance at Events Policy

requirement for all Local Governments to develop and publish a policy covering the attendance of the Mayor, Elected Members and the Chief Executive Officer at events.

One of the complexities associated with the new provisions was that the definition of an “event” included conferences.

Council determined that provisions that apply to conferences and training events be covered under other approved documents of the City for the CEO and the “Elected Member Professional Development policy” for elected members.

Summary of proposed changes

This was last updated following the ordinary election of 2019 and is considered up to date with minor amendments recommended.

There will be no impact on the application of the policy.

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.
Policy Scope	The purpose of this policy is to establish the requirements around the attendance at events where tickets are offered to elected members or the Chief Executive Officer to enable Elected Members and the Chief Executive Officer to attend Events as representatives of the City of Fremantle without restricting their participation in the Council decision making process.	To remove an unnecessary repeated phrase.
Section 6.7	6.7 Where an Elected Member or the Chief Executive Officer request has been approved and there is a fee associated with attending the Event, then the cost, including the attendance of the Mayors	To clarify that elected members may be accompanied at events.



Elected Member and Chief Executive Officer Attendance at Events Policy
Attachment 4 - Elected Member and Chief Executive Officer Attendance at Events Policy

	elected members accompanying person where requested, will be paid for by the City subject to budget.	This aligns with the provisions of the Professional Development Policy.
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Coat of Arms, logo, and common seal
Nil Attachment as amendment is minor

This policy protects the City of Fremantle brand in the use of the Coat of Arms or Corporate Symbol by an Elected Member, staff or on application from the members of local groups and organisations.

Summary of proposed changes

This policy was recently amended and is not considered to need amendment other than with contemporary template and formatting amends to be made.
 There will be no impact on the application of the policy

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.

Council decision making during electoral period
Nil Attachment as amendment is minor

The primary purpose of any decision making during electoral period policy is to avoid major decision making that may bind an incoming council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting elected members who are seeking re-election, or new candidates, and ensuring local government officials act impartially in relation to candidates.

This policy guides the expectations of decision making during electoral periods but also provides an avenue to address items that may fall outside of the policy



Council decision making during electoral period
Nil Attachment as amendment is minor

during the electoral period to enable business continuity where circumstances require.

Summary of proposed changes

This policy was recently amended and is not considered to need amendment other than with contemporary template and formatting amends to be made.
 There will be no impact on the application of the policy

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.

Electoral activities and signage
Nil Attachment as amendment is minor

This policy protects the City of Fremantle brand in the use of the Coat of Arms or Corporate Symbol by an Elected Member, staff or on application from the members of local groups and organisations.

Summary of proposed changes

This policy was recently amended and is not considered to need amendment other than with contemporary template and formatting amends to be made.
 There will be no impact on the application of the policy

Section	Suggested change	Reason
N/A	Update template and formatting and correct any spelling or grammatical errors	To align with City Documents and improve readability and correct grammatical errors
Title	Remove dates from title where relevant	As document is regularly reviewed/amended.



VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required

OFFICER RECOMMENDATION

Moved: Cr Jenny Archibald

Seconded: Cr Frank Mofflin

Council:

- 1. Adopt the following Policies with minor amendments:**
 - a. Council Members, Committee Members and Candidates Code of Conduct**
 - b. Coat of Arms, logo, and common seal**
 - c. Council decision making during electoral period**
 - d. Electoral activities and signage**
- 2. Adopt the proposed Council Code of Conduct Division 3 Complaint Handling Policy (to replace the current policy) (Attachment 1).**
- 3. Adopt the following amended Policies as shown in the relevant attachment:**
 - a. Elected Member Professional Development (Attachment 2)**
 - b. Elected Member Allowances and Reimbursements (Attachment 3)**
 - c. Elected Member and Chief Executive Officer Attendance at Events (Attachment 4)**
- 4. Approve for minor amendments to all elected member related policies, that does not change the effect or intent of the policy, (i.e., branding and corrections considered appropriate by the administration) to be made, between formal reviews, without further approval from Council.**
- 5. Request that a submission be made to the Salaries and Allowances Tribunal to request that consideration be given to increasing the annual allowance, in lieu of reimbursement related to travel expenses, for all elected members but particularly where a Mayor prefers for the local government to avoid the expense, of providing and maintaining a vehicle for that purpose.**



AMENDMENT 1

Moved: Cr Rachel Pemberton

Seconded: Cr Andrew Sullivan

To include an additional point to the principles section of the proposed Council Code of Conduct Divisions 3 Complaint Handling Policy.

- 2. Adopt the proposed Council Code of Conduct Division 3 Complaint Handling Policy (to replace the current policy) (Attachment 1) with the following additional point included in the principles section of the policy:**

"e. Timeliness

To support both the Complainant and Respondent, complaints will be acknowledged in a timely manner, addressed promptly and according to order that they are received.

The City will take all reasonable steps to determine the outcome of a complaint within 12 weeks of receipt, and both the Complainant and Respondent will be kept informed throughout the process."

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin,
Cr Rachel Pemberton, Cr Doug Thompson, Cr Andrew Sullivan**

Reason for change:

For complaints to be addressed in a timely manner as at present there is no timeline for dealing with complaints.

AMENDMENT 2

Moved: Cr Doug Thompson

Seconded: Cr Andrew Sullivan

To amend part 2 of the officer's recommendation, to be numbered part 5, as follows:

- 5. ~~Adopt~~ Refer the proposed Council Code of Conduct Division 3 Complaint Handling Policy (to replace the current policy) (Attachment 1) to the next FPOL Committee meeting to allow for further Elected Member comment.**

Amendment carried: 4/2

For

**Cr Jenny Archibald, Cr Fedele Camarda,
Cr Doug Thompson, Cr Andrew Sullivan**

Against

Cr Frank Mofflin, Cr Rachel Pemberton



COMMITTEE RECOMMENDATION ITEM FPOL2205-6
(Officer's recommendation, as amended)

Moved: Cr Jenny Archibald

Seconded: Cr Frank Mofflin

Council:

- 1. Adopt the following Policies with minor amendments:**
 - a. Council Members, Committee Members and Candidates Code of Conduct**
 - b. Coat of Arms, logo, and common seal**
 - c. Council decision making during electoral period**
 - d. Electoral activities and signage**
- 2. Adopt the following amended Policies as shown in the relevant attachment:**
 - a. Elected Member Professional Development (Attachment 2)**
 - b. Elected Member Allowances and Reimbursements (Attachment 3)**
 - c. Elected Member and Chief Executive Officer Attendance at Events (Attachment 4)**
- 3. Approve for minor amendments to all elected member related policies, that does not change the effect or intent of the policy, (i.e., branding and corrections considered appropriate by the administration) to be made, between formal reviews, without further approval from Council.**
- 4. Request that a submission be made to the Salaries and Allowances Tribunal to request that consideration be given to increasing the annual allowance, in lieu of reimbursement related to travel expenses, for all elected members but particularly where a Mayor prefers for the local government to avoid the expense, of providing and maintaining a vehicle for that purpose.**
- 5 Refer the proposed Council Code of Conduct Division 3 Complaint Handling Policy (to replace the current policy) (Attachment 1) to the next FPOL Committee meeting to allow for further Elected Member comment; including the following additional point included in the principles section of the policy:**



"e. Timeliness

To support both the Complainant and Respondent, complaints will be acknowledged in a timely manner, addressed promptly and according to order that they are received.

The City will take all reasonable steps to determine the outcome of a complaint within 12 weeks of receipt, and both the Complainant and Respondent will be kept informed throughout the process."

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Rachel Pemberton, Cr Doug Thompson, Cr Andrew Sullivan**



FPOL2205-7 BUDGET AMENDMENTS – MAY 2022

Meeting date: 11 May 2022
Responsible officer: Manager Financial Services
Decision making authority: Council
Attachments: Nil
Additional information: Nil

SUMMARY

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

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

BACKGROUND

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

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

FINANCIAL IMPLICATIONS

The financial implications are detailed in this report.

LEGAL IMPLICATIONS

Local Government Act 1995:

Section 6.2 (1)

The Council is required to prepare and adopt, by Absolute Majority, an annual budget for its municipal fund by 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 are proposed to be made to the adopted/revised budget for 2021-22.

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

The proposed budget amendments below are for expenditure for an additional purpose to be determined by the Council as required by S6.8 (1) (b) of the Act.

The decision will amend the budget by creating a new budget account number to accommodate that proposed expenditure, and by transferring the required funds from one or more existing accounts to the new account.



Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
1.1	Grant funding has been approved by LotteryWest (\$806,825) toward the Booyeembara Park Mountain Bike Trail project. This project is also funded by the Department of Local Government, Sport and Cultural Industries DLGSCI (\$300k) and Municipal Funds (\$300k). These funds will be utilised to complete the Booyeembara Park Mountain Bike Trail, Pump Track, shelters, hard and soft landscaping, fence and track repairs and car parking opportunities. The budget amendments below reflect the expected increase in expenditure for the Booyeembara Park Mountain Bike Trail project, and recognise the additional funding for this work.					
Inc.	300265.4223	P-12058 Design and construct - Booyeembara Park - Non Operating Grant-LotteryWest	160,000	646,825		806,825
Exp.	300265.1606	P-12058 Design and construct - Booyeembara Park Capital WIP	(760,000)		(646,825)	(1,406,825)



1.2	The purpose of this project is to replace the failing limestone block riverwall at John Street, North Fremantle through developing detailed design and engaging a contractor to undertake the construction works. In 2021, the City was successful in obtaining a Riverbank grant of \$89,904 to part fund these works, however the grant was not able to be accepted by the City without a supporting municipal budget. In April 2022, the City was contacted by Riverbank of the Department of Biodiversity, Conservation and Attractions (DBCA) and the grant was reoffered on the condition the City had a supporting budget to accept it in the 2021/22 financial year. It is proposed to get the municipal contribution from the 'Infrastructure Recovery Fund' (\$70,126) and P-12028 Program - Coastal Monitoring (South) (\$10,778).					
Inc	3XXXXX.4211	Design and construct – John Street Riverwall Replacement - Non Operating Grant - State Riverbank	-	\$89,904		\$89,904
Exp.	300170.1606	300170 - Program-Infrastructure Recovery	(70,126)		70,126	-
Exp.	300278.1606	300278 - P-12028 Program - Coastal Monitoring (South)	(77,238)		10,778	(66,460)
Exp	3XXXXX.1606	P-xxxxx Design and construct – John Street Riverwall Replacement Capital WIP	-		(170,808)	(170,808)



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

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

- 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.

There are no budget amendments to reflect any expenditure above the budget amount agreed by the CEO during the previous month.

3. Carried forward projects estimate budget amendments.

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

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute Majority Required



COMMITTEE RECOMMENDATION ITEM FPOL2205-7
(Officer's recommendation, as amended)

Moved: Cr Jenny Archibald

Seconded: Cr Andrew Sullivan

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

Item	Account Details	Account #	2021/22 Amended Budget	Revenue Income / (Decrease)	Expenditure (Increase)/ Decrease	2021/22 Proposed Budget
				Income	(Expenditure)	
1.1	Grant funding has been approved by LotteryWest (\$806,825) toward the Booyeembara Park Mountain Bike Trail project. This project is also funded by the Department of Local Government, Sport and Cultural Industries DLGSCI (\$300k) and Municipal Funds (\$300k). These funds will be utilised to complete the Booyeembara Park Mountain Bike Trail, Pump Track, shelters, hard and soft landscaping, fence and track repairs and car parking opportunities. The budget amendments below reflect the expected increase in expenditure for the Booyeembara Park Mountain Bike Trail project, and recognise the additional funding for this work.					
Inc.	300265.4223	P-12058 Design and construct - Booyeembara Park - Non Operating Grant-LotteryWest	160,000	646,825		806,825
Exp.	300265.1606	P-12058 Design and construct - Booyeembara Park Capital WIP	(760,000)		(646,825)	(1,406,825)



1.2	The purpose of this project is to replace the failing limestone block riverwall at John Street, North Fremantle through developing detailed design and engaging a contractor to undertake the construction works. In 2021, the City was successful in obtaining a Riverbank grant of \$89,904 to part fund these works, however the grant was not able to be accepted by the City without a supporting municipal budget. In April 2022, the City was contacted by Riverbank of the Department of Biodiversity, Conservation and Attractions (DBCA) and the grant was reoffered on the condition the City had a supporting budget to accept it in the 2021/22 financial year. It is proposed to get the municipal contribution from the 'Infrastructure Recovery Fund' (\$70,126) and P-12028 Program - Coastal Monitoring (South) (\$10,778).					
Inc	3XXXXX.4211	Design and construct – John Street Riverwall Replacement - Non Operating Grant - State Riverbank	-	\$89,904		\$89,904
Exp.	300170.1606	300170 - Program- Infrastructure Recovery	(70,126)		70,126	-
Exp.	300278.1606	300278 - P-12028 Program - Coastal Monitoring (South)	(77,238)		10,778	(66,460)
Exp	3XXXXX.1606	P-xxxxx Design and construct – John Street Riverwall Replacement Capital WIP	-		(170,808)	(170,808)

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Rachel Pemberton, Cr Doug Thompson, Cr Andrew Sullivan**



**FPOL2205-8 TENDER FCC595/22 70 PARRY STREET GROUND AND
FIRST FLOOR LAYOUT CHANGES**

Meeting date: 11 May 2022
Responsible officer: Manager Facilities and Environmental
Management
Decision making authority: Council
Attachments: Nil
Additional information: 1. Confidential – Pricing Evaluation Matrix

SUMMARY

The purpose of this report is to consider tender number FCC595/22 for remedial works to 70 Parry Street, Fremantle. The works include the provision of changeroom and ablution facilities to the ground floor area and some first-floor layout changes to accommodate new tenants.

This report recommends that Council accepts the tender submitted by ICS Australia Pty Ltd in accordance with the tender evaluation undertaken as per the selection criteria included in the tender document.

This report also recommends that Council approve a budget adjustment to accommodate completion of the remaining works.

BACKGROUND

On 1 February 2022, the City of Fremantle entered into a 3-year lease agreement with Perth Glory Soccer Club for the occupation of a section of 70 Parry Street, Fremantle. Included in the lease the City of Fremantle agreed to carry out refurbishment works to the leased area occupied by Perth Glory.

The building works were agreed to be completed in two stages. The first stage was a smaller scope of works to facilitate Perth Glory's administrative team; works included the installation of partitions on the first floor to form offices including modifications to the ground floor reception area to accommodate a merchandise shop. This stage was managed through a competitive quotation process and those works are now complete.

Stage 2 works have subsequently been prepared as part of an open tender process, the scope requires contractors to undertake reinstatement and remodelling works to the ground floor to accommodate sporting club activity including male and female changerooms as well as male and female toilet and shower facilities.



FINANCIAL IMPLICATIONS

At the Finance Policy, Operations and Legislation Committee (FPOL2112-8) held on 8 December 2021, officers sought a budget amendment in year 2021/22. The proposed budget amendment outlined in the table below was approved by Council.

The decision was to amend the budget by creating a new budget account number to accommodate the proposed expenditure, and by transferring the required funds from one or more existing accounts to the new account (see table below).

Item	Account #	Account Details	2021/22 Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2021/22 Amended Budget
				Income	(Expenditure)	
1.1		These works are required to revert the Fremantle Oval building back to a sporting facility to accommodate Perth Glory in line with the requirements of their executed Licence Agreement. Phase 1 works are required to facilitate the office accommodation and preparation for Perth Glory's initial occupancy (December/January) – works include wall demolitions, internal partition walling players area and gym and upstairs offices (current IT area).				

Item	Account #	Account Details	2021/22 Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2021/22 Amended Budget
				Income	(Expenditure)	
		The licence agreement with Perth Glory includes an upfront payment of \$141,342, this equates to six months payment and can offset the first stage works. Budget will be transferred from unallocated funding in the Infrastructure Project Fund to initiate these works. Phase two works (Showers and Changerooms) are more complex and will be subject to future tender and are anticipated for delivery early in 2022. The estimated cost for phase 2 works is approximately \$180,000. This is anticipated to be recovered within the first year payments.				
	NEW.4471	Lease – 70 Parry Street	0	141,342		141,342
	300170.1606	Program – Infrastructure Recovery	(227,126)		102,000	(125,126)
	300XXX.1606	P-12068 Design and construct – 70 Parry St Fit out (Stage 1)	0		(243,342)	(243,342)

**Agenda – Ordinary Meeting of Council
25 May 2022**



The initial budget forecast for the delivery of the two stages of works was estimated at \$320,000. For the first stage to progress officers requested \$243,342 to be allocated to the project with the intention to amend the budget once the value of the second stage of works could be determined. The initial budget allocation of \$243,342 was approved by Council.

The total cost to complete Stage 1 and Stage 2 has now been confirmed at \$349,570.26, and whilst it is slightly higher than the original estimate it does reflect the required works and also includes an increase in scope to provide additional partitioning works for an additional tenant (The Stephen Michael Foundation) in the building.

The table below summarises the available budget, current expenditures, recommended tender price by ICS Australia Pty Ltd for the ground and first floor layout changes at 70 Parry Street, Fremantle:

Description	Expenditure	Budget
Budget		
Allocated budget for 2021/22		\$243,342
Expenditure		
Expenditure incurred to date (stage 1):		
Stage 1 Works	\$118,236	
Remaining Budget		\$125,106
Activities - Stage 2 Tender number FCC595/21 70 Parry Street, ground and first floor layout changes - Contingency @ 5% - Total Stage 2 Cost	\$220,543 \$11,027 \$231,570	
Remaining Budget Required		\$106,464
Total expenditure required (estimated)		\$231,570

Officers are seeking a budget amendment of \$106,464 to enable the project to proceed.



LEGAL IMPLICATIONS

Tenders were invited in accordance with section 3.57 of the *Local Government Act 1995* and the tendering procedures and evaluation complied with part 4 of the Local Government (Functions and General) Regulations 1996.

CONSULTATION

Nil

OFFICER COMMENT

Detail

Tender FCC595/21 for ground and first floor layout changes at 70 Parry Street, Fremantle was advertised on 16 March 2022 on the Tenderlink Portal and closed on 06 April 2022.

The WALGA Preferred supplier program was not used for this tender as officers wanted to test the open market – maximise reach (noting the current construction cost and supply chain challenges).

Essential details of the contract are outlined below:

Contract type	AS4902-2000 General Conditions of Contract for Design and Construct
Contract duration	3 months
Commencement date	30 May 2022
Completion date	29 July 2022

Tender evaluation

Tender submissions were received from the following contractors and evaluated by the tender evaluation panel:

- AE Hoskins & Sons
- ICS Australia
- IPC Pty Ltd

The tender evaluation panel establishes whether the tender submissions conform to the conditions for tendering and selects a suitably qualified and experienced contractor.

**Agenda – Ordinary Meeting of Council
25 May 2022**



The tender evaluation panel comprised:

Title	Voting Non-Voting Member
Senior Project Manager	V
Project Officer (Design)	V
Manager Facilities and Environment	V
Procurement Team Leader	N/V
Procurement Officer	N/V

Panel members acknowledge that they have prior knowledge of the following Tenderers:

Panel Member: Name	Tenderers known to the Panel Member:
Senior Project Manager	ICS Australia
Project Officer (Design)	None
Manager Facilities and Environment	AE Hoskins

The prior knowledge declared is limited to the normal business activities of the City and is not based on personal or social connections with the Tenderer/s.

**Agenda – Ordinary Meeting of Council
25 May 2022**



To obtain the broadest possible comparison base, each of the tenders was evaluated against the following tender selection criteria and was in turn graded in the tender evaluation matrix.

Item No	Description	Weighting
1	Relevant Experience of Delivering Similar Services	15%
2	Key Personnel Skills and Resources	15%
3	Demonstrated Understanding	15%
4	Sustainability and Local Economic Benefit	10%
5	Price	45%

All three tender submissions received were conforming.

Tender Evaluation Matrix:

Overall Weighted Score Including Pricing	Relevant Experience	Key Personnel Skills & Resources	Demonstrated Understanding	Sustainability	Price	Total Score
Tenderer	15	15	15	10	45	100
AE Hoskins & Sons	12	9	9	5	30	65
ICS Australia Pty Ltd	12	9	8	5	45	79
IPC Pty Ltd	3	3	12	6	25	49

The tender submitted by ICS Australia Pty Ltd scored the highest rating with 79 points, followed by AE Hoskins & Sons with 65 points. The remaining tender submission received a lower score of 49 points.

ICS Australia Pty Ltd, the recommended tenderer, was assessed as having the capacity, resources, and experience to safely undertake the works described in the specification, in accordance with the terms of the tender document. Reference checks indicate that ICS Australia Pty Ltd have provided satisfactory service delivery to their customers on similar projects and will be a suitable supplier to the City of Fremantle.



Environmental considerations

In line with the Purchasing Policy, respondents to the tender were required to provide evidence of the use of sustainable business practices and how engaging with the supplier would benefit the local economy.

ICS Australia provided a comprehensive sustainability component including strategies for waste management, using local suppliers and sub-contractors, and employing staff who reside in the Fremantle area.

Risk consideration

An assessment undertaken by Dun and Bradstreet indicates that ICS Australia Pty Ltd have the financial capacity to undertake the contract.

There are no strategic or corporate risks within the City's existing risk registers which relate to the issues contained in this report.

Project specific risk assessments have been developed and will be used in the management of this project.

References

Three (3) references were obtained for ICS Australia Pty Ltd undertaking similar projects for other private organisations which returned satisfactory responses.

Comment

ICS Australia Pty Ltd have been assessed as part of the City's tender evaluation process. Members of the evaluation team agreed through the tender evaluation process that ICS Australia Pty Ltd met all the criteria and provided a best value for money submission.

Subject to acceptance of the tender and budget allocation, the proposed implementation program is scheduled below:

Award contract:	May 2022
Commence construction:	June 2022
Completion:	(estimated) – PC early August 2022

VOTING AND OTHER SPECIAL REQUIREMENTS

Absolute majority required



COMMITTEE RECOMMENDATION ITEM FPOL2205-8
(Officer's recommendation, as amended)

Moved: Cr Jenny Archibald

Seconded: Cr Doug Thompson

Council:

- 1. Accept Tender (FCC595/21) from ICS Australia Pty Ltd of \$220,543 for works for the provision of changeroom and ablution facilities to the ground floor area and first floor layout changes at 70 Parry Street, Fremantle.**
- 2. Approve the required budget amendment to deliver the project to a total value of \$349,806 as outlined below:**

Item	Account #	Account Details	2021/22 Amended Budget	Increase/ (Decrease)	(Increase)/ Decrease	2021/22 Proposed Budget
				Revenue	(Expenditure)	
1.1	The budget amendments below reflect the expected increase in expenditure to revert the Fremantle Oval Building back to a sporting facility to accommodate Perth Glory in line with the requirements of their executed License agreement.					
	300279.1606	Total budget required to complete phase 1 & 2	(\$243,342)		(\$106,464)	(\$349,806)
	300275.1606	St Stevens reserve removal of structure. (Project completed)	(10,000)		\$6,115	(3,885)
	300203.1606	Design and construct Arts Centre sewer (Project completed)	(54,000)		\$1,050	(\$52,950)
	300260.1606	Design and construct Leisure Centre	(\$215,000)		\$3,346	(\$211,654)

**Agenda – Ordinary Meeting of Council
25 May 2022**



		Shade Sails (Project completed)				
	300228.1606	Resurface MRRG McCombe Av (Project completed)	(\$353,869)		\$34,026	(\$319,843)
	300217.1606	Design and construct Ken Allen pavers (Project deferred until larger scheme developed)	(\$60,000)		\$60,000	(\$0)
	300215.1606	Design and construct Gil Fraser grandstand stair (Minor adjustment due to change in scope of materials)	(\$60,000)		\$1,927	(\$58,073)
		Total			\$0	

Carried: 6/0

**Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Rachel Pemberton, Cr Doug Thompson, Cr Andrew Sullivan**



12. Reports and recommendations from officers

C2205-1 SECTION 31 RECONSIDERATION - BRACKS STREET, NO. 90 (LOTS 241-260), NORTH FREMANTLE - DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES - (CS/CJ DA0440/21)

Meeting Date:	25 May 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Council
Attachments:	1. Demolition plan 2. Confidential – Legal Advice (<i>under separate cover</i>)
Additional information:	1. WAPC Plan No. 1.7977 2. City of Fremantle Heritage Assessment

SUMMARY

Reconsideration of a development approval determined by Planning Committee (PC) is sought by the applicant via the State Administrative Tribunal (SAT). The application is for the demolition of all existing buildings and structures at No. 90 Bracks Street, North Fremantle.

The application was approved subject to conditions of approval which required retention of some built form on site in March 2022. The buildings on site were assessed by City Officers to not meet the threshold for significance under Local Planning Scheme No.4 (LPS4) and the original recommendation was for approval without these conditions.

The proposal is referred to the Ordinary Council Meeting (OCM) as the orders issued require the decision be reconsidered prior to the next scheduled PC. No additional material has been provided by the applicant to aid Council in reconsidering their decision.

Officer's recommendation is to approve the demolition as originally recommended without the additional conditions requiring retention of fabric. The report however outlines alternatives that Council could opt for in reconsidering this application.

PROPOSAL

Detail

Approval is sought for the complete demolition of all existing buildings and structures on site at No. 90 Bracks Street, North Fremantle. No additional development is proposed with the site intended to remain vacant.

The demolition of these buildings and structures is in addition to demolition of other buildings on nearby properties approved in previous applications at No. 22 Bracks Street (DA0178/21) and the Shell State Business Centre and Yard East (DA0347/21).

The aerial image below shows the site and the buildings proposed for demolition.

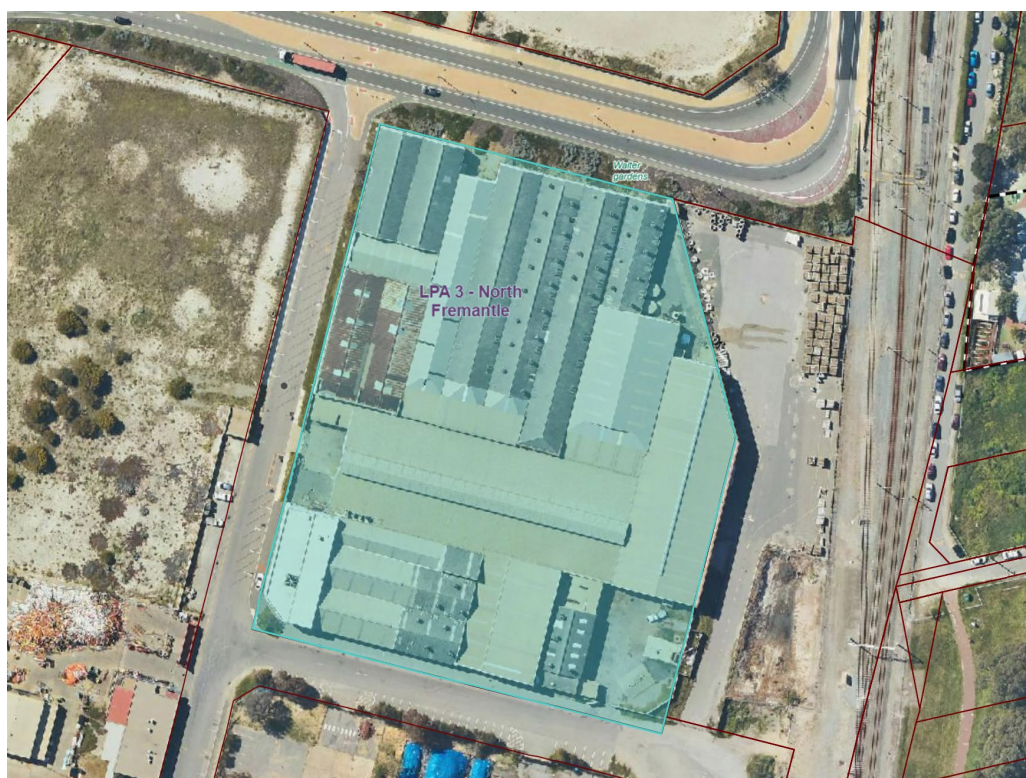


Image 1 – Aerial photograph of subject site

This report relates to a Section 31 Reconsideration of the previous decision made by PC, specifically a request from the applicant to delete conditions of approval that require the retention of some built form. Further detail on the original decision and the process through the SAT is included in the background section of the report below.

Agenda – Ordinary Meeting of Council 25 May 2022



Since the determination of the application, no additional information or amendments to the proposal have been provided by the applicant so the proposal remains to be for complete clearance of all buildings on site.

Development plans are included as attachment 1.

Site/application information

Date received:	11 October 2021
Owner name:	North Fremantle JV
Submitted by:	Taylor Burrell Barnett
Scheme:	Industrial Zone
Heritage listing:	North Fremantle Heritage Area / Not Individually Listed
Existing land use:	Various industrial/warehouse buildings
Use class:	N/A
Use permissibility:	N/A



CONSULTATION

External referrals

Department of Planning Lands and Heritage (DPLH)

The application was referred to DPLH as a portion of the subject site is within a Planning Control Area (PCA158) (see Additional Information 1). The City does not have any delegation to determine applications over this portion of land, and it therefore required separate approval from the Western Australian Planning Commission. This was granted on 5 January 2022.



Department of Water and Environmental Regulation (DWER)

The application was referred to DWER as the subject site is adjacent to a contaminated site. DWER has advised that an accredited contaminated sites auditor has been engaged to review the current and previous investigations and are expected to provide a mandatory auditors report. DWER has advised that based on the available information, and considering the application is not proposing to change to a more sensitive land use, they have no objection to the proposed demolition. They recommend, given the risks associated with potential disturbance of impacted soils, that an advice note is applied to any approval granted by the City of Fremantle to ensure appropriate site management during demolition.

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. FP have advised that they have no objection to the proposed demolition as it will have no immediate impact on port operations. They have requested that the City requires the proponent to provide parking on site rather than on street during the demolition process. A condition of approval is recommended requiring the lodgement of a Demolition Management Plan which will need to detail site management during demolition.

Main Roads Western Australia (MRWA)

The application was required to be referred to MRWA as the site is affected by a Primary Regional Road reservation. MRWA have advised that they have no objection to the proposal subject to conditions and advice notes to protect the road reservation vegetation, correct discharge of stormwater and permit approvals. These matters can be dealt with as relevant conditions and advice notes.

Public Transport Authority (PTA)

The application was referred to PTA for comment as the site is within 50 metres of the PTA's Rail Reserve (or PTA Protect Zone). PTA have advised that they have no objection to the proposal subject to advice to ensure appropriate permit approvals are sought by the applicant/owner. These matters can be dealt with as relevant advice notes.

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as complete demolition of all buildings on a site located within a heritage area is proposed. The advertising period concluded on 23 November 2021, and no submissions were received. As there have been no changes to the proposal, the application for reconsideration was not readvertised.



OFFICER COMMENT

Statutory and policy assessment

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

Background

The subject site is located on Bracks Street, in North Fremantle. It has a land area of approximately 17060m² and is currently occupied by former industrial buildings which are vacant. The site is zoned Industry. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

The subject site is a roughly rectangular site bounded by Walter Place to the north, the railway to the east, Irene Street to the south and Bracks Street to the west. Industrial buildings almost completely cover the site from boundary to boundary with the exception of small areas on the north-east corners of the site. The vehicle access is onto Bracks Street, which corresponds with the former Vaughan Street (which is now a freehold lot). The areas of the site without buildings are all bitumised and fenced. The vehicle entry from Bracks Street has a high face brick wall with wrought iron gates.

The application for full site demolition was submitted in October 2021. The application was supported by a statement from a Heritage Architect (Philip Griffiths), that concluded the following:

The study and site visits concluded that there was nothing of heritage value is located on the subject land.

Although included in the North Fremantle Heritage Area Policy there would appear to be nothing that would meet the criteria for retention, conservation and or adaption.

On the information available, removal of all improvements on the subject land would have no impact on heritage values and would allow a more fitting development to take place, consistent with the ongoing planning for the broader precinct to provide an Urban redevelopment response in proximity to the North Fremantle Train Station.

Planning and Heritage Officers reviewed the proposal submitted and concluded that the buildings had no or little heritage significance and that they did not make a significant contribution to the broader cultural heritage significance and character of the locality. This is detailed in further in the assessment below.



During the application, after initial presentation to PC, a site visit was hosted by the applicant as well as an additional informal meeting with Elected Members at City offices. Two additional heritage assessments were also provided by the applicant during the course of the application that supported the original assessment that the site had little to no significance. They concluded –

Hocking Heritage and Architecture

- *The buildings on the development site do not demonstrate heritage value in their own right. The original buildings have been compromised through loss of fabric and detail and are in valuable condition.*
- *The buildings are not located in a significant streetscape that would be harmed by the demolition of the buildings.*
- *The demolition of the buildings would not result in the loss of any significance to the heritage area.*
- *The history of the site can be reflected through interpretation of the site as part of any new development.*

Element

The industrial buildings located at the corner of Bracks Street and Walter Place have little historical significance, are heavily altered and of little aesthetic value.

Development over time has compromised the appreciation of the buildings, specifically the J. Gadsden Pty Ltd Building, from the streetscape. There are aspects of these buildings that could potentially be valued by the community, such as the spatial qualities of the warehouse interior, the timber trusses, and the brick detailing of the original entry. However, these in themselves are not enough to warrant heritage listing. Considering the City of Fremantle has an exemplar process for listing places of local heritage significance for many years, the fact that this has not been heritage listed indicates that it is not of sufficient heritage value to meet even the lowest thresholds for heritage listing.

The buildings are located within a heritage precinct, however, they do not contribute to the streetscape nor is the streetscape significant. The remnant building fabric is extensively contaminated making restoration almost impossible, even if it was desirable.

From a heritage perspective, demolition may be acceptable. Please see below desirable recommendations for the site:

- *Heritage interpretation is highly encouraged, highlighting connections to Aboriginal cultural heritage in the area, and the industrial history of North Fremantle.*
- *An archival record should be prepared prior to any demolition.*
- *Design of new development should interpret site specific stories and the industrial character of the site.*



Ahead of the February PC, the applicant provided detailed advice regarding the asbestos contamination on site. Specifically, the environmental consultant addressed possible retention of central structural bays and internal trusses, whole structural bay on Bracks Street and masonry façade. The following excerpt summarises the issues:

- *Roof sheeting cannot be effectively stabilised using encapsulants due to the compromised nature of the bonded matrix of material.*
- *The roof sheeting is freely shedding amosite and chrysotile asbestos fibres into the internal areas of the warehouse as well as the external environment posing a serious health risk from an occupational standpoint as well as a public exposure risk from airborne fibres given the proximity of Apartment blocks, public beaches, footpath etc.*
- *Demolition of any part of the structure while any asbestos roof sheeting remains in situ poses a significant/serious failure/collapse risk due to the condition of the material. If the in situ material were to fail during works or in the future it would cause a release/exposure incident that would impact those on the site, as well as nearby sensitive receptors.*
- *Timber trusses could be cleaned but it is not considered 100% effective and must be encapsulated as they are porous materials that trap asbestos fibres posing an exposure risk to anyone who may work on them.*
- *Red brickwork along the perimeter of the warehouse structures must be considered contaminated, the external surfaces are porous and could be cleaned again it is not considered 100% effective and must be encapsulated as they are porous materials that trap asbestos fibres posing an exposure risk to anyone who may work on them.*

The applicants also put forward an alternate proposal for consideration ahead of the March PC to:

Retain and store on site (or in a Council depot at no cost to the proponent) the following items, conditional upon receiving confirmation from an accredited hygienist that the retained items are capable of receiving clearance that they do not retain any ongoing hazardous materials of liabilities to the owner of future owners and occupants and are suitable for reuse.

- A. *15 lineal metres of brickwork from the existing warehouse walls*
- B. *Two (2) timber trusses from one (1) bay of the northern warehouse*

They have advised that this is no longer put forward as a desired alternative, and as part of the review of this decision, are seeking full site demolition as per their original application to the City.



After considering the matter at the January, February and March PC meetings and February OCM, Council approved the application subject to the following additional conditions –

2. *The following structures and/or buildings are excluded from the demolition approval and all original fabric, not including asbestos roofing or other replacement claddings shall be conserved on site, be made structurally sound where necessary, and be maintained, all in accordance with a Preservation Management Plan to the satisfaction of the City of Fremantle:*
 - a) *The three (3) central structural bays of the Massey Harris Buildings, measuring approximately 38 metres in east-west width, and to a minimum depth of at least 25 metres measured northwards from the original Vaughan Street boundary are to be conserved. The original fabric of this portion of the building may be temporarily dismantled and stored in accordance with the approved Preservation Management Plan. All other original timber trusses of the c.1928 Massey Harris Buildings are to be salvaged and stored so as to be available for re-use as part of any future conservation works, including any conservation works requiring reinstatement and/or interpretation.*
 - b) *The two structural bays of the J Gadsden Buildings located on the western side of the site with a frontage to Bracks Street of approximately 38 metres and a frontage to the former Vaughan Street of approximately 28 metres.*
 - c) *The masonry facade wall that formed the southern elevation of both the Massey Harris Buildings and J Gadsden Buildings, including the facade walls that unified these buildings together, measuring approximately 73 metres in length located on the north side of the former Vaughan Street road reserve. The wall is to be retained in situ.*
3. *Prior to the issue of a Demolition Permit, a detailed Preservation Management Plan shall be submitted that demonstrates the demolition methodology, specifically the removal of the timber trusses of the Massey Harris Buildings, and ongoing protection of the structures required to be retained to the satisfaction of the City of Fremantle. All works shall be undertaken in accordance with the plan. The Preservation Management Plan shall;*
 - a) *Identify those timbers that are being removed and preserved.*
 - b) *Include photographs and other such information as may be required to describe, document and identify the preserved timbers.*
 - c) *Sets out measures to be taken by the owner and/or applicant to store and preserve the timbers.*
 - d) *Sets out measures for the protection of the remaining structures on site.*



9. *Prior to commencement of works the owner shall enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned that ensures the implementation and ongoing compliance with the Preservation Management Plan to the satisfaction of the City of Fremantle.*

On 30 March 2022, the applicant applied to SAT for a review of the decision, specifically seeking the removal of Conditions 2, 3 and 9 (above) which would allow full site clearance. The Orders from SAT did not allow for mediation between parties and requires reconsideration of the matter by Council during May, meaning that a decision on the reconsideration must be made at the May OCM. A Hearing on the matter is scheduled for July should the applicant not accept the reconsidered decision.

Demolition

The site is currently occupied by buildings that are identified as the following –

- Massey-Harris Co Ltd Building (pre 1936)
- J Gadsden Pty Ltd Building (1937-39)
- Irene Street Block West (c 1954 – 65)
- Irene Street Block East (c. 1954-65)
- Corner Office (c. 1966-74)

The proposed demolition works are intended to be split over two stages–

- All warehouse structures (Stage 1 – majority of site)
- Two storey brick office building on corner of Bracks and Irene Street (Stage 2)

In assessing a proposal for demolition, officers must consider the provisions of LPS4. Clause 4.14.1 of LPS4 states:

Council will only grant development approval for the demolition of a building or structure where it is satisfied that the building or structure:

- a. Has limited or no cultural heritage significance; and*
- b. Does not make significant contribution to the broader cultural heritage significance and character of the locality in which it is located*

To grant approval for demolition, Council must therefore be satisfied that the buildings hold **limited or no** cultural heritage significance and that they do not make a **significant** contribution to the heritage significance of the greater area.

The scheme follows, by stating in clause 4.14.2–



In considering an application under 4.14.1, council shall have regard to any heritage assessment required under Clause 11 of the Planning and Development (Local Planning Schemes) Regulations 2015.

City officers undertook a heritage impact assessment of the site and the proposal for demolition. The assessment of the site and surrounding lots identified that the oil tanks on the west side of Port Beach Road were demolished in the 1990's followed by most of the buildings of the former Caltex Oil Installation at 85 Bracks Street in 2004. In 2017 most of the Shell oil terminal structures on the west side of Bracks Street were decommissioned and demolished including the fuel tank farm, oil tank farm, bitumen plant and workshop buildings. In 2021 applications have been approved by PC in accordance with heritage advice to demolish all the oil terminal buildings east of Bracks Street, including industrial buildings, structures, offices and laboratories.

The heritage assessment (Additional Information 2) has found that the Inter-War and Post War era industrial buildings at No. 90 Bracks Street have little heritage significance and do not contribute to a significant streetscape. Generally, these buildings are generic industrial buildings of the era with little aesthetic value or landmark quality. When reviewing against the heritage values of the ICOMOS Burra Charter, the impact of demolition only had minor impact against the Historic and Social values, with the remaining values holding no discernible impact. The following excerpt summarises the assessment -

Demolition of any place requires careful consideration because it removes all of its heritage significance except for intangible historical and social values that are not dependent on physical fabric.

The Inter-War and Post War era industrial buildings at 90 Bracks Street have little heritage significance and do not contribute to a significant streetscape. Generally, these buildings are generic industrial buildings of the era with little aesthetic value or landmark quality.

This means that the buildings do not meet the threshold established by LPS4 Clause 4.14.1 to require the buildings be retained.

The historic and social values of this place can be captured by recording the information collected as part of this assessment in Inherit as an Historic Record Only listing. A condition of approval is recommended requiring the submission of an archival record.

After numerous attempts, the City has engaged an external heritage consultant to represent Council at SAT. At the time of writing this report, very preliminary



advice had been provided by the consultant advising that the J Gadsden and Massey Harris buildings could have some significance.

SAT proceedings

The matter under consideration in this report, is the invitation by SAT for Council to reconsider its previous conditional approval and the applicant's request remove Conditions 2, 3 and 9. As explained above, the applicant has not submitted any additional information or amended the proposal. The City has engaged a heritage professional, however while initial advice is that some of the structures may have some significance, does not yet have detailed comment that confirms support for the additional conditions applied by Council in March. Should detailed comment be provided, it will be circulated as additional information prior to the meeting. Notwithstanding any additional heritage comments that may be prepared, the original officers recommendation and heritage assessment would remain as written in this report and would be taken into consideration by SAT.

The options available to Council in reconsidering this application are as follows:

- **Option 1** - Affirm the decision made on 2 March 2022, granting development approval subject to the current conditions 2, 3 and 9. An alternative motion to that recommended by officers, could read as follows:

Reconsider the development application for a demolition of buildings and structures at No. 90 (Lots 241-260) Bracks Street, North Fremantle and reaffirm its decision to approve the application subject to Conditions 1-9 as listed in the determination dated 2 March 2022.

- **Option 2** - Vary the decision made on 2 March 2022, granting development approval without current conditions 2, 3 and 9 which is consistent with the officers recommendation and is consistent with the works the applicant is seeking approval for (complete site demolition).
- **Option 3** - Vary the decision made on 2 March 2022, granting development approval but with modified versions of Conditions 2, 3 and 9 requiring only the retention of a quantity of bricks and timber trusses. It is noted that the applicant has not put this forward as an option for consideration in the SAT process thus far but it was put forward by the applicant during the assessment of the application. An alternative motion that deals with this, could read as follows:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of buildings and structures at No. 90 (Lots 241-260) Bracks Street, North Fremantle subject to the following condition(s):



1. *This approval relates only to the development as indicated on the approved plans, dated 11 October 2022 except where modified by the Conditions below. It does not relate to the area of land subject to PCA158 shown on the attached WAPC Plan No. 1.7977. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
2. *Prior to the issue of a demolition permit, a detailed plan shall be provided demonstrating the retention and ongoing protection of:*
 - a. *15 lineal metres of brickwork from the existing warehouse walls*
 - b. *Two (2) timber trusses from one (1) bay of the northern warehouse*

To the satisfaction of the City of Fremantle.

The plan shall detail measures for protection of materials during demolition works and storage on site for later reuse in development unless otherwise approved by the City of Fremantle.

3. *Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.*
4. *Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.*
5. *No works are permitted within the Port Beach Road or future Curtin Avenue reservations.*
6. *Prior to the issue of a Demolition Permit for the development hereby approved the existing building shall be fully documented in the form of a professionally prepared study of the physical, documentary and other evidence associated with the site before any physical or material disturbance. This documentation shall consist of the following:*
 - a. *A photographic report which includes the following:*
 - i. *A site plan showing the position, direction and number of each photograph.*
 - ii. *The history of the original building and subsequent stages of development.*
 - iii. *Old photographs relating to this site and building.*
 - iv. *Any other relevant historical information.*

One set of such records including photographs shall be submitted to the City of Fremantle in electronic format prior to the commencement of development.



7. *Prior to the issue of a demolition permit, for the development hereby approved, a Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:*
- a. Protection and treatment of materials required to be retained;*
 - b. Use of City car parking bays for construction related activities*
 - c. Protection of infrastructure and street trees within the road reserve*
 - d. Security fencing around construction sites*
 - e. Gantries*
 - f. Access to site by construction vehicles*
 - g. Contact details*
 - h. Site offices*
 - i. Noise – Construction work and deliveries*
 - j. Sand drift and dust management*
 - k. Waste management*
 - l. Dewatering management plan*
 - m. Traffic management; and*
 - n. Works affecting pedestrian areas.*

The approved Demolition Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

Advice notes

- i. *In regard to the condition requiring a Demolition Management Plan, Local Planning Policy 1.10 Construction sites can be found on the City's website via <http://www.fremantle.wa.gov.au/development/policies>*

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999

- ii. *A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.*
- iii. *This area is currently subject to quarantine regulations to limit the spread of Red Imported Fire Ants. A permit is required if you are moving any potential host material (including soils and building waste) outside the quarantine area. For more information and permit requirements visit agric.wa.gov/rifa*



- iv. *Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.*
- v. *Any removal of asbestos is to comply with the following – Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirement of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];*

Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>

- vi. *The applicant is advised that an appropriate management plan should be prepared to manage any environmental or health risks from potential exposure of contaminated soils during demolition works.*

Any material (soil and hardstand) proposed for off-site disposal should be adequately assessed in accordance with the Landfill Waste Classification and Waste Definitions 1996 (as amended 2019) and the PFAS National Environmental Management Plan (Heads of EPA's Australia and New Zealand, January 202).

- vii. *The applicant is required to submit an Application form to Main Roads Western Australia to undertake works within the Curtin Avenue or Port Beach Road reserves prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.*
- viii. *This property is affected by land reserved under Planning Control Area 158 as shown on WAPC Plan No.1.7977 and will be required for road purposes at some time in the future.*
- ix. *The upgrading/ widening of Curtin Avenue and Port Beach Road are not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.*



- x. *The Public Transport Authority of Western Australia (PTA) advises that, as the proposed works are within 50 metres of the PTA's Rail Reserve (or the PTA Protect Zone), the owner must seek PTA's approval for working in close proximity to the operating railway prior to conducting the proposed demolition works.*
- xii. *The Public Transport Authority (PTA) advises that the applicant/owner should submit the following documents to PTAThirdPartyAccess@pta.wa.gov.au at least six weeks prior to the commencement of works:*
 - a) *A completed checklist as located within Appendix 2 of the PTA Procedure 8103-400-004 'Working in and around the PTA Rail Corridor, Assets and Infrastructure' and all required documents listed within the Checklist.*
 - b) *A Work Method Statement*
 - c) *Details of plant and equipment that will be used, including cranes, and their location within the worksite.**All PTA specifications and procedures can be obtained on the PTA Vendor Portal <https://www.pta.wa.gov.au/vendor/>*
- xii. *The proposed development on site should reflect a focus on the industries relating to the Port of Fremantle, the railways and associated industries established in the area and its former industrial character resulting from the former Leighton Marshalling Yards and industries such as the Dingo Flour Mill located in the area.*

From here the applicant can choose to either accept the reconsideration decision made by the Council and withdraw their appeal or could choose to proceed with the review by SAT. Legal advice regarding the SAT proceedings and the options listed above, is included in a confidential attachment to this report.

CONCLUSION

In assessing this reconsideration, Council must consider the requirements of LPS4 and determine if the buildings have greater than limited significance. As outlined above, there are three courses of action however the recommendation from officers is for demolition to be approved without the retention of fabric that does not hold sufficient heritage significance.

STRATEGIC IMPLICATIONS

The demolition is associated with the long-term urban redevelopment aspirations of the owners for the site. However, these are in a very early stage of formulation as a preliminary request for rezoning of the land to Urban in the Metropolitan Region Scheme (MRS) has been submitted to the Western Australian



Planning Commission (WAPC), but the WAPC has not yet formally decided whether to commence an MRS Amendment Process, which will be a lengthy process involving significant community and stakeholder consultation and will likely be linked to the recently announced WAPC Future of Fremantle Planning Committee project.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

See confidential attachment regarding legal implications, should the Council decide, following reconsideration, not to modify its current position

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of buildings and structures at No. 90 (Lots 241-260) Bracks Street, North Fremantle subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 11 October 2022. It does not relate to the area of land subject to PCA158 shown on the attached WAPC Plan No. 1.7977. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.**
- 3. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.**
- 4. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.**
- 5. Prior to the issue of a Demolition Permit for the development hereby approved the existing building shall be fully documented in the form of a professionally prepared study of the physical, documentary and other evidence associated with the site before any physical or**



material disturbance. This documentation shall consist of the following:

- a. A photographic report which includes the following:**
 - i. A site plan showing the position, direction and number of each photograph.**
 - ii. The history of the original building and subsequent stages of development.**
 - iii. Old photographs relating to this site and building.**
 - iv. Any other relevant historical information.**

One set of such records including photographs shall be submitted to the City of Fremantle in electronic format prior to the commencement of development.

- 6. Prior to the issue of a demolition permit, for the development hereby approved, a Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:**

- a. Use of City car parking bays for construction related activities**
- b. Protection of infrastructure and street trees within the road reserve**
- c. Security fencing around construction sites**
- d. Gantries**
- e. Access to site by construction vehicles**
- f. Contact details**
- g. Site offices**
- h. Noise – Construction work and deliveries**
- i. Sand drift and dust management**
- j. Waste management**
- k. Dewatering management plan**
- l. Traffic management; and**
- m. Works affecting pedestrian areas.**

The approved Demolition Management Plan shall be adhered to throughout the demolition of the existing building on site and construction of the new development.

Advice note (s):

- i. In regard to the condition requiring a Demolition Management Plan, Local Planning Policy 1.10 Construction sites can be found on the City's website via**
<http://www.fremantle.wa.gov.au/development/policies>

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>



The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999

- ii. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
- iii. This area is currently subject to quarantine regulations to limit the spread of Red Imported Fire Ants. A permit is required if you are moving any potential host material (including soils and building waste) outside the quarantine area. For more information and permit requirements visit agric.wa.gov/rifa**
- iv. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.**
- v. Any removal of asbestos is to comply with the following – Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirement of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];**

Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>

- vi. The applicant is advised that an appropriate management plan should be prepared to manage any environmental or health risks from potential exposure of contaminated soils during demolition works.**

Any material (soil and hardstand) proposed for off-site disposal should be adequately assessed in accordance with the Landfill Waste Classification and Waste Definitions 1996 (as amended 2019) and the PFAS National Environmental Management Plan (Heads of EPA's Australia and New Zealand, January 202).



- vii. The applicant is required to submit an Application form to Main Roads Western Australia to undertake works within the Curtin Avenue or Port Beach Road reserves prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.**
- viii. This property is affected by land reserved under Planning Control Area 158 as shown on WAPC Plan No.1.7977 and will be required for road purposes at some time in the future.**
- ix. The upgrading/ widening of Curtin Avenue and Port Beach Road are not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.**
- x. The Public Transport Authority of Western Australia (PTA) advises that, as the proposed works are within 50 metres of the PTA's Rail Reserve (or the PTA Protect Zone), the owner must seek PTA's approval for working in close proximity to the operating railway prior to conducting the proposed demolition works.**
- xi. The Public Transport Authority (PTA) advises that the applicant/owner should submit the following documents to PTAThirdPartyAccess@pta.wa.gov.au at least six weeks prior to the commencement of works:**
 - a) A completed checklist as located within Appendix 2 of the PTA Procedure 8103-400-004 'Working in and around the PTA Rail Corridor, Assets and Infrastructure' and all required documents listed within the Checklist.**
 - b) A Work Method Statement**
 - c) Details of plant and equipment that will be used, including cranes, and their location within the worksite.****All PTA specifications and procedures can be obtained on the PTA Vendor Portal <https://www.pta.wa.gov.au/vendor/>**
- xii. The proposed development on site should reflect a focus on the industries relating to the Port of Fremantle, the railways and associated industries established in the area and its former industrial character resulting from the former Leighton Marshalling Yards and industries such as the Dingo Flour Mill located in the area.**



C2205-2 MONTHLY FINANCIAL REPORT - APRIL 2022

Meeting date: 25 May 2022
Responsible officer: Manager Financial Services
Decision making authority: Council
Attachments: 1. Monthly Financial Report – April 2022
Additional information: Nil

SUMMARY

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

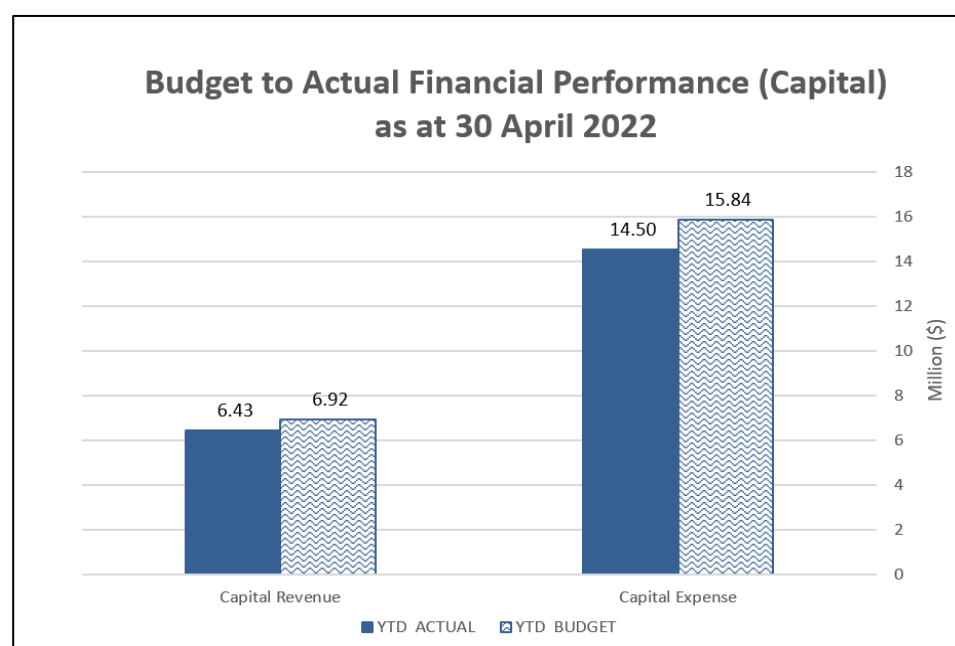
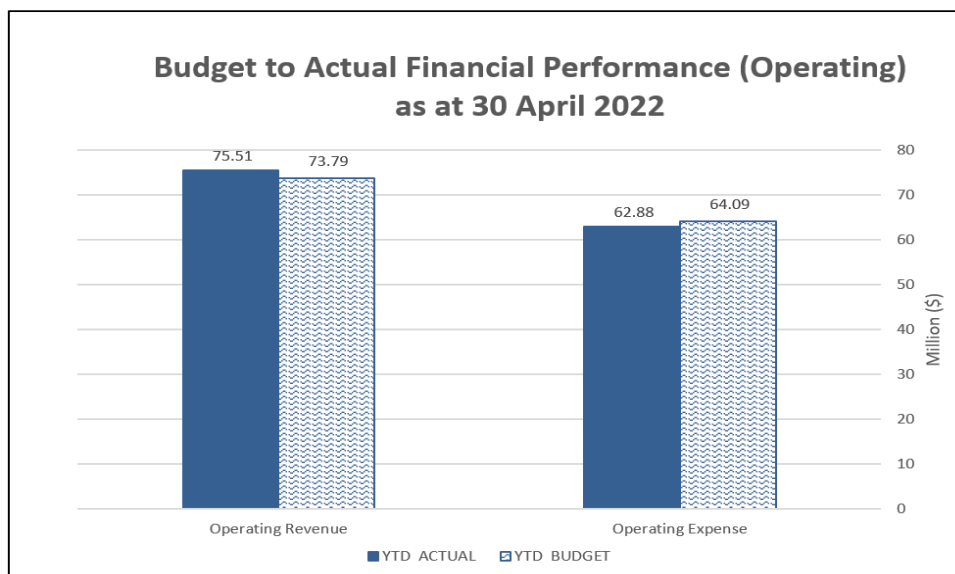
This report provides an analysis of financial performance for April 2022 based on the following statements:

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

The budget figures in this report include the Mid-Year Review budget amendments adopted by Council on 23 March 2022 (Item #C2203-4 Budget Review 2021-2022) and any subsequent amendments thereafter. Further, this financial report for the period ending 30 April 2022 is prepared considering accrued interest on borrowings (loans) and prepaid insurance premiums.

BACKGROUND

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





**RATE SETTING STATEMENT – BY NATURE AND TYPE
 FOR THE PERIOD TO 30 APRIL 2022**

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

Description	YTD Amended Budget \$M	Actual YTD \$M	Variance \$M	Variance %
Opening Surplus	3.72	15.06	11.34	304.43%
Operating				
Rate Revenue	50.23	50.08	(0.15)	(0.31%)
Revenue	23.56	25.43	1.87	7.94%
Expenses	(64.09)	(62.88)	1.21	1.89%
Non-Cash Adj.	8.02	8.09	0.07	0.87%
	17.72	20.72	3.00	16.93%
Investing				
Capital Revenue	6.92	6.43	(0.49)	(7.12%)
Capital Expenses	(15.84)	(14.50)	1.34	8.49%
	(8.92)	(8.07)	0.85	9.55%
Financing				
Repayment Loans & Leases	(1.98)	(2.03)	(0.05)	(2.55%)
Reserve Transfers	10.97	9.42	(1.55)	(14.17%)
	8.99	7.39	(1.60)	(17.85%)
Closing Surplus	21.51	35.10	13.59	63.17%



**STATEMENT OF COMPREHENSIVE INCOME – BY NATURE AND TYPE
 FOR THE PERIOD TO 30 APRIL 2022**

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

Description	YTD Amended Budget \$M	YTD Actual \$	Variance \$	Variance %
Operating Income				
Rates (including Annual Levy)	50,411,925	50,254,035	(157,890)	(0.31%)
Service Charges	7,192	8,804	1,612	22.41%
Op.Grants, Subsidies & Cont'bns	3,201,208	4,030,588	829,380	25.91%
Fees and Charges	18,437,659	19,099,459	661,800	3.59%
Interest Earnings	599,604	573,841	(25,763)	(4.30%)
Reimbursement Income	762,490	964,332	201,842	26.47%
Other Income	374,692	579,324	204,632	54.61%
Total	73,794,770	75,510,383	1,715,613	2.32%
Operating Expenses				
Employee Costs	(30,771,266)	(31,304,879)	(533,613)	(1.73%)
Employee costs - Agency Labour	(1,302,606)	(1,425,027)	(122,422)	(9.40%)
Materials and Contracts	(19,790,489)	(18,238,476)	1,552,014	7.84%
Depreciation – Non-Curr. Assets	(8,018,063)	(8,008,765)	9,298	0.12%
Interest Expenses	(338,500)	(376,196)	(37,696)	(11.14%)
Utility Charges	(1,358,397)	(1,335,943)	22,454	1.65%
Insurance Expenses	(800,235)	(802,802)	(2,567)	(0.32%)
Other Expenditure	(1,714,851)	(1,388,823)	326,028	19.01%
Total	(64,094,407)	(62,880,910)	1,213,497	1.89%

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

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

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



CONSULTATION

Nil

OFFICER'S COMMENT

Year to date, as at the end of April 2022, the City of Fremantle is carrying an additional surplus of \$13,588,700 over the budget anticipated, which is mainly due to:

Favourable variances against the year-to-date budget:

- Additional carry forward funds from the 2020-21 financial year of \$11,337k.
 - Note: This reported opening position is a draft position as presented at the time of preparation of this report and is subject to change on account of the end of year closing journals, accruals etc. A final opening position for the 2021-22 financial year will be determined upon completion of the City's external audit.
- Increased Operating Grants, Subsidies and Contributions of \$829k;
 - Note: \$907k was received in advance from the Department of Local Government, Sport and Cultural Industries for the 2022-23 financial year. In effect, Operating Grants, Subsidies and Contributions is \$78k unfavourable year to date as at April 2022.
- Increased Fees and Charges revenue of \$662k;
- Increased Reimbursement and Other Income of \$406k;
- Reduced operating expenditure of \$1,213k; and
- Reduced capital expenditure of \$1,345k.

These favourable variances were partially offset by:

- Reduction in Capital Grants, Subsidies and Contributions for the development of Assets of \$493k; and
- Reduction in transfers from Reserves (Capital) of \$1,417k.

More details on these material variances can be found below.

An unfavourable variance of \$158k for Rates Income is also being reported. This is largely due to a significant adjustment to reflect the reduced valuation of the Woolstores Shopping Centre and Carpark, as notified by Landgate. The valuation decreased by approximately \$2m, resulting in a reduction in expected Rates revenue of \$133k.

Explanation of Material Variances

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

**Agenda – Ordinary Meeting of Council
25 May 2022**



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

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

Description	Variance Amount	Comment
Net current assets at the start of the financial year	11,337,279	 304.43%
		The explanation for the above variance was reported to Council via FPOL2202-3 [Draft Annual Financial Statements 2020-21] on 23 March 2022, and explained in previous monthly financial reports for 2021-22.
Operating Grants, Subsidies and Contributions	829,380	 25.91%
Major Variances:		
Receive general purpose grants and contributions	908,912	Timing variance: Almost this entire amount - \$907,807 – is an advance payment for the 2022-23 Financial Assistance Grant from the Department of Local Government, Sport and Cultural Industries. It will be carried forward to be spent in the next financial year.
Conduct Art Centre special events	99,085	Favourable variance: The City received a grant in advance and it will be carried forward to the 22/23 financial year for it to be spent.
Coordinate Arts Centre exhibitions	(197,775)	Timing variance: Delay in receiving funds to cover expenses incurred. Funds are expected to be received before the end of the financial year.
Fees and Charges	661,800	 3.59%
Major Variances:		
Parking Infringements	325,545	Favourable variance: Incidents of parking infringements significantly higher than budgeted.

**Agenda – Ordinary Meeting of Council
25 May 2022**



Description	Variance Amount	Comment
Lease – Fremantle Markets	119,635	Favourable variance: Tennant is coming in higher on turnover rent.
Reimbursement Income	201,842	 26.47%
Major Variances:		
Containers for Change	42,798	Favourable variance: Due to higher interest from the community, the number of containers received for recycling has increased more than anticipated.
Administer Long Service Leave transfers	39,678	Staff Long Service Leave reimbursements were received from other local authorities. No budget is allocated for this item.
Conduct Art Centre special events	38,174	Timing Variance: Income received earlier than expected; budget timing to be adjusted.
Lease Union Store 41-47 High Street Fremantle	29,871	Favourable variance: This is related to lease rental income generated from the Union Store. There was no budget allocated for this item.
Collect & dispose of illegally dumped waste	27,393	Favourable variance: The City has generated additional income as a result of the MOU signed between the City and the Department of Communities for the collection and disposal of illegal dumping.
Other Revenue	204,632	 54.61%
Major Variances:		
Miscellaneous Revenue – Monitor financial accounting processes	141,070	Recoupment of various unclaimed bonds that have been held in the Trust Fund for more than 10 years, and have now been transferred to the Municipal Fund.
Employee Costs	656,035	 3.11%
Major Variances:		
Employee Costs	533,613	Unfavourable variance: This is the result of the leave provision adjustment not being posted yet. This balance will be adjusted as part of the end of year process in June 2022.
Employee Costs – Agency Labour	122,422	Unfavourable variance: Overspend on agency labour during the first half of the year. Most were addressed during Mid-Year Budget

**Agenda – Ordinary Meeting of Council
25 May 2022**



Description	Variance Amount	Comment
		Review. However, three items were overlooked when requesting approval for Budget Amendments.
Materials and Contracts	1,552,014	7.84%
Major Variances:		
Maintain Microsoft SOE Applications	320,000	Timing variance: Software licensing has been renewed, but supplier invoice not yet received.
Other Expenditure	326,028	19.01%
Major Variances:		
Contribute to the operations of Regional Resource Recovery Centre	119,409	Timing variance: Delay in receiving invoices from Resource Recovery Group (RRG) for the quarterly loan repayments.
Support CAT bus service	86,185	Timing variance: Delay in receiving invoices.
Support South Fremantle Football Club	50,000	Timing variance: Payment has been delayed until the lease agreement between the City and South Fremantle Football Club is finalised.
Capital Expense Purchase – Infrastructure Parks	475,050	26.00%
Major Variances:		
P-10295 Design and construct-Kings Square Public Realm Newman	251,820	Favourable variance: Project has reached practical completion. Savings are from the reduction of works scope related to the High Street area. This saving will be utilised for the Town Hall fire suppression system project.
Program- Infrastructure Recovery	70,176	A budget amendment was approved by FPOL (FPOL2205-7 – 11 th of May 2022) for this budget to be utilised in the design and construction of the John Street Riverwall Replacement project.
P-12070 - Deliver - N Fremantle landscaping	60,000	Timing Variance: Project work has commenced. However, some of the project cost is likely to be carried forward to the next financial year.
Capital Expense Purchase – Infrastructure - Other	136,440	13.92%

**Agenda – Ordinary Meeting of Council
25 May 2022**



Description	Variance Amount	Comment
Major Variances:		
P-11823 Design and construct-Port Beach coastal adaptation	69,950	Timing variance: The Sand Nourishment contract has not yet been awarded, but is currently in the procurement process. However, the budget is expected to be spent by end of the financial year.
P-11878 - Design and construct - Walyalup Koort – Public Artwork	29,233	Timing variance: Development of the project plan has taken longer than expected.
Reserve Transfers	(1,554,478)	▼ (14.17%)
Transfer from Reserve (Restricted) - Capital	(1,416,638)	Variance is primarily attributed to an underspend on capital works for various reasons mentioned above, therefore, the required funding from Reserves is less than budgeted.
Transfer from Reserve (Restricted) - Operating	(122,543)	Variance is primarily attributed to an underspend on operating works funded by Reserves.
Overall comments on Reserve Transfers: Progress on some capital works projects slowed as the City experienced supply chain delays in relation to materials as a consequence of COVID-19. Officers continue to monitor for any issues that may result in delayed delivery and for any potential carry forwards to 2022-23. Capital revenue has been largely unaffected however it is anticipated that Reserve transfers to fund the projects' expenditures may not occur in 2021-22 as had been budgeted. Transfers will continue to be processed as costs are realised.		

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

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



C2205-3 STATEMENT OF INVESTMENTS – APRIL 2022

Meeting date:	25 May 2022
Responsible officer:	Manager Financial Services
Decision making authority:	Council
Attachments:	1. Statement of Investments – 30 April 2022
Additional information:	Nil

SUMMARY

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

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

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

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

BACKGROUND

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

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



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

FINANCIAL IMPLICATIONS

Investment interest earned year to date is \$174,828 against a budget of \$176,604, and a full year adopted budget of \$200,000.

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.49% for the month of 30 April 2022. The City's actual portfolio return in the last 12 months is 0.33%, which compares favourably to the benchmark Bloomberg AusBond Bill Index reference rate of 0.02% (refer Attachment 1 point 8).

LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

CONSULTATION

Nil

OFFICER COMMENT

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



1. Portfolio details

As at 30 April 2022, the City's investment portfolio totalled \$41.46m. The market value was \$41.53m, which takes into account accrued interest.

The investment portfolio is made up of:

Cash Investments (<= 3 months)	\$ 6.96m
Term Deposits (> 3 months)	\$ 34.50m
TOTAL	\$ 41.46m

Of which:

Unrestricted cash	\$ 38.25m
Restricted cash (Reserve Funds)	\$ 3.21m
TOTAL	\$ 41.46m

The current amount of \$38.25m held as unrestricted cash represents 49.2% of the total adopted budget for operating revenue (\$77.76m)

2. Portfolio counterparty credit framework

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

Counterparty credit framework

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

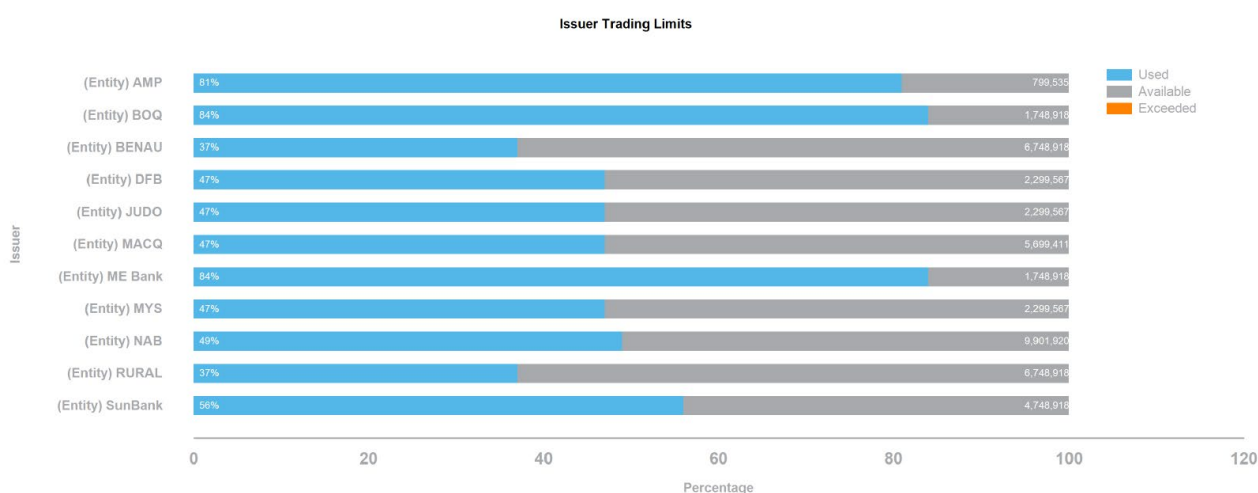
Credit quality	Maximum % of total investments
Tier 1 (excl. AAA government) AAA to AA-	45%
Tier 2 A+ to A-	25%
Tier 3 BBB+ to BBB-	10%
Tier 4 Unrated	(\$1m)

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



Portfolio Credit Framework Limits As at 30 April 2022

Tier	Allocation	Allocation %	Maximum Allocation %	% Used of Maximum Allocation	% Available of Maximum Allocation	% Exceeded of Maximum Allocation
Tier 1	7,910,929.04	19.08%	100.00%	19.08%	80.92%	0.00%
Tier 2	24,049,540.04	58.01%	60.00%	96.68%	3.32%	0.00%
Tier 3	9,500,000.00	22.91%	35.00%	65.46%	34.54%	0.00%
Tier 4	0.00	0.00%	15.00%	0.00%	100.00%	0.00%
41,460,469.08						
Values used in the above calculations exclude interest for term deposits and other simple interest securities.						



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

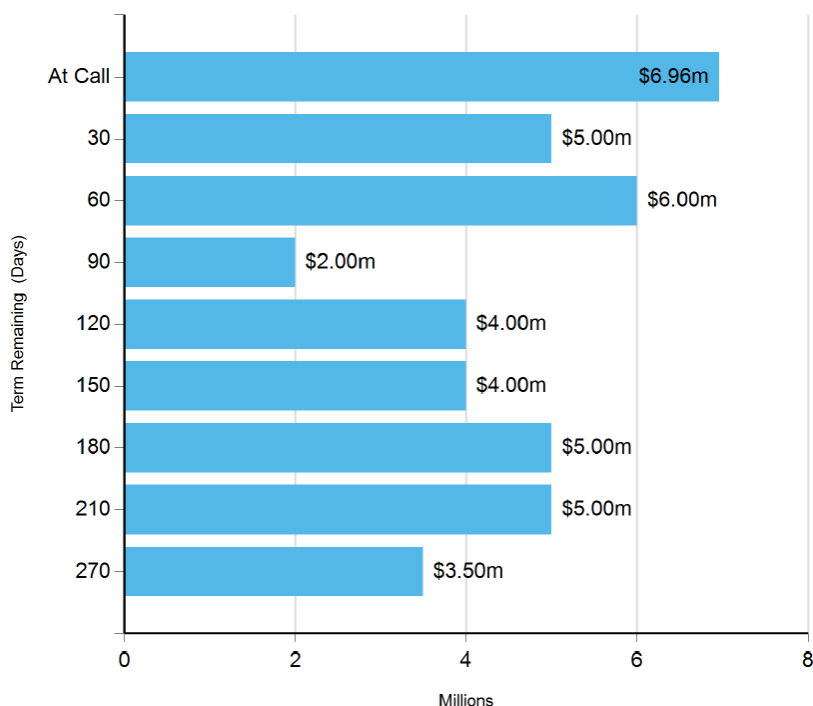
3. Portfolio Liquidity Indicator

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

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



Face Value by Term Remaining

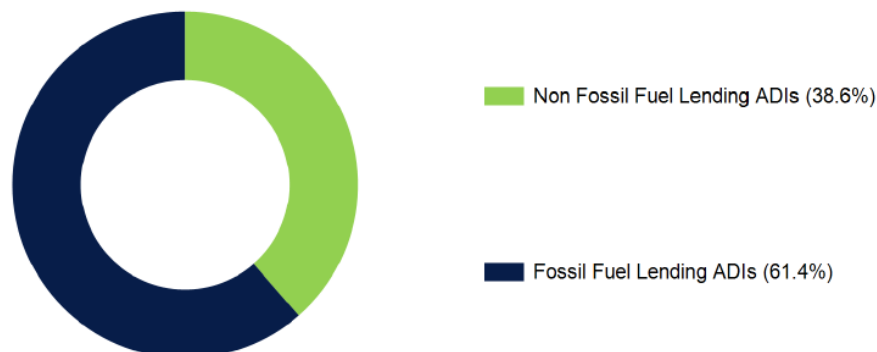


4. Portfolio Summary by Fossil Fuels Lending Authorised Deposit-Taking Institutions (ADIs)

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

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

As at 30 April 2022, \$16m (38.6%) of the portfolio was invested in "Green Investments"



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

5. Interest Income for Matured Investments

Per Attachment 1 (note 9), interest income earned during the month of April 2022 from matured investments was \$10,097.84.

6. Investing Activities

During the month of April 2022, one term deposit investment of \$3.5m was withdrawn for operational requirements.

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

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

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



C2205-4 SCHEDULE OF PAYMENTS – APRIL 2022

Meeting date: 25 May 2022
Responsible officer: Manager Financial Services
Decision making authority: Council
Attachments: 1. Schedule of Payments and Listings
2. Purchase Card Transactions
Attachments viewed electronically
Additional information: Nil

SUMMARY

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

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

BACKGROUND

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

FINANCIAL IMPLICATIONS

A total of \$7,372,987.54 in payments were made this month from the City's municipal and trust fund accounts.



LEGAL IMPLICATIONS

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

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

CONSULTATION

Nil



OFFICER COMMENT

The following table summarises the payments for the month ending 30 April 2022 by payment type, with full details of the accounts paid contained within Attachment 1.

Payment Type	Amount (\$)
Cheque / EFT / Direct Debit	\$ 4,661,492.23
Purchase card transactions	\$ 37,794.10
Salary / Wages / Superannuation	\$ 2,668,701.21
Other payments	\$ 5,000.00
Total	\$ 7,372,987.54

Contained within Attachment 2 is a detailed listing of the Purchase Card transactions for the month ending 30 April 2022.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER'S RECOMMENDATION

Council:

- 1. Accept the list of payments made under delegated authority, totalling \$7,372,987.54 for the month ending 30 April 2022, as contained within Attachment 1.**
- 2. Accept the detailed transaction listing of Purchase Card expenditure, for the month ending 30 April 2022, as contained within Attachment 2.**



13. Motions of which previous notice has been given

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

14. Urgent business

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

15. Late items

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

16. Confidential business

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

17. Closure