



Minutes

Finance, Policy, Operations and Legislation Committee

Wednesday 11 May 2022 6pm



Table of Contents

1.	Official opening, welcome and acknowledgement	4
2.1.	Attendance	4
2.2.	Apologies	4
2.3.	Leave of absence	4
3.	Disclosures of interests by members	4
4.	Responses to previous questions taken on notice	5
5.	Public question time	6
6.	Petitions	8
7.	Deputations	8
7.1	Special deputations	8
7.2	Presentations	8
8.	Confirmation of minutes	8
9.	Elected member communication	8
10.	Reports and recommendations	9
10.1	Committee delegation	9
FPOL2205-1	CORPORATE BUSINESS PLAN – QUARTERLY REPORT – JANUARY TO MARCH 2022	9
FPOL2205-2	CHANGING PLACE GRANT EXPRESSION OF INTEREST – SOUTH BEACH	12
FPOL2205-3	ADVERTISING OF THE PROPOSED DIFFERENTIAL RATE FOR THE 2022/23 FINANCIAL YEAR	17
10.2	Council decision	23
FPOL2205-4	ADOPTION OF THE CITY OF FREMANTLE LOCAL GOVERNMENT PROPERTY AMENDMENT LOCAL LAW 2022 – FOR THE CONTROL OF SHARK FISHING	23
FPOL2205-5	DELEGATED AUTHORITY REGISTER REVIEW 2022	30
FPOL2205-6	REVIEW OF ELECTED MEMBER RELATED POLICY	37
FPOL2205-7	BUDGET AMENDMENTS – MAY 2022	62
FPOL2205-8	TENDER FCC595/22 70 PARRY STREET GROUND AND FIRST FLOOR LAYOUT CHANGES	69

**Minutes – Finance, Policy, Operations and Legislation Committee
11 May 2022**



11. Motions of which previous notice has been given	78
12. Urgent business	78
13. Late items	78
14. Confidential Items	78
15. Closure	78



1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00pm.

2.1. Attendance

Cr Jenny Archibald	Presiding Member/East Ward
Cr Rachel Pemberton	Deputy Presiding Member/City Ward
Cr Fedele Camarda	Beaconsfield Ward
Cr Frank Mofflin	Deputy Mayor/Hilton Ward
Cr Doug Thompson	North Ward (<i>entered 6.05pm</i>)
Cr Andrew Sullivan	South Ward
Cr Ben Lawver	Hilton Ward (<i>Observing only</i>)
Mr Glen Dougall	Chief Executive Officer
Mr Matt Hammond	Acting Director City Business
Mr Graham Tattersall	Director Infrastructure
Ms Michelle Brennand	Director Community Development
Ms Charlie Clarke	Manager Governance
Ms Beverly Bone	Manager Community Development
Mr Tony Strickland	Manager Facilities and Environmental Manager
Ms Melody Foster	Executive Assistant
Ms Anne-Marie Bartlett	Governance Officer
Ms Donna Ross	Meeting Support Officer

There were approximately 1 member of the public in electronic attendance.

2.2. Apologies

Ms Hannah Fitzhardinge	Mayor
Cr Marija Vujcic	South Ward

2.3. Leave of absence

Nil

3. Disclosures of interests by members

Nil



4. Responses to previous questions taken on notice

Questions by Mr Andrew Luobikis

FPOL2204-2 - WARD BOUNDARIES AND REPRESENTATION REVIEW – POSTPONEMENT

Question 1: Irrespective of what the state government reforms are to ward boundaries and number of councillors, with the City of Fremantle overrepresented already in each ward, should the review not go ahead anyway?

Response 1: Council has determined to postpone the Ward Boundary and Representation Review to occur in 2026/2027 or after the outcome of the latest package of local government reforms (2021) is formally amended, whichever is earlier.

Question 2: Is this just a political move trying to push this out past two more elections so that this can't be addressed?

Response 2: As outlined in the officer report, the recommendation for Council to postpone the ward and representation review was made in order to avoid potential upheaval and confusion from two reviews, and any knock on changes for the community, in a short period of time.

FPOL2204-5 MANAGEMENT ORDER - PIONEER PARK RESERVE NO. 35677

Question 1: Should the council, due to ongoing costs, leave the management of Pioneer Park to the State Government?

Response 2: At the Ordinary Meeting of Council on 27 April 2022, Council resolved to accept the Management Order for Reserve No. 35677 (Pioneer Park).

Question 2: If not, with the State Government calling for reductions on bores and use of our aquifers, should a re-assessment be made of a new plan for the park to be more waterwise reducing the amount of grassed area and replacing with waterwise gardens, pathways and benches and just some grassed areas amenity and entry statement from the train station?



Response 2: Pioneer Park is identified within Freo 2029 in the City Centre projects as part of the Railway Station Forecourt. The strategy notes the *“Railway station forecourt and new city square - Relocation of the bus interchange entry to Queen Street will remove buses from in front of the railway station and enable development of a new public square and significantly improved pedestrian connections between the city centre, rail station and waterfront”*.

An upgrade of Pioneer Park is included in this project and is *considered to be a key part of the gateway to the City from the station precinct*.

While Freo 2029 provides visioning, the design for Pioneer Park has not been developed further. However, it is anticipated that the redevelopment of the Railway Station Forecourt, including Pioneer Park will contain garden areas, trees and turf as part of the design. During the design process it is anticipated the landscaping will consider the efficient use of water, including water wise planting, trees and the use of turf only where it is appropriate.

5. Public question time

Andrew Luobikis asked the following questions in relation to items FPOL2205-3 and FPOL2205-6

FPOL2205-3 – ADVERTISING OF THE PROPOSED DIFFERENTIAL RATE FOR THE 2022/23 FINANCIAL YEAR

Wanting to highlight that this increase proposed is also on top of Landgates 3 yearly review of GRV which most likely will push values upwards, hence an even higher increase for the next 3 years. This on top of 10 years plus of above CPI increases. Just compounding each year with no respite.

Question 1: Being told year after year that individuals can apply for hardship does not cut it. Considering this council has used provisions of COVID to waive rates and charges for certain inner city businesses, when are individual residential ratepayers going to see some respite to alleviate household expenses and pressure on family budgets?

Question 2: Are these increase due to the sell off of assets for the Kings Square/Walyalup development and that the city finances are drained?

Question 3: What is being implemented to ensure ratepayers are not continually burdened with hefty increases?

Questions 1 – 3 were taken on notice.



FPOL2205-6 – REVIEW OF ELECTED MEMBER RELATED POLICY

Regulation 34D Local Law & Not Policy now written into the LG Act 1995 as an amendment. Apparently, City of Fremantle is the only Local Government with only a policy and not a local law as required to bring in line with the LG Act 1995.

Response: The Local Government Act 1995 does not require that a Local Government has a Meeting Procedures Local Law in place. It is customary but is not a requirement.

Question 1: Is the City of Fremantle in the process of implementing this as a local law?

Response: Not currently, Council has previously expressed an interest in developing a meeting procedures local law, consistent with other local governments.

However, following the recent news of proposed local government reform and the possible introduction of a set of meeting procedures meant to apply State-wide, it is not considered time or cost effective to continue until the outcome of the proposed reform is known.

Question 2: Can the policy just be converted to a local law?

Response: Theoretically yes, as it was based on the format of the model local law. However the policy would need to be reviewed to ensure currency before any attempt to convert it.

Question 3: What are the implications of doing/not doing this?

Response: The only impact on not having a Meeting Procedures Local Law in place is that there are no applicable penalties and sections 10(d) and 13(1)(a)(ii) of the City's Council Members, Committee Members and Candidates Code of Conduct are not applicable. Meaning that a complaint about an elected members behaviour at a meeting cannot be dealt with under minor breach provisions of the local government at this time.

Complaints can still be considered under the Council code of conduct Division 3 Complaint Handling Policy.



6. Petitions

Nil

7. Deputations

7.1 Special deputations

Nil

7.2 Presentations

Nil

8. Confirmation of minutes

COMMITTEE DECISION

(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Rachel Pemberton

The Finance, Policy, Operations and Legislation Committee confirm the minutes of the Finance, Policy, Operations and Legislation Committee meeting dated 13 April 2022.

Carried: 6/0

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

9. Elected member communication

Cr Rachel Pemberton made a statement requesting that meeting documentation be published as early as possible on Fridays preceding a meeting.



10. Reports and recommendations

10.1 Committee delegation

FPOL2205-1 CORPORATE BUSINESS PLAN – QUARTERLY REPORT – JANUARY TO MARCH 2022

Meeting date:	11 May 2022
Responsible officer:	Manager Economic Development and Marketing
Decision making authority:	Committee
Agenda attachments:	1. Corporate Business Plan – Quarterly report – January to March 2022
Additional information:	Nil

SUMMARY

The Corporate Business Plan (CBP) Report for 2021/22 was presented to Committee on 8 September 2021 providing detail on the services, deliverables and projects that are programmed for the 2021/22 financial year.

This quarterly update report documents the progress made on those services and projects listed in the CBP Report 2021/22 for the third quarter of the financial year.

This report recommends that Council receive the CBP Quarterly Report for January to March 2022 as provided in Attachment 1.

BACKGROUND

This report includes services, deliverables and projects programmed for the 2021/22 financial year and reported to Committee in the Corporate Business Plan Report in September 2021. The projects and services are delivered across several business units throughout the organisation.

FINANCIAL IMPLICATIONS

Please note, the budget summary will continue to be reported through the Monthly Financial Report.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil



OFFICER COMMENT

This Corporate Business Plan Quarterly Report continues to support an integrated planning framework and allows us to be more transparent in monitoring performance.

The report provides a summary of the deliverables and project progress for the programmed activities for 2021/22 as at 31 March 2022.

The key projects for the City this financial year are listed below with their progress update for quarter 3, 2021/22: -

Walyalup Koort – Project Director (Infrastructure)

- Walyalup Civic Centre & Playground
 - Works are complete – faults or issues are being addressed as part of the current 12 months defects period.
- Newman Court/High Street
 - This phase of the works is complete – faults or issues are being addressed as part of the current 12 months defects period.
- Adelaide/Queen Street- trees
 - This phase of the works is complete.
- Walyalup Koort - remaining works
 - The remaining phases of works to Walyalup Koort are included for consideration in the annual budget process.

Port Beach – Manager Parks and Landscape

The Port Beach project was submitted to the EPA and has been approved under the advice the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant formal assessment. The tender for the dredging works closed in March and is currently under evaluation.

Fremantle Oval – Project Director

The City, in collaboration with its project partners and based on a detailed project plan, has completed the next stage of this major city project: a business plan and funding document. This work is ready to be presented to Elected Members for information and a discussion on the next stage of project development.

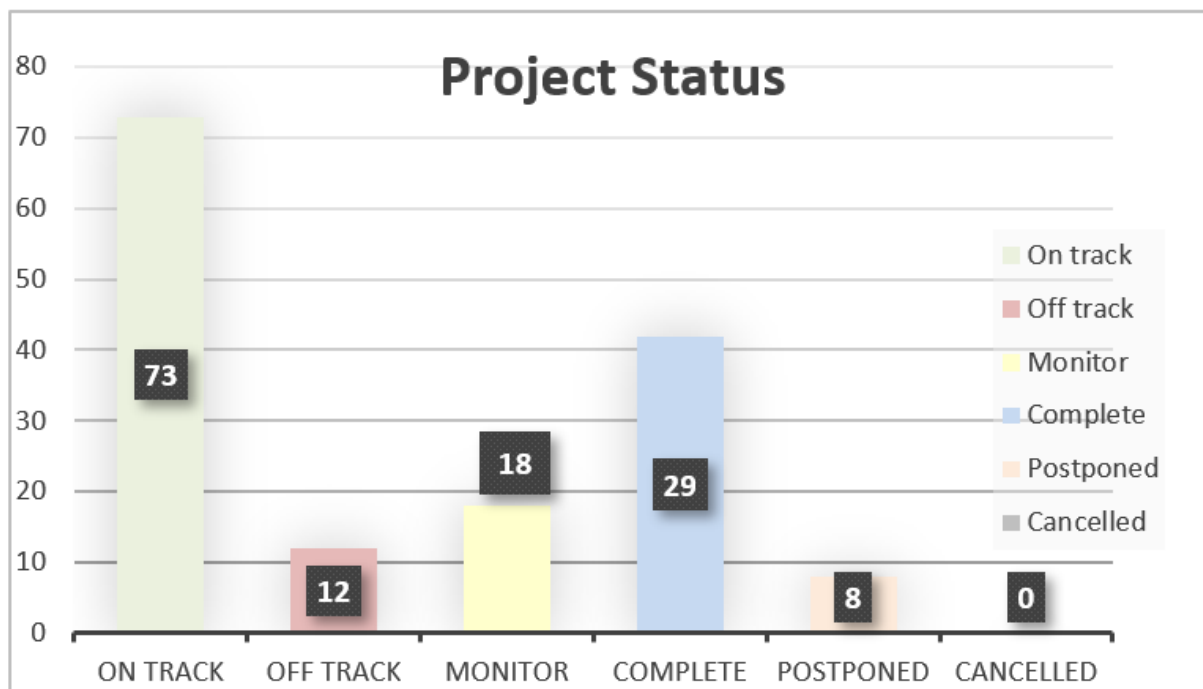
Strategic Community Plan Review – Manager Economic Development

A working group has been established to guide the engagement process. There has been a slight delay to the program to allow coordination with the Future of Fremantle Project. Officers have now developed an engagement program and was presented to the working group for feedback in late April.



Progress Status

A summary of the status of the budgeted projects is displayed below.



Officers continue to actively manage and monitor progress with the projects through the City’s monthly project reviews – particular focus is included in respect to ‘off track’ projects; currently, the predominant reasons for the delays (as noted in attachment 1) are mainly around contractor availability, supply delays and cost increases as a result of COVID.

For information on why a particular project is off track refer to Attachment 1 - Approved Capital and Operating Projects and Programs.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

COMMITTEE DECISION ITEM FPOL2205-1
(Officer’s recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Frank Mofflin

Council receive the City of Fremantle Corporate Business Plan – Quarterly Report for January to March 2022, as provided in Attachment 1.

Carried: 6/0

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



FPOL2205-2 CHANGING PLACE GRANT EXPRESSION OF INTEREST – SOUTH BEACH

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

SUMMARY

The Department of Communities (DoC) is seeking Expressions of Interest (EOI) from Local Government Authorities and Not-for-Profit groups based in Western Australia to expand the network of Changing Places in their community. The EOI calls for Department of Communities and Local Governments to co-contribute funding for the development of a Changing Place Facility (a secure and private bathroom for people with a disability who need extra space and assistance).

The proposed South Beach Place Plan redevelopment project has identified a new changing/toilet facility in the second half of the project (23/24). To support this project, the City has submitted an EOI for the maximum grant funding amount of \$150,000.

As part of the South Beach Place Plan, the City has costed a standalone Changing Place facility which is estimated to cost \$290,000. Should the EOI with the DoC for \$150,000 contribution be successful, the City would need to allocate municipal funds in the 2023/2024 budget process of \$140,000 to make up the difference of the estimated total cost, as a co-contribution towards the Changing Place facility.

This report recommends that Council notes the City has submitted an Expression of Interest to the Department of Communities Changing Place Project with notification expected in June 2022. Should the City be successful, Council would need to allocate \$140,000 as a co-contribution to the construction of a standalone Changing Place at South Beach Reserve as part of the 2023/2024 budget process.

BACKGROUND

The Department of Communities is seeking Expressions of Interest from Local Government Authorities to expand Changing Place locations. The total funding amount available is \$2 million which will be distributed to several projects to ensure value for money and greater distribution of these facilities.

Using a co-contribution model, the Department of Communities will contribute up to \$170,000 for recommended regional applications and up to \$150,000 for Perth Metropolitan applications.



The term of funding is a maximum of 24 months from June 2022 – June 2024. The cost to install a standalone Changing Place at South Beach Reserve is approximately \$290,000 and with the \$150,000 contribution from the Department of Communities grant, there is an expected co-contribution from the City of \$140,000 in the 2023/2024 financial year.

The City has previously been successful in obtaining a \$150,000 grant from the Department of Communities to install a Changing Place in the Walyalup Civic Centre, facing William Street. Following the recent accreditation process, this facility is now available for people who have registered with Changing Place and received the MLAK key to access any changing places across WA. All Companion Card holders in Western Australia are eligible to receive a free Master Locksmiths Access Key (MLAK). Information on locations is available from the Changing Place website and the National Toilet Map. There are now 40 Changing Places across WA, with 24 in metropolitan Perth.

In 2019, it was identified during the community engagement process for the Changing Place within the CBD area which was also supported through the AIP working group that our community were seeking South Beach as another location that could be more inclusive and provide access for people with high support needs.

This earlier community engagement feedback confirmed the community aspirations for an inclusive and accessible South Beach reserve. At the recent South Beach Place Plan community engagement sessions, it was identified as a priority for the community to be inclusive and have equal access to the water, the reserve, and its various amenities.

The City has an opportunity to create a fully accessible environment whilst redeveloping the site and receive monetary support from the DoC.

FINANCIAL IMPLICATIONS

Department of Communities funding	\$150,000
City of Fremantle co-contribution	\$140,000
TOTAL COST	\$290,000

Should the City be successful in receiving the maximum funding of \$150,000, the City would be required to co-contribute \$140,000 as part of the capital budget process in 2023/2024. This project has been included in the long-term financial plan for South Beach Reserve.

LEGAL IMPLICATIONS

Nil



As outlined in the EOI process the Department of Communities, depending on the nature of the EOIs received may enter into direct negotiations with a Respondent in relation to its EOI.

The EOI process is not a Request for Tender. It is not a commitment or representation of any kind by the Department of Communities who will otherwise seek to procure any services to achieve the desired Community outcome.

CONSULTATION

In 2021, The City of Fremantle endorsed a new Access and Inclusion plan which outlines its commitments to improving Access and Inclusion. The delivery of a Changing Place at South Fremantle aligns itself with the following focus areas within the Plan

Focus Area 2

Accessing buildings and facilities

Disability Service Regulations 2004: People with disability have the same opportunities as other people to access the buildings and other facilities of the City of Fremantle

Our objective: *All people have equitable access to City buildings and facilities within the City of Fremantle*

4. *Improve access and inclusion to City facilities in public areas –including parks, playgrounds, reserves and beaches, through the development of systems and procedures*

The South Beach Place Plan guides the delivery of future services, programs, and infrastructure in and around the area. It consists of a vision, place principles, and an action list formed through a considered internal and external engagement process. As part of the process, a Reference Group was established, including residents, local businesses, community groups, elected members, access and inclusion advocates, Whadjuk Noongar Elders and relevant staff to assist the City with the feedback received.

A key action of the engagement process was "to improve inclusion and access throughout South Beach parklands for all users." The reference group supported the inclusion of the *Changing Place* facility. This facility improves access and inclusion for visitors who might not be able to participate in South Beach without this amenity.



OFFICER COMMENT

South Fremantle and the South Beach precinct has grown in demand over the past 10 years. With an increase in local economy, small business and strong hospitality trade including cafes, restaurants, and bars. South Beach Reserve is used for many entertainment purposes including large events and small community groups.

South Beach Reserve also encompasses a large playground with BBQ facilities. Without a Changing Place within the vicinity, these attractions are often inaccessible for our community with high support needs.

The South Beach precinct is easily accessible with a Free CAT bus service located just 350m from the reserve with transport to the Fremantle CBD and access to train services to Perth. Furthermore, Fremantle Port is expected to welcome cruise ships back from late 2022 onwards. Cruise ships are popular with passengers with higher care requirements allowing ease of transition from accommodation to tourist destinations.

In addition to the proposed Changing Place, South Beach Reserve also has 12 ACROD parking bays within 300mtrs of the proposed change facility. The City also provides free hire of a beach wheelchair and beach walker within the current kiosk arrangement at South Beach.

The design for the new public facility includes a universal change room with shower and toilet with sufficient space for patrons and their carers when using a beach wheelchair.

The new Changing Places facility is to be located outside of the new public facility enabling it to be accessed 24 hours a day. The location is adjacent to the proposed wheelchair store and will have clear continuous access from the accessible parking bays in proximity.

With a Changing Place, people with disability and their families can confidently visit South Beach Reserve, be able to stay for a long period of time and explore the surrounding area.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required



COMMITTEE DECISION ITEM FPOL2205-2
(Officer's recommendation)

Moved: Cr Jenny Archibald

Seconded: Cr Fedele Camarda

Council note:

- a) **An Expression of Interest has been submitted to the Department of Communities requesting the maximum funding contribution of \$150,000 towards a standalone Changing Place facility at South Beach Reserve.**
- b) **Should the City be successful, Council would need to allocate \$140,000 as a co-contribution towards the construction of a standalone Changing Place at South Beach Reserve, as part of the 2023/2024 budget process.**

Carried: 6/0

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



FPOL2205-3 ADVERTISING OF THE PROPOSED DIFFERENTIAL RATE FOR THE 2022/23 FINANCIAL YEAR

Meeting date:	11 May 2022
Responsible officer:	Director City Business
Decision making authority:	Committee
Attachments:	1. Objects and Reasons for Differential Rates for the 2022/23 financial year
Additional information:	Nil

Summary

The purpose of this report is for Council to consider approval for advertising the proposed differential rate categories, rate in the dollar and minimum payment as detailed in the Objects and Reasons for differential rates (shown in Attachment 1) for the 2022/23 budget, in accordance with the provisions of the *Local Government Act 1995*.

This report recommends that Council endorse the proposed 2022/23 differential rate categories, rate in the dollar and minimum payment and approve advertising of the proposed 2022/23 differential rates.

BACKGROUND

The power to raise local government property rates is set out under the Local Government Act 1995 (Act). In adopting its annual budget, the Council must consider its current Strategic Community, Corporate Business and Long-Term Strategic Plans and, subject to the rating provisions under the Act, the Council is at liberty to use its rating powers to raise rate revenue at the level it determines appropriate. To determine this level requires the Council to assess the current and future service needs, aspirations of the community and their capacity and willingness to pay for those services.

FINANCIAL IMPLICATIONS

Differential rates represent a strategic approach to rating which is Council's major revenue source.

LEGAL IMPLICATIONS

Under the *Local Government Act 1995* section 6.33 and 6.34 allows Council to impose differential rates and minimum payment. Section 6.36 requires Council to give notice of certain rates before imposing.



CONSULTATION

Nil. This recommendation is the City's intention to advertise the proposed differential rates for public comment prior to the adoption of the 2022/23 budget.

This advertising will occur for a minimum 21 days and allows ratepayers the ability to consider the proposed rates in the dollar and make any submissions prior to Council adopting the proposed rate as part of the budget adoption process.

OFFICER COMMENT

It is recommended that the proposed differential rate categories, rate in the dollar and minimum payment as detailed in the attached 2022/23 Objects and Reasons for differential rates and outlined above be endorsed and advertised.

As part of the process for the 2022/23 draft budget it is proposed to continue to apply differential rating. However, in recognition of Council's intent to provide rate relief to City Centre Commercial properties and Nightclubs, an adjustment to the relative differential rates is recommended so as to bring these rates in closer alignment with Commercial and Industrial properties.

To that end, it is recommended that City Centre Commercial properties receive relief against CPI related increase, and that Nightclubs be aligned with the City Centre Commercial rate. As a result of this the nightclub differential rate would be removed, with those properties being move in to the City Centre Commercial category. It is recommended that that remainder of the rate categories be adjusted upwards to negate the impact of the adjustments to City Centre Commercial and Nightclub rates.

Following on from this adjustment to relative differentials in rates, the most recent increases to the WALGA Local Government Cost Index and in accordance with the City's Long Term Strategic Plan, it is recommended that a proposed increase of 6% then be applied to the rate in the dollar and minimum payment for relevant differential rate categories.



The resulting recommended rates are as follows:

Differential Rate Category	Rate in the Dollar			
	2021/22 (\$)	2022/23 Proposed (\$)	Change	
Residential Improved	0.085176	0.090585	0.005409	6.35%
Commercial and Industrial General	0.090500	0.096174	0.005674	6.27%
Vacant Commercial and Industrial	0.163792	0.171982	0.008190	5.00%
City Centre Commercial	0.098586	0.098241	0.000345	-0.35%
Vacant Residential Land	0.130726	0.138413	0.007687	5.88%
Residential Short Stay Accommodation	0.095117	0.101024	0.005907	6.21%

Differential Rate Category	Minimum Payment			
	2021/22 (\$)	2022/23 Proposed (\$)	Change	
Vacant Residential Land	\$1,353	\$1,434	\$81	6%
All Other Rate Categories	\$1,397	\$1,481	\$84	6%

It is noted that Perth’s CPI increased by 1.4% in the latest quarter to December 2021, and 5.7% over the previous year to December. In comparison, the weighted average for Australia was 1.3% for the quarter to December 2021 and 3.5% over the previous year. ¹

¹ Source: [Consumer Price Index, Australia, December 2021 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au)¹



Before Council can impose differential rates across the City, Council must advertise the proposed differential rates for a minimum of 21 days. The advertising period can occur up to two months prior to adoption of the budget. This period of advertising allows ratepayers the ability to consider the proposed rates in the dollar and make any submissions prior to Council adopting the proposed rate as part of the budget adoption process.

Public advertising of the proposed rate in dollar and minimum payment does not bind Council to these when adopting the 2022/23 budget. The advertising process does not prohibit Council from amending the rate in the dollar and minimum payment at budget adoption. The proposed advertising date is 14th May 2022.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority required

OFFICER’S RECOMMENDATION

Moved: Cr Jenny Archibald

Seconded: Cr Rachel Pemberton

Council:

- 1. Endorse the proposed 2022/23 differential rate categories, rate in the dollar and minimum payment as outlined below and detailed in the Objects and Reasons for differential rates, provided in Attachment 1.**

Differential Rate Category	Proposed Rate in the Dollar (\$)	Proposed Minimum Payment
Residential Improved	0.090585	\$1,481
Commercial and Industrial General	0.096174	\$1,481
Vacant Commercial and Industrial	0.171982	\$1,481
City Centre Commercial	0.098421	\$1,481
Vacant Residential Land	0.138413	\$1,434
Residential Short Stay Accommodation	0.101024	\$1,481

- 2. Approve the advertising of the 2022/23 differential rate categories, rate in the dollar and minimum payment as outlined in part 1.**



AMENDMENT

Moved: Cr Rachel Pemberton

Seconded: Cr Fedele Camarda

Add new part 2 to read as follows:

- 2. That Council proposes not to include the cost of the Destination Marketing program in the CBD differential rate. Instead, this cost will be spread across the whole city, in recognition that the whole city benefits from Destination Marketing activities.**

Part 2 will then become part 3.

Reason for Change:

To clarify the Council's position regarding the CBD differential rate.

Amendment carried: 6/0
Cr Jenny Archibald, Cr Fedele Camarda, Cr Frank Mofflin
Cr Doug Thompson, Cr Rachel Pemberton, Cr Andrew Sullivan



COMMITTEE DECISION ITEM FPOL2205-3
(Officer’s recommendation, as amended)

Moved: Cr Jenny Archibald

Seconded: Cr Rachel Pemberton

Council:

- 1. Endorse the proposed 2022/23 differential rate categories, rate in the dollar and minimum payment as outlined below and detailed in the Objects and Reasons for differential rates, provided in Attachment 1.**

Differential Rate Category	Proposed Rate in the Dollar (\$)	Proposed Minimum Payment
Residential Improved	0.090585	\$1,481
Commercial and Industrial General	0.096174	\$1,481
Vacant Commercial and Industrial	0.171982	\$1,481
City Centre Commercial	0.098421	\$1,481
Vacant Residential Land	0.138413	\$1,434
Residential Short Stay Accommodation	0.101024	\$1,481

- 2. *That Council proposes not to include the cost of the Destination Marketing program in the CBD differential rate. Instead, this cost will be spread across the whole city, in recognition that the whole city benefits from Destination Marketing activities.***
- 3. Approve the advertising of the 2022/23 differential rate categories, rate in the dollar and minimum payment as outlined in part 1.**

Carried: 5/1
For

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

Against
Cr Doug Thompson



10.2 Council decision

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:	<ol style="list-style-type: none">1. Local Government Property Amendment Local Law 20222. Table of submissions3. Recfishwest submission4. The South West Group submission5. Animal Justice Party submission6. Local Government Property Amendment Local Law 2022 showing minor amendments in red and green
Additional information:	<ol style="list-style-type: none">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
<p>Insert the following new clause 5.4 and renumber subsequent clauses:</p> <p>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.</p>	<p>This amendment is intended to allow the City to control shark fishing to better protect swimmers along its coast.</p>
<p>In clause 9.3(1)(c) delete “Association Incorporations Act 1987” and replace with “Associations Incorporations Act 2015”.</p>	<p>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.</p>
<p>Insert new penalty: Undertaking prohibited fishing activities \$500</p>	<p>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.</p>

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
		<p>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:</p> <p>Reason: improve wording comment for limitations to the delegation.</p> <hr/> <p>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."</p> <p>Reason: The current requirement only mentions FPOL minutes. This should be a requirement for all delegated committees.</p>
2.5 Payments from municipal or trust fund	2.5 Payments from municipal or trust fund	<p>Remove words "Trust Fund" from legislative reference.</p> <p>Reason: For consistency - there is no other reference listed this way in the rest of the register.</p>
3.3 Food Act 2008 – Prohibition Orders	3.3 Food Act 2008 – Prohibition Orders	<p>Remove "Director City Business" and add "Director Strategic Planning and Projects" to delegates</p> <p>Reason: As of 8 March 2022, Field Services reports to Director Strategic Planning and Projects –</p>



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
		<p>Heritage Surveys under the Heritage Act 2018.</p> <hr/> <p>Add the following limitation on delegation: “All actions are to be undertaken in compliance with relevant legislative, procedural and policy provisions.”</p> <p>Reason: For consistency throughout the register.</p>
---	3.24 Health (Miscellaneous Provisions) Act 1911 Powers of local government	<p>New delegation to the CEO.</p> <p>Reason: For effective and time efficient decision making under the Health (Miscellaneous) Provisions Act 1911, such as registration of public buildings.</p>
6.1 Fremantle Oval Development Plan	---	<p>Delete</p> <p>Reason: Memorandum of Understanding was executed 26/10/2018.</p>
6.2 Consideration of Preferred Status for Tender FCC911/18 Construction of Fremantle Civic Building and Library	---	<p>Delete</p> <p>Reason: Tender awarded and construction of WCC complete.</p>



Delegated authority register 2021/2022	Delegated authority register 2022/2023	Comment /Changes made
6.3 Fremantle Leisure Centre Roof Replacement	---	Delete Reason: Tender accepted 12 May 2021 (FPOL2105-1).
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.



Delegation	Change	Reason
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:	Attachment 1 Proposed Council Code of Conduct Division 3 Complaint Handling Policy
	Attachment 2 Elected Member Professional Development Policy
	Attachment 3 Elected Member Allowances and Reimbursements Policy
	Attachment 4 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



Council Members, Committee Members and Candidates Code of Conduct 2021		
Nil Attachment as amendment is minor		
Summary of proposed changes		
<p>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.</p> <p>There will be no impact on the application of the policy</p>		
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
<p>The City's Council Members, Committee Members and Candidates Code of Conduct which is prescribed by the <i>Local Government (Model Code of Conduct) Regulations 2021</i> includes the following principles to be followed when adopting the Council Code of Conduct Division 3 Complaint Handling policy.</p> <p>Summary of provisions:</p> <p>Complaint about alleged breach</p> <ul style="list-style-type: none"> 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. <p>Dealing with complaint</p> <ul style="list-style-type: none"> 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.



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

- 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.
- 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:



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

"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 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		
<p>Attending professional development</p>	<p>Include a statement that encourages elected members to prioritise professional development in areas they have official capacities (e.g. committee functions)</p> <p>Elected members are encouraged to prioritise professional development in the areas in which they have an official capacity, for example a relevant Committee function.</p>	<p>Recommended in Regulation 17 - Systems and Procedures Review for Legislative Compliance.</p>
<p>2. General conditions for undertaking professional development</p>	<p>Amend 2.3 and 2.4 to one budget allocation:</p> <p>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.</p> <p>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 .</p>	<p>To reference one budget allocation to align with current practice.</p>
	<p>Amend 2.7 and 2.8 to remove reference to advance payments in favour of reimbursement and renumber subsequent clauses appropriately:</p> <p>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.</p>	<p>The city’s accounting practices do not permit advance payments.</p>



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
<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>These increases will be applied at the start of the financial year 2022/2023.</p>
Summary of proposed changes
<p>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:</p> <ol style="list-style-type: none"> 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	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



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy																				
	regulation 31 of the Local Government (Administration) Regulations 1996.	of council or committee meetings) and - 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			Update to better reflect the salaries and allowances determination and to simplify travel expense provisions relating to attendance at meetings.																
	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 border="1"> <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>					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
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Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
2.2 Childcare costs	<p>2.22.1 Child care costs Elected members are entitled to be reimbursed child care costs, while 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.</p> <p>2.2 Childcare costs Elected members will be reimbursed childcare costs incurred because of attendance at council and committee meetings.</p> <p>Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.</p>	Update to better reflect the salaries and allowances determination and to simplify child care expense provisions relating to attendance at meetings.
Section 3 Discretionary reimbursements	<p>Add the following paragraph under section 3 Discretionary reimbursements –</p> <p>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.</p>	<p>To clarify that there are two types of ‘reimbursements’ dealt with under the Act:</p> <ul style="list-style-type: none"> - 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.)



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

<p>3.1 Travel expenses</p>	<p>3.1 Travel expenses Elected members who travel while they are undertaking the functions of an elected member may be reimbursed:</p> <p>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 Australia) Award 2021)</p> <table border="1" data-bbox="464 945 1051 1514"> <thead> <tr> <th colspan="2"></th> <th colspan="3">Engine displacement (in cubic centimetres)</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Motor vehicle</td> <td>Over 2600cc</td> <td>Over 1600cc to 2600cc</td> <td colspan="2">1600cc and under</td> </tr> <tr> <td colspan="4">Cents per kilometre</td> </tr> <tr> <td>93.97</td> <td>67.72</td> <td colspan="2">55.85</td> </tr> <tr> <td rowspan="2">Motorcycle</td> <td colspan="4">Cents per Kilometre</td> </tr> <tr> <td colspan="4">32.55</td> </tr> </tbody> </table> <p>b. for electric cycles – \$0. 20 per kilometre, and</p> <p>c. for self-propelled cycles – \$0.10 per kilometre</p>			Engine displacement (in cubic centimetres)			Motor vehicle	Over 2600cc	Over 1600cc to 2600cc	1600cc and under		Cents per kilometre				93.97	67.72	55.85		Motorcycle	Cents per Kilometre				32.55				<p>Update to better reflect the salaries and allowances determination and to simplify travel expense provisions relating to attendance at meetings.</p>
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<p>3.2 Child care costs</p>	<p>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.</p>	<p>Update to better reflect the salaries and allowances determination and to simplify child care provisions relating to attendance at meetings.</p>																											



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	<p>Reimbursement rate will be the actual cost per hour, to the maximum hourly rate as determined under the Salaries and Allowances Tribunal annual determination.</p>	
3.3 Minor Hospitality	<p>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 hosting occasions while undertaking the functions of an elected member.</p> <p>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.</p>	<p>To consider increasing the 'minor hospitality' reimbursement to a level that better reflects hospitality costs that 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)</p> <p>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.</p>
3.4 Ward Newsletter	<p>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.</p>	<p>Some clarification was requested, to clarify that this section:</p> <ul style="list-style-type: none"> - refers to six separate newsletters and not the same one printed and distributed six times a <p>intends that city fund ward newsletters will be approved by both ward members.</p>



Elected Member Allowances and Reimbursements		
Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	<p>Add the following note to this section:</p> <p>Note: individual elected members who chose to produce and publish newsletters that require no support from the City do so at their own discretion.</p>	<p>To clarify that elected members may produce and publish their own newsletters but that they do so at their own discretion.</p>
3.6 Memberships	<p>Add the following section:</p> <p>3.6 Memberships</p> <p>Elected members may be reimbursed for one professional membership per year that directly relates to supporting the functions of an elected member.</p>	<p>To clarify that the City may reimburse one professional membership for each elected member.</p>
5. Discretionary allowances paid in lieu of reimbursements	<p>5.3 Equipment and stationary stationery</p> <p>Elected members will be eligible to receive the following to assist them to undertake the functions of an elected member.</p> <p>a. The Mayor will be provided with a mobile computer, and printing capabilities, compatible with the City’s security and other systems.</p> <p>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.</p> <p>c. Elected members will be supplied, as reasonably required to undertake the functions of an elected member, with:</p> <p>i. Business cards, and</p> <p>ii. letterhead template.</p>	<p>Update the section to clarify that elected members will be provided with printing capabilities.</p>



Elected Member Allowances and Reimbursements		
Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	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	
6. Mayoral Vehicle allowance	Remove the word 'allowance' from the title	For clarity
	Update the first paragraph of this section to read: 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.	To clarify that the Mayor <i>may</i> request to have a 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.	Updated to reflect current provisions as advised by LGIS.



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

	<p>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.</p> <p>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.</p> <p>7.1 Insurance</p> <p>The City will provide protection for elected members from LGIS (mutual indemnity Scheme) for:</p> <p>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.</p> <p>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.</p> <p>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.</p>	
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Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	<p>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.</p> <p>Councillors’ liability – cover for claims against you for any alleged wrongful acts arising out of your official duties.</p>	
8. Policy Administration	<p>Time Limit on Claims and Approval Process</p> <p>a. Elected members choosing to receive reimbursement of expenses in accordance with the provision of this policy should submit the appropriate Reimbursement of Expenses Form to the Chief Executive Officer Manager Governance, together with supporting documentation.</p>	The Manager Governance is delegated the ability to process and approve reimbursements that fall within policy provisions.
	<p>Dispute Resolution</p> <p>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.</p>	For ‘plain english’ purposes.
Forms	<p>Remove authorisation boxes from all forms:</p> <p>Administrative use only</p> <p>Checked by Manager Governance:</p>	Requests and approvals are processed and recorded electronically.



Elected Member Allowances and Reimbursements Attachment 3 - Elected Member Allowances and Reimbursements Policy		
	<p>Signature:.....Date:.....</p> <p>Authorised by CEO:</p> <p>Signature:.....Date:.....</p>	
	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		
<p>In 2019, the <i>Local Government Legislation Amendment Act 2019</i> was passed in Parliament. The amendments to the Act included a new gifts framework and the 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.</p> <p>One of the complexities associated with the new provisions was that the definition of an “event” included conferences.</p> <p>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.</p>		
Summary of proposed changes		
<p>This was last updated following the ordinary election of 2019 and is considered up to date with minor amendments recommended.</p> <p>There will be no impact on the application of the policy.</p>		
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



Elected Member and Chief Executive Officer Attendance at Events Policy Attachment 4 - Elected Member and Chief Executive Officer Attendance at Events Policy		
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 elected members accompanying person where requested, will be paid for by the City subject to budget.	To clarify that elected members may be accompanied at events. This aligns with the provisions of the Professional Development Policy.

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



Coat of Arms, logo, and common seal Nil Attachment as amendment is minor		
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		
<p>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.</p> <p>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 during the electoral period to enable business continuity where circumstances require.</p>		
Summary of proposed changes		
<p>This policy was recently amended and is not considered to need amendment other than with contemporary template and formatting amends to be made.</p> <p>There will be no impact on the application of the policy</p>		
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		
<p>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.</p>		
Summary of proposed changes		
<p>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</p>		
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
Agenda 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	<p>Grant funding has been approved by LotteryWest (\$806,825) toward the Booyeembara Park Mountain Bike Trail project.</p> <p>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.</p> <p>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.</p>					
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	<p>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.</p> <p>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).</p>					
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	<p>Grant funding has been approved by LotteryWest (\$806,825) toward the Booyeembara Park Mountain Bike Trail project.</p> <p>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.</p> <p>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.</p>					
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)



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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 Environment
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		<p>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.</p> <p>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).</p>				

Item	Account #	Account Details	2021/22 Adopted Budget	Increase/ (Decrease)	(Increase)/ Decrease	2021/22 Amended Budget
				Income	(Expenditure)	
		<p>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.</p> <p>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.</p>				
	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)



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 <ul style="list-style-type: none"> • 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.



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.



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. <i>(Project completed)</i>	(10,000)		\$6,115	(3,885)
	300203.1606	Design and construct Arts Centre sewer <i>(Project completed)</i>	(54,000)		\$1,050	(\$52,950)
	300260.1606	Design and construct Leisure Centre	(\$215,000)		\$3,346	(\$211,654)



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



11. Motions of which previous notice has been given

Nil

12. Urgent business

Nil

13. Late items

Nil

14. Confidential Items

Nil

15. Closure

The Presiding Member declared the meeting closed at 6.50pm.