



City of Cockburn  
Audit & Strategic Finance Committee  
**Agenda Paper**

For Thursday, 25 November 2021

# CITY OF COCKBURN

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## CITY OF COCKBURN

### Agenda Audit & Strategic Finance Committee Thursday, 25 November 2021 at 6pm

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1. **Declaration of Meeting**
2. **Appointment of Presiding Member**
3. **Disclaimer (To be read aloud by Presiding Member)**

Members of the public, who attend Council Meetings, should not act immediately on anything they hear at the Meetings, without first seeking clarification of Council's position. Persons are advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.
4. **Acknowledgement of receipt of Written Declarations of Financial Interests and Conflict of Interest (by Presiding Member)**
5. **Apologies & Leave of Absence**
6. **Public Question Time**
7. **Confirmation of Minutes**
- 7.1 **Minutes of the Audit & Strategic Finance Committee Meeting - 15/7/2021**

**Recommendation**

That Committee confirms the Minutes of the Audit & Strategic Finance Committee Meeting held on Thursday, 15 July 2021 as a true and accurate record.

**8. Deputations**

**9. Business Left Over from Previous Meeting (if adjourned)**

Nil

**10. Declaration by Members who have Not Given Due Consideration to Matters Contained in the Business Paper Presented before the Meeting**

## 11. Built and Natural Environment

### 11.1 Performance Audit of Safe and Viable Cycling in the Perth and Peel Region

**Author(s)** J Woolmer

**Attachments** N/A

#### **RECOMMENDATION**

That Council NOTES that the City of Cockburn is one of four Local Government Authorities included in the Performance Audit – Viable Cycling in the Perth Area, due to be tabled in Parliament in December 2021.

#### **Background**

Performance Audit – Viable Cycling in the Perth Area

The *Local Government Amendment (Auditing) Act 2017* makes the Auditor General responsible for local government financial and performance audits.

In October 2020 the Auditor General decided to undertake a performance audit of *Safe and Viable Cycling in the Perth and Peel Region*.

In January 2021 the Office of the Auditor General staff met with City of Cockburn representative to provide an overview of the audit being conducted.

Four Local Government entities were included in the audit:

- City of Cockburn
- City of Bayswater
- City of Kalamunda
- City of Perth

Performance audits focus on the efficiency and effectiveness of activities, services and programs. These audits can identify improvement opportunities for audited entities, that may also be of relevance across the local and State government sectors.

To develop the performance audit report that the Auditor General will table in Parliament, the Office of the Auditor General works closely with staff at the selected LGAs to inform audit findings and consult with a range of stakeholders.

At the City of Cockburn, the Transport and Traffic Team Coordinator and TravelSmart Officer liaised with the Office of the Auditor General to provide information and access to staff as required as part of the audit process.

Extensive information was provided by the Team from January to the end of September regarding cycling related activities, services and programs provided by the City. An online community consultation survey was conducted in March 2021 as part of this process and widely promoted throughout Perth.

The Department of Transport (DoT) is responsible for coordinating the development and implementation of the Western Australia Bicycle Network Plan. Local government (LG) entities are responsible for the design, installation and maintenance of most recreational shared paths and on-road cycling infrastructure within their LG areas.

The objective of the audit is to assess the progress by State government entities against the recommendations from the 2015 audit *Safe and Viable Cycling in the Perth Metropolitan Area*, and the effectiveness of State and LG entities in facilitating cycling for the community.

The criteria are:

- Have the relevant State government entities completed the recommendations from the 2015 audit *Safe and Viable Cycling in the Perth Metropolitan Area*?
- Do State and LG entities provide well planned cycling infrastructure and education aligned with community needs?

A draft report will be sent to the City in November and the City will be given two weeks to review the report before it is finalised.

The audit report is proposed to be tabled in Parliament during November/December 2021.

### **Submission**

N/A

### **Report**

The audit report is proposed to be tabled in Parliament during November/December 2021.

### **Strategic Plans/Policy Implications**

#### Local Economy

A sustainable and diverse local economy that attracts increased investment and provides local employment.

#### Environmental Responsibility

A leader in environmental management that enhances and sustainably manages our local natural areas and resources.

#### Community, Lifestyle and Security

A vibrant healthy, safe, inclusive, and connected community.

#### City Growth and Moving Around

A growing City that is easy to move around and provides great places to live.

Listening and Leading

A community focused, sustainable, accountable, and progressive organisation.

**Budget/Financial Implications**

The City has a current bike plan account in place.

**Legal Implications**

The City needs to abide by The *Local Government Amendment (Auditing) Act 2017*. The report will be tabled in Parliament.

**Community Consultation**

Community consultation was conducted widely throughout Perth via an online survey in March 2021 by the Office of Auditor General. This was also promoted via WestCycle, Cockburn Bicycle User Group, along with the City social media and included in the City newsletters to ensure local reach.

**Risk Management Implications**

The findings of the audit will be legally binding. The City needs to abide by The *Local Government Amendment (Auditing) Act 2017* and address recommendations included in the report.

**Advice to Proponent(s)/Submitters**

N/A

**Implications of Section 3.18(3) *Local Government Act 1995***

The *Local Government Amendment (Auditing) Act 2017*

Performance audits focus on the efficiency and effectiveness of activities, services and programs. These audits can identify improvement opportunities for audited entities, that may also be of relevance across the local and State government sectors.

## 12. Finance

### 12.1 Review of Monetary and Non-Monetary Investments for 2020-2021

**Author(s)** S Downing  
**Attachments** N/A

#### RECOMMENDATION

That Council RECEIVES the information.

**TO BE CARRIED BY AN ABSOLUTE MAJORITY OF COUNCIL**

#### Background

Policy 'Investments of Funds' Clause 5.2 requires:

*An Annual Report on the performance of the investment portfolio will be submitted to Council outlining the performance of the portfolio for the financial year."*

#### Submission

N/A

#### Report

As per the Policy Investment of Funds, the following report is divided into two parts. The first part is a report on cash investments held by the City and the second is for non-cash investments.

#### Cash Investments

The City earned the following interest income during 2020/21 (LY2019-2020):

- Municipal/Reserve Funds (MFR) \$1.775m (\$3.994m)
- Rates – Administration Interest \$Nil (\$0.511m)
- Rates – Penalty Interest \$Nil (\$0.212m)
- Deferred Pension Rates \$0.011m (\$0.023m)
- ESL Interest \$Nil (\$0.037m)
- Total Interest Income \$1.786m (\$4.727m).

Interest income from the surplus cash in the Municipal Fund and Reserves (MFR) totalled \$1.775m (\$3.994m).

There was no interest from rates (administration and penalty interest) and Emergency Services Levy (ESL) as Council, in response to the State Government's COVID-19 Action Plan, resolved not to charge interest for 2020-2021.



The interest rates earned by the MFR over the twelve months varied from 1.47% (2.53%) in July 2020 to 0.59% (1.52%) in June 2021.

The interest income usually earned (apart from 2020-2021), from the other four sources, Rates – Penalty Interest, Rates – Administration Interest, Deferred Pension Rates, and ESL Interest, was not earned on the management of surplus cash but on outstanding debts due to the Council.

The *Local Government Act 1995* provides the heads of power for a Council to impose interest on outstanding rates. Rates – Administration Interest and ESL Interest are charged at 3%, whilst Rates – Penalty Interest is charged at 6%. The *Local Government Act 1995* has a maximum interest rate of 11%. The Council has always elected to impose a lower interest rate.

Please note that Rates – Administration Interest and Rates – Penalty Interest was not charged in 2020-2021 as a result of Council's COVID-19 response, but was reintroduced in 2021-2022.

The rate for Deferred Pension Rates for 2019-2020 was 1.18% (1.06%). All surplus funds are invested in accordance with the *Local Government Act 1995*, associated regulations and Council's Investment Policy. All cash investments/term deposits were and are compliant with Council's Investment Policy.

The surplus funds are invested in term deposits with APRA regulated financial institutions, apart from one investment. The amendment to the regulations requiring Council's only invest in term deposits with a maturity less than twelve months was gazetted with an over-rider allowing existing investments with a maturity greater than twelve months and in non-term deposits to go to maturity (grandfathering).

The last remaining grandfathered investment is the reverse mortgage backed security, Emerald. The original investment was \$3m in three \$1m tranches. The City is currently receiving interest at the rates of 0.46%, 0.76% and 0.9758% on the respective tranches.

Additional 'step-up' interest is also accruing on these three tranches at 0.9%, 1.5% and 1.9% respectively, which will be paid to the City upon maturity. The current balance of 'step-up' interest owing to the City is \$404,676.

The outstanding balance for the Emerald investment is \$2.5m as \$0.5m in capital has been returned to the City.

### Non-Cash Investments

The City has substantial freehold land on its balance sheet. As at the 30 June 2021, that total was \$85.94m (LY \$82.97m). The makeup of the land comprises sumps, reserves, land available for sale, freehold parks, and land which Council buildings and facilities occupy.

The Council's Land Management Strategy had identified a range of land assets that are surplus to requirement, or land that could be made saleable with investment from Council. The concept is to monetise freehold land (where possible) so as to re-invest in income producing property to receive a stream of rental income. The Land Management Strategy provides for a reconciliation of the freehold land and that which is surplus to requirements.

### Rental Income

The rental income earned for 2020-2021 on commercial properties and lands including Cockburn Health and Community Centre, Port Coogee Marina Pens and Office, Youth Centre (office and commercial), commercial areas of Cockburn ARC totalled \$4.58m (LY \$4.66m), excluding GST and Variable outgoings.

As a result of COVID-19 in 2020/21, the City offered rent relief in line with State Government guidelines for three tenants totalling \$55,948.22.

The net rental revenue from the Cockburn Health and Community Centre is quarantined within a financial reserve for the purpose of future maintenance requirements for the facility. This is to ensure that there is no future demand for the Municipal Fund to meet capital or operating maintenance costs. The City also quarantines funds received from the Naval Base Shacks, to meet the future capital maintenance needs of this unique asset.

### Land Sales

Land sold and not settled in 2019-20:

- 1 Semple Court, South Lake \$2.59m (December 2021)
- Lots 9004 and 805 Merevale Gardens, Beeliar \$6m  
Due to settle on 31 March 2022 (settlement delayed due to COVID-19).  
Planning Application to go to JDAP in February 2021
- Lot 1003 Bundegi Grove and 58 Tindal Avenue, Yangebup \$5.23m.

Funds received from the sale of surplus land are placed into the Council's Land Development and Investment Fund Reserve.

### **Strategic Plans/Policy Implications**

#### Local Economy

A sustainable and diverse local economy that attracts increased investment and provides local employment.

- Increased Investment, economic growth and local employment.

### **Budget/Financial Implications**

All items are reported in the financial statements of the City.

**Legal Implications**

Ensure compliance with COVID-19 mandate to offer rent relief to commercial tenants. The City complied with the relevant regulations.

**Community Consultation**

N/A

**Risk Management Implications**

This is an information only report on the investments undertaken by the City on behalf of the Council.

**Advice to Proponent(s)/Submitters**

N/A

**Implications of Section 3.18(3) *Local Government Act 1995***

Nil

## 12.2 Annual Bad Debts Review and Write-Offs for 2020-2021

**Author(s)** N Mauricio  
**Attachments** N/A

### RECOMMENDATION

That Council WRITES OFF two bad debts totalling \$36,769.38 (inc. GST), as detailed in the report.

### Background

Section 6.12 (1)(c) of the *Local Government Act 1995* allows local governments to write off any amount of money owing to it (other than rates and service charges). This action is necessary where delinquent debts become uncollectible.

The City's administrative policy for debtor management states that bad debt write-offs should only be proposed when all avenues for recovery have been exhausted or pursuing the debt becomes unviable.

Council has provided delegated authority under its DA "Debt Write Off, Concession or Waiver" for the purpose of writing off bad debts, other than rates and service charges, up to an individual debt value of \$5,000. This delegation sits with the CEO and Chief Financial Officer and it requires a summary of transactions utilising the delegation to be reported to the Audit & Strategic Finance Committee on an annual basis.

### Submission

N/A

### Report

The City has a good track record in managing and collecting its outstanding debts, with very little written off in recent years. This alleviates any need for the City to make provisions for write-offs in its financials, while continuing to satisfy audit requirements. However, there will always be some debts that become uncollectible, needing to be written off either under delegation or by Council.

The City's debtor profile comprises commercial debtors (mainly landfill trade debtors), regulatory debtors (applications, licences, infringements) and community debtors (hall and reserve hire and provision of community related services).

Bad debts are usually attributable to failed businesses, untraceable debtors, or insolvent community groups. Some debts are also not worth pursuing due to their relative low value compared to legal recovery costs.

The City's revenue team actively manage outstanding debts and conduct regular reviews of those falling overdue. Only after using all reasonable endeavours to seek payment and following confirmation by the relevant business unit (debt owner) are bad debts proposed for write-off, either under delegation or by Council.

The following two debts greater than \$5,000 are referred to Council for write off, following unsuccessful efforts by the City to secure payment:

Debt Type	Debtor Number	Date of Debt	Amount Inc GST \$	Write Off Reason
Naval Base Shacks	414705	22/06/17	12,777.37	The City took possession of the property and demolished the shack. Debtor has ongoing health issues with no capacity to pay. Advised for write off by CS Legal.
Landfill Commercial Tip Fees	416257	30/06/19	23,992.01	Failed business with no assets. Means inquiry submitted by CS Legal for personal guarantor, who has now been declared bankrupt. No further action is viable.
			<b>36,769.38</b>	<b>(\$33,909.90 ex GST)</b>

The following summary of debts written off under delegation is provided in accordance with the requirements of Council's "Debt Write Off, Concession or Waiver" Delegated Authority:

Debt Category	No. of debts	Amount written-off \$ (ex gst)	Amount to be written-off \$ (inc gst)
Community (hall/reserve hire, services)	11	3,708.81	4,079.69
Commercial debtors – landfill	5	4,385.02	4,823.52
Other Sundry & Small Balance Write Offs	9	1,010.30	1,111.33
<b>Sundry Debts Sub-Total</b>	<b>25</b>	<b>9,104.13</b>	<b>10,014.54</b>
Infringements – FER recommended	176	34,936.45	34,936.45
Infringements – unregistered/interstate vehicles	52	5,889.50	5,889.50
<b>Infringement/Legal Write-Offs Sub-Total</b>	<b>228</b>	<b>40,825.95</b>	<b>40,825.95</b>
<b>Debt write off under delegation Total</b>	<b>253</b>	<b>49,930.08</b>	<b>50,840.49</b>

It is worth noting the relatively small amount of debt write offs for the Henderson Waste Recovery Park landfill. This commercial business represents the biggest risk area for the City's debt collection, with over \$11 million to be invoiced on standard credit terms this year. This good result provides comfort that the City's credit control practices are working effectively.

By far the City's largest revenue and debt source is property rates and service charges. These are secured against the property and therefore it is extremely rare for these to require write-off by Council. Although, some small balances within rates

accounts mostly relating to interest charges are written off under delegation (these are immaterial).

The write-off of infringements amounts to roughly 10% of the outstanding balance and this has increased from previous years. The Fines Enforcement Registry are currently focused on addressing long outstanding and unrecoverable fines dating back up to eight years. It is envisaged this level of write-off will continue for the next year or so until they are caught up.

### **Strategic Plans/Policy Implications**

#### Listening and Leading

*A community focused, sustainable, accountable and progressive organisation.*

- Ensure good governance through transparent and accountable, planning, processes, reporting, policy and decision making.

### **Budget/Financial Implications**

Bad debts proposed to be written off by Council for \$33,909.90 (ex GST) will be expensed against the corresponding revenue item in this year's budget (i.e. landfill revenue and lease income). Given the relatively minor values compared to their respective line item budgets, there is no material budget impact at this time.

The total amount written off under delegation of \$49,930.08 (ex GST) has already been offset against associated revenue sources, with most of this amount relating to infringement write-offs (\$40,825.95).

Any budgetary impact on revenue from these write-offs will be assessed in the mid-year budget review.

### **Legal Implications**

Uncollectable debts require Council authorisation to be written off under the provisions of the *Local Government Act 1995* Section 6.12 (1)(c), unless Council has delegated this power. Council has approved a Delegated Authority for writing off bad debts up to \$5,000, other than for rates and service charges.

### **Community Consultation**

N/A

### **Risk Management Implications**

It is considered good financial and risk management to regularly assess overdue debts to determine likelihood of collection. Those debts assessed as uncollectible should be written off to improve the accuracy of the receivables value recorded in the balance sheet (as is expected by financial audit). This also helps to ensure debt collection efforts and resources are better focused towards collectible debts.

**Advice to Proponents/Submitters**

N/A

**Implications of Section 3.18(3) *Local Government Act 1995***

Nil

**13. Operations**

Nil

**14. Community Services**

Nil



## 15. Governance and Strategy

### 15.1 Legal Proceedings Between Council and Other Parties

**Author(s)** J Fiori

**Attachments** 1. Legal Register 1 July 2020 - 30 June 2021 Financial Year  
**(Confidential)**

#### RECOMMENDATION

That Council RECEIVES the report on legal proceedings commenced or responded to by the City during the 2020-2021 Financial Year as noted in the Confidential Attachment.

#### Background

At its meeting on 13 December 2018, Council adopted the policy *Obtaining Legal and Other Expert Advice and Legal Proceedings Between City of Cockburn and Other Parties* (the Policy) and associated Delegated Authority *Obtaining Legal or Other Expert Advice and Legal Proceedings Between City of Cockburn and Other Parties*, to clarify the methodology by which legal or other expert advice is provided to Elected Members, to enable them to perform their civic function.

As a result, the 'Legal Advice Register', provided annually to the Audit and Strategic Finance Committee, is now limited to the notification of those issues which are in relation to or as a result of a Council resolution, or where the amount related to administrative advice is of such an amount to warrant Council's attention, which is capped at \$2,000 or above.

#### Submission

N/A

#### Report

Clause 1 *Application* of the Policy states:

'This Policy applies to legal and other expert advice sought by the City of Cockburn, and legal proceedings commenced or responded to by the City, or any person acting in their capacity as a representative of the City and for whom the City is vicariously liable.'

Clause 3 *Commencing Legal Proceedings* of the Policy states:

'(7) The CEO shall establish and maintain a procedure which enables those matters which are subject to the terms of this section to be centrally recorded and updated.

(8) A record of the procedure mentioned in (7) above shall be presented to the Audit and Strategic Finance Committee at least annually, or as often as considered appropriate by the CEO or as requested by the Audit and Strategic Finance Committee.'

A summary of the legal proceedings commenced or responded to by the City during the 2020-2021 financial year, as a result of a Council resolution, or of a significant amount that warrants Council's attention, has been circulated under separate Confidential cover (refer Attachment 1).

### Strategic Plans/Policy Implications

#### Listening and Leading

A community focused, sustainable, accountable, and progressive organisation.

- Ensure good governance through transparent and accountable, planning, processes, reporting, policy and decision making.

### Budget/Financial Implications

The table below highlights the legal fees expensed during 2020-2021 with commensurate, where relevant, reimbursements, fines and penalties arising from the incurring of the legal expenditure.

The table lists the legal services cost incurred for legal advice  $\geq$  \$2,000, per subject matter.

<b>Costs <math>\geq</math> \$2,000 incurred for legal services during 2020–2021 financial year</b>	
<b>Legal Firm</b>	<b>Fees Paid</b>
APX Law Pty Ltd	\$9,091.91
CS Legal (rates and debt recovery, and court representation)	\$204,707.21
Cullen MacLeod	\$3,162.5
Horizon Legal	\$5,880.00
Jackson McDonald	\$138,229.00
Kott Gunning	\$8,720.69
McLeod Solicitors and Barristers	\$84,312.33
Vogt Graham	\$5,202.10
<b>Total legal firms fees</b>	<b>\$459,305.74</b>
Fines, penalties and recoveries income	(\$248,270.24)
<b>Net legal fees (after fines, penalties and recoveries)</b>	<b>\$211,035.50</b>

This year's net legal fees (after fines, penalties and recoveries) were \$211,035.50. For comparison, last year's net legal fees were \$608,826.82.

Engaging CS Legal for rates and debt recovery, and associated court representation cost the City \$204,707.21, while leading to \$201,533 in cost recovery.

The above includes industrial relation issues, legal advice following authorised enquiries, unauthorised developments, untidy properties, litter, environmental health, debt recoveries for unpaid rates, and dog licence infringements.

### Legal Implications

Part 9 Division 2 of the *Local Government Act 1995* refers.

**Community Consultation**

N/A

**Risk Management Implications**

There are no risks associated with this recommendation, however failure to present this report to Council annually presents a 'Low' level of 'Compliance' risk in accordance with Council adopted Policy.

**Advice to Proponents / Submissioners**

N/A

**Implications of Section 3.18(3) *Local Government Act 1995***

Nil

**16. Corporate Affairs**

Nil

**17. Office of the CEO**

Nil

**18. Motions of Which Previous Notice Has Been Given**

Nil

**19. Notices Of Motion Given At The Meeting For Consideration At Next Meeting**

**20. New Business of an Urgent Nature Introduced by Members or Officers**

**21. Matters to be Noted for Investigation, Without Debate**

Nil

**22. Confidential Business**

Nil

**23. Closure of Meeting**