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TOWN OF  
EAST FREMANTLE

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# MINUTES

Council Meeting

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Tuesday, 15 March 2016 at 6.30pm

**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON TUESDAY, 15 MARCH, 2016 COMMENCING AT 6.30PM.**

1. **DECLARATION OF OPENING OF MEETING/ANNOUNCEMENT OF VISITORS**
2. **ACKNOWLEDGEMENT OF COUNTRY**
3. **RECORD OF ATTENDANCE/APOLOGIES**
4. **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**
5. **PUBLIC QUESTION TIME**
6. **CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
  - 6.1 *Minutes of Council Meeting 16 February 2016*
7. **DEPUTATIONS/PRESENTATIONS**
8. **DISCLOSURES OF INTEREST BY MEMBERS**
  - 8.1 *East Fremantle Football Club – Undertaking of Unapproved Development (Ref Item 12.1.1)*
9. **APPLICATIONS FOR LEAVE OF ABSENCE**
  - 9.1 *Mayor O'Neill*
10. **LATE ITEMS NOTED**
  - 10.1 *Announcement by Mayor without Discussion*

*Mr Gary Tuffin*

*Retirement – John Tissott, East Fremantle Yacht Club*
  - 10.2 *217 Canning Highway (Ref Item 11.1.2)*
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DECISION OF THE MEETING – ELECTED MEMBERS, OFFICERS**

**15. CLOSURE OF MEETING**

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**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER ON TUESDAY, 15 MARCH 2016 AT 6.30PM.**

**1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENT OF VISITORS**

The Presiding Member opened the meeting and welcomed members of the gallery.

**2. ACKNOWLEDGEMENT OF COUNTRY**

The Presiding Member made the following acknowledgement:

*“On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place.”*

**3. RECORD OF ATTENDANCE/APOLOGIES**

Mayor Jim O’Neill	Presiding Member
Cr Cliff Collinson	
Cr Jenny Harrington	(From 6.32pm)
Cr Andrew McPhail	
Cr Michael McPhail	
Cr Lukus Nicholson	
Cr Tony Watkins	
Cr Andrew White	
Mr Gary Tuffin	Chief Executive Officer
Mr Les Mainwaring	Executive Manager Finance & Administration (From 6.33pm)
Mr Jamie Douglas	Manager Planning Services (To 7.20pm)
Ms Janine May	Minute Secretary

Cr Dean Nardi was an apology for the meeting.  
There was one member of the gallery in attendance.

**4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**5. PUBLIC QUESTION TIME**

Nil.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Minutes of Council Meeting 16 February 2016**

Cr White moved, seconded Cr M McPhail

That the Minutes of the Council Meeting of 16 February 2016 be confirmed as a true and accurate record.

(CARRIED 7:0)

**7. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

Nil.

*Cr Harrington entered the meeting at 6.32pm.*

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**8. DISCLOSURES OF INTEREST BY MEMBERS**

**8.1 East Fremantle Football Club – Undertaking of Unapproved Development (Ref Item 12.1.1)**

Mayor O'Neill declared a proximity interest in Agenda Item 12.1.1 East Fremantle Football Club – Undertaking of Unapproved Development as he resides opposite the East Fremantle Oval.

*The Executive Manager Finance & Administration entered the meeting at 6.33pm.*

Crs M McPhail, Nicholson, A McPhail, White, Watkins and Harrington made individual impartiality declarations in respect to Agenda Item 12.1.1 East Fremantle Football Club – Undertaking of Unapproved Development, as follows:

*“As a consequence of receiving honorary membership from the East Fremantle Football Club that may be a perception that my impartiality on the matter may be affected, I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.”*

**9. APPLICATIONS FOR LEAVE OF ABSENCE**

**9.1 Mayor O'Neill**

Mayor O'Neill sought leave of absence for the Council Meeting to be held on 19 April 2016.

**Cr M McPhail moved, seconded Cr Collinson**

**That leave of absence be granted to Mayor O'Neill for the Council Meeting to be held on 19 April 2016.**

(CARRIED 8:0)

**10. LATE ITEMS NOTED**

**10.1 Announcement by Mayor without Discussion**

**Mr Gary Tuffin**

The Mayor welcomed new CEO, Gary Tuffin, who had commenced with Council on Monday and considered his appointment to the role would be rewarding for Gary, elected members and the Town.

**Retirement – John Tissott, East Fremantle Yacht Club**

The Mayor advised that on 11 March 2016 he had attended a function to mark the retirement of John Tissott, who had held the position of General Manager of the East Fremantle Yacht Club for 27 years. On behalf of the Town, he had thanked Mr Tissott for his respectful relationship with Council and wished him well in his upcoming retirement.

**10.2 217 Canning Highway (Ref Item 11.1.2)**

Correspondence from Gateway Printing in support of the pylon sign application for 217 Canning Highway East Fremantle.

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Cr M McPhail moved, seconded Cr Harrington that the correspondence from Gateway Printing be received and held over for consideration when the matter comes forward for discussion later in the meeting.

(CARRIED 8:0)

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REPORT 11.1

**TOWN PLANNING & BUILDING COMMITTEE MEETING 1 MARCH 2016**

<b>RESPONSIBLE DIRECTOR</b>	Gary Clark Acting Chief Executive Officer
<b>ATTACHMENT</b>	(A) Town Planning Committee Minutes & Attachment
<b>AUTHORITY/DISCRETION</b>	Simple Majority of Council

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**PURPOSE**

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

**EXECUTIVE SUMMARY**

The Committee, at its meeting on 1 March 2016, exercised its delegation in all but one statutory matter before it. A signs application for 217 Canning Highway (former Masonic Hall), together with a strategic report regarding proposed Amendment 12 – Woodside Hospital. have been listed separately in the Council Agenda for consideration

There is no further action other than to receive the minutes, including delegated decisions, of that meeting.

**RECOMMENDATION**

That the Minutes of the Town Planning & Building Committee Meeting held on 1 March 2016 be received.

**11.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 010316**

**Cr Collinson moved, Cr White seconded**

**That the Minutes of the Town Planning & Building Committee Meeting held on 1 March 2016 be received.**

**(CARRIED 8:0)**

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## REPORT NO 11.1.1

## PROPOSED AMENDMENT 12 TO TOWN PLANNING SCHEME NO. 3 – WOODSIDE HOSPITAL

<b>AUTHOR</b>	Jamie Douglas Manager Planning Services
<b>FILE NUMBER</b>	B/TPS3, A12
<b>AUTHORITY / DISCRETION</b>	Council

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### PURPOSE

This report considers the application for the rezoning of the Woodside Hospital Site at 18 Dalgety Street site from 'Public Purpose - Hospital' to 'Residential', with a density coding of 'R15'.

### EXECUTIVE SUMMARY

This Scheme Amendment proposes to rezone the subject site from Reservation – 'Public Purposes – Hospital' to 'Residential', with a density coding of 'R15'. Refer Attachment-Proposed Scheme Amendment.

The intent of the Scheme Amendment 12 is to facilitate redevelopment options for the residential use of the subject site.

The proposed rezoning represents the most appropriate use for the subject site with minimal impact on the heritage place. While, it is considered the proposed rezoning will not impact upon the heritage significance of the structures and the significant trees within the curtilage, careful consideration has been given to how these matters can be appropriately addressed in any subsequent subdivision and development applications.

The proposed residential density – R15 (min lot size 580m<sup>2</sup>) is reflective of that proposed within the immediate surrounding 'Residential' zoned area by Scheme Amendment No. 10. The proposed re-zoning for 'residential use' will facilitate the use of the site for its original residential use and is consistent with the surrounding residential area.

It is therefore recommended that the proposed re-zoning is supported by Council.

### BACKGROUND

<b>Suburb/Location</b>	Lot 250 (No. 18) Dalgety Street, (former Woodside Hospital), East Fremantle
<b>Applicant</b>	Greg Rowe & Associates for 'LandCorp'
<b>Owner</b>	State of Western Australia
<b>Zoning</b>	Local Reserve – Public Purposes Hospital Metropolitan Region Scheme - Urban
<b>Site area</b>	The subject site has a total area of approximately 1.00Ha, with frontages of approximately 99.58m to Dalgety Street and Fortescue Street.
<b>Structure plan</b>	N/A

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**DETAILS**

The subject site is occupied by the Woodside Hospital [former]. Prior to its use as a hospital, the existing two storey building situated in the centre of the subject site was used as the primary residence of the Moore family.

The original residence was constructed in 1902 and was used as a residence until 1923. The property was then sold in 1924 and for the following 23 years the place served as a private hospital. The Department of Health purchased the property in 1951 and converted it into a public maternity hospital.

A number of other small extensions were added to the complex over the next decade and a new theatre and birthing suites were added in 1966. Following this, only minor alterations have been made.

In 1997 Woodside Hospital was assessed by the Heritage Council of Western Australia and permanently placed on the State Register of Heritage Places. The place was also entered on the Municipal Heritage Inventory for the Town of East Fremantle [adopted 1997] and Listed in the schedule of heritage places in the Town Planning Scheme in 2004. This listing was reconfirmed in the Town's recent heritage review.

In 2003 the Department of Health reviewed all obstetrics facilities in the State and in 2005 it was decided that Woodside Hospital was no longer required because it was too small to achieve optimum safety and economies of scale for a modern hospital and because the existing facilities needed major refurbishment due to their age and changing requirements for medical facilities. In 2006 Woodside Hospital was closed and the remaining patients relocated to new purpose built facilities at Kaleeya Hospital. Its last use as administration and hospital related uses, also ceased in 2015 leaving the place vacant.

The Government now wishes to dispose of the site.

**Issues and options considered**

Council may determine to support or not support the proposed Scheme Amendment or initiate an Amendment for an alternate zone and/or density.

**Legislation / Strategic Community Plan / policy implications***Legislation*Planning & Development Act 2005

The process for Scheme Amendments under the Planning and Development Act 2005 is as follows:

- A Local Government may at its sole discretion decide whether or not to initiate an amendment (sec75). There are no appeal provisions associated with this decision.
- The Minister may direct a Local Government to make an amendment to adopt a new scheme (sec76).
- A Local Government must have due regard to any State Planning Policy in preparing an amendment (sec77).
- Proposed scheme amendment to be referred to the Heritage Council (sec79).
- Proposed scheme amendment to be referred to the EPA (sec81)

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- Proposed scheme amendment to be referred to relevant public authorities such as Water Corporation, Western Power, the Western Australian Planning Commission (sec83).
- Subsequent to the above, the amendment is publicly advertised (sec84).
- The amendment is submitted for the Final Approval of the Minister (sec87) and if approved published in the Gazette (sec87(3)).

Planning Regulations 2015

The application for re-zoning is deemed to be 'standard amendment' under the Regulations. The applicable process is as follows:

- If the Local Government resolves to adopt a standard amendment, it must publish a notice in the local newspaper, display a copy of the notice at its offices, give a copy of the notice to relevant public authorities and publish the notice on its website and otherwise advertise the amendment as directed by the WAPC.
- The submission period must not be less than 42 days and all submissions must be in writing and received within the submission period.
- The consideration period is 60 days after the end of the submission period or 21 days after advice from the Department of Environment Protection under the EPA Act (sec48F(2)(a)).
- Before the end of the consideration period the LG must pass a resolution to support the amendment with or without modifications or not to support the amendment and advise the Commission accordingly.

Heritage of Western Australian Act, 1990

- The subject site gained permanent entry in the Register of Heritage Places on 6<sup>th</sup> February 1998.

*Strategic Community Plan*

*Key Focus Area  
Aspiration*

Built and Natural Environment.  
Facilitating sustainable growth while maintaining urban and natural character

*Outcome*

Strategic Land Use Planning

*Policy*

There are no policy implications.

**Risk management considerations**

The Council may be directed to amend the scheme by the Commission should it not determine the application for re-zoning within the consideration period prescribed by the Regulations.

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### **Financial / budget implications**

The proposed rezoning does not have any financial/ budget implications. However subsequent development may positively impact upon rate income.

### **Regional significance**

Rezoning the subject site from 'Public Purposes – Hospital' to 'Residential' with a density coding of 'R15' is consistent with the 'Urban' zoning under the Metropolitan Region Scheme.

The draft 'Perth and Peel Towards 3.5 Million' is a suite of strategic land use planning documents that aim to accommodate 3.5 million people in the Perth and Peel regions by 2050. The four draft planning frameworks for the Central, North-West, North-East and South Metropolitan Peel sub-regions were released for public comment in May 2015. The subject site is located within the Central Metropolitan Sub-region.

The Central Metropolitan Sub-region Planning Framework strongly encourages urban consolidation and infill development. The Central Metropolitan Sub-region Planning Framework identifies an infill housing target of 900 dwellings within the Town of East Fremantle.

Section 5.2 of the Central Metropolitan Sub-region Planning Framework states that there are a number of measures, statutory mechanisms or provisions available to Local Government to enable urban consolidation. These include up-coding (increasing residential density) and split coding (permitting development at a higher density if a number of requirements are met). Both of these options have been incorporated into Scheme Amendment No. 10.

### **Sustainability implications**

#### Environmental

The retention of significant trees on the subject site will be a consideration in respect to any subsequent subdivision and development application.

#### Social

The subject site has heritage significance and has importance in the social history of the Town.

#### Economic

The redevelopment of the site has the potential to significantly contribute to the rate base of the Town.

### **Consultation**

The application has been referred to the Heritage Council pursuant to s. 79 of the Planning & Development Act 2005 as the subject site contains a 'Listed Property' – Woodside Hospital.

The Heritage Council advised on 4 February 2016;

- “1. The subject area contains the State Registered Woodside Hospital. The rezoning of this site from 'Public Purposes – Hospital; to 'Residential' is supported, as this will provide opportunity for a range of appropriate uses, including aged care, child care or residential.*
- 2. Please note that any development proposals which may affect the Hospital will need to ensure that its heritage significance is retained. Development applications will be*

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*assessed on their merits and may not be supported if it is not demonstrated that heritage issues are adequately addressed.”*

The application was also referred to the Environmental Protection Authority as it was anticipated that the matter would be determined by Council in March, accordingly advice was sought pursuant to Section 48A (1) (a) of the Environmental Protection Act 1986.

The Authority had not responded at time of writing however its advice is required prior to public notification.

As previously stated, should Council determine to support the application, it would be subject to a period of statutory advertising.

**COMMENT**Density and Land Use

Currently, the subject site is reserved 'Public Purposes – Hospital'. Clause 3.4.2 of TPS No. 3 states that in determining an application for planning approval the local government is to have due regard to the matters set out in Clause 10.2 of the Scheme and ultimate purpose intended for the Reserve (i.e. Hospital).

The proposed Scheme Amendment will rezone the subject site to 'Residential' with a density coding of 'R15'. The R-Codes require a minimum lot size of 580m<sup>2</sup> with an average lot size of 666m<sup>2</sup> for R15.

Applicable land uses that could be approved within the Residential zone under TPS No. 3. are as follows (P - permitted, A & D - may be approved at discretion of Council);

- Advertising Sign (A);
- Aged or Dependent Persons Dwelling (D);
- Ancillary Accommodation (A);
- Bed and Breakfast (A);
- Civic Use (A);
- Community Purposes (A);
- Educational Establishment (A);
- Family Day Care (A);
- Grouped Dwelling (A);
- Home Occupation (D);
- Home Office (P);
- Industry – Cottage (A);
- Pre-School / Kindergarten (A);
- Single House (P); and
- Telecommunications Infrastructure (A).

It is considered the allowable land uses and density proposed in the rezoning are consistent with that prevailing in the surrounding residential zone. While the proposed density of R15 is slightly higher than the current R12.5 in the surrounding zone, it is proposed in Amendment 10, that the general area be rezoned to R15 to more closely reflect the existing building density. The proposed amendment is therefore consistent with Amendment 10.

The proposed range of land uses will enhance the potential for adaption of the existing structures and conservation of the site's significance in comparison to the existing 'Hospital

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Reservation' zone. This view is shared by the Heritage Council in its referral response which supports the re-zoning.

Heritage Impacts

The subject site is occupied by the Woodside Hospital [former] which is a registered heritage place on the State Register of Heritage Places and the Municipal Heritage Inventory for the Town of East Fremantle.

The proposed Scheme Amendment will rezone the subject site so that the existing heritage place may be used for its original use (residential purposes). This proposal will have minimum impact to the existing heritage place.

The 'Burra Charter' conservation principles are based on the concept of cultural heritage significance and that retaining that significance is the primary objective of conservation of a place. One of the key aspects of conservation is to encourage the continued use of a heritage place through sympathetic adaptation and development where necessary. In the instance the original use was as a large family house. This was subsequently replaced by hospital functions.

Although the original use of the place is just as important as the subsequent uses, it is the hospital use that Woodside Hospital [former] has been known and valued for. However a determining factor in the hospital's closure was the outdated facilities and the extent of the works that would be required for the place to meet current standards. These substantial works would necessarily impact upon the significant building fabric. Accordingly, rezoning from 'Hospital' to 'Residential' is supported, as it facilitates potentially less intrusive redevelopment options. It is noted however that under Clause 7.5 of TPS No. 3, Council may determine to vary any site or development requirement of the Scheme to facilitate the conservation of a heritage place. Therefore, any of the following options could be pursued by a 'would-be' occupant/development:

1. Retention of the buildings in their current form and introduction of a new use with no alterations;
2. Retention of the buildings in their current form, but with substantial alterations to accommodate a new use; or
3. Demolition of portion of the existing heritage place, which may be found to have little or no heritage value and development of a new building to accommodate a new use.

However, the heritage impact of the various options will be appropriately assessed when subsequent development applications are submitted to the Town of East Fremantle and the State Heritage Office.

Significant Trees

Consideration has been given to how best to identify and conserve, where practical, significant trees on the site. While the process of rezoning does not in itself present any immediate threat to the trees, this may not be the case when subdivision and development is proposed.

A range of options have been considered and discussions have been held with representatives of LandCorp and the Heritage Council. The parties are in agreement that the best process will be to establish an inventory of the trees on the subject site, establish a criteria for significance and to include reference to these trees within the Register for the

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Place compiled by the Heritage Council. It is also proposed to amend the Place Record Form in the Town's Municipal Inventory to specify the significant trees which contribute to the heritage significance of the place.

LandCorp has agreed to fund the Arborist survey which is to be conducted under the following instructions issued to 'Arbor Logic' by the Town;

*"The purpose of the inspection is to;*

- *Undertake an on- site inspection of all trees present on the subject site.*
- *Provide information in regards to the species of each of the identified trees, its current physical attributes, health, age, etc., and any comments deemed pertinent to the identified tree.*
- *Based on the findings of the assessment provide an 'opinion' on the significance of each of the trees regarding physical attributes, age, condition, rarity, climatic impact, etc. and provide a recommended zone of protection for each tree deemed 'significant'.*
- *Identify any trees which may be suitable for relocation (transplanting), and provide indicative time frame and budget requirements as well as any aftercare considerations that may be considered applicable.*
- *Provide any broad-brush purposeful and practical recommendations for any site management, design and construction implications that may apply for any trees identified as being suitable for retention so to ensure their preservation, if undertaken, remains successful."*

It is anticipated the survey and Arborists report will be completed by the end of February. This data will then inform decisions in respect to subdivision and redevelopment.

**VOTING REQUIREMENTS**

A simple majority of Council is required to support the recommendation.

**RECOMMENDATION**

It is recommended that Council:

1. Initiate the proposed Amendment Series 12 to the Town of East Fremantle Town Planning Scheme No. 3, 3 December 2004 pursuant to section 75 of the Planning and Development Act 2005; and
2. Refer the proposed Scheme Amendment to relevant agencies pursuant to Sections 79-83 of the Act; and
3. After compliance with the requirements of Sections 79-83, publicly advertise the proposed Scheme Amendment pursuant with Section 84 of the Act.

**COMMITTEE RECOMENDATION**

***Moved Mayor O'Neill, seconded Cr White***

***It is recommended that Council:***

1. ***Initiate the proposed Amendment Series 12 to the Town of East Fremantle Town Planning Scheme No. 3, 3 December 2004 pursuant to section 75 of the Planning and Development Act 2005; and***
2. ***Refer the proposed Scheme Amendment to relevant agencies pursuant to Sections 79-83 of the Act; and***
3. ***After compliance with the requirements of Sections 79-83, publicly advertise the proposed Scheme Amendment pursuant with Section 84 of the Act.***

CARRIED 5:0

**11.1.1 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 020316**

**Cr Collinson moved, seconded Cr White**

**That Council:**

- 1. Initiate the proposed Amendment Series 12 to the Town of East Fremantle Town Planning Scheme No. 3, 3 December 2004 pursuant to section 75 of the Planning and Development Act 2005; and**
- 2. Refer the proposed Scheme Amendment to relevant agencies pursuant to Sections 79-83 of the Act; and**
- 3. After compliance with the requirements of Sections 79-83, publicly advertise the proposed Scheme Amendment pursuant with Section 84 of the Act.**

**(CARRIED 8:0)**

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## REPORT NO 11.1.2

**CANNING HIGHWAY NO. 217 (LOT 1 / SP5132) SIGNAGE**

<b>RESPONSIBLE DIRECTOR</b>	Jamie Douglas Manager of Planning Services
<b>AUTHOR</b>	Andrew Malone Senior Planning Officer
<b>FILE NUMBER</b>	P/CAN217
<b>APPLICATION NUMBER</b>	P130/2015
<b>ATTACHMENT</b>	(A) Plans
<b>AUTHORITY / DISCRETION</b>	Council Resolution

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**PURPOSE**

This report considers an application for signage to be erected on the building and a pole/ pylon sign fronting Canning Highway at 217 (Lot 1/SP5132) Canning Highway, East Fremantle.

**EXECUTIVE SUMMARY**

The issue raised by this application which is relevant to its determination is the impact upon the streetscape and the building – these are considered to be acceptable and are further discussed below.

The proposal is recommended for conditional approval.

**BACKGROUND**

<b>Suburb/Location</b>	217 (Lot 1/SP5132) Canning Highway, East Fremantle
<b>Applicant</b>	Kingskip Pty Ltd.
<b>Owner</b>	C Scalise
<b>Zoning</b>	Residential R12.5/ 40 (MRS Primary Regional Road Reserve)
<b>Site area</b>	N/A
<b>Structure plan</b>	N/A

**Date Application Received**

16 November 2015

**Any Relevant Previous Decisions of Council and/or History of an Issue or Site**

There are no relevant previous decisions or history which will impact on the determination of this application.

**Documentation**

Relevant plans, forms and letter date stamp received on 16 November 2015

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**DETAILS**Impact on Public Domain

Tree in verge: No impact.  
 Light pole: No impact.  
 Crossover: No impact.  
 Footpath: No impact.  
 Streetscape: Signage will be visible from Canning Highway.

**Issues and options considered**Statutory Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 and the Town's Local Planning Policies. A summary of the assessment is provided in the following tables.

## Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

**Legislation / Strategic Community Plan / Policy Implications**

Legislation                                      Town Planning Scheme No. 3  
 Policy – Signage Design Guidelines  
 Notice of Delegation to Local Governments (18/12/15)  
 (extracts below), applications for development on land that is fully or partly reserved for PRR is delegated to LG to determine.

## Strategic Community Plan

*Key Focus Area*                                      Primary Regional Road Reserve

*Aspiration*    Our Town is developing in harmony with our unique character within the fabric of the Region's built and natural environment.

*Outcome*    3.2 Maintain a safe and healthy built and natural environment.

Policy    N/A

**Risk management considerations**

There are no risk management considerations.

**Financial / budget implications**

There are no financial/budget implications.

**Regional significance**

There is no regional significance

**Sustainability implications**

There are no sustainability implications.

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**Consultation**

The proposal was not advertised to adjoining landowners. The application has also been referred to Main Roads for comment. The application was forwarded to the Department of Planning for determination. Notice of Delegation to Local Governments (18/12/15) requires applications for development on land that is fully or partly reserved for PRR is delegated to LG to determine.

Main Roads has no objection to the signs as shown on the drawings subject to conditions as included in the Officer's Recommendation.

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel.

**COMMENT**Heritage

The existing building built during the Interwar Period for use as a Masonic Hall is listed in the Town of East Fremantle's Heritage List as having level 1 rarity value and level 2 aesthetic value, architectural merit and integrity. The proposed triangular wall sign located above the entry will cover the Masonic symbol above the door, an important symbol for the heritage character and identification of the building. This sign is 4.5m<sup>2</sup> in area and will be a prominent feature to the front of the building. The proposed signage is considered to impact the heritage character of the building and the streetscape, therefore the proposed triangular entrance sign is conditioned to be deleted.

Signage

The following clauses of the Scheme apply:

*5.9 Advertising Signs*

*5.9.2 Advertising signs are to be designed and constructed having due regard to any relevant local government Policy.*

*5.9.3 In its determination of any application for erection or display of an advertising sign for which planning approval is required, the local government is to take into consideration the likely impact of the proposal on the safety and amenity of the area.*

*10.2 Matters to be considered by local government*

*The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —*

*(j) the compatibility of a use or development with its setting;*

*(o) the preservation of the amenity of the locality;*

*(p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;"*

It is considered the proposed signs have been designed having due regard to the Town's Local Planning Policy and the relevant sections of Clause 5.9 and 10.2 of the Town Planning Scheme.

## Local Planning Policy – Design Guidelines - Signage

Council adopted the Local Planning Policy – Design Guidelines - Signage (LPP) pursuant with clause 2.4 of TPS No. 3 at its meeting on 21 June 2011. The policy clarifies the range and extent of signage that is allowable.

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Under Clause 2.3.2 of the Scheme, Council must have regard to a Policy but is not bound by any provision of a Policy and may vary or disregard a Policy provision where it is considered that it is not inconsistent with the Scheme provisions to do so.

The proposed signs are assessed pursuant to the relevant provisions of the LPP as follows:

Wall Signs

Where multiple wall signs are proposed they are to be considered under the following Alternative Performance Criteria (Discretionary) provisions of the Policy. The Alternative Performance Criteria (Discretionary) provisions states:

- *Multiple wall signs or wall signs exceeding the acceptable solution provisions shall only be considered as part of an approved signs regime;*
- *Signs must face a primary space;*
- *Maximum height equivalent to 10% of height of building wall or 2 metres, whichever is greater; and*
- *Maximum length 5 metres.*

Two wall signs are proposed, both located above the entrance of the building. As noted above the proposed triangular sign coving the Masonic symbol is not supported and has been recommended to be deleted. The second façade wall sign is 6.185 metres in length by 0.630 metres in height (overall area approximately 3.9m<sup>2</sup>). This contains the business name in white surrounded by blue fascia.

The proposed signage is considered not to be excessive, even though the maximum length exceeds 5 metres. The wall sign is separately located and is not massed on the building, therefore it will not detrimentally impact on the streetscape or the appearance of the building. The scale and bulk of the building can support such a sign without the sign dominating the front façade.

Pole Sign

A Pole or pylon sign is required to be considered under the following Alternative Performance Criteria (Discretionary) provisions of the Policy:

- *Total height should not exceed 5m.*
- *Total area of each sign face should not exceed 6m<sup>2</sup>.*
- *Double sided signs should be identical in dimension and both sides should be less than 300mm apart.*
- *Only one pole or pylon sign per site (land parcel).*
- *May be internally illuminated.*

The pole sign is 3.7 metres total in height above the ground and is located on private property to the north west of the lot adjoining Canning Highway. The pole signage is visible to Canning Highway vehicle and pedestrian traffic. The overall area of the signage is approximately 5.2sqm. The sign comprises of the company name and logo and directional information.

This sign complies with the "Alternative Performance Criteria" under the Design Guidelines for Signage. The proposed sign does not impede sightlines for traffic. The proposed signage will not impact on the streetscape or the appearance of the building.

**CONCLUSION**

It is considered that the overall extent and scale of the proposed signs (as conditioned) will not conflict with the fabric of the building and will not detract from the streetscape character.

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Accordingly the proposed signs will comply with the "Alternative Performance Criteria" of the Signs Policy.

It is considered that discretionary approval under the Policy in respect to the proposed wall signs and pole / pylon sign is supported and it is considered that it would be consistent with Clauses 5.9 and 10.2 of the Scheme.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

It is recommended that Council:

(a) exercise its discretion pursuant to the provisions of the Local Planning Policy 'Design Guideline Signage' in respect to the proposed wall signs and pole / pylon sign; and grant approval for signage (one wall signs and one pole / pylon sign) at 217 (Lot 1/SP5132) Canning Highway, East Fremantle in accordance with the Application for Planning Approval received on 16 November 2015, subject to the following conditions:

1. The proposed triangular wall sign located above the entry will cover the Masonic symbol above the door is not approved as part of this application. The Masonic symbol above the door is to remain unobstructed.
2. All signage shall be constructed and installed in accordance with the Local Planning Policy 'Design Guideline Signage' – Part 4 'General Requirements for Signage'.
3. All signage to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.
4. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
5. The works are to be constructed in conformity with the written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The sign and sign structure is to be placed wholly on private property within the lot.
7. Main Roads agreement is to be obtained prior to any modifications.
8. If illuminated it must be of low-level not exceeding 300cd/m<sup>2</sup>, not flash, pulsate or chase.
9. The device shall not contain fluorescent, reflective or retro reflective colours or materials.
10. The type of sign and location must comply with all relevant by-laws and planning schemes made by Council.
11. No other unauthorised signage is to be displayed.
12. The proposed works are not to be commenced until Council has received an application for a Building Permit for the signage and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
13. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

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14. This planning approval to remain valid for a period of 24 months from date of this approval.

*Footnote:**The following are not conditions but notes of advice to the applicant/owner:*

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved signage as stamped by Council are attached and the graphics and wording of the signage is to conform with the approved plans unless otherwise approved by Council.*
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

**COMMITTEE RECOMMENDATION*****It is recommended that Council:***

- (a) exercise its discretion pursuant to the provisions of the Local Planning Policy 'Design Guideline Signage' in respect to the proposed wall signs; grant approval for signage (one wall sign) at 217 (Lot 1/SP5132) Canning Highway, East Fremantle in accordance with the Application for Planning Approval received on 16 November 2015, subject to the following conditions:***
  - 1. The proposed triangular wall sign located above the entry will cover the Masonic symbol above the door is not approved as part of this application. The Masonic symbol above the door is to remain unobstructed.***
  - 2. The proposed pylon / pole sign located to the north of the lot (3.7 metres total in height with an area of 5.2sqm) is not approved as part of this application.***
  - 3. All signage shall be constructed and installed in accordance with the Local Planning Policy 'Design Guideline Signage' – Part 4 'General Requirements for Signage'.***
  - 4. All signage to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.***
  - 5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.***
  - 6. The works are to be constructed in conformity with the written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.***
  - 7. The sign and sign structure is to be placed wholly on private property within the lot.***
  - 8. Main Roads agreement is to be obtained prior to any modifications.***
  - 9. If illuminated it must be of low-level not exceeding 300cd/m<sup>2</sup>, not flash, pulsate or chase.***
  - 10. The device shall not contain fluorescent, reflective or retro reflective colours or materials.***

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11. ***The type of sign and location must comply with all relevant by-laws and planning schemes made by Council.***
12. ***No other unauthorised signage is to be displayed.***
13. ***The proposed works are not to be commenced until Council has received an application for a Building Permit for the signage and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.***
14. ***With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.***
15. ***This planning approval to remain valid for a period of 24 months from date of this approval.***

**Footnote:**

***The following are not conditions but notes of advice to the applicant/owner:***

- (a) ***this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) ***a copy of the approved signage as stamped by Council are attached and the graphics and wording of the signage is to conform with the approved plans unless otherwise approved by Council.***
- (c) ***all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***

***(CARRIED 3:2)***

**Reason for Varying the Officer's Recommendation**

***The Committee was of the opinion to reduce the amount of signage in the Town and consider the position of the sign redundant.***

The late correspondence from Gateway Printing was considered.

***Cr Collinson moved, seconded Cr Harrington  
The adoption of the Committee's recommendation.***

Following a query from the Mayor, the Manager Planning Services advised that he supported the officer's recommendation to approve the pylon sign.

**Amendment**

***Cr M McPhail moved, seconded Cr White***

***That condition 2 of the recommendation be amended to delete the word "not".***

***(CARRIED 5:3)***

The substantive motion, as amended, was put.

**11.1.2 SUBSTANTIVE MOTION/COUNCIL RESOLUTION 030316**

***Cr Collinson moved, seconded Cr Harrington***

***That Council:***

- (a) ***exercise its discretion pursuant to the provisions of the Local Planning Policy 'Design Guideline Signage' in respect to the proposed wall signs;  
grant approval for signage (one wall sign) at 217 (Lot 1/SP5132) Canning Highway,***

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East Fremantle in accordance with the Application for Planning Approval received on 16 November 2015, subject to the following conditions:

1. The proposed triangular wall sign located above the entry will cover the Masonic symbol above the door is not approved as part of this application. The Masonic symbol above the door is to remain unobstructed.
2. The proposed pylon / pole sign located to the north of the lot (3.7 metres total in height with an area of 5.2sqm) is approved as part of this application.
3. All signage shall be constructed and installed in accordance with the Local Planning Policy 'Design Guideline Signage' – Part 4 'General Requirements for Signage'.
4. All signage to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.
5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
6. The works are to be constructed in conformity with the written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. The sign and sign structure is to be placed wholly on private property within the lot.
8. Main Roads agreement is to be obtained prior to any modifications.
9. If illuminated it must be of low-level not exceeding 300cd/m<sup>2</sup>, not flash, pulsate or chase.
10. The device shall not contain fluorescent, reflective or retro reflective colours or materials.
11. The type of sign and location must comply with all relevant by-laws and planning schemes made by Council.
12. No other unauthorised signage is to be displayed.
13. The proposed works are not to be commenced until Council has received an application for a Building Permit for the signage and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
14. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
15. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

*The following are not conditions but notes of advice to the applicant/owner:*

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved signage as stamped by Council are attached and the graphics and wording of the signage is to conform with the approved plans unless otherwise approved by Council.*

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**(c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***

**(CARRIED 8:0)**

Reason for Varying the Committee's Recommendation

The provision of additional information identifying that restricting signage on the western approach to the site would create traffic safety risks that were unacceptable to Council.



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Mayor O'Neill declared a proximity interest in the following matter as he lives opposite East Fremantle Oval and left the meeting at 6.55pm.

In the absence of the Mayor, the Deputy Mayor (Cr M McPhail) assumed the Chair.

**REPORT NO 12.1.1****EAST FREMANTLE FOOTBALL CLUB – UNDERTAKING OF UNAPPROVED DEVELOPMENT**

<b>AUTHOR</b>	Jamie Douglas Manager Planning Services
<b>FILE NUMBER</b>	R/RSO4
<b>ATTACHMENT</b>	(A) Development Application (B) Lease Map (C) Photographs of works
<b>AUTHORITY / DISCRETION</b>	Council

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**PURPOSE**

This report advises of actions taken in respect to unauthorised works undertaken by the East Fremantle Football Club and recommends against Council issuing 'landlord approval', of those works.

**EXECUTIVE SUMMARY**

Council staff became aware of works (retaining wall, footings for erection of slab and siting of a shipping container to sell club merchandise) being undertaken by the EFFC adjacent to the southern end of the main grandstand. A site inspection was immediately undertaken and accordingly the EFFC was instructed to immediately cease construction and request Council's permission. Accordingly an application has been made seeking development approval. However prior to formally assessing the application it is necessary for Council to determine if it would support such an application as 'landlord'.

It is recommended Council not support the application and the EFFC be instructed to demolish the works and make good the site.

**BACKGROUND**

<b>Suburb/Location</b>	Moss Street, East Fremantle
<b>Applicant</b>	East Fremantle Football Club
<b>Owner</b>	State of Western Australia – Management Vested in Town of East Fremantle
<b>Zoning</b>	Reserve Parks and Recreation MRS – Reserve Parks and Recreation (Restricted Access)
<b>Site area</b>	9 Hectares
<b>Structure plan</b>	Not Applicable

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**DETAILS**

On or about 8 February 2016, the EFFC commenced construction of footings and a brick retaining wall adjacent to the southern end of the Lyn Latham Pavilion. It was intended to pour a concrete slab on the foundations and mount a shipping container on the slab to use as a merchandise store. Plans show that masonry walls were to be constructed to the maximum height of the container at both ends, maximum height of the walls would be approximately 3.8m. As soon as the works were discovered by Council staff, the site was inspected by the Manager Planning Services and the EFFC was instructed to immediately stop all works and seek Council approval. Subsequently the EFFC submitted a development application.

**Issues and options considered**

Council has the option to support or not support the application or development.

**Legislation / Strategic Community Plan / policy implications****Legislation**

The subject site is a Metropolitan Region Scheme Reserve and subject to the provisions of the MRS.

The new Planning Regulations 2015 exempt development on a MRS from the requirements for development application.

**Strategic Community Plan****Key Focus Area**

Infrastructure and waste services.

**Aspiration**

The needs of our community are met through the provision of high quality infrastructure and waste services.

**Outcome**

Well planned recreation spaces to meet identified needs of the community.

**Policy**

Recreation & Community Facilities Plan (under development).

**Risk management considerations**

Council may be liable for any structural failure should it allow the building to proceed without a Building Permit.

Unplanned/redundant works may require demolition when redevelopment of the oval facilities occurs

**Financial / budget implications**

There are no financial implications for Council unless liability (see above) is proven.

**Regional significance**

The subject site is an MRS reserve and the WAFL oval caters to a regional catchment.

**Sustainability implications**Environmental

The proposal would have a detrimental visual impact.

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Social

The proposal would impede the community's enjoyment of the place, it will not enhance the amenity of a public place.

Economic

The proposal will not increase the value of the Town's asset.

**Consultation**

No community consultation has occurred prior to construction. The proposed works are exempt from the need for a planning application under the new Town Planning Regulations and statutory consultation is not required.

**COMMENT**

The application submits the works are contained within the EFFC leased area. However based on a site inspection and reference to 'Landgate' aerial photography it is evident the proposed works are wholly outside the EFFC lease boundary and are only partly contained within a 'right of carriageway area' as shown on the EFFC lease plan (see attached).

It is considered that opportunities exist for the club to establish a new merchandise store by an internal division within its existing lease area and existing structures. The works applied for are not temporary in nature, are not visually attractive and may well be inappropriately sited when redevelopment of facilities occurs.

For the above reasons it is considered that any such works prior to the completion of the Recreation & Community Facilities study which is presently underway and resolution of the long term facilities requirements within the reserve area are premature.

Although the recently introduced Planning Regulations exempt development on an MRS reserve from the requirement for a planning application, the Town's prior consent as the vested landowner is still required as well as a building permit.

Accordingly it is considered that the EFFC should be advised that the Town of Fremantle will not support the application for development as the vested 'land owner' of the subject site. Further the EFFC shall be given 21 days from the date of this decision to remove the subject works and make good the site or legal action will be taken by the Town.

**VOTING REQUIREMENTS**

Simple majority of Council.

**RECOMMENDATION**

It is recommended that Council resolves to advise the East Fremantle Football Club that the Town of Fremantle will not support the application for development (of 'a merchandise store') as the vested 'land owner' of the subject site and that the EFFC shall remove the subject works and make good the site to the satisfaction of the Chief Executive Officer within 21 days from the date of this decision or legal action will be taken by the Town.

**12.1.1 COUNCILLOR MOTION/COUNCIL RESOLUTION 040316**

**Cr M McPhail moved, seconded Cr Nicholson**

**That the matter be deferred pending further information on the commercial advantages of the structure in its proposed location compared to other internal options and possible improvements to the quality and design of the structure.**

**(CARRIED 4:3)**

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Reasons for not considering the Officer's recommendation at the current time

To allow Council to:

- obtain further information on the commercial advantages of the proposed location in comparison to other internal locations
- solicit further improvement to the external appearance and design of the structure
- investigate the possibility of a delegation by the Club to discuss these matters.

*The Manager Planning Services left the meeting at 7.20pm.*

*Mayor O'Neill returned to the meeting at 7.20pm and resumed the Chair. It was noted he did not speak nor vote on the previous motion.*

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## REPORT 12.2.1

**MONTHLY FINANCIAL ACTIVITY STATEMENT 29 FEBRUARY 2016**

<b>RESPONSIBLE DIRECTOR</b>	Les Mainwaring Executive Manager Finance & Administration
<b>FILE NUMBER</b>	F/FNS2
<b>ATTACHMENT</b>	Monthly Financial Activity Statement
<b>AUTHORITY / DISCRETION</b>	Simply Majority

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**PURPOSE**

For Council to receive the Monthly Financial Activity Statement.

**EXECUTIVE SUMMARY**

To provide timely financial information to Elected Members including regular review of the current forecast. This statement compares actual performance against budget estimates, and summarises operating and capital results in accordance with statutory requirements.

It is therefore recommended that Council receives the Financial Activity Statement for the period ending 29 February 2016.

**BACKGROUND**

The report comprises the monthly financial results with commentary focusing on comparisons to the year to date budget position.

The monthly Financial Activity Statement for the period ending 29 February 2016 is appended and includes the following:

- Financial Activity Statement
- Notes to the Financial Activity Statement including schedules of investments, rating information and debts written off.
- Capital expenditure Report

The attached Financial Activity Statements are 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 on Council activities undertaken during the financial year.

**DETAILS**

The following is a summary of information on the attached financial reports:

**Revised Budget Forecast**

The current budget forecast for the 30 June 2016 indicates a surplus of \$375,336 which is represented by;

+\$ 20,900 The original budget Surplus adopted 20 July 2015.

+\$404,436 Additional surplus funds from EOY 30 June 2015 (OCM 081215)

-\$ 50,000 Allocated to Town Planning Study for the Leeuwin Barracks (OCM081215)

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The budget forecast will receive comprehensive assessment during the Half Yearly Budget Review.

Operating YTD Actuals (compared to the YTD Budget)

Operating Revenue 103%; is \$244,000 more than the YTD budget. (Favourable)

Operating Expenditure 105%; is \$315,000 more than the YTD budget. (Unfavourable)

After non-cash adjustments, the total operating cash forecast is \$987,000 more than the YTD budget (Favourable).

Operating Revenue is 3% Favourable with year to date budget.

The significant favourable variances greater than \$20,000 within operating revenue are General Income \$28,000 due to receipt of the LGIS members dividend; early timing difference of HACC funding \$45,000; development applications \$25,000 mainly due to one large application and \$25,000 in greater than estimated parking fines.

Operating Expenditure is 5% Unfavourable to year to date budget.

The main areas of favourable variation for operating expenditure is timing differences in Governance - Consultants Strategic Business Planning \$125,000, Employee costs \$148,000, and Consultants Legal/Administration \$39,000 which will be considered for the mid-year review; Community Amenities – Domestic Refuse Collection \$20,000, Annual Bulk & Green Waste \$43,000 and, Waste Composting Facility \$53,000 which is mainly due to invoices received in the following month, Strategic Town Planning \$21,000 from delayed progress of the town planning strategy through state planning, and Planning employee costs \$29,000 which will be considered for the mid-year review. Transport which includes Road and Street Maintenance, and Street Pruning have favourable balances amounting to \$138,000, which is mainly due to seasonal factors and will be offset during the year.

Other areas of favourable variance are spread across various programs as detailed in the report.

The significant areas of unfavourable variation for operating expenditure include; Governance – Computer System Support \$22,000 timing difference from product renewals and upgrades; Recreation & Culture – East Fremantle Oval \$31,000 mainly due to pre-season turfing and sewer repairs, Transport - Footpath & Cycleways, Verges, Street Cleaning, Drainage maintenance and Kerbing maintenance with balances amounting to \$165,000 which is mainly due to seasonal factors and will be offset during the year, although there will be an amendment to footpath maintenance considered for the mid-year review.

Elevated levels of depreciation in Recreation & Culture \$550,000 and Transport \$487,000 due to the increase in valuation of infrastructure assets have significantly distorted the operating expenditure figures in the Recreation and Transport programs. Variations in depreciation are non-cash therefore there is no impact on the cash position, however because of the size and nature of the variances, these items will be considered for the mid-year review.

All capital activities have been set forward in the budget so that they can be easily monitored in terms of progress.

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The current year's capitals works programmes are at early mobilisation stage at reporting date.

Other details can be found in the attached notes to the financial activity statement.

Capital Programs YTD Progress Summaries

Annual Timeline 66% of year elapsed

Land & Buildings 2% expended

Infrastructure Assets 6% expended

Plant & Equipment 49% expended

Furniture & Equipment 9% expended

Capital expenditure is \$1,829,000 less than the YTD budget (Favourable) which represents 89% of the capital programs to be completed. The report provides details on individual capital works to have progressed as at 29 February 2016.

**Issues and options considered**

Budget revisions will be considered for the mid-year review.

**Legislation / Strategic Community Plan / policy implications**

**Legislation**

Local Government Act 1995 (As amended)  
 Local Government (Financial Management) Regulations 1996  
 (As amended)

**Strategic Community Plan**

**Key Focus Area**

Area 4: Governance and Leadership

**Aspiration**

The community is served by a leading and listening local government

**Outcome**

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

**Policy**

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.

**Risk management considerations**

No options for budget revision are presented for risk consideration in this report. The budget forecast is a surplus of \$375,336.

**Financial / budget implications**

The February 2016 Financial Activity Statement shows variances in income and expenditure when compared with year to date draft budget estimates.

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There are no positive or negative impacts on the current budget forecast.

All amounts quoted in this report are exclusive of GST.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable. The recommendation of this report has no direct sustainability implications although the intent of budget monitoring is to promote economic sustainability.

**Consultation**

Nil

**COMMENT**

The attached Financial Activity Statement for the period 1 July 2015 to 29 February 2016 is presented to the Council for timely information. The current annual forecast of a \$375,336 surplus is confirmed by these accounts in conjunction with further analytical analysis undertaken at officer level; however figures are subject to the annual half yearly review budget review.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council receives the Financial Activity Statement for the period ending 29 February 2016.

**12.2.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 050316**

**Cr White moved, seconded Cr Watkins**

**That Council receives the Financial Activity Statement for the period ending 29 February 2016.**

**(CARRIED 8:0)**



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## REPORT 12.2.2

**ACCOUNTS FOR PAYMENT - FEBRUARY 2016**

<b>RESPONSIBLE DIRECTOR</b>	Executive Manager Finance & Administration
<b>FILE NUMBER</b>	F/FNS2
<b>ATTACHMENT</b>	(A) Monthly List of Payments February 2016
<b>AUTHORITY / DISCRETION</b>	Simply Majority

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**PURPOSE**

For Council to receive the monthly list of accounts paid.

**EXECUTIVE SUMMARY**

To endorse the list of payments made under delegated authority for the month of February 2016.

It is therefore recommended that Council receives the List of Accounts paid for the period 1 February to 29 February 2016, as per the summary table.

**BACKGROUND**

The Acting 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.

**DETAILS**

The attached itemised list of payments is prepared in accordance with Regulation 13 of the amended Local Government (Financial Management) Regulations 1996.

The list of payments is to be presented to Council at the next Ordinary Meeting after it has been prepared, and recorded in the minutes of that meeting.

**Issues and options considered**

No options to consider.

**Legislation / Strategic Community Plan / policy implications**

**Legislation** Regulation 13: Local Government (Financial Management) Regulations 1996 (As amended)

**Strategic Community Plan**

**Key Focus Area** Area 4: Governance and Leadership

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**Aspiration** The community is served by a leading and listening local government

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

**Policy** F8.1 Ordering of Goods and Services.

**Risk management considerations**

Not applicable.

**Financial / budget implications**

Accounts for Payment are sourced from budget allocations.

All amounts quoted in this report are inclusive of GST.

**Regional significance**

Not applicable.

**Sustainability implications**

Not applicable.

**Consultation**

Nil

**COMMENT**

The List of Accounts paid for the month of February 2016 requires endorsement by the Council.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That the List of Accounts paid for the period 1 February to 29 February 2016 be received, as per the following summary table:

<b>FEBRUARY 2016</b>		
<b>Voucher Nos</b>	<b>Account</b>	<b>Amount</b>
4964 – 4971	Municipal (Cheques)	\$8,048.58
EFT 21994 – EFT 22172	Electronic Transfer Funds	\$465,589.74
Payroll	Electronic Transfer Funds	\$198,295.44
Superannuation	Electronic Transfer Funds	\$34,593.38
Credit Card	CEO	90.00
	<b>Total Payments</b>	<b>\$706,617.14</b>

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**Cr M McPhail moved, seconded Cr A McPhail**

**That the List of Accounts paid for the period 1 February to 29 February 2016 be received.**

**(CARRIED 8:0)**

**12.2.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 060316**

**Cr M McPhail moved, seconded Cr A McPhail**

**That the List of Accounts paid for the period 1 February to 29 February 2016 be received.**

**(CARRIED 8:0)**

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REPORT NO 12.2.3

**COMPLIANCE AUDIT RETURN 2015**

<b>RESPONSIBLE DIRECTOR</b>	Les Mainwaring Executive Manager Finance & Administration
<b>FILE NUMBER</b>	F/AUD1
<b>ATTACHMENT</b>	(A) Compliance Audit Return 2015
<b>AUTHORITY / DISCRETION</b>	Simple Majority

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**PURPOSE**

To facilitate the adoption of the Compliance Audit Return 2015 for submission to the Department of Local Government and Communities by 31 March 2016.

**EXECUTIVE SUMMARY**

The statutory Compliance Audit Return runs on a calendar year basis and is for the period 1 January to 31 December 2015.

The statutory Compliance Audit Return is completed by self-assessment by the Chief Executive Officer and other Principal Officers relevant to their responsibilities.

All compliance matters in 2015 were either marked as Yes or N/A and there were no matters of non-compliance reported for this period.

That the Audit Committee recommends that Council adopt the Compliance Audit Return for the period 1 January to 31 December 2015.

**BACKGROUND**

Section 7.13(i) of the Local Government Act 1995 requires that each local government carry out a compliance audit for the period 1 January to 31 December each year.

In 2015 the Department of Local Government and Communities (DLGC) has included 87 compliance audit questions (78 last year), which require Yes or No answers, however where an item has not occurred during the calendar year a response of not applicable (N/A) will be provided.

The Compliance Audit Return is to be:

1. presented to an Ordinary Meeting of Council,
2. adopted by Council; and
3. recorded in the minutes of the meeting at which it is adopted.

After the Compliance Audit Return (CAR) has been presented to Council, a certified copy of the return signed by the Mayor and Chief Executive Officer, along with the relevant section of the minutes and any additional information detailing the contents of the return are to be submitted to the DLGC by 31 March 2016.

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**DETAILS**

Council is required to adopt the Compliance Audit Return and forward it to the Minister for DLGC no later than the 31 March 2015.

**Issues and options considered**

All compliance matters in 2015 were either marked as Yes or N/A and there were no matters of non-compliance reported for this period.

**Legislation / Strategic Community Plan / policy implications****Legislation**

Local Government Act 1995 – 7.13 Regulations as to audits  
Local Government (Audit) Regulations 1996 – 14 Compliance audits by local governments – 15 Compliance audit return, certified copy of etc. to be given to Executive Director.

**Strategic Community Plan****Key Focus Area**

4: Governance and Leadership

**Aspiration**

The community is served by a leading and listening local government

**Outcome**

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

**Policy**

Various

*Local Government Act 1995**7.13. Regulations as to audits*

- (i) *requiring local governments to carry out, in the prescribed manner and in a form approved by the Minister, an audit of compliance with such statutory requirements as are prescribed whether those requirements are —*
- (i) *of a financial nature or not; or*
  - (ii) *under this Act or another written law.*

*Local Government (Audit) Regulations 1996**14. Compliance audits by local governments*

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
  - (a) *presented to the council at a meeting of the council; and*
  - (b) *adopted by the council; and*
  - (c) *recorded in the minutes of the meeting at which it is adopted.*

15. *Compliance audit return, certified copy of etc. to be given to Executive Director*

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- (1) *After the compliance audit return has been presented to the council in accordance with regulation 14(3) a certified copy of the return together with —*
  - (a) *a copy of the relevant section of the minutes referred to in regulation 14(3)(c); and*
  - (b) *any additional information explaining or qualifying the compliance audit, is to be submitted to the Executive Director by 31 March next following the period to which the return relates.*
- (2) *In this regulation —*
  - (a) *certified in relation to a compliance audit return means signed by —*
    - (a) *the mayor or president; and*
    - (b) *the CEO.*

**Risk management considerations**

There are no risks arising from the outcomes of the Compliance Audit Return

**Financial / budget implications**

There are no financial budget implications from the outcomes of the Compliance Audit Return

**Regional significance**

Not applicable

**Sustainability implications**

Not applicable

**Consultation**

Nil

**COMMENT**

The statutory Compliance Audit Return has been completed and all compliance matters in 2015 were either marked as Yes or N/A and there were no matters of non-compliance reported for this period.

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That the Audit Committee recommends that Council adopt the Compliance Audit Return for the period 1 January to 31 December 2015.

**COMMITTEE'S RECOMMENDATION**

*Cr White moved, seconded Cr A McPhail*

*That the Audit Committee recommends that Council adopt the Compliance Audit Return for the period 1 January to 31 December 2015.* CARRIED 6:0

**12.2.3 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 070316**

**Cr M McPhail moved, seconded Cr A McPhail**

**That Council adopt the Compliance Audit Return for the period 1 January to 31 December 2015.**

(CARRIED 8:0)

**REPORT NO 12.2.4**

**HALF YEAR BUDGET REVIEW 2015-16**

Mayor O'Neill advised that this report had been withdrawn from tonight's Agenda at the request of the Chief Executive Officer.

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REPORT NO 12.3.1

**EAST FREMANTLE FORESHORE MASTER PLAN**

<b>RESPONSIBLE DIRECTOR</b>	Gary Clark Acting Chief Executive Officer
<b>AUTHOR</b>	Steve Gallagher Operations Manager
<b>AUTHORITY / DISCRETION</b>	Council resolution

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**PURPOSE**

For Council to adopt the East Fremantle Foreshore Master Plan Final Revision (with or without changes) as prepared by Ecoscape on behalf of the Town.

**EXECUTIVE SUMMARY**

Council has recently been presented a draft East Fremantle Foreshore Master Plan (EFFMP) and was given the opportunity to provide feedback. This feedback, along with responses received after public consultations have been incorporated in the production of the final draft. This report recommends the Plan be adopted for the purpose of improved foreshore management.

**BACKGROUND**

As part of the 2014/15 Capital Works program Council considered an option for a grant proposal to the Department of Rivers and Estuaries ((DRE) (formerly Swan River Trust) to produce a foreshore master plan for the Swan River within the Town limits. This was put forward as a result of discussions between the Town of East Fremantle officers and DRE to assist with future grant applications after previous grants were denied. It would also allow a more planned approach for the Town to take on maintenance issues along the foreshore.

After the grant proposal was successful, consultants were engaged to consult with Town, foreshore stakeholders and the community to develop a management plan for the foreshore which included an action plan to address ongoing maintenance issues and any possible upgrades or improvements to the surrounding areas.

The objectives of the foreshore master plan were to:

- prepare a strategic vision for the protection and enhancement of the foreshore to mitigate erosion impacts which threaten environmental, recreational, aesthetic and cultural values of the foreshore
- undertake a detailed desktop and site analysis of the East Fremantle foreshore
- improve the enjoyment of the foreshore by addressing identified risks to public amenity values, public safety, infrastructure and the environment
- prepare management recommendations to address the physical, social, and biological issues identified in the plan prepare an action plan that prioritises and provides indicative cost of proposed works to address the management recommendations that can also be used for possible future funding applications
- develop a plan that can be readily adopted by the council and the community.



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An initial draft plan was presented to Council at a workshop in October 2015, prior to it being made available for public comment. Feedback received from elected members and members of the public, has been considered to produce the final draft.

**DETAILS****Issues and options considered**

In the past the Town of East Fremantle has maintained and developed the river foreshore on an as-needs basis, in consultation with DER. As one of the Town's most important assets, it is becoming an increasingly popular destination for leisure and recreation activities, highlighting the need for a strategic approach to its management and development.

The Draft EFFMP covers many options at the strategic level, and when these are addressed in a staged process, more detailed options will be presented to Council for input prior to implementation.

**Legislation / Strategic Community Plan / policy implications**

**Legislation** State Planning Policy 2.10 – Swan and Canning River System  
Swan and Canning Rivers Management Act 2006  
Swan and Canning Rivers Management Regulations 2007

**Strategic Community Plan**

**Key Focus Area** Infrastructure and Waste Services.

**Aspiration** The needs of the community are met through the provision of high quality infrastructure and waste services.

**Outcome** Provide amenity, recreation opportunities and enhancement of the natural environment.

**Policy** Swan Canning River Protection Strategy 2015.

**Risk management considerations**

All risk management considerations are listed in the East Fremantle Foreshore Master Plan.

**Financial / budget implications**

Financial implications of the EFFMP will be considered as part of preparing implementation plans. The cost of preparing implementation plans will be factored into the 2016/17 budget. Implementation plans will establish a forward capital works program for subsequent years.

Current financial year impact

<b>Account no.</b>	E11687
<b>Budget Item</b>	Swan River Foreshore Infrastructure
<b>Budget amount</b>	\$271,100
<b>Amount spent to date</b>	\$23,248
<b>Proposed cost</b>	\$ 9,575
<b>Balance</b>	\$ 238,525

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Future financial year impact

<b>Annual operating cost</b>	\$200,000 per year for maintenance over 8 years, a total of \$1.585m
<b>Capital replacement</b>	Capital replacement and upgrade \$200,000
<b>10 Year Strategic Financial Plan impact</b>	
<b>Impact year</b>	\$2.6m.

All amounts quoted in this report are exclusive of GST.

**Regional significance**

The attraction that our improved foreshore will have to people outside the Town, will have significant regional impact. The Swan River Trails project will also help to integrate the foreshore between various Councils along the river.

**Sustainability implications**Environmental

The EFFMP is aimed at protecting and improving the Town's natural assets along the Swan River foreshore.

Social

The recommendations in the EFFMP aim to address the diverse needs of the community. It will increase the current amenities we have in public parks and reserves encouraging a higher level of use.

Economic

The EFFMP outlines recommendations that will reduce the annual cost of maintenance. By installing rock groins in front of John Tonkin Park the foreshore will stabilise and enhance over time. By improving the programming of the required maintenance, issues/assets will be addressed prior to them escalating into a Capital Works replacement project.

**Consultation**

A list of key community stakeholders located along and adjacent to the foreshore was identified and these stakeholders were invited to provide direct input into the initial draft of the EFFMP.

Officer consultation occurred throughout preparation of the EFFMP particularly with the Acting CEO and the Operations Manager. Further internal consultation was undertaken with the senior management group, who were invited to comment on the initial draft.

David Kaesehagen of Ecoscape presented elected members with the finding of the first revision of the draft at a Foreshore Master Plan Workshop held on 27 October 2015. This provided elected members with an opportunity to submit feedback prior to the document being made available to the broader community for comment.

The First Draft of the EFFMP was advertised on the Town's Facebook and website, and emailed to the list of identified stakeholders. The comment period was six weeks, and three (3) responses were received and are summarised and addressed as follows:

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Submitter	Submission	Officer Comment
Nikki Pursell	Made points regarding parking, facilities, housing of bins, biodegradable dog bags, cycle paths, and poor notification of the plan being out for public comment.	Mainly operational comments with some points being covered in either the Recreation and Community Facilities Plan or the planned reconstruction of Riverside Road.
Taoist Tai Chi Society	Concerns with a Café being proposed in their current location.	Consultations were held with Rowing Club who leases the property from the Town. The café was their proposal. The Taoist Tai Chi were consulted as part of the community consultation program. We advised some internal discussions need to take place between the two parties.
Mr Rod Martin Marine Safety	<p>Parking concerns for the Boatshed.</p> <p>Listing of Boatshed as Heritage building.</p>	<p>The parking concerns will be addressed with the planned reconstruction of Riverside Road.</p> <p>The heritage listing of all buildings is not included in the report - only a few examples were supplied. This will be a consideration for any future works in the area.</p>

**COMMENT**

The East Fremantle Foreshore Master Plan has been prepared based on current available technical information, plans and policies, as well as community input.

The EFFMP has been advertised and all comments have been considered. Where necessary, the Plan has been revised.

As there is continued increased use of the Town's popular river foreshore areas that require ongoing improved management practices to retain both council assets and natural environmental values, it is recommended that the EFFMP be adopted.

Once the adopted, implementation plans outlined in the Plan will be prepared to guide future maintenance programs and the ongoing works programs for these foreshore areas.

**VOTING REQUIREMENTS**

Simple Majority.

**RECOMMENDATION**

That Council resolve to:

1. adopt the Town of East Fremantle Foreshore Management Plan;
2. prepare implementation plans for all foreshore management plans as a guide to future works programs.

**12.3.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 080316**

**Cr M McPhail moved, seconded Cr White**

**That Council resolve to:**

- 1. adopt the Town of East Fremantle Foreshore Management Plan;**
- 2. prepare implementation plans for all foreshore management plans as a guide to future works programs.**

**(CARRIED 8:0)**

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## MINUTES

## REPORT NO 12.4.1

## PROPOSED LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES LOCAL LAW

<b>RESPONSIBLE DIRECTOR</b>	Les Mainwaring Executive Manager Finance & Administration
<b>AUTHOR</b>	Chris Liversage, Local Laws Consultant & Les Mainwaring Executive Manager Finance & Admin
<b>ATTACHMENT</b>	(A) Draft Local Government Property and Public Places Local Law
<b>AUTHORITY / DISCRETION</b>	Simple Majority

### PURPOSE

For Council to adopt a draft Local Government Property and Public Places Local Law for public consultation.

### EXECUTIVE SUMMARY

The Town is in the process of updating and amending its local laws. There are seven local laws that deal with activities on reserves and roads under the Town's care, control and management that can be replaced with one. A draft local law has been compiled and is recommended for adoption for public consultation.

### BACKGROUND

The Town has in place a number of local laws that regulate local government property – essentially parks and public open space, reserves, beaches, road reserves, car parks, clubrooms and the like:

- Local Laws Relating to Safety, Decency, Convenience and Comfort of Persons in Respect Of Bathing (published in the Government Gazette on 20 January 1978 and amended in the Government Gazette on 2 April 1993 and 25 August 2004);
- Street Lawns and Gardens, published in the Government Gazette on 7 February 1963, and amended in the Government Gazette on 12 February 1963 and 21 June 1974;
- Public Reserves, published in the Government Gazette on 4 March 1977, and amended in the Government Gazette on 6 January 1978;
- Prevention of Damage to Obstruction of and Misuse of Council Property and of Property on a Public Reserve, published in the Government Gazette on 20 January 1978;
- Prevention of Damage to Footpaths, published in the Government Gazette on 20 January 1978;
- Local Government Property, published in the Government Gazette on 16 October 2002; and
- Activities on Thoroughfares & Trading in Thoroughfares & Public Places, published in the Government Gazette on 16 October 2002 and amended in the Government Gazette on 25 August 2004.

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Many of the provisions of these local laws overlap, are inconsistent with the Local Government Act 1995 and its associated raft of Regulations, are outdated and should be replaced with a single local law.

**DETAILS**

A draft *Town of East Fremantle Public Places and Local Government Property Local Law* is attached. It reflects the provisions of many of the local laws repealed but in (as far as is reasonably possible) a more succinct fashion, and is based on a similar local law made by the City of South Perth in 2011, amended to suit the circumstances of the Town.

Some salient features are as follows:

Part 1 – sets out preliminary matters, repeals the local laws listed above, and the like.

Part 2 – this is similar to the existing determination provisions in the Town's current Local Government Property local law. It provides the power for Council to make 'Determinations' with respect to particular types of local government property and their use. This area is intended to apply where the full process to amend a local law is inappropriate, but where some formalised means of regulating use is needed.

Note that the subjects about which Determinations can be made is limited to those listed in clauses 2.7 and 2.8, and that the procedure to make or amend determinations is in clause 2.2 and 2.6. The scope of subjects has been limited by the views taken by the WA Parliamentary Joint Standing Committee on Delegated Legislation, which reviews local laws on behalf of Parliament, and which has the power to recommend disallowance of a local law.

There are no determinations listed in the Town's present local law, but an initial suggested list of determinations is shown in Schedule 1 of the proposed new local law.

Part 3 relates to activities on Town property that require a licence (note that licence, approvals and permits are the same thing). Under this Part, 'local government property' is in essence all the property under the Town's care, control and management except streets, which are dealt with in Part 6.

Clause 3.1 contains a list of those activities where a licence is needed.

Part 4 deals with behaviour on City property. In particular, clauses 4.1 and 4.2 deal with behaviour that interferes with the enjoyment of others using City property, or damage to property. Clause 4.8 succinctly replaces the entire *Local Law Relating to Safety, Decency, Convenience and Comfort of Persons in Respect Of Bathing 1978*.

Part 5 deals with those properties under the Town's control that need specific rules, in particular premises such as where a function may be being held, fenced areas, beaches, and the use of toilet and shower facilities by those of male and female gender.

Part 6 deals with activities in streets and reflects the provisions of the current 'Activities on Thoroughfares' local law.

Clause 6.1 lists general prohibitions in relation to streets and verges and relates to sight distance hazards, damage to streets and obstructions; clause 6.2 list those things that can be done only with a licence (permit); clause 6.3 deals with verge treatments.

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Clause 6.8 relates to the removal of redundant crossovers, 6.10 allows the Town to assign property numbers and clauses 6.15 and 6.16 give the Town power to require adjoining property owners to redirect water sprinklers, remove dangerous plants or remove something that may have been placed unlawfully on a street.

Part 7 regulates particular activities in public places. Clause 7.1 deals with animals and vehicles in public places.

Clauses 7.3 to 7.6 deal with the problem of dumped shopping trolleys, which (amongst other things) must be marked with the retailers details. If left in a public place the Town can ask the retailer to collect and can impound the trolley and/or fine the retailer if not collected. Clause 7.4 also makes it an offence for a person to leave a shopping trolley in a public place other than an area set aside for the storage of shopping trolleys. Note this is a common provision in many local government's local laws.

Part 8 deals with all types of licences regulated by the local law such as hire of property, alfresco dining, entertainment, markets, goods on footpaths, and so on. Clauses 8.2 to 8.4 deal with licences generally, and clauses 8.5 and 8.6 contain a list of typical conditions that might apply to a licence.

Clauses 8.8 to 8.16 deal with the duration, renewals, transfer, suspension, cancellation of licences, and 8.17 to 8.22 miscellaneous issues.

Note that licence fees are set using the Town's annual budget not under the local law.

Part 9 deals with objections and reviews as required by Part 9 of the Local Government Act, which provides that a person may appeal a decision made in relation to the granting, renewal, transfer, amendment, suspension or cancellation of a licence.

Part 10 gives the Town a wide range of options with respect to enforcement of the local law if necessary. Specifically, this can be issuing notices to reinstate damage to Town property, rectify a licence breach, prosecution or the application of a modified penalty. Note that under clause 10.4 the Town can undertake work required by a notice if its requirements are not complied with and recover the cost of doing so from the responsible person.

Finally, Schedule 1 contains a list of suggested initial Determinations made under Part 2 of the proposed local law, and Schedule 2 a list of modified penalties, linked to the Town's proposed Penalty Units Local Law, under which one penalty unit will be \$10.00.

### Issues and options considered

While it may be possible to amend the Town's 2002 'Local Government Property' and 'Activities on Thoroughfares' local laws, replacement of all of the local laws listed above with a single version is quicker and easier to do.

### Legislation / Strategic Community Plan / policy implications

#### **Legislation**

Under the Local Government Act 1995, local governments may make local laws.

#### **Strategic Community Plan**

#### **Key Focus Area**

Area 4 Governance and Leadership

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**Aspiration** The community is served by a leading and listening local government.

**Outcome** 4.3 Efficient regulatory tools to enhance public safety and amenity.  
Maintain a suite of up to date local laws to regulate nuisances, enhance public safety and to give effect to the functions of the Town.

**Policy** Existing Council policies that pertain to matters contained within this local law will be reviewed following its adoption.

**Risk management considerations**

The current suite of local laws overlap each other, are inconsistent with other legislation, and should be updated. Failure to do so may expose the Town to risk given the high level of activity on land under its care, control and management.

**Financial / budget implications**

There are costs associated with drafting, advertising, and Gazettal of the proposed local law. These costs forms part of the \$20,000 budget allocation for local law review.

**Regional significance**

There is no regional significance.

**Sustainability implications**

There are no sustainability implications.

**Consultation**

Local laws are made using the process set out in section 3.12(3) of the Local Government Act 1995. Amongst other things this requires a local government to give state-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarised in the notice for a period of 6 weeks after it first appears.

In addition, as part of the process, local governments are required to send a copy of the proposed local law to the Minister for Local Government.

The feedback from the public and Minister will be presented to Council in due course, after which it may decide to make the local law.

**COMMENT**

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting and that the minutes of the meeting include the purpose and effect of the proposed local law:

**Purpose:**

The purpose of this local law is to regulate the care, control and management of property of and under the care, control and management of the Town including thoroughfares.



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**Effect:**

Some Town property is set aside for particular uses, some activities are allowed only under a permit or under a determination, and others are restricted or prohibited. The local law also establishes offences for inappropriate behaviour in or on Town property.

**VOTING REQUIREMENTS**

Simple majority

**RECOMMENDATION**

That:

1. in accordance with s3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:
  - a. It is proposed to make a Public Places and Local Government Property Local Law, and a summary of its purpose and effect;
  - b. Copies of the proposed local law may be inspected at the Town's offices;
  - c. Submissions about the proposed local law may be made to the Town within a period of not less than 6 weeks after the notice is given;
2. in accordance with s3.12(3)(b), as soon as the notice is given, a copy be supplied to the Minister for Local Government;
3. in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
4. the results be presented to Council for consideration of any submissions received.

**12.4.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 090316****Cr Watkins moved, seconded Cr Collinson****That:**

1. in accordance with s3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:
  - a. It is proposed to make a Public Places and Local Government Property Local Law, and a summary of its purpose and effect;
  - b. Copies of the proposed local law may be inspected at the Town's offices;
  - c. Submissions about the proposed local law may be made to the Town within a period of not less than 6 weeks after the notice is given;
2. in accordance with s3.12(3)(b), as soon as the notice is given, a copy be supplied to the Minister for Local Government;
3. in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
4. the results be presented to Council for consideration of any submissions received.

**(CARRIED 8:0)**

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REPORT NO 12.4.2

**PROPOSED CATS LOCAL LAW**

<b>RESPONSIBLE DIRECTOR</b>	Les Mainwaring Executive Manager Finance & Administration
<b>AUTHOR</b>	Chris Liversage, Local Laws Consultant & Les Mainwaring Executive Manager Finance & Admin
<b>ATTACHMENT</b>	(A) Draft Cats Local Law
<b>AUTHORITY / DISCRETION</b>	Simple Majority

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**PURPOSE**

For Council to consider a draft Cats local law for public submissions.

**EXECUTIVE SUMMARY**

There have been a number of changes in this area of activity, including the introduction of the Cat Act 2011, the Cats Regulations 2012 and the Cat (Uniform Local Provisions) Regulations 2013. The Town does not have any provisions in place at present regulating the number of cats that may be kept and a local law is proposed to be introduced to do so.

**BACKGROUND**

In 2011, Parliament made a Cat Act. Amongst other things, it provides that cats must be sterilised (unless kept by an approved body or person as set out in the Act for breeding or a veterinarian) and registration of cats with the local government in whose district they are normally kept.

Local laws that deal with cats must comply with Cat Act 2011, the Cats Regulations 2012 and the Cat (Uniform Local Provisions) Regulations 2013. There is not a great deal left that can be dealt with by local laws.

Section 79 of the Cat Act sets out what can be regulated by local laws:

**79. Local laws**

- (1) ...
- (2) ...
- (3) Without limiting subsection (1), a local law may be made as to one or more of the following —
  - (a) the registration of cats;
  - (b) removing and impounding cats;
  - (c) keeping, transferring and disposing of cats kept at cat management facilities;
  - (d) the humane destruction of cats;
  - (e) cats creating a nuisance;
  - (f) specifying places where cats are prohibited absolutely;
  - (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;

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- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;
- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;
- (j) the regulation of approved cat breeders, including record keeping and inspection;
- (k) fees and charges payable in respect of any matter under this Act.

The Cat Regulations 2012 also apply. These deal fully with all issues relating to matters such as:

- Microchipping
- Registration and registration periods;
- Applications for approval to breed cats;
- Registration fees; and
- Application fees to obtain a permit to breed cats

Finally, the Cat (Uniform Local Provisions) Regulations 2013 operate as if they are local laws. Amongst other things these Regulations provide for:

- Local laws to determine what is the 'standard number' of cats that can be kept, excluding cats under the age of 6 months;
- If a member of a 'cat organisation' is normally resident on the premises, then the number of cats that can be kept on premises to be 3 times the standard number;
- Applications to keep additional numbers of cats

Given its almost entirely urban make up, the only area where a local law could be of value to the Town is to set a 'standard' number of cats.

### DETAILS

The purpose of setting a standard number of cats that may be kept is to allow the Town the ability should it be required to deal with cases where a resident may keep cats to the extent that while they may not necessarily be a health hazard or in conditions that might require referral to the RSPCA to examine their welfare, but in such numbers so as to present a nuisance to the community.

The recommended standard number is three; note that as the Town does not have any cat local laws at present, anyone who has more than three can keep existing cats that are registered with the Town but once and if the local law is made, cannot not add any more or substitute them without approval.

A draft Cats Local Law is attached. As noted above, its major provision is to set the 'standard number' of cats that may be kept at three, which is considered an appropriate number for the Town.

Note that this does not preclude a person from keeping more - the process for a person to keep more than the standard number of cats is set out mainly in the Cat (Uniform Local Provisions) Regulations 2013, and clauses 2.3 – 2.6 of the proposed local law set out possible conditions that could be applied, and which must be considered on a case by case basis.

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The remainder of the local law deals with appeal and enforcement provisions, and which are also linked to the City's Penalty Units Local Law 2015.

**Issues and options considered**

The Town does not have to make a cats local law; but dealing with any issues in the absence of setting a 'standard number' may be difficult.

It is not recommended that nuisance type or confinement provisions be considered – the resources to both formulate a suitable local law, but more importantly to police it are considerable. The Town gets few complaints about cats.

**Legislation / Strategic Community Plan / policy implications****Legislation**

As noted above, most issues dealing with cats are regulated by the Cat Act 2011, Cat Regulations 2012, and the Cat (Uniform Local Provisions) Regulations 2013.

**Strategic Community Plan****Key Focus Area**

Area 4 Governance and Leadership

**Aspiration**

The community is served by a leading and listening local government.

**Outcome**

4.3 Efficient regulatory tools to enhance public safety and amenity.  
 Maintain a suite of up to date local laws to regulate nuisances, enhance public safety and to give effect to the functions of the Town.

**Policy**

There are no current relevant Policies.

**Risk management considerations**

There is little risk with introduction of a local law of the type recommended; its purpose is simply to set a 'standard number' of cats.

**Financial/budget implications**

There are costs associated with drafting, advertising, and Gazettal of the proposed local law. These costs forms part of the \$20,000 budget allocation for local law review.

**Regional significance**

There is no regional significance.

**Sustainability implications**

There are no sustainability implications.

**Consultation**

Section 3(2) of the Cat Act 2011 provides that words and expressions defined in the *Local Government Act 1995* have the same meaning in this Act, unless the contrary intention appears.

This includes making local laws, and using the process set out in section 3.12(3) of the *Local Government Act 1995*. Amongst other things this requires a local government to give state-

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wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarised in the notice for a period of 6 weeks after it first appears. In addition, as part of the process, local governments are required to send a copy of proposed local law to the Minister for Local Government.

**COMMENT**

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting and that the minutes of the meeting include the purpose and effect of the proposed local law:

**Purpose**

The purpose of the proposed Cats Local Law is to set a 'standard number' of cats that may be kept on premises.

**Effect**

The effect of the proposed Local Law is that persons must not keep more than the standard number of cats unless provided for by the local law, the Cat Act, or its associated Regulations.

**VOTING REQUIREMENTS**

Simple majority.

**RECOMMENDATION**

That:

1. in accordance with s79 of the Cat Act 2011 and sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:
  - a. it is proposed to make a Cats Local Law, and a summary of its purpose and effect;
  - b. copies of the proposed local law may be inspected at the Town's offices;
  - c. submissions about the proposed local law may be made to the Town within a period of not less than 6 weeks after the notice is given;
2. in accordance with s3.12(3)(b), as soon as the notice is given, a copy be supplied to the Minister for Local Government;
3. in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
4. the results be presented to Council for consideration of any submissions received.

**Cr Harrington moved, seconded Cr White**

That:

1. in accordance with s79 of the Cat Act 2011 and sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:
  - a. it is proposed to make a Cats Local Law, and a summary of its purpose and effect;
  - b. copies of the proposed local law may be inspected at the Town's offices;
  - c. submissions about the proposed local law may be made to the Town within a period of not less than 6 weeks after the notice is given;
2. in accordance with s3.12(3)(b), as soon as the notice is given, a copy be supplied to the Minister for Local Government;
3. in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and

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4. the results be presented to Council for consideration of any submissions received.

CARRIED 8:0

**12.4.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 100316**

Cr Harrington moved, seconded Cr White

That:

1. in accordance with s79 of the Cat Act 2011 and sections 3.12(3)(a) and (3a) of the Local Government Act 1995, State wide and local public notice be given stating that:
  - a. it is proposed to make a Cats Local Law, and a summary of its purpose and effect;
  - b. copies of the proposed local law may be inspected at the Town's offices;
  - c. submissions about the proposed local law may be made to the Town within a period of not less than 6 weeks after the notice is given;
2. in accordance with s3.12(3)(b), as soon as the notice is given, a copy be supplied to the Minister for Local Government;
3. in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
4. the results be presented to Council for consideration of any submissions received.

(CARRIED 8:0)

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**13. CONFIDENTIAL BUSINESS**

**13.1 Town of East Fremantle Neighbourhood Link Home and Community Care Service**

**13.2 Appointment of External Auditor**

Mayor O'Neill advised that both Confidential Reports had been withdrawn from the Agenda at the request of the Chief Executive Officer.

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING – ELECTED MEMBERS, OFFICERS**

Nil.

**15. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 7.40pm.

*I hereby certify that the Minutes of the ordinary meeting of the **Council** of the Town of East Fremantle, held on **15 March 2016**, Minute Book reference **1. to 15.** were confirmed at the meeting of the Council on*

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*Presiding Member*