



# MINUTES

## Council Meeting

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Tuesday, 15 September 2020 at 6.31pm

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER, 135  
CANNING HIGHWAY EAST FREMANTLE ON TUESDAY 15 SEPTEMBER 2020**

**1. OFFICIAL OPENING**

The Presiding Member opened the meeting at 6.31pm

**2. ACKNOWLEDGEMENT OF COUNTRY**

*"On behalf of the Council I would like to acknowledge the Whadjuk Nyoongar people as the traditional custodians of the land on which this meeting is taking place and pay my respects to Elders past, present and emerging."*

**3. RECORD OF ATTENDANCE**

**3.1 Attendance**

The following members were in attendance:

Mayor J O'Neill	Presiding Member
Cr C Collinson	
Cr K Donovan	
Cr J Harrington	
Cr A McPhail	
Cr M McPhail	
Cr A Natale	
Cr D Nardi	
Cr A Watkins	

The following staff were in attendance:

Mr G Tuffin	Chief Executive Officer
Mr P Kocian	Executive Manager Corporate Services
Mr A Malone	Executive Manager Regulatory Services
Ms J May	Minute Secretary

There were seven members of the public in attendance.

**3.2 Apologies**

Nil.

**3.3 Approved**

Nil.

**4. DISCLOSURES OF INTEREST**

**4.1 Financial**

Nil.

**4.2 Proximity**

Nil.

**4.3 Impartiality**

**4.3.1 Cr Collinson Minute No 12.3.2 Reconciliation Action Plan (RAP) Working Group**

Cr Collinson advised that one of the candidates for the RAP Working Group, Jeff Addison, was a close friend however declared that he would consider the matter on its merits in terms of the benefit to the Town and vote accordingly.

**5. PUBLIC QUESTION TIME**

**5.1 Responses to previous questions from members of the public taken on notice**

Nil.

**5.2 Public Question Time**

Nil.

**6. PRESENTATIONS/DEPUTATIONS**

**6.1 Presentations**

Nil.

**6.2 Deputations**

**6.2.1 Mark De Kluyster, 12 East Street – Swan River Crossing Project**

Mr De Kluyster addressed the meeting as follows:

*Thank you for the opportunity to comment on the Swan River Crossing Project. Prior to attending a drop in session on Monday August 17 in this room, I did take the Swan River Crossings survey. The drop in session was not a consultation about options or issues, but essentially about the type of planting that could be included as part of the project. As a consultation it failed miserably and indeed completely contravened Main roads own guidelines for consultation.*

*The need for a new Fremantle Traffic Bridge is not in question, but the rationale underpinning this design is. At no point in any of the available documentation is reference made to the impact that the State Government decision to close the Port of Fremantle, will have. This has significant ramifications for the Crossing Project in its current form.*

*I spoke to a number of consultants during the August 17 drop in session and at no time was any acknowledgement made of the need to review the project in light of this decision. Indeed one consultant did not deviate from their view that railway freight traffic was going to increase!*

*What with the changes to the High Street/Stirling Highway thoroughfare scheduled for completion in 2021, any temporary need to manage increased freight traffic will surely be accommodated by road, until the new port is constructed.*

*Building a second railway line for a port closing down sooner rather than later, and destroying a heritage listed bridge in the process, does not add up. An earlier plan, shared just six months ago by the City of Fremantle but said to have been created in*

2015, shows a new traffic bridge alongside the existing railway bridge, and the repurposing of the existing heritage listed traffic bridge as a pedestrian crossing. Indeed the photo in June of Ministers Safiotti and Wilson holding up a picture of the project showed a new bridge between the railway bridge and the traffic bridge.

Were this model, or something like it to be implemented, it would be a targeted response to the need for a new traffic bridge and to the changing role of the port, while at the same time transforming the existing traffic bridge into a thing of beauty linking pedestrians and bike riders to beautiful spaces on either side of the river. Money not spent on an unnecessary railway bridge (costed at one third of the total 230 million project) could instead be redirected to make the existing traffic bridge fit for purpose as a pedestrian crossing, as well as realign the bridge piers to aid in the navigation of the river. I am also aware of the interest in preserving the capstan and again believe that an effective solution can be found.

With an 83 year hiatus between the construction of the existing traffic bridge, built in 1939 as a temporary structure, and this new permanent structure scheduled for completion in 2022, those of us who live in the area are used to waiting for change to take place. The perceived rush to complete this project, putting a traffic bridge in the wrong place, risking a development that does not meet the needs of twenty first century living, and destroying an iconic heritage structure in the process runs contrary to good design and clever thinking.

I have attended meetings in North Fremantle, and most recently at the Fremantle Town Hall. The editor of *The Shipping News*, Michael Barker convened the Fremantle meeting. Speakers were:

- \* Professor Peter Newman
- \* Andrew Sullivan
- \* Rebecca Clarkson - Better Bridges Campaign
- \* Ingrid Maher - Town Planner
- \* Mayor of Fremantle Brad Pettitt

It was evident at the Fremantle meeting of some 150 attendees that there is widespread interest from people living in East, North and South Fremantle, Fremantle, Beaconsfield and Palmyra. None suggested that the current plan was suitable. All indicated their support for the Better Bridges Campaign. The campaign is gaining momentum, with the language 'Pause the Bridge' being used to lobby for government support to stop and review the plan. To date 3000 people have signed the petition.

Surely now is the time to take action to review this project in its entirety and implement a plan that genuinely addresses the changing landscape that is Fremantle, as well as honour local heritage including our existing Fremantle Traffic Bridge and integrating it with aesthetically appealing links from one side of Fremantle to the other.

I believe that the Town of East Fremantle would be well placed to engage together with the City of Fremantle to add its concerns to this project.

Thank you for your time."

7. APPLICATIONS FOR LEAVE OF ABSENCE  
Nil.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Meeting of Council (18 August 2020)

**8.1 OFFICER RECOMMENDATION**

Moved Cr Harrington, seconded Cr A McPhail

That the minutes of the Ordinary meeting of Council held on Tuesday, 18 August 2020 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

8.2 Meeting of Council (27 August 2020)

**8.2 OFFICER RECOMMENDATION**

Moved Cr Nardi, seconded Cr Natale

That the minutes of the Special meeting of Council held on Thursday, 27 August 2020 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER  
Nil.

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS  
Nil.

## 11. REPORTS AND RECOMMENDATIONS OF COMMITTEES

### 11.1 Town Planning Committee Meeting (1 September 2020)

<b>File ref</b>	C/MTP1
<b>Prepared by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Town Planning Committee Minutes

#### **Purpose**

To submit the minutes and delegated decisions of the Town Planning Committee for receipt by Council.

#### **Executive Summary**

The Committee, at its meeting on 1 September 2020, exercised its delegation in four statutory matters where at least four members voted in favour of the Reporting Officer's recommendations. A strategic report on State Planning Reforms was referred to Council for consideration and is the subject of a separate report within this agenda (refer Agenda Item 12.1.1).

#### **Consultation**

Town Planning Committee.

#### **Statutory Environment**

Nil.

#### **Policy Implications**

Nil.

#### **Strategic Implications**

Nil.

#### **Site Inspection**

Not applicable.

#### **Comment**

The unconfirmed minutes of the Town Planning Committee meeting are now presented to Council to be received.

#### **11.1 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 010920**

**Moved Cr Collinson, seconded Cr Watkins**

**That the unconfirmed Minutes of the Town Planning Committee Meeting held on 1 September 2020 be received.**

(CARRIED UNANIMOUSLY)



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**12. REPORTS**

**12.1 PLANNING**

**12.1.1 State Planning Reforms, Response to COVID-19 and State Planning Policy 7.3 R-Codes Vol. 1 – Interim Review**

<b>Applicant</b>	Town of East Fremantle
<b>File ref</b>	B/MPL1
<b>Prepared by</b>	Christine Catchpole, Senior Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting Date:</b>	1 September 2020
<b>Voting requirements:</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Summary Table of Proposed Modifications to R-Codes Vol. 1 Interim Review - Town's Response

**Purpose**

The purpose of this report is to:

- outline the planning initiatives the State Government is implementing to reform the planning system and assist with the COVID-19 economic recovery;
- explain proposed changes to the Residential Design Codes Vol. 1 – Interim Review (R-Codes Review); and
- provide comments on the proposed R-Codes changes (for Council endorsement) which will form the basis of a submission to the Department of Planning.

**Executive Summary**

To implement the planning system changes and assist with COVID-19 recovery initiatives the State Government is reforming the *Planning and Development Act, 2005, Planning and Development (Local Planning Schemes) Regulations 2015* and State planning policies. The Government believes this will create a more flexible, responsive and contemporary planning system that can support WA's economic recovery. Expanded powers will temporarily be given to the WAPC to determine projects of major significance and/or those in strategic locations. This is aimed at stimulating the economy and creating business and employment opportunities.

The State planning reforms in respect to the R-Codes Review is now being integrated with the State Government's planning reforms to support Western Australia's economic recovery. Proposed changes are stated as being aimed at streamlining the approvals process for new home builds and renovations, thereby making it easier for homebuyers, local governments and developers. The Review is aimed at simplifying the R-Codes for easier interpretation, as well as streamlining the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, pergolas, carports, decks and sheds. Another key objective of the review is to make it easier for local governments to deem more applications compliant, allowing applicants to proceed straight to a building permit whilst ensuring that residential design outcomes are not compromised by the proposed changes. In the longer term the R-Codes will be subject to more extensive review as part of the finalisation of the Design WA Medium and Low-Density Policy initiatives.

The proposed R-Code amendments have been circulated to all local government authorities and other stakeholders seeking their comments on proposed changes. Several proposed R-Codes changes are not supported by the Town due to the expected amenity, streetscape and environmental impacts, as well as undesirable built form outcomes. The Officer report outlines matters with which the Town has concerns; these relate to residential amenity, heritage, streetscapes, the environment and design outcomes. The specific R-Code provisions of concern deal with exemption from planning approval for compliant houses on lots under 260m<sup>2</sup> and deemed-to-comply single house additions, ancillary dwellings, outbuildings (sheds), patios/ pergolas, front fences, carports and retaining walls. Reductions in carport setbacks, open space, lot boundary setbacks, building height, visual privacy setbacks and landscaping are also of concern. Notwithstanding the concerns outlined in the report, Local Planning Policy 3.1.1 - Residential Design Guidelines (RDG) will continue to apply. In the case of most development applications it is expected that variations to the RDG and the R-Codes will be sought, requiring applicants to submit a development application for Council's consideration.

It is recommended the comments in Attachment 1 form the basis of a submission on the Interim Review of the R-Codes Vol. 1 to the Department of Planning. The Department of Planning intends to consider submissions in September and report to the WAPC in October with the aim of gazettal of the amendments by November 2020.

### **Background**

In August 2019 the State government launched a document entitled *Action Plan for Planning Reform*. This was the result of an independent review by planner Evan Jones who was engaged by the Minister for Planning in 2017 to undertake an independent review of the Western Australian planning system. The primary recommendations of the review were to elevate the importance of strategic planning and make the planning system more efficient, transparent and understandable to everyone. The consultant planner prepared a Green Paper outlining ideas for reform of the planning system which was released by the Minister for public consultation in May 2018.

Following public consultation, the Action Plan identified three goals for reform of the planning system and 19 reform initiatives to achieve the goals. The Minister also determined that instead of preparing a White Paper, the Department of Planning would collaborate with stakeholders to develop and implement the detail of many of the 19 reform initiatives to deliver the reform Action Plan.

With the onset of impacts of the Coronavirus pandemic in early 2020 the State Government has brought forward a number of measures within the *Action Plan for Planning Reform* as part of the COVID-19 economic recovery plans, together with a proposal to establish a new development application process for significant projects.

A program of major legislative, regulatory and policy changes will be progressively implemented to support WA's COVID-19 economic recovery plans. The following information is a summary of the initiatives and reforms. Full details of the legislation changes and reforms is available on the Department of Planning, Lands and Heritage website at <https://www.dplh.wa.gov.au/projects-and-initiatives/planning-reform/covid-19-planning-reforms>.

### State Planning Reforms and Initiatives

The *Planning and Development (Amendment) Bill 2020* was passed by Parliament on 24 June 2020. The purpose of the Bill is described as amending the *Planning and Development Act* and other related Acts with two broad aims to:

- Provide an urgent response to the COVID-19 pandemic by:
  - facilitating significant development projects;
  - removing regulatory roadblocks and reducing red tape;
  - strategically refocusing what is considered important in urban and regional planning;
  - enhancing how development contribution funds are utilised for community benefit; and
  - providing for a higher degree of professionalism and enforcement capability; and
- Implement a comprehensive series of public, stakeholder and specialist reviews of the planning system in order to create a better planning system, which:
  - creates great places for people;
  - is easier to understand and navigate; and
  - is consistent and efficient.

These aims will be implemented in two stages of legislation. The Bill passed in June was the first stage which will implement the aspects of planning reform with the most immediate impact on the planning framework, as a prioritised COVID-19 related response. The second stage will be facilitated by another follow-up Bill in the near future. The second Bill will include reforms with less immediate effect and therefore less urgency. The second Bill relates to reforms that will require new or amended regulations be drafted in order to commence and clarifies aspects of the current planning system in order to create a more legible and understood system.

### R-Codes Interim Review

The R-Codes Review is now being integrated with the State Government's planning reforms to support Western Australia's economic recovery. Proposed changes are stated as being aimed at streamlining the approvals process and reducing red tape, thereby making it easier for first home builders, local governments and developers.

The Review is aimed at simplifying the R-Codes for easier interpretation, as well as streamlining the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, pergolas, carports, decks and sheds. A key objective of the Review is to remove the need for a development approval if single houses, ancillary buildings, outbuildings and some additions/renovations comply with the 'deemed-to-comply' provisions. Another key objective of the Review is to make it easier for local governments to deem more applications compliant, allowing applicants to proceed straight to a building permit.

### Consultation

The closing date for comments on the R-Codes Interim Review is 11 September 2020. The Department of Planning has stated that submissions will be considered and used to inform the final version of the R-Codes which is expected to be in effect by the end of 2020.

The Department of Planning has also allowed for Officer submissions to be made by the due date with a follow-up confirmation and endorsement of the submission subsequent to Council resolutions made at Council meetings held later in September.

### **Statutory Environment**

*Planning and Development Act, 2005*

*Planning and Development Amendment Bill 2020*

*Planning and Development (Local Planning Schemes) Regulations, 2015*

*Local Planning Scheme No. 3 (LPS 3)*

### **Policy Implications**

*State Planning Policy 7.3 – Residential Design Codes Vol. 1*

*Local Planning Policy 3.1.1 - Residential Design Guidelines 2012 (as amended)*

### **Financial Implications**

Nil

### **Strategic Implications**

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

#### *Built Environment*

*Accessible, well planned built landscapes which are in balance with the Town's unique heritage and open spaces.*

- 3.1 Facilitate sustainable growth with housing options to meet future community needs.*
  - 3.1.1 Advocate for a desirable planning and community outcome for all major strategic development sites.*
  - 3.1.2 Plan for a mix of inclusive diversified housing options.*
- 3.2 Maintaining and enhancing the Town's character.*
  - 3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.*
- 3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.*
  - 3.3.1 Continue to improve asset management practices.*
  - 3.3.2 Optimal management of assets within resource capabilities.*
  - 3.3.3 Plan and advocate for improved access and connectivity.*

#### *Natural Environment*

*Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.*

- 4.1 Conserve, maintain and enhance the Town's open spaces.*
  - 4.1.1 Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
  - 4.1.2 Plan for improved streetscapes parks and reserves.*
- 4.2 Enhance environmental values and sustainable natural resource use.*
  - 4.2.1 Reduce waste through sustainable waste management practices.*
- 4.3 Acknowledge the change in our climate and understand the impact of those changes.*
  - 4.3.1 Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

**Risk Implications**

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not adopt the proposed Recommendation and a submission expressing the Town's view's is not forwarded to the Department of Planning, Lands and Heritage.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Statutory impact of non-compliance with State planning request for comments in respect to the Interim Review of the R-Codes Vol. 1 (SPP 7.3).	Accept Officer Recommendation

**Risk Matrix**

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

**Site Inspection**

N/A

## Details

### State Planning Reforms - Response to COVID-19

The State Government has brought forward several measures within the *Action Plan for Planning Reform* as part of the COVID-19 economic recovery plans, together with a proposal to establish a new development application process for significant projects. A program of major legislative, regulatory and policy changes will be progressively implemented to support WA's COVID-19 economic recovery plans. The following is a summary of the major reform initiatives. Further consultation with local governments will occur in relation to some of these initiatives. A summary of the initial reforms is provided below.

### **Streamline Significant Developments**

Expanded approval powers will temporarily be given to the WAPC to determine proposals for certain sites, locations and projects which present opportunities for broad community value. This is a short-term initiative intended to stimulate the economy and to create new employment and business opportunities.

### *Key Reforms*

- WAPC will be established as the new decision-making authority for all development proposals of State significance for a fixed 18-month period. This period has commenced.
- Under the new legislation, significant proposals must have an estimated cost of:
  - \$20 million or more in the metropolitan area; or
  - \$5 million outside the metropolitan region.
- The Premier, on recommendation of the Minister for Planning, can also refer proposals to the WAPC.
- Direct referral of the proposals to Planning Department, service authorities and government agencies.
- Department of Planning will undertake administrative and assessment processes and prepare report.
- WAPC responsible for clearance of conditions, enforcement and compliance.
- Consultation undertaken with local government and due regard to submissions.
- The WAPC will consider non-planning related matters that it considers are in the public interest.
- No other authority can make a decision that is inconsistent with the decision of the WAPC.
- Right of appeal through the State Administrative Tribunal will apply as normal.
- Governor can amend or cancel a WAPC approval.

### **Special Matters DAPs**

Certain sites, locations or opportunities can deem a proposed development to be of broad community value. In the future these proposals will be determined by a new Special Matters Development Assessment Panel (SMDAP).

### *Key Reforms*

- Government has already reduced the number of DAPs from 9 to 5, and it is intended to further reduce them to 3 panels.
- SMDAP's will be established to consider complex proposals e.g. proposals located in areas with significant tourism, unique aesthetic qualities or other unique features.
- New regulatory amendments, including criteria for developments will be prepared over the next 12 months.

- Proposals will be lodged directly with State Planning with referral to agencies and recommendations to SMDAP.
- Local government representative and the Government Architect will also sit on the SMDAP.

### ***Cutting Red Tape***

The State government believes the reforms will significantly cut red tape for users of the planning system and remove barriers to enable development, create jobs and support business. Greater clarity and consistency across the system and a reduction in the administrative burden on local governments is expected to save time and money.

### ***Key Reforms***

The Department of Planning believes the amendments will ensure local planning is easier to navigate and understand, provide greater consistency in how planning provisions are applied and improve efficiency. Consultation is currently being undertaken with local government on the proposed regulatory changes, in the first instance with a review of the R-Codes. The following comprises the reforms considered of most significance to the Town:

- Introduce refined streams for MRS scheme amendments, reducing timelines for minor amendments.
- Provide the Minister with capacity to withdraw a MRS or planning scheme amendment during the process.
- Clarify and expand public works exemptions for State development projects.
- Introduce a new 10-year review for all State and local government planning documents.
- Provide for more streamlined approvals for the construction of roads and waterways.
- The EPA and State Planning will determine which proposals require environmental assessment.
- Reduce unnecessary holdups in the referral process - enable a development if response timeframes not met.
- Clarify 'stop the clock' mechanisms, including setting a maximum number of days or set circumstances.
- Enable online publication of planning documents, removing the requirement for hard copies.
- ***Deemed approval*** if an application is not dealt with in the statutory timeframe.
- ***Change of use applications will be abolished for several different uses*** to support small businesses wishing to establish or change their operations. This would include several uses which are well suited and anticipated in town centres, commercial areas, activity corridors, mixed use areas: including cafes, restaurants, consulting rooms, retail shops, small offices etc.
- ***Provision of car parking to be more flexible and consistent*** across the State. Update cash-in-lieu framework and waive shortfalls up to 10 bays.

### ***Small Business***

The State government's planning reforms are aimed at reducing red tape, streamlining approvals and removing barriers so business owners can focus on business operations and not paperwork.

### ***Key Reforms***

Three streams of planning reform – legislative, regulatory and policy – are being progressed. Changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* propose a range of measures, including:

- A wider range of small residential projects becoming exempt from planning approval.
- Revised R-Code deemed-to-comply provisions expanded and simplified (also the subject of this report), enabling planning exemptions for more single residential dwellings.
- Change of use applications not required for several different uses.

- For example, uses in town centres, commercial areas, activity corridors and mixed-use areas including cafes, restaurants, consulting rooms, retail shops and small offices.
- An updated cash-in-lieu for parking framework and waiver for shortfalls up to 10 bays.

### ***Improving Community Engagement***

The aim of this suite of reforms is to ensure the planning framework, including planning schemes have been developed in early consultation with the community and are guided by a local planning strategy.

#### *Key Reforms*

There are three key components in improving community engagement and consultation:

#### Local Planning Strategies

Community consultation and engagement is viewed as integral to alleviating confusion and ensuring expectations are met about the types of development that can occur. Planning reform measures will:

- Ensure local planning strategies align with the State's planning framework;
- Give local planning strategies the highest level of importance in community planning and development;
- Give local communities a greater say in setting the future vision, early in the planning process;
- **Extend the minimum period of community consultation from 21 to 35 days;**
- Reinforce the need to take a more strategic approach to the development of communities; and
- Provide meaningful opportunities for people to have their say.

#### Consistent and Transparent Consultation Practices

- Onsite signage displaying an image of the proposed built form, for all developments over a prescribed construction value.
- Introducing State-wide consultation processes, including mandating a radius model for major development applications and scheme amendments.
- Enabling access to on-line planning documents.
- Community engagement toolkit for all planning authorities to provide consistent and best practice guidance on how and when to engage during the planning process.
- Measures to streamline the planning document review process to ensure currency and reflect local aspirations and priorities.
- Planning schemes to provide greater clarity and more consistency in how land can be used, and what can and cannot be built.

#### Ensure Actual Community Benefits Flow from Major Developments

- Lack of guidance from State Government on what should be achieved under a community benefit, as a result, many communities have seen no real community benefits delivered.
- Provide a clear definition of community benefit in planning schemes.
- New State-wide, consistent guidelines for community infrastructure, and how development contributions are collected, held and used, including cash-in-lieu provisions for parks, recreation and public open space.



### ***Good Design***

The State government has based these reforms on the view that well-designed buildings and public spaces are essential to creating communities and places in which people want to live and visit.

### ***Key Reforms***

So far, a State Design Review Panel and an increased number of local design review panels have been established. Also, the first stage of Design WA policies for apartments is now in operation (R-Codes Vol. 2 – Apartments).

Policy reforms to be delivered over the next six-twelve months will support the implementation of legislative and regulatory changes. These policies include:

- Finalise policy for medium density – which includes multi-unit, two and three storey complexes.
- Finalise new benchmarks and policy to guide Precinct Design.
- Review the single house development requirements of the R-Codes Vol. 1 (has commenced).
- Bring forward reviews of State planning policies for activity centres and liveable neighbourhoods.
- Continue reviewing State planning policies, such as hazard management, bushfires and coastal erosion.
- State Planning Policy 4.2 – Activity Centres will be reviewed to provide guidance to deliver contemporary outcomes when planning major centres.
- A revised Liveable Neighbourhoods policy to create suburbs which are sustainable, connected, self-sufficient and have healthy communities.

### ***Residential Design Codes Vol. 1 Review***

Following on from the State planning reforms launch in mid-July the State government released the review of the Residential Design Codes Vol. 1 (R-Codes Review) and invited community-wide comment on the proposed changes. The key changes are briefly noted below and outlined in more detail in Attachment 1.

### ***Key Changes***

- To allow a wider range of smaller residential projects such as patios, decks and extensions to be exempt from development (planning) approval.
- Changes are proposed for open space, building setbacks, wall heights and visual privacy setbacks.
- Simplified language to improve both the understanding and usability of the R-Codes.
- Increase in the size of outdoor living areas and to provide for a tree to be planted for each dwelling.
- Carport and ancillary dwelling designs should complement the main dwelling.

These changes do not remove the requirement for a development proposal to comply with the Town's RDG where the provisions differ.

### **Summary of the Proposed Modifications to R-Codes Vol. 1 – Interim Review**

The proposed changes to the R-Codes, the Department's rationale for the changes and the Town's response are explained in Attachment 1. The full details of the proposed changes can be found on the Department of Planning website at <https://www.dplh.wa.gov.au/planning-reform>.

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The comments contained in the 'Town's Response' column will form the basis of the Council's submission to the Department of the Planning.

### **Comment**

#### State Planning Reforms – Response to COVID-19

The general view of the Planning sector in WA is that the amendments to the *Planning and Development Act, 2005* are the most significant changes to the statutory framework since the Act commenced and most certainly since the 2010 amendments that facilitated the establishment of Development Assessment Panels (DAPs). Some viewpoints suggest these reforms will shift more of the development assessment role from local governments to the State Planning level.

A new assessment pathway has been endorsed to allow the State Government, through the WAPC, to assess and approve certain development applications over \$20 million in the Perth Metro area and \$5 million in regional areas for the next 18 months. An additional proposal will see the establishment of a 'Special Matters' DAP (SMDAP), which will only have a representative from the local government sector and not a local government Elected Member as in the current DAP system. Planners have noted that the scope for the current planning framework and associated controls to potentially be completely overridden is a possibility under the amendments.

Furthermore, while some of the proposals have a fixed term date, linked to the COVID-19 recovery period, it has been foreshadowed that it is intended for the new process for significant developments at the State level to be retained but with the decision-making power to transition from the WAPC to the SMDAP thereafter. The amendments to the Act that establish the SMDAP also provide for this transition to be effected through subsequent subsidiary legislation.

The Planning sector has expressed some disappointment with the introduction of the *Planning and Development Bill 2020* in June, as there was little consultation on much of the detail contained within the Bill despite claims that it was premised on more than seven years of consultation and reviews. A main concern with the proposed legislation was with the potential for community feedback and concerns to be overlooked with no provision to ensure community input be considered in the decision-making process. It was not clear to what extent community input would occur and how the consultation would be undertaken; this is yet to be tested.

One of the most significant matters to note is that the 'Significant Development' process will allow the WAPC to grant development approvals for 'Significant Developments' in contravention of a local planning scheme. The legislation states that the WAPC is to have "have due regard to "the purpose and intent of any planning scheme that has effect in the locality to which the development application relates but "is not limited to planning considerations...".

While a State government response associated with the repercussions with COVID-19 is understood, reforms that provide for development approvals to be granted in contravention of local planning schemes is very significant, particularly so if the views of local communities are not taken into consideration or reduced in importance. The potential significance of the proposals likely to be considered by a SMDAP are likely to have far reaching consequences, so it would be appropriate that they be subject to high level assessment and meaningful input from local government. It is not clear whether there will be a review after the "recovery period" to inform any proposal to continue the planning process via the SMDAP.

As the COVID-19 state of emergency progressed a few practical support measures provided exemptions to delivery hours for supermarkets and service stations, provided flexibility for restaurants forced to only offer takeaways, and allowed greater flexibility in home business operations. The State government worked with the Planning sector and formally endorsed these approaches through the Minister's *Notice of Exemption*. This document provided additional clarity for many temporary variations to planning controls due to the exceptional circumstances. Since the introduction of the *Notice of Exemption* the Town has not been requested to consider exemptions from development approval or non-compliance with conditions of development approval.

The Town is expecting the submission of major development applications in the near future. The construction value of these applications would qualify them for consideration as a 'Significant Development'. They meet the criteria to qualify for a DAP application and may also meet the criteria to qualify for consideration by a SMDAP. The Council may therefore not have a decision-making role and may have a significantly reduced assessment and reporting roles in relation to the development process depending on the assessment path taken.

#### R-Codes Vol. 1 Interim Review – Town's Response

The purpose of the changes is to streamline the decision-making process for new home builds and renovations. The aim being to simplify the R-Codes so they are easier to interpret, as well as streamline the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, carports, decks and sheds. The desired outcome is that the changes will reduce a range of common triggers for single house development approval applications (including additions), simplify rules by streamlining assessments, while requiring design improvements for more efficient building design and better outdoor spaces. It is believed this will reduce the application costs for home owners and help alleviate the administrative and regulatory burden on local governments.

Whilst it is understood reviewing the R-Codes to remove triggers for development applications may reduce the number of applications received by local government and quicken the approval process, the degree to which this assists or alleviates the regulatory burden depends on each local governments' specific circumstances and planning priorities. The land use, heritage, environmental and design outcomes sought by each local government can vary markedly. The local planning frameworks and local planning policies adopted by the Town of East Fremantle have been specifically drafted to address local land use, character, environmental, heritage and amenity considerations. It is not the intention of the R-Codes Review to override these policies and the local planning policies will still prevail over the R-Codes where there is a variation. However, there are some circumstances and developments where the provisions of the Town's local planning policies will not apply to all forms of development and where this is the case the development controls of R-Codes are applicable.

Notwithstanding the above, the Town expects that development applications will continue to be required for a significant proportion of proposals due to the implementation of the RDG. Full compliance with the Deemed-to-Comply provisions of the R-Codes and the Acceptable Development Provisions of the RDG will be difficult to achieve. In many cases the development site will be a heritage listed property (requiring a development approval) and variations to lot boundary setbacks, open space and visual privacy setbacks less than the minimum required by the R-Codes will trigger a development application.

The Town's RDG will remain as the primary planning instrument in the assessment of development applications, however the reduced standards proposed under the R-Codes will also apply to residential development in the Town. Concerns arise when planning principles and development controls are lessened to facilitate development without appropriate checks and balances, particularly in a setting where variations and relaxation of standards is frequently sought. If the R-Codes are weakened whereby amenity is eroded a community backlash is the likely outcome and this is usually borne by local government.

It is considered that some of the changes being proposed could be viewed as a means of assisting the development industry and circumventing the need for planning approval. The Town does not hold the view that by allowing more relaxed rules around design and construction of housing that better design outcomes will result. If poor planning outcomes result it is the community that has to endure the impacts of overdevelopment and the local government that needs to find solutions to the problems created by weakened regulations. The development application assessment process should be focused on mitigating the consequences of development on residents and ratepayers and in promoting sustainability and liveability. Facilitating an increased ability to build more, on increasingly smaller lots, should not be prioritised over good design and amenity outcomes.

The proposed changes to the R-Codes have therefore been considered in light of the potential for impact on amenity and good design from the Town's perspective. A summary of the changes and the Town's response is provided in Attachment 1. These responses and the general comments outlined in this report will form the basis of the Town's submission to the Department of Planning.

If the proposed changes to the R-Codes proceeds as is intended, the Town will continue to monitor Building Permit applications in order to ensure planning approval and community consultation is not required. It is expected that some development will occur that does not receive planning approval and will therefore not be subject to community consultation. Monitoring of the potential impact on residential amenity and poor design outcomes will also occur. This may lead to future changes to local planning policy.

It is recommended that Council resolve to note the changes to planning legislation brought about by the *Action Plan for Planning Reform* and the COVID-19 emergency, as well as the Town's response to the Schedule of Proposed Modifications to the R-Codes Vol. 1 – Interim Review. A submission to the Department of Planning based on the comments contained in this report and the Town's response to R-Code changes, as outlined in Attachment 1, is intended following Council's endorsement.

It is hoped the Department of Planning will take the Town's comments into consideration in finalising the R-Codes document. Submissions will be considered in September with a view to reporting to the WAPC in October and gazettal of the amendments by November 2020.

#### **12.1.1 OFFICER/COMMITTEE RECOMMENDATION**

That the State Planning Reforms, Response to COVID-19 and the draft Schedule of Proposed Modifications R-Codes Vol. 1 – Interim Review 2020 be noted and a submission to the Department of Planning, Lands and Heritage in relation to the R-Codes Vol. 1 Interim Review 2020 be made based on the comments contained in the Officer Report and in Attachment 1.

*Moved Cr Collinson, seconded Cr Nardi  
The adoption of the Officer/Committee's recommendation.*

Amendment

**Moved Cr M McPhail, seconded Cr Harrington**

**That a second part of the motion read:**

- 2. That the Town meets with Lisa O'Malley and other key politicians to brief them on the Town's key concerns with the proposed changes and their expected impact on the East Fremantle community.** (CARRIED UNANIMOUSLY)

The substantial motion, as amended, was put.

**12.1.1 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 020920**

**Moved Cr Collinson, seconded Cr Nardi**

**That:**

- 1. the State Planning Reforms, Response to COVID-19 and the draft Schedule of Proposed Modifications R-Codes Vol. 1 – Interim Review 2020 be noted and a submission to the Department of Planning, Lands and Heritage in relation to the R-Codes Vol. 1 Interim Review 2020 be made based on the comments contained in the Officer Report and in Attachment 1.**
- 2. the Town meets with Lisa O'Malley and other key politicians to brief them on the Town's major concerns with the proposed changes and their expected impact on the East Fremantle community.**

(CARRIED UNANIMOUSLY)

**12.1.2 Local Planning Scheme No. 3 - Heritage List and Municipal Heritage Inventory 2015 – Proposed Removal of 19 (Lot 18) Canning Highway, East Fremantle**

<b>Applicant</b>	Town of East Fremantle
<b>File ref</b>	HHC2; P/CAN19
<b>Prepared by</b>	Christine Catchpole, Senior Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements:</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location Plan – Lots 14 – 19 Canning Highway</li><li>2. 2006 Municipal Heritage Inventory – Place Record Form – 19 (Lot 18) Canning Highway – Category B</li><li>3. Draft Local Planning Strategy extract – Investigation Area 9</li><li>4. MRS Other Regional Road Reserve</li></ol>

**Purpose**

The purpose of this report is to consider the formal removal of 19 (Lot 18) Canning Highway, East Fremantle from the Local Heritage Survey (formerly the Municipal Heritage Inventory) and the Local Planning Scheme No. 3 Heritage List.

**Executive Summary**

The consideration of removal of 19 Canning Highway from the Local Heritage Survey (LHS) and the Planning Scheme Heritage List has been prompted by Main Roads WA (MRWA) and the WAPC's intention to sell surplus land which includes this lot, on the southern side of Canning Highway between East and Glyde Street (refer to Attachment 1 – Location Plan). A planning consultant has been engaged by MRWA to initiate discussions with the Town in relation to the consideration of a Scheme Amendment to suitably reclassify the land prior to its disposal.

No. 19 Canning Highway, was the subject of an administrative oversight during the review of the LHS in 2014/15 which resulted in the lot being omitted from the LHS and the Scheme's Heritage List. An updated Place Record Form was not prepared, so it was not possible to determine whether the consultant intended to recommend removal from the heritage lists or to change the heritage category classification. Whatever the intention the outcome was that the site was not included in the heritage lists with the only explanation being an inadvertent omission.

Notwithstanding the current status of the site it should be noted that discussions had taken place with the State Heritage Office (SHO) in 2007 and the WAPC in 2012 requesting comments on the property's inclusion in the LHS. The SHO did not believe the site was worthy of registration on the State heritage register and the Commission stated that *"...given that any measures to widen the road will require the ultimate demolition of the house, it appears illogical to list the property on the Town's heritage list for conservation purposes"*. Following these exchanges a demolition permit was issued for the property, some years prior to the LHS review commencing, but was never actioned. Please see attachment 4 relating to the road reserve and the location of the property. Clearly the dwelling sits within the road reserve and therefore will require the demolition of the dwelling.

Following the recent demolition of the Kennard's buildings (on the corner of East Street) and the adjoining dwelling, 19 Canning Highway is one of two remaining houses on this section of the Highway. Both houses are in a habitable condition and leased to tenants but the integrity and

heritage value of the subject site has been depreciating. This situation alone is not necessarily a reason for recommending removal of the place from the heritage lists, however changing circumstances and strategic planning considerations now need to be taken into account.

The site is zoned R20 but is also within the 'Additional Use – A9' area under LPS 3 (i.e. development to R40 and consulting rooms/home business on ground floor subject to Council approval). This same area has been identified as 'Investigation Area 9' under the Draft Local Planning Strategy; being an area with strategic significance with the potential for increased density to be considered for these lots. The Draft Strategy identifies the land as a key location for medium to high density apartments which could contribute to the Town's 2050 dwelling target set by the State government. The strategic approach of identifying and facilitating higher density development on large unencumbered amalgamated parcels of land, with good access to public transport, supports the underlying objective of the Town to facilitate higher density development in these locations; thereby reducing development pressure on the Town's low density heritage precincts. The comprehensive development of this section of the Highway as an unencumbered land parcel will allow for more design and planning options to be explored and the residential interface issues to be addressed in an orderly and proper manner.

In light of the above circumstances the removal of the property from the heritage lists is recommended. Due to the incorrect omission of the property from the heritage lists it is considered necessary for Council to follow the correct procedures for removal of the property from both lists. This will clarify and formalise the heritage status of the property and enable any upcoming Scheme Amendment procedures to be undertaken correctly.

It is recommended that Council resolve to propose to remove 19 Canning Highway from the LHS and the Planning Scheme's Heritage List and undertake advertising as required under the Local Planning Schemes Regulations, 2015. Following the 21 day consultation period (during which time submissions may be received) a further report to Council will be drafted to enable Council to consider retention or removal of the place from the heritage lists.

### **Background**

Following the December 2014 Council meeting, owners and occupiers of LHS properties categorised as A and B were advised in writing of the revised heritage assessments and of the intention to consider these properties for inclusion on the Scheme's Heritage List. With the exception of properties that were the subject of owners' submissions and/or further consideration by the heritage consultants the B category properties were adopted as a single group by Council for inclusion in the Scheme's Heritage List.

During the process of finalising and checking the place record forms for over 600 category B properties on the LHS and in preparing the list of properties to be included it appears an updated Place Record Form was not prepared. This resulted in no formal Council consideration of the property's status following the review process.

### **Consultation**

If Council resolves to consider the removal of a property from a heritage list or LHS the Local Planning Schemes Regulations, 2015 requires the following consultation process be followed.

Consultation Process under Local Planning Schemes Regulation, 2015

- The Town must —
  - notify each owner of land affected and provide them with a copy of the proposal to remove the property; and
  - advertise the proposed removal by —
    - a notice in a local newspaper; and
    - erecting a sign in a prominent location; and
    - a notice on the Town’s website; and
  - any other consultation the Town considers appropriate.
- The period for making submissions must not be less than 21 days commencing on the same day as the notice is published.
- After the advertising/submission period ends the Town must —
  - review the proposal to remove the property in the light of any submissions made; and
  - resolve —
    - to adopt the recommendation for removal without modification; or
    - to adopt the recommendation for removal with modification; or
    - not to proceed with removal of the property.
- If the Council resolves to remove the property from the LHS and the Planning Scheme Heritage List then it must advise —
  - the Heritage Council of WA; and
  - each land owner affected.

**Statutory Environment**

*Heritage Act, 2018*

*Planning and Development (Local Planning Schemes) Regulations, 2015*

*Heritage Regulations, 2019*

*Local Planning Scheme No. 3 (LPS 3)*

*LPS 3 - Heritage List*

**Policy Implications**

*Local Heritage Survey (formerly Municipal Heritage Inventory) 2015*

*Guidelines for Local Heritage Surveys 2019*

*Fremantle Port Buffer Zone – Area 2*

**Financial Implications**

Nil

**Strategic Implications**

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

*Built Environment*

*Accessible, well planned built landscapes which are in balance with the Town’s unique heritage and open spaces.*

*3.1 Facilitate sustainable growth with housing options to meet future community needs.*



- 3.1.1 *Advocate for a desirable planning and community outcome for all major strategic development sites.*
- 3.1.2 *Plan for a mix of inclusive diversified housing options.*
- 3.2 *Maintaining and enhancing the Town's character.*
  - 3.2.1 *Ensure appropriate planning policies to protect the Town's existing built form.*
- 3.3 *Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.*
  - 3.3.1 *Continue to improve asset management practices.*
  - 3.3.2 *Optimal management of assets within resource capabilities.*
  - 3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

*Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.*

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
  - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
  - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
  - 4.2.1 *Reduce waste through sustainable waste management practices.*
- 4.3 *Acknowledge the change in our climate and understand the impact of those changes.*
  - 4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

**Risk Implications**

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not adopt the proposed Recommendation and correct statutory procedures are not followed.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Statutory impact of non-compliance with State planning legislation.	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Likelihood	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

### Site Inspection

June 2020

#### Details

*2014/15 Review of Municipal Inventory (now Local Heritage Survey)*

The 2006 LHS recorded the property as a category B (refer to Attachment 2). However, without explanation this was not carried forward to the 2014/15 LHS. The Town has no record of any formal discussions with, or any recent submissions from government agencies in regard to this property. Furthermore, the Council Minutes do not record any discussion of the matter. It appears that the property has been omitted from the Heritage List and the LHS due to an oversight with no formal Council resolution for its removal from either list. Whilst it is not clear why this occurred there is some evidence that the Town's Officers may have been considering the removal of the place from both heritage lists.

A demolition permit was issued for the property some years prior to the review of the LHS. However, the property was not demolished and the dwelling remains occupied. Also, in 2012 the Town wrote to the WAPC requesting comments on the potential inclusion of the site in the upcoming review of the LHS. This was prior to the Council formally notifying land owners that category B properties were proposed to be included on the LPS 3 Heritage List.

The response from the WAPC in 2012 stated as follows:

*"The WAPC wishes to express its objection to the Town including the property on its heritage list.*

*The WAPC position arises from the fact that the improvements at the property are affected by the Other Regional Roads Reservation for the future widening of Canning Hwy. Given*

*that any measures to widen the road will require the ultimate demolition of the house, it appears illogical to list the property on the Town's heritage list for conservation purposes.*

*The WAPC also intends to redevelop the site in line with the infill objectives contained within the Directions 2031 strategy. It is envisaged that the unreserved portions of the WAPC's Lots 16 and 18 will be amalgamated with Main Roads WA's Lot 17 in order to create a development site. It is envisaged that as part of this process the dwellings on both Lot 16 and 18 will be demolished."*

Please see attachment 4 relating to the road reserve and the location of the property.

The site history and previous correspondence points to the Town's Officers and the heritage consultant giving serious consideration to the property being removed from the heritage lists. However, an updated Place Record Form was not prepared and the correct procedures for formal removal were not followed. It is now considered necessary that Council undertake the correct statutory procedures so the heritage status of the property is clarified by a formal Council resolution.

#### Government land disposal

The need to consider formal removal of the site from the heritage lists was prompted by MRWA's intention to pursue a reclassification of the government owned land between Glyde and East Street through a Scheme Amendment process. MRWA is eager to pursue a reclassification of the land that will allow for increased development potential (increased density zoning) prior to disposing of the properties. Administration is currently in progressed discussions with the MRWA and their consultants regarding the up zoning of these properties along Canning Highway.

With the exception of this property and one other residential dwelling (at 15 Canning Highway), the remaining government owned land along the highway comprises vacant lots. The planning consultants are progressing the proposed Scheme Amendment and it is anticipated this will be submitted for Council's consideration within coming weeks.

The Scheme Amendment will also include a vacant privately owned lot on the corner of Glyde Street. This property is owned by a deregistered company and is administered by the Australian Security and Investment Commission.

#### **Comment**

##### Heritage considerations

In 2007 when the WAPC and MRWA were considering the disposal of these properties on Canning Highway, the Heritage Council of WA was consulted. It was confirmed at the time that 19 Canning Highway was not considered to be of State significance and was unlikely to meet the threshold for entry into the State Register of Heritage Places.

From the 2014/15 review of the LHS it is not possible to determine whether the consultant intended to recommend the property be removed from the heritage lists or downgraded to a category C. The dwelling is now one of two houses remaining on this section of the Highway, following the recent demolition of the Kennard's buildings (on the corner of East Street) and the adjoining residence. Over past years basic maintenance work has been undertaken to maintain residential use of the property which is leased to tenants. However, its heritage integrity has continued to depreciate and the property is considered to have limited and diminishing value as an individual property and as part of the Plympton group.

In general terms removal of properties from the Town's heritage lists is never considered lightly because of the importance placed on their retention and their high value in maintaining and contributing to the unique character of the Town. In most circumstances category B properties are considered worthy of a high level of protection. However, in respect to 19 Canning Highway the removal of the property from the heritage lists and its likely eventual demolition is not considered to diminish the heritage significance of the Plympton Precinct or the heritage character of the Town.

Given the background of the site in relation to previous heritage assessments it is considered unnecessary for the Town to engage a heritage consultant to provide a Heritage Impact Statement assessing the proposal for removal from the lists.

Planning considerations

The above circumstance would not necessarily be a reason for recommending removal of the place from the heritage lists in itself, however there are now other circumstances and strategic planning considerations which need to be taken into account.

The site is zoned R20 and is within the 'Additional Use – A9' area under LPS 3 which applies to Lots 14 – 19 fronting Canning Highway. The 'Additional Use' allows the lots between East and Glyde Street to be developed to a density code of R40, with ground floor use for consulting rooms and/or a home business, subject to Council approval. An R40 density code allows for apartments to be developed. This same area has been identified as a potential 'Investigation Area' under the Draft Local Planning Strategy because it is viewed as having strategic significance and the potential for development at a density higher than R40. Also, the location of this strip of land is at an entry point to the Town and therefore development is expected to demonstrate a high quality design outcome. Attachment 3 is an extract from the draft Local Planning Strategy which outlines the strategic approach to this area endorsed by Council for advertising at its meeting in November 2019.

Notwithstanding the likelihood that the dwelling would be demolished without the Council's consent if the road widening reserve was required, the Town is of the view that the potential strategic planning outcomes and the benefits of this land being developed as an amalgamated parcel of vacant land is an option which should be pursued. The approach of identifying and facilitating development on sites where a greater number of dwellings, developed on larger amalgamated parcels of land with good access to public transport, supports the underlying objective of the Town to concentrate higher densities in these locations, thereby reducing development pressure on the Town's low density heritage precincts. Investigation Area 9 is viewed as a site which has the potential to contribute to the 2050 State government dwelling target for the Town of 890 dwellings.

The comprehensive development of this section of the Highway will allow for more design and planning options to be explored and the residential interface development issues to be addressed in an orderly and proper manner. Appropriate amenity and urban design controls, inclusive of noise mitigation measures, protection of nearby heritage sites and access to Canning Highway would be considered, most likely through the formulation of a 'local development plan'. This is considered the soundest planning approach and would be considered at the Scheme Amendment stage.

Conclusion

The comprehensive planning and development of this strip of land is viewed as an extremely good opportunity, subject to suitable development controls, to facilitate the development of additional appropriately designed dwellings in an cohesive manner. A vacant land parcel is the ideal starting point in this planning process. It is assumed it is for these reasons that 19 Canning Highway was being considered for likely removal from the heritage lists in the early stages of the review of the LHS. Notwithstanding, if the road widening reserve was taken, then demolition would result. It appears it was the consultant's and the Council Officer's intention at the time to recommend removal of this property from the heritage lists, however this inadvertently did not occur.

In addition to these comments the heritage integrity of the property has continued to depreciate and the place is considered to have limited and diminishing value as an individual property and as part of the Plympton group. The removal of the property from the heritage lists is not considered to diminish the heritage significance of the Plympton Precinct or the heritage character of the Town. It is noted that the proposed removal of this dwelling from the heritage list and possible increase density does not constitute an approach that will be undertaken throughout the whole of Canning Highway and future proposal will be considered on their own merits. Given the background of the site in relation to previous heritage assessments a Heritage Impact Statement assessing the proposal for removal from the lists is not considered necessary.

In light of the above comments it is recommended that Council resolve to propose to remove 19 Canning Highway from the LHS and the Planning Scheme's Heritage List and undertake the correct statutory processes, including advertising, as required under the Local Planning Schemes Regulations, 2015. In this case the advertising will require a letter advising the WAPC (i.e. the land owner) of the Council's intentions, an advertisement in the local newspaper, a sign on the site and a notice on the Town's website. Following the 21 day consultation period (during which time submissions may be received) a further report to Council will be required to enable Council to consider retention or removal of the place from the heritage lists.

**12.1.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 030920**

**Moved Cr M McPhail, seconded Cr Watkins**

**That Council in accordance with Schedule 2, Part 3, Clause 8 (3) of the Planning and Development (Local Planning Schemes) Regulations, 2015 proposes to remove No. 19 (Lot 18) Canning Highway from the Local Planning Scheme No. 3 Heritage List and Local Heritage Survey (formerly Municipal Inventory).**

**(CARRIED 7:2)**

Cr Collinson & Cr Harrington requested that their votes against the motion be recorded.

## 12.2 FINANCE

### 12.2.1 Statement of Financial Activity for Period Ended 31 August 2020

<b>Applicant</b>	Not Applicable
<b>File ref</b>	F/FNS2
<b>Prepared by</b>	Peter Kocian, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements</b>	Absolute Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Statement of Financial Activity 31 August 2020 2. Capital Works Report 3 September 2020 3. Financial Health Check 31 August 2020

#### **Purpose**

The purpose of this report is to present to Council the Monthly Financial Report (containing the Statement of Financial Activity) for the month ended 31 August 2020. The Monthly Financial Report also includes a Capital Works Report and Financial Health Check summary.

#### **Executive Summary**

A Monthly Financial Report workbook has been prepared to provide an overview of key financial activity. Two Statements of Financial Activity are provided, one by program and the other by nature and type. Both of these Statements provide a projection of the closing surplus position as at 30 June 2021.

A Capital Works Report is presented detailing committed expenditure against budgets. This report is used to assess the clearance rate of capital projects.

A Monthly Financial Health Check has also been prepared which provides key financial information against benchmarks. This document is intended to provide a concise summary of the Town's financial performance.

#### **Background**

The Town of East Fremantle financial activity reports use a materiality threshold to measure, monitor and report on financial performance and position of the Town.

The monthly Financial Report is appended and includes the following:

- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature and Type
- Notes to the Statement of Financial Activity including:
  - Explanation of Material Variances
  - Net Current Funding Position
  - Cash and Investments
  - Receivables
  - Cashed Back Reserves
  - Capital Disposals
  - Rating Information
  - Grants and Contributions

The attached Monthly Financial Report is prepared in accordance with the amended *Local Government (Financial Management) Regulations 1996*; together with supporting material to provide Council with easy to understand financial information covering activities undertaken during the financial year.

### **Consultation**

Management team

### **Statutory Environment**

Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* detail the form and manner in which a local government is to prepare its Statement of Financial Activity.

Expenditure from the municipal fund not included in the annual budget must be authorised in advance by an absolute majority decision of Council pursuant to section 6.8 of the *Local Government Act 1995*.

Fees and charges are imposed under section 6.16 of the *Local Government Act 1995*. If fees and charges are imposed after the annual budget has been adopted, local public notice must be provided before introducing the fees or charges pursuant to section 6.19 of the *Local Government Act 1995*.

### **Policy Implications**

Significant Accounting Policies are adopted by Council on an annual basis. These policies are used in the preparation of the statutory reports submitted to Council.

### **Financial Implications**

Material variances are disclosed in the Statement of Financial Activity.

As part of the adopted 2020/21 Budget, Council adopted the following thresholds as levels of material variances for financial reporting.

*In accordance with regulation 34 (5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in statements of financial activity in 2020/21 for reporting material variances shall be:*

- (a) 10% of the amended budget; or*
- (b) \$10,000 of the amended budget.*

*whichever is greater. In addition, that the material variance limit be applied to total revenue and expenditure for each Nature and Type classification and capital income and expenditure in the Statement of Financial Activity.*

### **Strategic Implications**

The monthly financial report is the key financial reporting mechanism to Council, to provide oversight of the financial management of the local government. This ties into the Strategic Community Plan as follows:

*4.9 A financially sustainable Town – Provide financial management services to enable the Town to sustainably provide services to the community.*

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Inadequate oversight of the financial position of the Town may result in adverse financial trends	Rare (1)	Major (4)	Low (1-4)	FINANCIAL IMPACT \$50,000 - \$250,000	Manage by monthly review of financial statements and key financial information

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	4
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

### Site Inspection

Not applicable.

### Comment

This report presents the Statement of Financial Activity for the period 31 August 2020. The following is a summary of headline numbers from the attached financial reports:

	Original Budget	YTD Budget	August Actuals
<b>Opening Surplus</b>	<b>160,328</b>	<b>160,328</b>	<b>262,228</b>
Operating Revenue	10,517,403	8,573,272	8,551,221
Operating Expenditure	(10,969,062)	(1,872,308)	(1,375,028)
Capital Expenditure	(1,026,681)	(32,000)	(134,347)
Capital Income	210,000	0	0



Financing Activities	(470,888)	0	0
Non-Cash Items	1,578,900	263,150	0
<b>Closing Surplus</b>	<b>0</b>	<b>7,092,442</b>	<b>7,304,074</b>
Unrestricted Cash			2,025,248
Restricted Cash			991,601

- Reserve funds have been transferred into the municipal fund to meet trading obligations pursuant to the disclosure in note 7 (c) of the 2020/21 Annual Budget. Funds will be recouped once rate receipts are sufficient;
- Depreciation has yet to be processed due to the finalisation of the 2019/20 accounts and asset register;
- A Capital Works Report is being auto generated within the Town's financial system and emailed to Responsible Officer's on a weekly basis to monitor projects. This Report is provided as Attachment 2 and includes actual expenditure as at 3 September. Capital works have yet to substantially commence, with \$134k in total expenditure;
- Rates were levied in the month of July with rate notices issued in the first week of August. At the end of August 29% of rates levied (including arrears) has been receipted. The due date for payment of rates including the election of instalments is the 7 September.

#### **Budget Variations**

At the Special Meeting of Council of 27 August 2020, Council approved the following budget variations, which were funded from the estimated additional surplus brought forward from the 30 June 2020:

Account No.	Description	Current Budget	Amended Budget	Variance	Comment
E11246	EF Oval Masterplan	(\$200,000)	(\$270,143)	(\$70,143)	Increased budget to cover contract price
E12784	Riverside Road Landscaping	(\$100,000)	(\$160,000)	(\$60,000)	Increased budget to cover contract price
I11167	Trust Fund transfers to Muni	\$234,000	\$238,064	\$4,064	Full amount of funds released from WAPC
	Surplus 30 June 2020	\$160,328	\$286,407	\$126,079	Favourable surplus compared to budget
<b>Change in Net Current Assets</b>				<b>\$0</b>	

There are a number of projects on the capital works report that include open purchase orders which appear as committed expenditure against accounts with no budget. They include:

Account Number	Project	Order Value/Committed Exp.
E11687	Foreshore Erosion Control	\$81,239
E11633	Niegerup Track	\$16,453
E11713	Parks/Reserve Sign Replacement	\$3,487
E12784	Riverside Road	\$231,316

The brought forward estimate from 30 June 2020 was predicated on the full expenditure of all budgeted capital projects in 2019/20. The actual surplus as at 30 June 2020 is estimated to be circa \$202k compared to 2020/21 budgeted opening funds of \$160k. The additional surplus of \$42k is attributable to the under-expenditure against the carryover projects identified above.

As the additional surplus was allocated to fund the budget variations approved at the Special Meeting on 27 August, an alternative funding strategy is required to fund the carryover projects. A proposed schedule of budget variations is presented below to allocate budgets against the open purchase orders, as well as reallocate expenditure between identified capital works projects:

Account No.	Description	Current Budget	Amended Budget	Variance	Comment
E11687	Foreshore Erosion Control – John Tonkin Hedland Variation	(\$0)	(\$110,000)	(\$110,000)	Carryover from 19/20 plus additional scope to meet funding requirements with DBCA
E10644	Repointing Seawalls	(\$75,000)	(\$8,353)	\$66,647	Reduced scope to reallocate budget to E11687 above. Budget is to lift footpath panel and investigate extent of dilapidation to develop a firm project scope
E11633	Niergarup Track	(\$0)	(\$17,000)	(\$17,000)	20/21 Budget included an additional allocation of \$15k against E12255 for Tree Replacements. This was earmarked for Niergarup Track revegetation
E12255	Tree Replacements	(\$74,643)	(\$57,643)	\$17,000	20/21 Budget included an additional allocation of \$15k against E12255 for Tree Replacements. This was earmarked for Niergarup Track revegetation
E11713	Town Entry Statement	(\$0)	(\$3,500)	(\$3,500)	Carryover from 19/20
E12784	Riverside Road Resurfacing	(\$160,000)	(\$315,000)	(\$155,000)	The Town expensed \$1,604,949 in 19/20 against a contract sum of \$1,760,105 leaving a balance of \$155k ex GST. The remaining balance is to be expensed in the 20/21 financial year.
341	Transfer from Strategic Asset Management Reserve	\$100,000	\$340,853	\$240,853	Council resolution 180220 included a budget variation of \$180,853 as a Transfer from the Strategic Asset Management Reserve to



					fund additional budget for the Riverside Road Project. This reserve transfer was not processed as at 30 June and it is recommended that the transfer occur in 20/21 to largely match timing of expenditure. It also recommended that the additional budget of \$60k for the landscaping, approved at the Special Meeting of Council on 27 August, be funded from this Reserve.
E12629	Road Resurfacing – Penshurst Street	(\$60,000)	(\$0)	\$60,000	Project deferred. \$15k allocated to Fortescue Footpath
E12688	Footpath – Fortescue Street	(\$60,000)	(\$75,000)	(\$15,000)	\$15k allocated from Penshurst Street Project
Opening Surplus		\$286,407	\$202,407	(\$84,000)	Adjustment to brought forward surplus
Change in Net Current Assets				\$0	

**12.2.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 040920**

Moved Cr A McPhail, seconded Cr Natale

That Council:

1. receives the Monthly Financial Report (Containing the Statement of Financial Activity) for the month ended 31 August 2020, as presented as attachment 1 to this report.
2. notes the unrestricted municipal surplus of \$7,304,074 as at 31 August 2020.
3. receives the Capital Works Report dated 3 September 2020, as presented as attachment 2 to this report.
4. receives the Monthly Financial Health Check, as presented as attachment 3 to this report.
5. pursuant to section 6.8 of the *Local Government Act 1995*, approve the schedule of budget variations below resulting in a nil change in net current assets as at 30 June 2021.

Account No.	Description	Current Budget	Amended Budget	Variance	Comment
E11687	Foreshore Erosion Control – John Tonkin Hedland Variation	(\$0)	(\$110,000)	(\$110,000)	Carryover from 19/20 plus additional scope to meet funding requirements with DBCA
E10644	Repointing Seawalls	(\$75,000)	(\$8,353)	\$66,647	Reduced scope to reallocate budget to

						E11687 above. Budget is to lift footpath panel and investigate extent of dilapidation to develop a firm project scope
E11633	Niergarup Track	(\$0)	(\$17,000)	(\$17,000)		20/21 Budget included an additional allocation of \$15k against E12255 for Tree Replacements. This was earmarked for Niergarup Track revegetation
E12255	Tree Replacements	(\$74,643)	(\$57,643)	\$17,000		20/21 Budget included an additional allocation of \$15k against E12255 for Tree Replacements. This was earmarked for Niergarup Track revegetation
E11713	Town Entry Statement	(\$0)	(\$3,500)	(\$3,500)		Carryover from 19/20
E12784	Riverside Road Resurfacing	(\$160,000)	(\$315,000)	(\$155,000)		The Town expensed \$1,604,949 in 19/20 against a contract sum of \$1,760,105 leaving a balance of \$155k ex GST. The remaining balance is to be expensed in the 20/21 financial year.
341	Transfer from Strategic Asset Management Reserve	\$100,000	\$340,853	\$240,853		Council resolution 180220 included a budget variation of \$180,853 as a Transfer from the Strategic Asset Management Reserve to fund additional budget for the Riverside Road Project. This reserve transfer was not processed as at 30 June and it is recommended that the transfer occur in 20/21 to largely match timing of expenditure. It also recommended that the additional

						budget of \$60k for the landscaping, approved at the Special Meeting of Council on 27 August, be funded from this Reserve.
E12629	Road Resurfacing – Penshurst Street	(\$60,000)	(\$0)	\$60,000		Project deferred. \$15k allocated to Fortescue Footpath
E12688	Footpath – Fortescue Street	(\$60,000)	(\$75,000)	(\$15,000)		\$15k allocated from Penshurst Street Project
Opening Surplus		\$286,407	\$202,407	(\$84,000)		Adjustment to brought forward surplus
Change in Net Current Assets					\$0	

(CARRIED ABSOLUTE MAJORITY/UNANIMOUSLY)

### 12.2.2 Accounts for Payment – August 2020

<b>File ref</b>	F/FNS2
<b>Prepared by</b>	John Mondini, Manager, Finance & Administration
<b>Supervised by</b>	Peter Kocian, Executive Manager, Corporate Services
<b>Meeting Date</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Monthly List of Payments – August 2020

#### **Purpose**

That Council, in accordance with regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, RECEIVES the list of payments made under delegated authority for the month ended 30 August 2020 and recorded in the minutes of the Council.

#### **Executive Summary**

Council has an Executive role in receiving the list of payments pursuant to Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*. It is therefore recommended that Council receives the Lists of Accounts paid for the period 1 August to 31 August 2020, as per the summary table.

#### **Background**

The Chief Executive Officer has delegated authority to make payments from the Municipal and Trust Accounts in accordance with budget allocations.

The Town provides payments to suppliers by electronic funds transfer, cheque or credit card. Attached is an itemised list of all payments made under delegated authority during the said period.

The bulk of payments are processed by electronic funds transfer (EFT) with the exception of Water Corporation accounts which are paid by cheque and the occasional reimbursements and refunds.

#### **Consultation**

Nil.

#### **Statutory Environment**

Regulation 13: *Local Government (Financial Management) Regulations 1996 (as amended)* requires Local Governments to prepare a list of payments made under delegated authority to be prepared and presented to Council on a monthly basis.

#### **Policy Implications**

Policy 2.1.3 Purchasing. All supplier payments are approved under delegated authority pursuant to the authorisation limits outlined in Council's purchasing policy.

#### **Financial Implications**

Accounts for Payment are sourced from budget allocations.

All amounts quoted in this report are inclusive of GST.

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not accept the list of payments	Rare (1)	Moderate (3)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	3
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

### Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

#### **STRATEGIC PRIORITY 5: Leadership and Governance**

*A proactive, approachable Council which values community consultation, transparency and accountability*

*5.1 Strengthen organisational accountability and transparency*

*5.3 Strive for excellence in leadership and governance*

### Site Inspection

Not applicable.



**Comment**

Payments for the month of August 2020 include the following significant items:

Payee	Particulars	Amount
Civcon Civil & Project Management	Tender RFT04-2019/20 Riverside Road Reconstruction (Claim 3)	735,529.11
Aust Taxation Office	BAS Payable July 20	40,985.00
Suez	Waste Collection July 2020	39,663.40
SMRC	FOGO, MRF Gate Fees/General Waste Charges (July 2020)	65,121.79
Civcon Civil	Tender RFT04-2019/20 Riverside Road Reconstruction (Claim 4)	91,819.08
Dept Fire & Emergency Services	2020/21 ESL 1 <sup>st</sup> Quarter Contribution	408,327.70

**12.2.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 050929**

Moved Cr Natale, seconded Cr A McPhail

That Council, in accordance with regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, RECEIVES the list of payments made under delegated authority for the month ended 31 August 2020 and recorded in the Minutes of the Council.

AUGUST 2020		
Voucher No	Account	Amount
5302-5303	Municipal (Cheques)	\$1,213.89
EFT30001 – EFT30146	Municipal (EFT)	\$1,698,991.73
Payroll	Municipal (EFT)	\$262,878.13
Direct Debits	Municipal (Direct Debit)	\$52,074.93
	<b>Total Payments</b>	<b>\$ 2,015,158.68</b>

(CARRIED UNANIMOUSLY)



### 12.2.3 Adoption of Policies

<b>File ref</b>	A/POL1
<b>Prepared by</b>	Peter Kocian, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting Date</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Purchasing Policy 2. Volunteer Management Policy 3. Contract Variations Policy

#### **Purpose**

Council is requested to consider the adoption of the Policies as presented.

#### **Executive Summary**

A number of Policy amendments and draft Policies were discussed with Council at the Concept Forum on 8 September 2020. These are now being presented to Council for adoption.

#### **Background**

Not applicable.

#### **Consultation**

Council Concept Forum 8 September 2020

#### **Statutory Environment**

Section 2.7 (b) of the *Local Government Act 1995* identifies that one of the principal roles of Council is to determine the Policies of the local government.

#### **Policy Implications**

Council is requested to adopt the Policies as attached to this report.

#### **Financial Implications**

There are no financial implications relative to this item.

#### **Strategic Implications**

The Town of East Fremantle Strategic Community Plan 2017-2027 states as follows:

##### ***Strategic Priority 5: Leadership and Governance***

*A proactive, approachable Council which values community consultation, transparency and accountability.*

##### ***5.1 Strengthen organizational accountability and transparency***

*5.1.1. Strengthen governance, risk management and compliance*

*5.1.3 Improve the efficiency and effectiveness of services*

#### **Site Inspection**

Not undertaken to date.

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
The absence of Policies impacts governance and the efficiency of decision making/delegated authority	Possible (3)	Moderate (3)	Moderate (5-9)	SERVICE INTERRUPTION Medium term temporary interruption - backlog cleared by additional resources < 1 week	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	9
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

### Comment

- Purchasing Policy** – this Policy has been amended to incorporate the following amendments on the basis of good practice and following advice/discussions with the Office of Auditor General:
  - Introduction of a minimum threshold of \$50k for the requirement for a written contract
  - Guidelines for where a waiver of quotation may be approved
  - Purchasing from legal service providers
  - Buying local
  - Standing Offer Agreements

2. **Volunteer Management Policy** –this draft Policy provides guidance on the management of volunteers including the following:
- Recruitment of volunteers addressing selection and screening processes
  - The Towns’ responsibilities to Volunteers such as insurance and OHS requirements
  - The Volunteers’ responsibilities to the Town of East Fremantle
  - Managing Volunteer Code of Conduct breaches
3. **Contract Variations Policy** – this draft Policy determines the circumstances in which a contract for the procurement of goods and services may be varied. The Chief Executive Officer has an existing delegation (DA7) to approve contract variations and the Policy provides guidelines under which the delegation is exercised.

**12.2.3 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 060920**

**Moved Cr Natale, seconded Cr Collinson**

**That Council resolve to adopt the following Policies as presented, and request the Chief Executive Officer to update the Policy Register accordingly:**

- **Purchasing Policy**
- **Volunteer Management Policy**
- **Contract Variations Policy.**

**(CARRIED UNANIMOUSLY)**

#### 12.2.4 Proposal to Sell Land to Recover Outstanding Rates

<b>Applicant</b>	Not Applicable
<b>File ref</b>	F/FNS2
<b>Prepared by</b>	Peter Kocian, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Sale of Land Checklist

#### Purpose

Council approval is sought to sell land to recover all outstanding rates and charges in accordance with section 6.64(1)(b) of the *Local Government Act 1995*.

#### Executive Summary

If rates and service charges which are due to Council in respect of any rateable land have been unpaid for at least three (3) years, Council may take possession of the land under the provisions of section 6.64 of the *Local Government Act 1995*.

It is recommended that Council proceeds to sell six (6) properties in rates arrears of 3 or more years and recover from the proceeds of sale the outstanding balances which total \$100,058.31 excluding penalty interest which has not been raised since May 2020.

#### Background

Pursuant to section 6.68 (1) of the *Local Government Act 1995*, a local government is not to exercise its power of sale in relation to any land unless, within the period of 3 years prior to the exercise of the power of sale, the local government has at least once attempted under section 6.56 to recovery money due to it. That is, local governments must attempt to recover rates in a court of competent jurisdiction. This court action will generally involve a General Procedure Claim in the Magistrates Court, and should the debtor not respond to payment within the timeframes established by the Court, default judgement requested and granted.

The following properties now meet all criteria for Council to consider exercising its power of sale:

Assess No.	Total Rates and Charges in Arrears	No. Years in Arrears	Total Legal Expenses that have been Applied to the Account	Court Action Undertaken	Comment
A13490	\$20,523.25	5+ years	\$2,676.65	Summary Judgement Granted	The Towns' legal agent has written to the Mortgagee notifying each of the judgement granted and to seek a response as to whether each mortgagee wishes to make payment and exercise its own right to take possession of the subject land
A13510	\$12,504.44	3+ years	\$2,676.65	Summary Judgement Granted	See above

A13440	\$14,863.24	4+ years	\$2,676.65	Summary Judgement Granted	See above
A23810	\$15,346.08	4+ years	\$1,857.04	First Judgement Claim filed in 2015. Second Judgement Claim filed in 2017/18 and not responded.	Bankrupt Estate – Trustee Appointed
A31480	\$9,620.41	4+ years	\$1,998.55	General Procedure Claim Served. Default Judgement Requested.	4 payments totalling \$2,200 received since 2016
A51625	\$27,200.89	3+ years	\$6,159.60	General Procedure Claim Served	Letter issued to tenant, who vacated property in March 2020. Letter issued to mortgagee with respect to enquiry of repossession for the purpose of a mortgagee sale. Owners have absconded overseas. Town has satisfied requirements with respect to identifying the owner's whereabouts.
	\$100,058.31		\$18,045.14		

### Consultation

McLeod's Barristers and Solicitors  
Rates Officer  
Executive Group

### Statutory Environment

Section 6.64 of the *Local Government Act 1995* states:

- (1) *If any rates or service charges which are due to a local government in respect of any rateable land have been unpaid for at least 3 years the local government may, in accordance with the appropriate provisions of this Subdivision take possession of the land and hold the land as against a person having an estate or interest in the land and –*
  - (a) *From time to time lease the land;*
  - (b) *Sell the land;*
  - (c) *Cause the land to be transferred to the Crown; or*
  - (d) *Cause the land to be transferred to itself.*
- (2) *On taking possession of any land under this section, the local government is to give to the owner of the land such notification as is prescribed and then to affix on a conspicuous part of the land a notice, in the form or substantially in the form prescribed.*
- (3) *Where payment of rates or service charges imposed in respect of any land is in arrears the local government has an interest in the land in respect of which it may lodge a caveat to preclude dealings in respect of the land, and may withdraw caveats so lodged by it.*

### **Policy Implications**

Council's Debt Collection Policy includes the following options to recover rates debt where rates are in arrears for in excess of three (3) years.

- (1) Lodging a Caveat on the Title for Land – the approval of Council is required before this course of action is undertaken.
- (2) Sale of Property – the approval of Council is required to be obtained before this course of action is undertaken.

The Department of Local Government has published Operational Guideline 22 – Possession of Land for Recovery of Rates and Service Charges. This Guideline is appended to this report.

### **Financial Implications**

Total Rates Receivable as at 30 June 2020 amounted to \$320,318. The arrears in the above schedule represent a significant portion of this total, and the sale of land will equate to a decrease in the level of outstanding rates of \$100,058.31.

If section 6.64 of the *Local Government Act 1995* is not utilised to recover the rates outstanding on the above properties, there is little likelihood that these amounts, and rates levied on the properties in future years, will be paid in full. Should Council decide not to sell the subject land, this weakens the Town's Debt Recovery Policy, and inadvertently may lead to an increase in the number of ratepayers who refuse to pay their rates.

### **Strategic Implications**

Town of East Fremantle Strategic Community Plan 2017-2027

*4.9 A financially sustainable Town – Provide financial management services to enable the Town to sustainably provide services to the community.*

Corporate Services – to achieve maximum community benefit from the effective use of resources (staff, finances and information technology).

**Risk Implications**

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Inadequate debt recovery processes will result in excessive bad debts	Possible (3_)	Major (4)	High (10-16)	FINANCIAL IMPACT \$250,001 - \$1,000,000	Accept Officer Recommendation
Inefficient use of staff time and financial resources to pursue bad debts	Possible (3_)	Major (4)	High (10-16)	FINANCIAL IMPACT \$250,001 - \$1,000,000	Accept Officer Recommendation
Adverse publicity resulting from Council exercising the power of sale	Possible (3_)	Major (4)	High (10-16)	REPUTATIONAL Substantiated, public embarrassment, moderate impact, moderate news profile	Manage by preparing key messages for any enquiries

**Risk Matrix**

Consequence \ Likelihood		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	12
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

**Site Inspection**

Not applicable.

### Comment

There are six (6) properties that have rates outstanding by three or more years for which it has not been possible to enter into acceptable and successful arrangements for the payment of the balance owing. In each instance, a written notification has been directed to the last known postal address of the ratepayers and the property advising that it will be our intention to refer the matter to Council with a recommendation to sell the property in order to recover the outstanding balance.

The Town has undertaken the following actions to recover rates on the outstanding accounts:

- Issuance of final notices
- Issuance of letters of demand
- Repeated Town correspondence including letters, emails and phone calls
- General Procedure Claim via the Magistrates Court
- Summary Judgement
- Letters of demand issued to Mortgagees
- Notice issued to Tenants for the payment of rates

Significant legal costs and staff time has been consumed in recovery efforts. This matter is now at the stage where all options have been exhausted other than avenues that are available under the *Local Government Act 1995*. These avenues are:

1. Exercise the provisions of section 6.64 of the *Local Government Act 1995* to sell the land.
2. Exercise the provisions of Section 6.74 of the *Local Government Act 1995* and apply to the Minister of Local Government and Communities to have the land re-vested in the Crown in the right of the State; and
3. Exercise the provisions of Section 6.75 of the *Local Government Act 1995* and make an application for the land to be vested in the Town.

Given the high level of the debt, and the amount of time that has been afforded to enable the ratepayers to either clear or reduce the debt, it is appropriate to apply the relevant section of the *Local Government Act 1995* empowering the sale of land provisions in relation to unpaid rates as per the following steps:

Action	Relevant Legislation
Issue Notice Requiring Payment (Form 4) to be served as per the owner's address on the Certificate of Title. Owner is given three months in which to pay and avoid their land being sold.	Section 6.68(3) and Schedule 6.3.1(1)(a) LGA; regulation 74 Form 7 FMR
Serve a copy of the Notice Requiring Payment (Form 4) on anyone with an estate or interest of the property (to address shown on the title).	Schedule 6.3.1(1)(b) LGA
A copy of the Notice Requiring Payment (Form 4) to be displayed on the Shire's noticeboard for a minimum of 35 days.	Schedule 6.3.1(1)(c) LGA
Serve a copy of Form 2 on the owner	Section 6.64(2) LGA; regulation 72 FMR
Attach a copy of Form 3 to a conspicuous part of the land on order in order to take possession of the land.	Section 6.64(2) LGA; regulation 73 FMR



Town to appoint a time of no less than three months and no more than 12 months after the service of Notice Requiring payment (Form 4) for the public auction. A sale has to occur within 12 months of the date that the land is offered for sale otherwise proceedings lapse.	Schedule 6.3 clause 7 LGA
Issue a State-wide public notice.	Schedule 6.3 clause 2 LGA; regulation 75 Form 5 FMR
Register a Memorial of State-wide public notice at Landgate.	Schedule 6.3 clause 2 (3) LGA
Organise the auction	Schedule 6.3 clause 3 LGA
Attend the auction	Schedule 6.3 clause 3 LGA
Arrange settlement if property is sold	Schedule 6.3 clauses 4 and 5 LGA

A local government is required to apply the proceeds from the sale of land in the manner set out in Schedule 6.3, clause 5 of the *Local Government Act 1995*. This list the priority of payment allocation from the sale proceeds summarised as follows:

Priority	Payment Allocation
1 <sup>st</sup>	The cost, charges and expenses incurred by the local government in the land sale process.
2 <sup>nd</sup>	(i) Unpaid rates and service charges for the land; (ii) Costs and other money due or imposed by the Crown or an instrumentality of the Crown (e.g. State agency or department); and (iii) Other amounts due to the local government under the <i>Local Government Act 1995</i> or other written law.  Where insufficient funds remain after the first step has taken place, the local government is to distribute the balance of the money remaining, between the Crown, the department, the agency, the instrumentality, and the local government, pro rata with the amounts of their claims, respectively.
3 <sup>rd</sup>	Vendor's costs and expenses relating to the conferring of title upon the purchaser of the land.
4 <sup>th</sup>	The discharge of a charge on the land relating to drainage and sewerage connection and fittings.
5 <sup>th</sup>	The discharge of other mortgages and encumbrances on the land both register and unregistered.
6 <sup>th</sup>	Within 12 months, payment of any sale proceeds that remain to the person or persons with an entitlement to the land but for the sale.

Should Council not resolve these matters, and through the lapsing of time if further action is not taken, the Magistrate Court may place the matters on the Inactive Case List and dismissed without further notice. Once a matter is dismissed it cannot be reinstated as an active matter in the Court and the Towns right to pursue the matter will be forfeited. To pursue rate recovery, the Town will



then be required to seek further legal representation and follow the debt recovery procedures from the beginning.

*The EMCS advised that rates on properties Assessment 13440 and 13490 had been paid in full today and therefore had been removed from the officer's recommendation below.*

#### 12.2.4 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 070920

Moved Cr Nardi, seconded Cr A McPhail

That Council:

1. Pursuant to section 6.64 (1) (b) of the *Local Government Act 1995*, proceeds to sell the properties listed hereunder which have rates in arrears for 3 or more years, and recover from the proceeds of sale the outstanding balances which total \$64,671.82 plus penalty interest that has accrued since May 2020.

List of Properties by Assessment Number:

Assessment	Amount
13510	12,504.44
23810	15,346.08
31480	9,620.41
51625	27,200.89
Total	\$64,671.82

2. Pursuant to section 6.68 (3) (a) of the *Local Government Act 1995*, note that the Town has applied an exemption provided under section 6.68 (2) (b) of the *Local Government Act 1995* in that it has made reasonable efforts to locate the owner (s) of the property relating to Assessment Number 51625 but has been unable to do so. The efforts undertaken to locate the owner include:

*The Town has attempted the recovery of rates under section 6.56 of the Local Government Act. Court Proceedings commenced in 2017 and efforts to serve the claim were unsuccessful as the owners were believed to be overseas at the time. Judgement was awarded to the Town in 2018, and the owners did not respond to the Court instructions. The Towns rates officer has continued to make reasonable efforts to physically locate the owners and all attempts have been unsuccessful.*

*The following efforts have been made by the Town to locate the property owners:*

- a) *Obtaining property title records from Landgate for registered addresses*
- b) *Conducting an ABN search*
- c) *Conducting an electoral roll search*
- d) *Phone calls made to mobile numbers and letters issued by post and to email addresses*
- e) *Searches completed by the bailiff as an attempt to serve Court proceedings*
- f) *Conducting searches to services providers and other authorities*
- g) *Letter issued to the mortgagee*
- h) *Letter Issued to the tenant*
- i) *Skip traces have been completed*

(CARRIED UNANIMOUSLY)

### 12.2.5 Revised Rent Methodology – Swan Yacht Club

<b>File ref</b>	R/RSB8
<b>Prepared by</b>	Bron Browning, Executive Assistant to Executive Manager, Corporate Services
<b>Supervised by</b>	Peter Kocian, Executive Manager, Corporate Services
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements:</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose and Executive Summary**

This report is seeking endorsement to an alternate rent review proposal for the Swan Yacht Club.

#### **Background**

The Swan Yacht Club current lease requires a market valuation be conducted every 7 years (item 5), with a review currently due. The lease commenced on 1st September 2012, for a period of 21 years (expiry date 31 August 2033).

#### **Item 5: Review Date for Rent**

- (a) CPI – Each anniversary of the Commencement Date during the Term with the Exception of the Market Review Dates specified in Item 5(b).
- (b) [Market – Every 7 years during the Term]

#### **Consultation**

Concept Forum 10 March 2020.

#### **Statutory Environment**

*Local Government Act 1995*

#### **Policy Implications**

There are no Council Policies relevant to this item.

#### **Financial Implications**

The estimated cost of the revaluation from a licenced valuer is \$10,000. The fees and expenses in respect of any valuation is to be paid equally by the Lessor and Lessee. The acceptance of a revised rent methodology will result in savings.

Current rent paid is **\$44,574 (GST exclusive)**

Current annual Rates **\$88,168**

Total payment to TOEF **\$132,742**

#### **Strategic Implications**

##### ***Strategic Priority 5: Leadership and Governance***

5.1 Strengthen organisational accountability and transparency

5.3 Strive for excellence in leadership and governance

#### **Site Inspection**

N/A

### Risk Implications

There are no significant risks associated with this item.

### Comment

In light of the current economic climate and substantial renovations recently completed (over \$5 million), the Swan Yacht Club has requested that an alternative rent increase be considered. The following request has been received:

*The current lease was agreed in 2012, with the initial rent set at \$40,000 ex GST, which was prior to the SYC renovations being done and hence didn't contemplate the current situation.*

*Since the renovations, the club has grown its membership, level of activities and financial performance and hence we've got capacity to pay a reasonable rent increase.*

*Our suggestion for a rent increase mechanism is that it could be based on a revenue growth basis ie we compare the revenues the club was generating at the beginning of the lease term, to what we're doing now, calculate the % increase and apply that as a pro rata increase to the rent.*

The Club has indicated that there has been a 39% increase in revenue since 2012, being the commencement date of the lease. They have therefore requested that the lease fee, effective from the 1 September 2019, be calculated on the basis of a 39% increase on the lease fee from 2012. Calculations are provided as follows:

Lease Fee 2012	Lease Fee 2019	Proposed Lease Fee (in Lieu of Market Valuation – 39% increase on 2012)	Increase in Lease Fee from 2019
\$40,000 Ex GST	\$48,000 Ex GST	\$55,584 Ex GST	15.8%

The proposed rent calculation methodology results in a 16% increase in the lease fee from 2019. This is a favourable outcome for the Town in terms of an increase in income, and an acceptable outcome for the Swan Yacht Club due to associated savings with not obtaining a market valuation.

#### 12.2.5 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 080920

Moved Cr Harrington, seconded Cr Watkins

That Council, with respect to the lease agreement with the Swan Yacht Club:

1. endorse the revised methodology for rent assessment, resulting in a lease fee of \$55,584 plus GST, to be effective from the lease anniversary date.
2. approve a "Deed of Variation" to the lease to encapsulate the above change and authorise the Mayor and Chief Executive Officer to affix the Common Seal to the Deed of Variation.

(CARRIED UNANIMOUSLY)

## 12.3 GOVERNANCE

### 12.3.1 Proposal to Dispose of Property (by way of Lease) – Sumpton Green

<b>File ref</b>	R/RSH3
<b>Prepared by</b>	Peter Kocian, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting Date</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Floor Plan – Sumpton Green

#### **Purpose**

The State Government has requested a formal tenure agreement for the East Fremantle Child Health Clinic located at Sumpton Green, 44 Moss Street, East Fremantle.

#### **Executive Summary**

The Child and Adolescent Health Service (CAHS) has advised that as part of appropriate governance, CAHS is required to have in place documentation for its tenure/occupancy within various Local Government Authorities throughout the metropolitan area.

CAHS have a requested a lease over the floor area of Sumpton Green depicted in the attached diagram.

#### **Background**

The East Fremantle Child Health Clinic has been operating out of the building known as Sumpton Green for many years. The facility has historically been provided rent free with CAHS responsible for the payment of utilities. The Town maintains appropriate building insurance cover.

Under regulation 30 of the *Local Government (Functions and General) Regulations 1996*, a disposition of land (including a lease) is exempt from section 3.58 of the Act if the land is disposed to a department or agency or instrumentality of the Crown.

#### **Consultation**

Sally Lee – Manager Property and Land – Child and Adolescent Health Service

East Fremantle Playgroup – the playgroup advise that they use Sumpton Green for generally two sessions a day between 9.00am-11.00am and 3.00pm-5pm. They use of all the outside play area, the designated space for the indoor playgroup, kitchen, toilets, and locked indoor storage room. As such, it is recommended that the playgroup also be granted shared access of the waiting room/multi-purpose room and this be communicated to CAHS.

#### **Statutory Environment**

Section 3.58 of the *Local Government Act 1995* outlines the requirements with regards to the disposal of property.

#### **3.58. Disposing of property**

(1) *In this section –*

*dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;*

***property** includes the whole or any part of the interest of a local government in property, but does not include money.*

- (2) *Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
  - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
    - (i) *describing the property concerned; and*
    - (ii) *giving details of the proposed disposition; and*
    - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
- and*
- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
  - (b) *the consideration to be received by the local government for the disposition; and*
  - (c) *the market value of the disposition —*
    - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
    - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
  - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
  - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
  - (d) *any other disposition that is excluded by regulations from the application of this section.*

Ministerial approval will be required to a lease of land comprised in a managed reserve in accordance with section 18 of the *Land Administration Act 1997*.

### Policy Implications

There are no Council Policies relevant to this matter.

### Financial Implications

CAHS has requested that the Town provide a peppercorn rent and pay for the building insurance as this is a historic child health arrangement on the understanding that the Town provides a building and the Health Service provides the child health service to the constituents of the Town of East Fremantle free of charge.

### Strategic Implications

Town of East Fremantle Strategic Community Plan 2017-2027:

1.1 Facilitate appropriate local services for the health and wellbeing of the community.

### Site Inspection

Not undertaken to date.

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That child health services be discontinued in East Fremantle	Possible (3)	Moderate (3)	Moderate (5-9)	SERVICE INTERRUPTION Prolonged interruption of services - additional resources; performance affected < 1 month	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

<b>Risk Rating</b>	9
<b>Does this item need to be added to the Town's Risk Register</b>	No
<b>Is a Risk Treatment Plan Required</b>	No

#### **Comment**

CAHS have provided the Town with the Standard Government Form of Lease prepared by the State Solicitor's Office. CAHS advise that the document is a starting point for most other CAHS occupations.

CAHS also advise that because of the nature of CAHS business with clientele being babies and children, exclusive use of designated areas is required.

The following are proposed terms for the lease schedule:

- Peppercorn rental \$1 payable on demand
- 5 year term with 5 year option
- CAHS to cover the following costs; refuse collection, emergency services levy, water rates, utility charges, non-structural maintenance, cleaning, public liability and contents insurance
- The Town to cover the following costs; building insurance and structural maintenance
- Insertion of a redevelopment clause which will allow the Town to terminate the lease in the event that East Fremantle Oval is redeveloped
- CAHS require exclusive use of the Work Room, Clinic Room and Waiting Room/Multi-purpose room. It is however recommended that the East Fremantle Playgroup be granted shared access to the Waiting Room/Multi-Purpose Room
- CAHS require shared use of the Male, Disabled and Female toilets
- Each party to pay their own legal costs associated with the lease agreement

CAHS understand the position regarding a redevelopment clause and is considering the ongoing need for all of its facilities, particularly those owned by LGA's. CAHS advises that it is moving to a Hub and Spoke health service provision, which may result in the East Fremantle clinic being relinquished, however, this is not the intention at the current time.



**12.3.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 090920**

**Moved Cr Harrington, seconded Cr Donovan**

**That Council:**

- 1. delegate authority to the Chief Executive Officer to dispose of part of the property known as Sumpton Green, 44 Moss Street, East Fremantle (Lot 6229 on Diagram 1243 and being part of the land in Certificate of Title Volume LR 3017 Folio 75) by way of lease, to the Child and Adolescent Health Service (CAHS) on the terms and conditions detailed below:**
  - Peppercorn rental \$1 payable on demand
  - 5-year term with 5-year option
  - CAHS to cover the following costs; refuse collection, emergency services levy, water rates, utility charges, non-structural maintenance, cleaning, public liability and contents insurance
  - The Town to cover the following costs; building insurance and structural maintenance
  - Insertion of a redevelopment clause which will allow the Town to terminate the lease in the event that East Fremantle Oval is redeveloped
  - CAHS require exclusive use of the Work Room, Clinic Room and Waiting Room/Multi-purpose room. It is however recommended that the East Fremantle Playgroup be granted shared access to the Waiting Room/Multi-Purpose Room
  - CAHS require shared use of the Male, Disabled and Female toilets
  - Each party to pay their own legal costs associated with the lease agreement
- 2. authorise the Mayor and Chief Executive Officer to affix the Common Seal to the lease agreement once Ministerial approval has been granted for the lease as required in accordance with section 18 of the *Land Administration Act 1997*.**

(CARRIED UNANIMOUSLY)

### 12.3.2 Reconciliation Action Plan Working Group Expressions of Interest Review

<b>File ref</b>	A/RAP1
<b>Prepared by</b>	Linda McNab, HR Coordinator
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Summary of applicants for Reconciliation Action Plan Working Group

#### **Purpose**

The purpose of this report is for Council to consider the Expressions of Interest submitted for the Reconciliation Action Plan Working Group and to endorse the membership for the RAP.

#### **Executive Summary**

The Town of East Fremantle has allocated funds (\$25,000) in the current budget (2020/2021) to facilitate the initial development of a Reconciliation Action Plan (RAP).

The RAP Working Group is an informal working group appointed by the Council and is responsible to that body. The Working Group does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated financial responsibility. The Working Group does not have any management functions and cannot involve itself in management processes or procedures.

#### **Background**

In May 2018 a discussion paper was presented to Council recommending the establishment of a Reconciliation Action Plan Working Group (RAPWG) to assist with the development of the RAP, and to assist the Town in its journey towards Reconciliation.

At a Council Meeting on 15 May 2020, a resolution was passed to work in conjunction with Reconciliation Australia (RA) towards establishing the Town's first "*Reflection Reconciliation Action Plan*"; and to establish a Reconciliation Action Plan Working Group (RAPWG) comprising of the following membership:

- i) Four elected members (Mayor or Deputy Mayor and three other elected members) being Cr M McPhail, Cr Collinson, Cr Harrington and Cr Natale.
- ii) CEO and/or Representative
- iii) Four community members (including an aboriginal member)

#### **Consultation**

In June 2020, following the delivery of Cultural Awareness training for elected members and all staff at the Town, quotes were sought to engage consultants to establish the RAPWG, facilitate and coordinate all meetings to determine content of Reflect RAP, draft Reflect RAP, facilitate the review of the draft RAP by the RAPWG and submit the draft RAP to Reconciliation Australia for review and endorsement. Tim Muirhead and Danny Ford of Kambarang Services were appointed as the consultants.

In July 2020, advertisements were placed on the Town's website, Facebook page, LinkedIn, Fremantle Instagram and the Fremantle Herald, the monthly E-News seeking expressions of interest from community members to be members of the RAPWG. The EOI's were open for 3

weeks, closing on 20 August 2020. Four written applications were received, and a further three names were put forward by Danny Ford of Kambarage Services.

**Statutory Environment**

Nil.

**Policy Implications**

Nil.

**Financial Implications**

A meeting fee will be paid for cultural advisors (Elder) only. It is anticipated there will be three meetings in total. Up to a maximum cost of \$2,250.

**Strategic Implications**

Town of East Fremantle Strategic Community Plan 2017-2027:

**Strategic Priority 1: Social – “A Socially connected and Safe Community”**

**1.3.3** *“Enrich identify, culture and heritage through programs, events and celebrations.”*

**Site Inspection**

Not applicable.

**Comment**

In 2018 EOI’s were sought with only one application submitted. The Terms of Reference developed in May 2018 states community members (including an aboriginal member), however the consultants feel that a broader group will assist in developing a robust RAP, which may move during the process from REFLECT to INNOVATE.

If all nominees are approved the community members will consist of two East Fremantle residents (non-Aboriginal), one East Fremantle resident (Aboriginal), one non-East Fremantle resident (prior resident with very relevant experience), and 3 elders (non-East Fremantle).

Note: Elders will be paid a sitting fee for each attendance.

**12.3.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 100920**

**Moved Cr Collinson, seconded Cr Natale**

**That Council:**

- 1. accept and appoint the following seven applicants as members of the Reconciliation Action Plan Working Group:**
  - James Back
  - Geoff Addison
  - Margaret King
  - Mike Pforr
  - Farley Garlett
  - Gladys Yarran
  - Malcolm Champion
- 2. instruct the CEO to advise the seven applicants of their appointment to the Reconciliation Action Plan Working Group.**

**(CARRIED UNANIMOUSLY)**

### 12.3.3 Fraud & Corruption Policy and Control Plan

<b>File ref</b>	C/POL1
<b>Prepared by</b>	Janine May, EA to CEO
<b>Supervised by</b>	Gary Tuffin, CEO
<b>Meeting Date</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Draft Fraud & Corruption Policy 2. Draft Fraud & Corruption Control Plan 3. Draft Whistleblower (Public Interest Disclosure) Policy

#### **Purpose**

For elected members to consider the adoption of the following documents:

1. Fraud & Corruption Policy
2. Fraud & Corruption Control Plan
3. Whistleblower (Public Interest Disclosure) Policy

#### **Executive Summary**

The adoption of the submitted documents will demonstrate the Town is committed to ensuring it promotes a high standard of integrity and accountability.

#### **Background**

In 2019 the Office of the Auditor General conducted a review of local governments entities on appropriate steps to prevent fraud, through the following lines of inquiry:

- Have entities implemented a coordinated approach to manage fraud risks?
- Do entities have adequate controls for preventing and detecting fraud?
- Do entities respond appropriately to suspected fraud?

The purpose of the audit was to review systems in place not to seek to identify instances of fraud. The audit included a sector wide questionnaire on entity approaches to managing fraud risks. A more detailed review was conducted of the following five entities that had not been part of recent audits and were of varying size, from both metropolitan and regional areas:

- Shire of East Pilbara
- Shire of Katanning
- City of Nedlands
- Shire of Serpentine-Jarrahdale
- City of Vincent

The review concluded that local government entities could do more to prevent fraud. The questionnaire revealed that many entities had not assessed their fraud risks or created a plan to deal with fraud. The responses highlighted gaps in prevention and detection approaches. Many entities could do more to raise staff awareness of fraud, improve their screening processes, and strengthen protections for informants.

The detailed review of the five local governments confirmed these results. They had core integrity policies in place but none had assessed all their fraud risks, and implemented a coordinated approach to manage them.

### Consultation

Presented to elected members at September Concept Forum

### Statutory Environment

Local Government Act 1995

Corruption, Crime and Misconduct Act 2003

Public Interest Disclosure Act 2003

Local Government (Rules of Conduct) Regulations 2007 Australian National Audit Office

### Policy Implications

The attached Fraud & Corruption and Whistleblowers (Public Interest Disclosure) Policies are recommended for adoption.

### Financial Implications

N/A

### Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

**Strategic Priority 5: Leadership and Governance – A Proactive, approachable Council which values community consultation, transparency and accountability**

5.1 Strengthen organisational accountability and transparency

5.1.1 Strengthen governance, risk management and compliance

### Site Inspection

Not applicable.

### Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not have a framework in place creating greater potential for fraud and corruption	Possible (3)	Major (4)	High (10-16)	REPUTATIONAL Substantiated, public embarrassment, high impact, high news profile, third party actions	Accept Officer Recommendation

### Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

<b>Risk Rating</b>	12
<b>Does this item need to be added to the Town's Risk Register</b>	No
<b>Is a Risk Treatment Plan Required</b>	No

### **Comment**

#### Policy

The objective of the Policy is to articulate the Town's commitment to the prevention, detection, response and monitoring of fraud and corrupt activities.

#### Plan

The objectives of the Control Plan are to:

- reduce the potential for fraud and corruption within and against the Town;
- build a culture which seeks to prevent fraud and corruption;
- apply resources to the prevention of fraud and corruption;
- explain how suspected fraud and corruption is dealt with through risk management practices; and
- provide guidance on how any suspected instances of fraud or corruption are dealt with.

The Plan is comprised of four stages: planning and resourcing, prevention, detection and response; and details the Town's intended action in implementing and monitoring the fraud and corruption control initiatives.

The strategies related to these four stages include but are not limited to:

- Training and awareness;
- Pre-employment screening;
- Risk assessment;
- Internal and external audit;
- Whistleblowing; and
- Investigation procedures.

It is considered the Fraud and Corruption Policy and Fraud and Corruption Control Plan are key components of good governance and will establish the structure to address fraud and corruption risks and to detect and respond to fraud and corruption in accordance with best practice guidance as set out in the *Fraud and Corruption Control Standards (AS 8001-2008)*.

**12.3.3 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 110920**

Moved Cr Nardi, seconded Cr Natale

That Council resolve to adopt the following Policies and Plan:

- Fraud & Corruption Policy
- Fraud & Corruption Framework
- Whistleblower (Public Interest Disclosure) Policy.

(CARRIED UNANIMOUSLY)

#### 12.3.4 Memorials in Public Places Policy

<b>File ref</b>	R/RSV4
<b>Prepared by</b>	Andrew Malone Executive Manager Regulatory Services
<b>Supervised by</b>	Gary Tuffin Chief Executive Officer
<b>Meeting Date:</b>	15 September 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Memorials in Public Places Policy

#### Purpose

The purpose of this report is to present Council with the proposed Memorials in Public Places Policy for Council's consideration, endorsement to advertise and adoption.

#### Executive Summary

Town staff have developed the Memorials in Public Places Policy because of the number of requests received for memorials and to ensure Council has an appropriate policy to govern the assessment of such requests.

The Memorial in Public Places Policy will assist in guiding the assessment, approval and operational requirements of memorials throughout the Town.

#### Background

Following on from the October 2019 Council Forum, officers drafted a policy regarding the erection and installation of memorial plaques within the Town. Council at the February OCM resolved:

*That Council:*

- (1) accept this report as the basis for justification of the introduction of the Memorials in Public Places Policy;*
- (2) advertise this proposed Memorials in Public Places Policy in accordance with the Town's advertising and consultation policies;*
- (3) present the proposed Memorials in Public Places Policy (with any required amendments) at a future Council meeting for final endorsement.*

*Footnote:*

- (i) the Memorials in Public Places Policy to be extensively advertised throughout the Town of East Fremantle*
- (ii) a sign to be placed at the Merv Cowan Park, advertising the Memorials in Public Places Policy  
advertising to include diagram/dimensions of the proposed memorial & its location*

The draft policy has not been advertised because of the detailed planning, operational requirements and criteria required for the use of Merv Cowan Park as a memorial space. It was considered Merv Cowan Park was not an appropriate area for the concentration of memorials. The Town requires a policy to provide best practice in local governance and to give the Town the authority to assess and manage these installations so that they are done tastefully, with restraint, for the benefit of the local community and importantly for the protection of the character of any public open space, but specifically the river foreshore area, which is where the Town receives most requests for.



Due to changing circumstances, public open space upgrades and a reassessment of the previously proposed policy, officers have redrafted the proposed policy to ensure better governance and assessment criteria for the policy.

### **Consultation**

Consultation was undertaken internally and with elected members on several occasions.

Should Council agree to adopt this Policy, it will be advertised for 28 days to allow for community input.

### **Statutory Environment**

*Local Government (Uniform Local Provisions) Regulations 1996.*

### **Policy Implications**

This policy applies to the governance of all private memorials in public places within the Town of East Fremantle.

For the purposes of this policy, 'Memorials in Public Places' refers to memorials installed in Crown Land vested in the management of the Town or land owned freehold by the Town which is reserved for the purposes of recreation, public open space or a road reserve.

### **Financial Implications**

The costs associated with the plaque including the approved inscription, installation costs and any costs associated with the purchase of street furniture/ artwork/ or similar will be borne by the applicant. An additional cost of five hundred (\$500) dollars will also be paid by the applicant once the memorial has been approved by Council. This additional payment will be utilised for the purposes of purchasing trees for the Town's use in public spaces.

### **Risk Implications**

No significant risk identified.

### **Strategic Implications**

*Strategic Priority 1: Social*

- 1.2 Inviting open spaces, meeting places and recreational facilities.
- 1.3 Strong community connection within a safe and vibrant lifestyle.

*Strategic Priority 4: Natural Environment*

- 4.1 Conserve, maintain and enhance the Town's open spaces.
  - 4.1.2 Plan for improved streetscapes parks and reserves

### **Site Inspection**

Nil

### **Comment**

The Town has received many requests from local residents (and from non-residents who have or whose family have a connection to East Fremantle) for some kind of memorial to mark the passing of a loved one or the commemoration of a significant event. Indeed, the Town also receives many requests from people whom have no connection with the area but, for instance, may have enjoyed time in the area along the river foreshore. The Town currently allows memorials to be

placed on park benches within the Town, on a per application basis, however this is not guided by a policy or managed according to a procedure, and issues regarding use of public open space, maintenance, damage and replacement of such infrastructure are not currently catered for.

The Town recognises that memorials support people grieving the loss of a loved one or close friend and commemorate the contributions made by persons to the local community.

However, the Town also recognises that there is a practical need to manage the installation of private memorials in public places for various reasons, including cluttering of public spaces with memorials, maintenance, installation costs, damage and controlling the style of memorial.

The draft policy will guide the assessment for such memorials. Subject to the provisions within this policy, the Town will not support the community to memorialise family, friends and community members unless at the discretion and approval of Council. Approval will only be granted if Council so determines the memorial is appropriate, practical and that the individual being memorialised has been a long-standing resident or worker (40 + continuous years) in the Town and has contributed in a positive way to the Town.

#### Risk

While the idea of permitting such memorials in an ad hoc manner is well-intentioned, there is a risk that a preponderance of public spaces is given over to such purposes, specifically the river foreshore area, which is enjoyed by many.

There has been some public criticism too that making so much public space available for these purposes is inappropriate. Given that the look and unique style of the Town is one of its main features, the protection of the character of the Town's public open spaces and river foreshore is an important consideration.

This policy will guide the assessment of such memorials and will provide the specifications and requirements for their installation.

#### Rationale

Formulating and agreeing upon a policy and enforcing it will give clarity for our community to manage their expectations for such requests and give Council clarity in how to assess a memorial when such requests are made. The provisions of the policy set specific criteria for Council to assess each application, the most important of which is a person to be memorialised has been a long standing resident of or worker (40 + continuous years) in the Town and has contributed in a positive way to the Town.

To assist the Town managing resources, costs, maintenance, and the Town's public spaces and infrastructure, it is proposed that Council would not permit memorials, unless assessed and approved by Council and only for a person who has lived/worked in the area and made a significant contribution to the Town. This will set clear guidelines for the assessment of each memorials.

Generally, plaques and memorials are requested in scenic areas, specifically the largest number being requested for Riverside Road, which may detract from the enjoyment of those places, and may have a detrimental impact. Given the Town has undertaken significant works at Niergarup Track, the river foreshore, John Tonkin foreshore area and park among others, it is now considered such areas are no longer appropriate for the proliferation of memorials.

In light of the recent upgrades to public spaces and the existing criteria regarding the pioneers of the Town, it was important to set the criteria for memorials such that it is a honour to be approved a memorial and a memorial is reserved for those that have contributed to the Town. Due to these changing circumstances administration has redrafted the proposed policy to ensure better governance and assessment criteria for the policy.

Council is requested to review the attached new policy for memorials in public places.

**12.3.4 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 120920**

**Moved Cr Donovan, seconded Cr Harrington**

**That Council:**

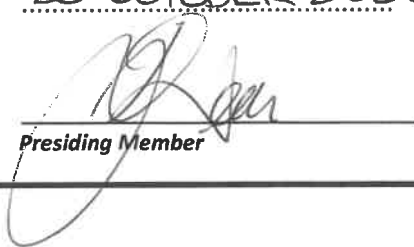
- 1. authorise the advertising of the draft Memorial in Public Places Policy for 28 days prior to formally considering the Policy;**
- 2. notes a further report will be provided at the completion of the public submission period for Council's consideration.**

(CARRIED UNANIMOUSLY)

13. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**  
Nil.
14. **NOTICE OF MOTION FOR CONSIDERATION AT THE NEXT MEETING**
- 14.1 **Cr M McPhail - Inclusion of Indigenous Country Names**  
*"That Council submits a request to the South Metropolitan Zone calling on WALGA to support the inclusion of indigenous country names as part of Australia's official address standard, and to advocate this position to Australia Post and other relevant bodies."*
- 14.2 **Cr C Collinson – New Fremantle Traffic Bridge**  
*"That Council*  
(1) *express its concern to Main Roads WA in relation to the proposed design and location of the new Fremantle Traffic Bridge.*  
(2) *formally request a briefing be provided by Main Roads WA on the rationale behind the new Fremantle Traffic Bridge's design and location.*  
(3) *offers its assistance to work with the City of Fremantle to explore other opportunities for a more desirable outcome for the new Fremantle Traffic Bridge."*
15. **QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**  
Nil.
16. **NEW BUSINESS OF AN URGENT NATURE**  
Nil.
17. **MATTERS BEHIND CLOSED DOORS**  
Nil.
18. **CLOSURE**  
There being no further business, the Presiding Member declared the meeting closed at 8.19pm.

*I hereby certify that the Minutes of the ordinary meeting of the Council of the Town of East Fremantle, held on 15 September 2020, Minute Book reference 1. to 18. were confirmed at the meeting of the Council on*

20 OCTOBER 2020

  
Presiding Member