



Council Meeting 19 November 2013

MINUTES



**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON
TUESDAY, 19 NOVEMBER 2013 COMMENCING AT 6.30PM.**

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291.3 *T134.9 George Street No 48 (Lot 300)*

292. ORDER OF BUSINESS

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293.1 *T134.9 George Street No. 48 (Lot 300)*

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Owner: Mulloway Pty Ltd

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**302. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED
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303. CLOSURE OF MEETING

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON TUESDAY, 19 NOVEMBER 2013 COMMENCING AT 6.30PM.

279. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

279.1 Present

Mayor J O'Neill	Presiding Member
Cr C Collinson	
Cr I Cope	
Cr B de Jong	
Cr J Harrington	
Cr M McPhail	
Cr M Rico	
Cr E Watkins	
Mr S Wearne	Chief Executive Officer
Mr L Mainwaring	Executive Manager Finance & Administration
Mr J Douglas	Manager Planning Services (To 10.05pm)
Ms J May	Minute Secretary

280. 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."

281. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF

There were 22 members of the public in the gallery at the commencement of the meeting.

The Presiding Member introduced elected members and staff.

282. RECORD OF APPROVED LEAVE OF ABSENCE

Cr Martin

283. RECORD OF APOLOGIES

Nil.

284. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

285. PUBLIC QUESTION TIME

285.1 Tristan & Sarah Gerke

As a local resident living on Hubble Street and in very close proximity to George St, I would like to present the following questions at tonight's Council Meeting during the public question time as I am unable to attend in person:

1. *Mr Mayor, what is your outlook for the George Street precinct?*
2. *Mr Mayor, on what planning grounds did you oppose The Wine Store's application at the Committee Meeting held on the 5 November, particularly as you rejected the Planner's recommendation?*
3. *Mr Mayor, nearly 500 people have expressed their support for this application yet you voted against it in favour of a minority objection at the Committee Meeting held on the 5 November 2013. Do you believe it is appropriate to oppose an application based solely on the grounds of neighbour objection, or should other grounds in*



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accordance with the scheme have been taken into account and addressed by you at the Committee Meeting?

4. Mr Mayor, the Town Planning Scheme No 3 1.6b stipulates: "to enhance the character and amenity of the Town". How do you see this development imposing on the character and amenity of the Town?
5. Mr Mayor, at the Committee Meeting held on the 5 November 2013 you made reference to The Wine Store competing against other business on the street. Businesses I have spoken with welcome the foot traffic that The Wine Store helps to generate. Can you specify which businesses you were referring to?

Thank you for the opportunity to present these questions and I look forward to reading responses in the minutes.

Mayor O'Neill responded to the submitted questions as follows:

"As far as I am aware, Mr & Mrs Gerke were not present at the Town Planning & Building Committee Meeting of the 5 November 2013. I wish to declare that the community will always listen to all residents, without fear or favour.

1. I as a Councillor and then as Mayor served on Council when George Street was zoned as mixed use and have always seen George Street, with this zoning, as an integral part of the Town.
2. Neighbouring residents expressed genuine concerns regarding the negative impact of this development on their amenity.
3. No, however residents had serious concerns regarding noise, amenity and privacy.
4. Local people have a right and a duty to voice their objections.
5. George Street is a mix of small businesses but is located in a predominantly residential area.

285.2 Ms McKenzie

Ms McKenzie stated she wished to raise questions regarding the Wine Store development. The Mayor advised Ms McKenzie to raise the issue during debate on this item later in the meeting.

285.3 Jono Farmer – Glyde-In Community Group (Volunteer)

Will the Council advise when the matter of the requested lease for the Glyde In Community and Learning Centre will be resolved? This lease was requested by Glyde-In over nine months ago and representatives from Glyde-In spoke to the request at the June meeting of Council. As yet we do not know whether we will have a lease signed and if it is likely to happen there is some degree of urgency as the Local Government review board is likely to make their announcement in June 2014.

Mayor O'Neill advised Mr Farmer that this question would be taken on notice.

286. APPLICATIONS FOR LEAVE OF ABSENCE**286.1 Cr Harrington**

Cr Harrington sought leave of absence for the Council Meeting on 10 December 2013.

Cr de Jong – Cr Rico

That Cr Harrington be granted leave of absence for the Council Meeting on the 10 December 2013.

CARRIED



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- 286.2 Cr Watkins**
Cr Watkins sought leave of absence for any Council Meetings during January and February 2014.
- Cr de Jong – Cr Harrington**
That Cr Watkins be granted leave of absence for Council Meetings scheduled during January and February 2014. CARRIED
- 287. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
- 287.1 Council Meeting – 15 October 2013**
Cr Rico – Cr de Jong
That the Minutes of the Council Meeting held on 15 October 2013 be confirmed. CARRIED
- 287.2 Special Council Meeting – 22 October 2013**
Cr de Jong – Cr Rico
That the Minutes of the Special Council Meeting held on 22 October 2013 be confirmed. CARRIED
- 288. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**
Nil.
- 289. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS**
Nil.
- 290. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS**
- 290.1 Cr Martin**
That Council give consideration to introducing a standard agenda item headed "Declarations by Members who have not Read and Given Due Consideration to all Matters Contained in the Business Papers Presented Before the Meeting"
- In the absence of Cr Martin, Mayor O'Neill queried whether Cr Martin had provided written authority to any member to move this foreshadowed motion on her behalf. As no such authority had been given by Cr Martin, the Mayor advised the matter had lapsed.
- 291. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**
- 291.1 T134.9 George Street No 48 (Lot 300)**
Rob Bates-Smith: Requesting minor amendments to the original application for the Wine Store at 48 George Street, relating to bifold windows and signage
- Cr Harrington – Cr de Jong**
That the correspondence from Mr Bates-Smith be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 293.1). CARRIED
- 291.2 T134.9 George Street No 48 (Lot 300)**
Anne Machin: Expressing concern regarding the extensive Facebook campaign conducted by The Wine Store which has resulted in many ill informed and derogatory comments directed at Council and the Mayor in particular, which The Wine Store had made no attempt to rectify.



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Cr Harrington – Cr de Jong

That the correspondence from Ms Machin be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 293.1). CARRIED

291.3

T134.9 George Street No 48 (Lot 300)

Tony Watson MW Urban: Submitting comments in support of The Wine Store proposal.

Cr Harrington – Cr de Jong

That the correspondence from Mr Watson be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 293.1). CARRIED

292.

ORDER OF BUSINESS**Cr de Jong – Cr Rico**

That the order of business be changed to allow members of the gallery to address agenda items. CARRIED

293.

TOWN PLANNING & BUILDING COMMITTEE

Cr de Jong made the following impartiality declaration in the matter of 48 George Street: "As a consequence of one of the objectors, Owen Ritson, providing tree pruning services at my property, there 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".

Cr de Jong made the following impartiality declaration in the matter of 48 George Street: "As a consequence of me incautiously "liking" the Wine Bar proposal on Facebook (which I later "unliked"), there 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".

Cr de Jong further noted the correspondence advising that he has a Wine Store support page on his Facebook site and advised that if this was true, it was only due to his lack of expertise in deleting this information from his page.

293.1

T134.9 George Street No. 48 (Lot 300)**Applicant: R Bates-Smith****Owner: Malloway Pty Ltd**

The submissions from Mr Bates-Smith, Ms Machin and Mr Watson, referred from Correspondence (MB Ref 291.1, 291.2 & 291.3) were tabled.

The following information previously circulated by the CEO was considered:

"In the first line of the proposed approval reference is made to a "bi-fold door". This should read "frameless sliding glass or bi-fold windows" (see below). The error occurred in the officer's report because the proposed bi-fold windows were marked as "bi-fold doors" on the plans which were submitted.

In the decision as it currently reads, sliding glass windows and bi-fold windows read as if they are the same or at least substantially similar. However they are not. The confusion has occurred because, after the Town Planning Advisory Panel wrote "Completely frameless sliding glass windows would be preferable", that was reflected in a condition in the officer's report which read "Bi-fold windows to be frameless sliding glass windows to the satisfaction of the Chief Executive Officer".

The CEO is advised the main intent of the Panel was to have completely frameless glass windows, whether sliding glass or bi-fold, although with a preference for frameless sliding glass windows.



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However Andrew Malone is unsure as to whether sliding glass windows will be completely feasible due to the specific physical constraints involved and believes some sort of bi-fold arrangement may be necessary.

In the circumstance, it is recommended that the most appropriate term would be "frameless sliding glass windows or frameless bi-fold windows, to the satisfaction of the CEO".

If that is accepted it is suggested:

Condition 7 read:

"Frameless sliding glass windows or frameless bi-fold windows to the satisfaction of the CEO to be installed on George Street only, with no opening windows on Hubble Street."

Condition 8 read:

"The abovementioned windows to be shut after 8pm."

Condition 14 read:

"The proposed frameless sliding glass windows or frameless bi-fold windows are to be constructed in conformity with the drawings date stamped and 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."

Condition 26 read:

"The approval for the outdoor seating and frameless sliding glass windows or frameless bi-fold windows is for a trial period of 12 months."

In the event these changes, which are simply intended to clarify the intent of the Committee's resolution without changing any of the substance of the resolution, are accepted, the following amended words may be helpful:

"That Council approve planning permission for 10 outdoor seats, frameless sliding glass or bi-fold windows and a formalisation of trading hours at 48 (Lot 300) George Street, in accordance with the plans date stamp received on 16 August and 1 November 2013, subject to the following conditions:

1. The subject lot including associated outdoor seating not to exceed 100 patrons at any one time on the premises.
2. Applicant to ensure that at all times the location of the proposed tables and chairs to be situated on George Street and Hubble Street are in accordance with the plan date stamped 1 November 2013 and do not block or obstruct the street and footpath.
3. Applicant to ensure all times the tables are suitably staffed, and the proposed outdoor area to be table service only.
4. No smoking is permitted within or surrounding the alfresco area.
5. A maximum of 2 customers per table at any one time.
6. The proposed outdoor seating and tables to be removed from the street by 8.00pm.
7. Frameless sliding glass windows or frameless bi-fold windows to the satisfaction of the CEO to be installed on George Street only, with no opening windows on Hubble Street.
8. The abovementioned windows to be shut after 8.00pm.
9. No portable 'A' frame signage is approved as part of this application. The applicant to remove all 'A' frames signs, including the current large 'A' frame signage board located on George Street. No 'A' frame signage is to be located on George Street or Hubble Street.
10. The blackboard to be a maximum height of 1 metres and a maximum width of 1 metres. The blackboard to be affixed to the building so as not detract from the heritage value of the building, or impact upon the structural integrity of the building, or materially alter the appearance or condition of the buildings structure once removed from that structure.
11. The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.
12. The pavement associated with the outdoor seating shall 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.



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13. *The hours of operation for the business to be:*
Monday 7am – 10pm
Tuesday 7am – 10pm
Wednesday 7am – 12am
Thursday 7am – 12am
Friday 7am – 12am
Saturday 7am – 12am
Sunday 7am – 10pm
14. *The proposed frameless sliding glass windows or frameless bi-fold windows are to be constructed in conformity with the drawings date stamped and 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.*
15. *The proposed works are not to be commenced until Council has received an application for a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
16. *With regard to the plans submitted with respect to the building licence 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.*
17. *The proposed works are not to be commenced until Council has received an application for, and issued, a permit under Division 3 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
18. *Applicant to ensure at all times the use of the outdoor tables and chairs and related service complies with Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
19. *The facility is to be conducted with and as an extension of food premises which are registered in accordance with the Health Act 1911.*
20. *Users of the facility shall have access to proper and sufficient sanitary conveniences.*
21. *The eating area is to be kept in a clean and tidy condition at all times.*
22. *The tables, chairs and other structures in the eating area are to be in a good, clean and serviceable condition at all times.*
23. *At least 1.8 metres of clear footpath is required in order to ensure sufficient pedestrian access. An area adjoining the proposed alfresco area is to be clearly demarcated at the expense of the applicant, to ensure at all times patrons stay within the alfresco area. This is to be undertaken to the satisfaction of the Chief Executive Officer.*
24. *Arrangements being made in respect of public liability insurance of not less than \$10,000,000 to the satisfaction of the Chief Executive Officer.*
25. *Applicant is required to pay an initial application fee of \$259.00 and an additional annual fee of \$27 per m² for the use of the alfresco area.*
26. *The approval for the outdoor seating and frameless sliding glass windows or frameless bi-fold windows is for a trial period of 12 months.*

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 plans as stamped by Council are attached and the application for a building licence 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)."*

In response to the amended proposal from the applicant, the following information circulated by the Manager Planning Services was considered:

"An amendment to the planning application was emailed to the CEO at 6 PM on Friday night 15 November 2013 after the finalisation of the Council meeting agenda. A copy was not sent to me and at time of writing I am not in receipt of the hard copy of the letter. Nevertheless, in order to inform Elected Members of the proposed changes by the applicant and my advice in respect to each, Council may wish to consider this memo and attached late correspondence prior to the Tuesday meeting.

The following issues and proposals are raised from the correspondence;



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While the Wine Store appreciates the concept of a trial period no business or property owner could be expected to invest significant capital on a permanent building variation based on a 12 month trial period.

Agreed. The concept of a trial period is considered impractical. It is not reasonable to expect business investment on this basis and it is reasonable to anticipate that compliance will be problematic should the approval period not be extended.

The wine store would like to propose the following amended closing times for the bifold windows;

- *Hubble Street corner window to be open between 7am to 6pm*
- *George Street corner window to be open between 7am to 8pm.*

The officer's recommendation is that the windows should be shut and outside seating removed by 5pm each night. There seems little point in closing the Hubble Street windows if outside dining continues until 8pm as proposed in the Committee's alternate recommendation. The officer's recommendation is considered preferable if noise impacts upon nearby residents are considered an important consideration.

The Wine Store has traded with A-frame signage for the past 8 years along with almost every other business on George Street.

The Wine Store would like to propose the following amendment;

-1xA-frame sign (existing location) to remain for the Store and shift 1 meter to the West to ensure no impact exists on the visual sightlines of vehicles using the street.

-1 x A-frame sign (adjoining building at the Northern end of the Hubble Street façade) remain for the purpose of directing smokers or patrons from Hubble Street residencies.

Whether the Wine Store has traded with an (unapproved) A-frame sign for the last 8 years is not relevant to the current consideration which must be assessed under the prevailing planning policies. In 2011 Council adopted a new signage policy which does not provide for the approval of 'sandwich boards' on the footpath. This is done to limit visual clutter of competing signage, prevent third party advertising, protect existing sightlines for vehicular traffic and avoid unnecessary obstructions on the public footpath. It should be noted that such signage is erected in the public domain and as such is subject to restrictions under Council's Local Laws.

The officer's recommendation provides for adequate signage to be erected on the subject building. It is noted the outdoor seating will occupy an area of the footpath and signs located on the footpath may further impede pedestrian traffic. The Council Ranger has in the past requested removal of the Wine Store's signage from the public domain because it has impeded vehicular sightlines. Accordingly further multiple signs to be erected in the public domain are not considered desirable."

Cr de Jong – Cr Harrington

That Council approve planning permission for 10 outdoor seats, frameless sliding glass or bi-fold windows and a formalisation of trading hours at 48 (Lot 300) George Street, in accordance with the plans date stamp received on 16 August and 1 November 2013, subject to the following conditions:

- 1. The subject lot including associated outdoor seating not to exceed 100 patrons at any one time on the premises.*
- 2. Applicant to ensure that at all times the location of the proposed tables and chairs to be situated on George Street and Hubble Street are in accordance with the plan date stamped 1 November 2013 and do not block or obstruct the street and footpath.*
- 3. Applicant to ensure all times the tables are suitably staffed, and the proposed outdoor area to be table service only.*
- 4. No smoking is permitted within or surrounding the alfresco area.*
- 5. A maximum of 2 customers per table at any one time.*
- 6. The proposed outdoor seating and tables to be removed from the street by 8.00pm.*



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7. *Frameless sliding glass windows or frameless bi-fold windows to the satisfaction of the CEO.*
8. *The window on Hubble Street to be shut after 5.00pm, the window on George Street to be shut after 8.00pm.*
9. *No portable 'A' frame signage is approved as part of this application. The applicant to remove all 'A' frames signs, including the current large 'A' frame signage board located on George Street. No 'A' frame signage is to be located on George Street or Hubble Street.*
10. *The blackboard to be a maximum height of 1 metres and a maximum width of 1 metres. The blackboard to be affixed to the building so as not detract from the heritage value of the building, or impact upon the structural integrity of the building, or materially alter the appearance or condition of the buildings structure once removed from that structure.*
11. *The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.*
12. *The pavement associated with the outdoor seating shall 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.*
13. *The hours of operation for the business to be:*
Monday 7am – 10pm
Tuesday 7am – 10pm
Wednesday 7am – 12am
Thursday 7am – 12am
Friday 7am – 12am
Saturday 7am – 12am
Sunday 7am – 10pm
14. *The proposed frameless sliding glass windows or frameless bi-fold windows are to be constructed in conformity with the drawings date stamped and 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.*
15. *The proposed works are not to be commenced until Council has received an application for a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
16. *With regard to the plans submitted with respect to the building licence 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.*
17. *The proposed works are not to be commenced until Council has received an application for, and issued, a permit under Division 3 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
18. *Applicant to ensure at all times the use of the outdoor tables and chairs and related service complies with Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.*
19. *The facility is to be conducted with and as an extension of food premises which are registered in accordance with the Health Act 1911.*
20. *Users of the facility shall have access to proper and sufficient sanitary conveniences.*
21. *The eating area is to be kept in a clean and tidy condition at all times.*
22. *The tables, chairs and other structures in the eating area are to be in a good, clean and serviceable condition at all times.*
23. *At least 1.8 metres of clear footpath is required in order to ensure sufficient pedestrian access. An area adjoining the proposed alfresco area is to be clearly demarcated at the expense of the applicant, to ensure at all times patrons stay within the alfresco area. This is to be undertaken to the satisfaction of the Chief Executive Officer.*
24. *Arrangements being made in respect of public liability insurance of not less than \$10,000,000 to the satisfaction of the Chief Executive Officer.*
25. *Applicant is required to pay an initial application fee of \$259.00 and an additional annual fee of \$27 per m² for the use of the alfresco area.*



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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 plans as stamped by Council are attached and the application for a building licence 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)."*

Ms Sheehan, Mr Caufield, Mr Parish, Ms McKenzie and Mr Dean addressed the meeting in support of the proposal.

Ms Payne, Mr Ritson, Mr Edison, Ms McCallum, Ms Machin, Mr Back and Mr Sambrailo addressed the meeting requesting that the impact on Hubble Street residents be considered in any approval granted.

Ms Usher and Mr Bates-Smith addressed the meeting in support of their proposal.

Amendment

Mayor O'Neill – Cr Collinson

That:

- **Condition 7 be amended to read:**
"Frameless sliding glass windows or frameless bi-fold windows to the satisfaction of the CEO to be installed on George Street only, with no opening windows on Hubble Street."
- **Condition 8 be amended to read:**
The abovementioned windows to be shut after 8.00pm.
- **The following become Condition 26:**
"The approval for the outdoor seating and frameless sliding glass windows or frameless bi-fold windows is for a trial period of 12 months."

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

The amendment became part of the motion.

Cr de Jong and Cr Harrington queried the Mayor's advice that they were required to move the substantive motion, as amended, despite not being in support of it.

The substantive motion was put.

Cr de Jong – Cr Harrington

That Council approve planning permission for 10 outdoor seats, frameless sliding glass or bi-fold windows and a formalisation of trading hours at 48 (Lot 300) George Street, in accordance with the plans date stamp received on 16 August and 1 November 2013, subject to the following conditions:

- 1. The subject lot including associated outdoor seating not to exceed 100 patrons at any one time on the premises.**
- 2. Applicant to ensure that at all times the location of the proposed tables and chairs to be situated on George Street and Hubble Street are in accordance with the plan date stamped 1 November 2013 and do not block or obstruct the street and footpath.**
- 3. Applicant to ensure all times the tables are suitably staffed, and the proposed outdoor area to be table service only.**
- 4. No smoking is permitted within or surrounding the alfresco area.**
- 5. A maximum of 2 customers per table at any one time.**
- 6. The proposed outdoor seating and tables to be removed from the street by 8.00pm.**



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7. Frameless sliding glass windows or frameless bi-fold windows to the satisfaction of the CEO to be installed on George Street only, with no opening windows on Hubble Street.
8. The abovementioned windows to be shut after 8.00pm.
9. No portable 'A' frame signage is approved as part of this application. The applicant to remove all 'A' frames signs, including the current large 'A' frame signage board located on George Street. No 'A' frame signage is to be located on George Street or Hubble Street.
10. The blackboard to be a maximum height of 1 metres and a maximum width of 1 metres. The blackboard to be affixed to the building so as not detract from the heritage value of the building, or impact upon the structural integrity of the building, or materially alter the appearance or condition of the buildings structure once removed from that structure.
11. The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.
12. The pavement associated with the outdoor seating shall 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.
13. The hours of operation for the business to be:
Monday 7am – 10pm
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14. The proposed frameless sliding glass windows or frameless bi-fold windows are to be constructed in conformity with the drawings date stamped and 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.
15. The proposed works are not to be commenced until Council has received an application for a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
16. With regard to the plans submitted with respect to the building licence 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.
17. The proposed works are not to be commenced until Council has received an application for, and issued, a permit under Division 3 of the Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
18. Applicant to ensure at all times the use of the outdoor tables and chairs and related service complies with Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law.
19. The facility is to be conducted with and as an extension of food premises which are registered in accordance with the Health Act 1911.
20. Users of the facility shall have access to proper and sufficient sanitary conveniences.
21. The eating area is to be kept in a clean and tidy condition at all times.
22. The tables, chairs and other structures in the eating area are to be in a good, clean and serviceable condition at all times.
23. At least 1.8 metres of clear footpath is required in order to ensure sufficient pedestrian access. An area adjoining the proposed alfresco area is to be clearly demarcated at the expense of the applicant, to ensure at all times patrons stay within the alfresco area. This is to be undertaken to the satisfaction of the Chief Executive Officer.
24. Arrangements being made in respect of public liability insurance of not less than \$10,000,000 to the satisfaction of the Chief Executive Officer.
25. Applicant is required to pay an initial application fee of \$259.00 and an additional annual fee of \$27 per m² for the use of the alfresco area.



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26. The approval for the outdoor seating and frameless sliding glass windows or frameless bi-fold windows is for a trial period of 12 months.

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 plans as stamped by Council are attached and the application for a building licence 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

Under s.5.21(4)(b) of the Local Government Act 1995, Cr de Jong requested that the voting of Council members be recorded.

Mayor O'Neill, Crs Watkins, Rico, Cope, Collinson voted in favour of the recommendation with Crs de Jong, McPhail and Harrington having voted against the motion.

294. REPORTS OF CHIEF EXECUTIVE OFFICER

294.1 *Foreshore Management Plan*

By Stuart Wearne, Chief Executive Officer, on 19 November 2013

BACKGROUND

At the Council Meeting held on 15 October 2013, former Cr Wilson gave notice of the following motion:

"That Council conduct an independent professional review of the condition and status of the river foreshore, running from East Street to Petra Street, that results in a documented long-term management plan for the area."

The CEO was disappointed (then) Cr Wilson had not raised the issue with him beforehand.

A proposal such as this should always be subject to officer advice. For example there are these basic questions:

- (i) Is a plan needed?
- (ii) Is the proposed plan the optimal plan?
- (iii) If a plan is needed, is this a Council responsibility or is it ultimately the responsibility of the Swan River Trust, which is, after all, the planning authority for the area?
- (iv) Are relevant plans already in place – whether, for example, involving Swan River Trust plans or plans previously commissioned by Council, or both?
- (v) What would the plan cost?
- (vi) Has this been included in the budget?
- (vii) Where does the proposal fit within Council's strategic planning tools, eg Strategic Community Plan?

It may be tempting to move such motions, especially in a pre-election environment, (at the time the election was four days away) however it is inappropriate in a situation involving Council financial and staff resources for an elected member to not at least consult with Council officers, if not carry out the necessary research themselves.



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The motion could easily have been slightly reworked, for example:

"That an officer report be obtained with respect to Council commissioning an independent professional review of the condition and status of the river foreshore, running from East Street to Petra Street, with the objective of documented long-term management plan for the area."

It is possible to point to other consultants' reports, on a range of matters, which Council has commissioned, apparently without due consideration and often at significant expense to ratepayers, however never subsequently utilised, because insufficient thought had gone into the need or use of such a report.

REPORT

Using the above questions as a framework it is noted that Council adopted a very comprehensive Foreshore Policy and Plan in 1995, which had been commissioned from environmental consultants Ecoscape, however elected members unanimously revoked this Plan in December 2010, on the basis of an officer recommendation in the context of an audit of planning policies.

Interestingly the Policy included a recommendation for the formation of a "Friends of the East Fremantle Foreshore" group, which subsequently occurred. (This is not the same group which has recently been formed and adopted the same name.)

It is also noted that the Swan River Trust formulated a detailed foreshore management plan in 2008 – named the Swan and Canning Rivers Foreshore Assessment and Management Strategy and this is still used as an important guiding document by the Trust.

In that plan East Fremantle was dealt with in a section of the river which ran from the Fremantle Traffic Bridge to Blackwall Reach.

Two main issues were considered:

- (i) the state of the shoreline
- (ii) the state of river foreshore vegetation.

With respect to the first issue East Fremantle was rated as 2 (1 being the highest, 3 the lowest) with the condition assessed as Moderate-Good and particular mention that Stirling Highway to John Tonkin Park should be accorded a lower priority. With respect to the second issue, East Fremantle was rated as "low priority".

This may suggest that the management of the foreshore is not as dire as some may believe.

On the issue of which body is ultimately responsible, from a statutory point of view this is essentially the Swan River Trust, however it is accepted that the reality is that much of work in this area will be carried out by local governments, albeit as much as possible working in conjunction with the Trust.

Notwithstanding the above, in discussion between the CEO and the Trust it is concluded that a more detailed foreshore management plan would be beneficial, although Council should not reinvent the wheel, however build on the Trust's previous work.

The plan should be clear about the specific objectives of the plan. For example the CEO notes that a foreshore management plan as proposed by (former) Cr Wilson could be presumed to exclude adjacent fragile cliffs and slopes and that this would be a mistake.

One of the main advantages in formulating a plan is that it is considered such a plan would provide a better basis for seeking funding support from the Trust, notwithstanding Council has still enjoyed success in this respect in the past, regardless of having such a plan.



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The plan would likely cost between \$40,000 - \$60,000 and has not been budgeted for.

In discussions with Trust officers they have agreed to assist Council officers in the production of a consultant's brief/scope of works and also to sit on any selection panel.

Subject to Council approval it is planned to embark on this work in time for the making of a grant application in February next year, when applications for RiverBank funding open.

The CEO has also discussed with Mr McCarthy, CEO of the South West Group, the possibility of some of this work being carried out in the context of Council's role in developing a Natural Resource Management Strategy.

Mr McCarthy, who has a strong background in Natural Resource Management, has advised that was a highly appropriate suggestion and also offered to assist.

RECOMMENDATION

That Council officers engage with the Swan River Trust in the production of a consultant's brief/scope of works in relation to the commissioning of a foreshore and adjacent areas management plan and seek funding for the implementation of the plan in the next RiverBank funding round.

Cr Collinson – Cr Rico

That Council officers engage immediately with the Swan River Trust in the production of a consultant's brief/scope of works in relation to the commissioning of a foreshore and adjacent areas management plan and seek funding for the implementation of the plan in the next RiverBank funding round.

Ms Wisniewski (Secretary Friends of EF Foreshore) addressed the meeting advising that whilst she agreed with the commissioning of the management plan, immediate action was required in relation to the loss of foreshore and vegetation to the north of the Zephyr Café. Whilst she was pleased to see the recent sand renourishment near the café, she had been disappointed that this had not extended to the area to the north.

Mrs Caddy (Friends of EF Foreshore) stated that officers of the Swan River Trust had advised they would expedite any approvals required to allow Council to commence work in this area.

Ms Lushey addressed the meeting advising that the area in question required immediate attention.

Amendment

Mayor O'Neill – Cr McPhail

That the following be part 1 of the motion and the commissioning of the management plan become part 2:

- "1. the CEO undertake in conjunction with the Swan River Trust and, if deemed necessary, other relevant agencies to implement immediate foreshore work from approximately the southern end of the Zephyr Café northwards to the Swan Yacht Club. The purpose of these works is to restore the shoreline already eroded and minimise further degradation of the vegetation along this section of foreshore."*

Cr de Jong requested the CEO advise his position on the proposed motion including the financial implications.

The CEO advised he did not support the motion and also did not consider the motion represented an amendment to his recommended motion. The CEO stated that the effect of the resolution was to direct the CEO to implement immediate foreshore works despite there being no indication of what specific works were being referred to, no costings and no funds allocated in the budget for the proposed works.



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The amendment was submitted.

Mayor O'Neill – Cr McPhail

That the following be part 1 of the motion and the commissioning of the management plan become part 2:

- "1. the CEO undertake in conjunction with the Swan River Trust and, if deemed necessary, other relevant agencies to implement immediate foreshore work from approximately the southern end of the Zephyr Café northwards to the Swan Yacht Club. The purpose of these works is to restore the shoreline already eroded and minimise further degradation of the vegetation along this section of foreshore."**

CARRIED

Under s.5.21(4)(b) of the Local Government Act 1995, Cr de Jong requested that the voting of Council members be recorded.

Mayor O'Neill, Crs Watkins, Harrington, Cope, Collinson and McPhail voted in favour of the recommendation with Crs de Jong and Rico having voted against the motion

The amendment became part of the motion.

The substantive motion was put.

Cr Collinson – Cr Rico

That:

- 1. the CEO undertake in conjunction with the Swan River Trust and, if deemed necessary, other relevant agencies to implement immediate foreshore work from approximately the southern end of the Zephyr Café northwards to the Swan Yacht Club. The purpose of these works is to restore the shoreline already eroded and minimise further degradation of the vegetation along this section of foreshore.**
- 2. Council officers engage immediately with the Swan River Trust in the production of a consultant's brief/scope of works in relation to the commissioning of a foreshore and adjacent areas management plan and seek funding for the implementation of the plan in the next RiverBank funding round.**

CARRIED

Under s.5.21(4)(b) of the Local Government Act 1995, Cr de Jong requested that the voting of Council members be recorded.

Mayor O'Neill, Crs Watkins, Harrington, Cope, Collinson and McPhail voted in favour of the recommendation with Crs de Jong and Rico having voted against the motion

295. TOWN PLANNING & BUILDING COMMITTEE (CONTINUED)

295.1 T134.5 Mixed Use Development Canning Highway No 147 (Lot 18) Application for Condition Clearance

The following information from the Manager Planning Services was considered:

At its meeting on 5 November 2013, the Town Planning & Building Committee considered a report and recommendation for clearance of Condition 20 of the WAPC development approval dated 6 March 2012. The Committee resolved:

That the matter be held over to the Council Meeting on 19 November 2013 pending an informal meeting between the applicants and the Committee to determine which elevations of the development will require further consideration by Council in relation to colours and finishes, prior to implementation.

Councillors Martin, Rico, Collinson and McPhail and the Manager Planning Services met with the developer's representatives on 13 November 2013. An animated graphic representation of the external and internal details of the buildings was provided. There



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was general discussion and consensus from elected members that a darker (terra-cotta) render would be preferable in respect to some features on the Canning Highway frontage.

It was further agreed that the matter be again considered by the TPBC at its meeting on 3 December 2013 at which time the developers will have actual samples of the proposed render to be used.

Mayor O'Neill – Cr Collinson

That the matter be referred to the Town Planning & Building Committee meeting on 3 December 2013. CARRIED

295.2

T135.1 George Street Access and Parking Management Plan

The Manager Planning Services advised that:

- elected members had been provided with an updated timeframe for the Communications Action Plan
- information regarding Council's residential parking scheme was available on the web (there had been no direct contact with those residents who had no off street parking)
- he was awaiting input from the Operations Manager regarding the location of proposed bicycle parking.

Mayor O'Neill – Cr Rico

That the Manager Planning Services' report be received. CARRIED

295.3

T135.2 Parking Investigation Town Centre

Cr Collinson – Cr de Jong

The adoption of the Committee's recommendation which is as follows:

That this report be received and that:

1. line marking be undertaken in May Street north of the St Peters Road junction and in Council Place to clearly delineate curb side parking spaces.
 2. land owners be encouraged to apply time restricted parking in their on- site car parks by private contractors (or other options).
 3. Council consider the introduction of 2 hour parking restrictions for all spaces in the Silas Street road reserve following consultation with relevant commercial tenants.
 4. residents within the vicinity of the Town Centre be advised of this report and the actions being undertaken.
- CARRIED

296.

FINANCE

296.1

Monthly Financial Activity Statement for Period Ending 31 October 2013

By Les Mainwaring Executive Manager Finance & Administration on 12 November 2013

PURPOSE

To provide timely financial information to Elected Members including a 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.

BACKGROUND

The report comprises the financial results from the month ending October 2013, with commentary focusing on comparisons to the year to date budget position.

The monthly Financial Activity Statement for the period ending 31 October 2013 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.



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- Capital expenditure Report

ATTACHMENT

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.

REPORT

Introduction/Comments

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

Revised Budget Forecast

The current budget forecast for the 30 June 2014 indicates a surplus of \$8000, noting that this was the position adopted as at the Ordinary Council Meeting (OCM) 17 September 2013.

The history of the budget forecast is as follows;

Original Budget adopted with a projected surplus of \$0

At the OCM 17 September 2013 amendments resulted in an increase in closing funds of \$8,000.

Three further amendments have been identified in this October monthly report; and the net result of these amendments proposes a budget movement of;
\$15,000 increase in closing funds

Should the proposed budget amendments be adopted in this report, the revised budget forecast for the 30 June 2014 will increase from a surplus of \$8,000 to a surplus of \$23,000.

\$30,000 Additional cost of Municipal Inventory project following acceptance of a competitive quotation by Griffiths Architects at the Ordinary Council Meeting 15 October 2013, to undertake a review of the Municipal Inventory and to make recommendations for the creation of Heritage Areas and listing properties on the Heritage List. The original budget was \$50,000, now the total project would be \$80,000.

\$30,000 Additional income forecast from building permits mainly due to the effect of the Town Centre development. The original budget of \$95,000 is forecast to reach \$125,000.

\$15,000 Additional revenue forecast for rates as a result from the less than expected decrease in rate revenue from the Town Centre shifting to vacant land, prior to redevelopment.

Operating YTD Actuals (compared to the YTD Budget)

Operating Revenue 100%; is \$25,000 more than the YTD budget. (Favourable)

Operating Expenditure 85%; is \$433,000 less than the YTD budget. (Favourable)

After non-cash adjustments, the total operating cash position is \$492,000 more than the YTD budget (Favourable).

Operating Revenue is in line with the year to date budget.

The significant unfavourable variance within operating revenue is the transfer of the contribution for the Plympton Parking project which is yet to commence, whereas the most favourable variances have come from building activity in the form of permit



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income and collections for BCITF and BSL. Another significant favourable income area is the early grant payment of the Home and Community Care program.

Operating Expenditure is now 15% favourable to year to date budget.

The main area of favourable variation is recreation and culture which includes parks and gardens maintenance, the East Fremantle Oval Master Plan, timing of library contribution and timing building demolition. Other favourable variances come from the timing of town planning projects such as the municipal inventory and TPS3.

All capital activities have been set forward in the budget so that they can be easily monitored in terms of progress; hence revenues aligned with capital projects have also been set forward which presents timing differences until projects are completed.

Many of the current year's capitals works programmes are in the project development and quotation stage at reporting date, whereas payments will flow when projects are completed or substantially in progress.

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

Capital Programs YTD Progress Summaries

Annual Timeline 33% of year elapsed

Land & Buildings 0% expended

Infrastructure Assets 1% expended

Plant & Equipment 23% expended

Furniture & Equipment 2% expended

Capital expenditure is \$3,330,000 less than the YTD budget (Favourable) which represents the value of capital programs to be completed. The report provides details on individual capital works in progress as at 31 October 2013. Also included is an Infrastructure Program timeline of scheduled works with progress comments.

Statutory Requirements

Local Government Act 1995 (As amended)

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

Relevant Council Policies

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.

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The September 2013 Financial Activity Statement shows variances in income and expenditure when compared with year to date budget estimates.

The following budget amendments are recommended for various forecast projections recognised after adoption of the original budget;

\$30,000 E10238 Municipal Inventory Project additional cost.

\$30,000 I13181 Favourable Building Permit Income projection.

\$15,000 I03055 Favourable Rate income projection

\$15,000 Increase in closing funds



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Conclusion

The attached Financial Activity Statement for the period 1 July 2013 to 31 October 2013 is presented to the Council for timely information, and includes the current annual forecast of \$8,000 which is confirmed by these accounts in conjunction with further analytical analysis undertaken at officer level. Adoption of the proposed budget amendments will move the annual forecast from an \$8,000 surplus to a \$23,000 surplus.

Voting Requirements

Absolute Majority

RECOMMENDATION

That Council:

1. receives the Financial Activity Statement for the period ending 31 October 2013.
2. adopts the budget amendment recommendations with the following variations for the period 1 July 2013 to 31 October 2013 and amends the budget accordingly:
 - \$30,000 E10238 Additional project costs for Municipal Inventory
 - \$30,000 I13181 Additional Building Permit revenue.
 - \$15,000 I03055 Additional Rate revenue
 - \$15,000 Increase in closing funds.

Absolute Majority Resolution Required

Cr Watkins – Cr Rico

That Council:

1. receives the Financial Activity Statement for the period ending 31 October 2013.
2. adopts the budget amendment recommendations with the following variations for the period 1 July 2013 to 31 October 2013 and amends the budget accordingly:
 - \$30,000 E10238 Additional project costs for Municipal Inventory
 - \$30,000 I13181 Additional Building Permit revenue.
 - \$15,000 I03055 Additional Rate revenue
 - \$15,000 Increase in closing funds.

CARRIED
ABSOLUTE MAJORITY

296.2

Accounts for Payment – October 2013

By Les Mainwaring, Executive Manager Finance & Administration on 4 November 2013

PURPOSE

To endorse the list of payments made under delegated authority for the period 1 October to 31 October 2013.

BACKGROUND

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

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

ATTACHMENT

REPORT**STATUTORY REQUIREMENTS**

Local Government (Financial Management) Regulations 1996 – Regulation 13

Comments/Discussion

The List of Accounts paid for the period beginning 1 October and ending 31 October 2013 requires endorsement by the Council.



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RECOMMENDATION TO COUNCIL

That the List of Accounts paid for the period beginning 1 October and ending 31 October 2013 be received, as per the following summary table:

<i>October 2013</i>		
Voucher Nos	Account	Amount
4618 – 4634	Municipal (Cheques)	\$14,112.11
EFT 18162 – EFT 18286	Electronic Transfer Funds	\$408,798.29
Payroll	Electronic Transfer Funds	\$221,373.44
	Municipal Total Payments	\$644,283.84

Cr Collinson – Cr Watkins

That the List of Accounts paid for the period beginning 1 October and ending 31 October 2013 be received. CARRUED

297. HEALTH & GENERAL PURPOSES**297.1 Progress Report on the East Fremantle Festival 2013**

By Shelley Cocks Principal Environmental Health Officer on 13 November 2013

PURPOSE

The purpose of this report is to update Council on the progress of the 2013 East Fremantle Festival.

REPORT

The Festival will be held on Sunday 1 December 2013 from 1:00pm until 7:00pm. The location will be George Street, between East Street and Duke Street.

A Lotterywest grant towards the cost of staging the festival was successfully applied for. The grant awarded was \$19,690.

The Festival Committee resolved that with the Town's connection to the Swan River, the festival should have a 'nautical' theme this year.

Glasson Park will be turned into a nautical paradise. There will be a pirate ship to bounce on, treasure hunts for the kids, pirate hat making, plaster painting of sea creatures, face painting by a pirate and a mermaid, nautical storytelling shows in front of the small amphitheatre for the kids and the young-at-heart and more.

A mix of entertainment has been booked for the stage located on the corner of George Street and Sewell Street. In keeping with the nautical theme, a belly dance will perform using a pirate sword in a couple of her dances. Other local bands performing include the Charisma Brothers and Mambo Chic amongst others. Rock 'n' Roll band Chain Reaction have been booked as the last act on the festival stage this year. As usual, chairs will be set up in front of the stage for people to watch the stage performances throughout the afternoon and into the early evening.

To create a vibe up the eastern end of George Street, there will be a busking spot with buskers currently being organised to perform throughout the afternoon.

Roving performers will entertain the festival crowds. The line-up this year will include local favourites the Ozmosis Catalan Street Band and other performers in keeping with the nautical theme.



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Many of the George Street businesses will open their doors and invite the festival crowds in and some will even 'peddle their wares' on the street.

There will be over 70 artisan market stalls lining the street selling handmade items. There will also be other festival stalls promoting local businesses, service groups and the Fair Trade Collective (Fremantle).

Festival food will include offerings from the George Street cafes and restaurants and multicultural food stalls selling Spanish paella, Italian pizza, Malaysian satays, Turkish gozlemes, Argentinian BBQ ribs, Japanese pastries, Australian baked spuds, German gourmet sausages, French crepes, Mexican popsicles, South East Asian street food, freshly made juices, slushies, ice creams and other festival treats. There will be two small alfresco areas with shady umbrellas at either end of the street. The popular Wine Bar will also be organising free tasting for festival attendees again this year.

The promotional plan that is being implemented for the festival this year includes posters and flyers, advertising in the Herald papers, sending media releases to local newspapers and other media outlets (newspapers and radio stations), inserting the festival program into the Fremantle Herald, posting information on the Council website and other event websites and a Festival Facebook page.

The Festival income and expenditure are within the budget at this time.

Budgeted income is \$28,000 (\$18,000 Lotterywest grant, \$10,000 stall holder fees).

Budgeted expenditure is \$61,700.

RECOMMENDATION

Council endorse the progress report on the 2013 East Fremantle Festival.

Cr Collinson – Cr de Jong

That Council endorse the progress report on the 2013 East Fremantle Festival.

CARRIED

298. REPORTS OF ELECTED MEMBERS**298.1 Fremantle Library Advisory Committee**

Cr Rico reported on the Fremantle Library Advisory Committee AGM held last Tuesday evening and detailed the various services provided by the Library over the past year.

Cr McPhail – Cr Collinson

That the report be received.

CARRIED

Mayor O'Neill declared a financial interest in the following item as he lives opposite East Fremantle Oval and left the meeting at 9.50pm

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

298.2 East Fremantle Oval Recreation Precinct Community Reference Group (CRG)

Cr Rico reported on the last meeting of the East Fremantle Oval Recreation Precinct Community Reference Group (CRG) and raised the issue of Council allocating funds to employ a consultant to provide a current valuation of the strip of East Fremantle Oval land adjacent to Marmion Street between Allen and Moss Streets.

Cr Rico foreshadowed a motion that a budget allocation of \$10,000 be established to provide for the valuation update of the development parcel contained in the 2008 Draft Masterplan.



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The CEO advised that this matter should be the subject of an officer report and arrangements would be made for the item to be placed on the next Town Planning & Building Committee meeting.

Cr McPhail – Cr de Jong
That the report be received.

CARRIED

Mayor O'Neill returned to the meeting at 10.05pm and it was noted he neither spoke nor voted on the previous motion.

Mayor O'Neill resumed the Chair.

The Manager Planning Services left the meeting at 10.05pm.

298.3 South West Corridor Planning and Infrastructure Committee

Cr McPhail reported on the recent meeting of the South West Corridor Planning & Infrastructure Committee he had attended where matters regarding the Fremantle Traffic Bridge, road infrastructure, rail modification and affordable housing had been discussed.

Cr Harrington – Cr Rico
That the report be received.

CARRIED

298.4 SMRC

Cr McPhail provided an update on a recent meeting of the Southern Metropolitan Regional Council he had attended at the Town of East Fremantle on 24 October 2013.

Cr Harrington – Cr Rico
That the report be received.

CARRIED

299. REPORTS OF CHIEF EXECUTIVE OFFICER (CONTINUED)

299.1 Development Assessment Panel – Elected Member Nominations
By Stuart Wearne, Chief Executive Officer, on 13 November 2013

PURPOSE

The purpose of this report is facilitate the nomination of two "full" and one "alternate" (ie deputy) members of the Development Assessment Panel (DAP) which will "serve" (the WAPC term) the Town of East Fremantle and other local governments which are included in "our" designated DAP area.

BACKGROUND

On 19 February 2013 Council elected the Mayor and Cr Wilson to the DAP member positions and Crs de Jong and Nardi to the two alternative DAP member positions.

Following the Mayor's resignation on 30 June and Cr Wilson and Nardi's defeat at the October elections, at the present time Cr de Jong (as the alternate DAP member) is Council's only remaining Council representative.

Attached are extracts from the Planning and Development (Development Assessment Panels) Regulations 2011 relating to:

- mandatory and optional DAP applications
- Development Assessment Panels.

REPORT

Following receipt of Council's nominations, the Minister for Planning will consider and appoint nominees for the remaining term, expiring on 26 April 2015. All appointed local members will be placed on the local government member register and advised of DAP training dates and times. It is a mandatory requirement, pursuant to the DAP regulations, that all DAP members attend training before they can sit on a DAP and determine



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applications. This training involves a workshop on planning law and the Code of Conduct which is to apply to the Panel. Local government representatives who have previously been appointed to a DAP and have received training are not required to attend further training.

Local DAP members are entitled to be paid, as per the following schedule, for their attendance at DAP training and at DAP meetings, unless they fall within a class of persons excluded from payment. Members who are not entitled to payment of sitting, training and State Administrative Tribunal attendance fees include Federal, State and local government employees, active or retired judicial officers and employees of public institutions.

<i>Fee per meeting for presiding member to determine development applications</i>	<i>\$500</i>
<i>Fee per meeting for any other member to determine development applications</i>	<i>\$400</i>
<i>Fee per meeting for presiding member to determine applications to amend or cancel determination</i>	<i>\$100</i>
<i>Fee per meeting for any other member to determine applications to amend or cancel determination</i>	<i>\$50</i>
<i>Fee for presiding member attending proceeding in State Administrative Tribunal</i>	<i>\$500</i>
<i>Fee for any other member attending proceeding in State Administrative Tribunal</i>	<i>\$400</i>
<i>Fee for training</i>	<i>\$400</i>

In short, the following applies to the membership of the Panels:

- There are a total of 5 members on each DAP – 3 specialist members and 2 elected local government members.
- The 3 specialist members are appointed from the register maintained by the Minister.
- The Presiding Member appointed by the Minister will be one of the specialist members of a DAP with experience and a tertiary qualification in planning.
- The two local government representatives are nominated by the local government.

To date only one application involving the Town has been referred to the DAP.

At the meeting the CEO, as “Returning Officer”, will call for nominations for the three currently vacant positions. A normal (secret vote) election process will be carried out if there is more than one nomination for a particular position.

Should Cr de Jong wish to nominate for one of the “full” member positions and is elected, the second “alternate” member position will then obviously need to be filled.

RECOMMENDATION

The Minister be advised the following elected members are nominated with respect to 2 DAP member positions and 1 alternate DAP member position, as indicated:

_____ (DAP member)

_____ (DAP member)

_____ (alternate DAP member)

ALTERNATIVE RECOMMENDATION (Should Cr de Jong be elected to “full” member position)

The Minister be advised the following elected members are nominated with respect to 2 DAP member positions and 1 alternate DAP member position, as indicated:



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- _____ (DAP member)
- _____ (DAP member)
- _____ (alternate DAP member)
- _____ (alternate DAP member)

Mayor O'Neill called for nominations for the two DAP member positions.

The CEO advised that he had received a nomination from Cr Martin. Crs de Jong, Collinson and McPhail also nominated for the positions.

Mayor O'Neill invited nominees to address Council prior to the ballot. Crs de Jong, Collinson and McPhail addressed the meeting.

The CEO as Returning Officer conducted a ballot following which the CEO declared Crs Martin and de Jong were declared elected as Council's two DAP members.

Given the vacancy created by Cr de Jong's appointment as a DAP member, Mayor O'Neill sought nominations for the two alternate DAP positions.

Crs Collinson and McPhail nominated for the two positions. In the absence of any further nominations, the CEO declared Crs Collinson and McPhail as Council's alternate DAP members.

Cr Harrington – Cr Rico

The Minister be advised the following elected members are nominated with respect to 2 DAP member positions and 1 alternate DAP member position, as indicated:

- Cr Martin (DAP member)
- Cr de Jong (DAP member)
- Cr Collinson (alternate DAP member)
- Cr McPhail (alternate DAP member)

CARRIED

299.2 Date for Finance Committee Meeting

Mayor O'Neill – Cr Watkins

That the rescheduled Finance Committee Meeting be held on Wednesday 4 December 2013 at 6.30pm.

CARRIED

299.3 Special Works & Reserves Committee Meeting

Mayor O'Neill – Cr McPhail

That a Special Meeting of the Works & Reserves Committee be held at the Town Hall, 135 Canning Highway East Fremantle on Wednesday, 27 November 2013 commencing at 6.30pm, and the purpose of which is to discuss the following matters:

1. Progress of footpath, road and kerb replacement. In particular footpath order of priority and progress across the 4 wards. Types of footpaths, cost, longevity, construction time.
2. Revision of crossover policy in relation to materials, second crossover, widths.
3. Preston Point Rd bike path? Cyclist safety and input from Bikewest. Traffic speed statistics.
4. Alcester Rd parking and examination of traffic flow.
5. Locke Park and replacement of peppermint trees.
6. George Street traffic plan. Cross walk, reduction of vehicle speeds.
7. Bus timetables at bus stops along Canning Hwy and Marmion Street.
8. Under pruning of street trees.



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9. Plympton Steps**10. Community Visioning process.**CARRIED**299.4****Status Report****ATTACHMENT****Mayor O'Neill – Cr Cope****That the following two items on the Status Report be designated as closed:****Minute Ref T81.1 & 139.3 Timed Car Parking****Minute Ref T94.1 & 193.5 Heritage Review**CARRIED

Mayor O'Neill declared a financial interest in the following item as he lives opposite East Fremantle Oval and left the meeting at 10.40pm

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

299.5**Lighting Tower East Fremantle Oval***By Stuart Wearne, Chief Executive Officer, on 19 November 2013***BACKGROUND**

In 2009 a light tower at East Fremantle Oval fell over.

The cause was attributed to a rusted base.

The East Fremantle Football Club insurers denied liability because the pole was just outside of their lease area. The Town of East Fremantle insurers denied liability on the grounds of a “wear and tear” exclusion clause, based on the tower becoming structurally unsound because of the corrosion.

Council consequently paid (\$23,986) to replace the light tower.

At the time a CSRFF grant was applied for which, on paper, meant the East Fremantle Football Club would be paying ⅓ of the cost. However this application was unsuccessful.

REPORT

This matter was raised at a Finance Committee meeting in February 2013. It was raised under “Urgent Business by Permission of the Meeting” notwithstanding proper process was not applied and it was clearly not urgent business.

Consequently that recommendation was adopted by full Council and the matter has sat there since. An issue in respect of the delay in dealing with the matter has been a missing file containing relevant information.

The basis of the matter being raised at the Committee was understood to be a view that because the East Fremantle Football Club had participated in a CSRFF application which, if successful, would, on paper, have resulted in them making a financial contribution to the light tower, that they were now under a moral obligation to make a contribution even though the grant application had been unsuccessful.

The Club however had advised at the time the grant application was unsuccessful, they were not in a financial position to pay anything and although an attempt was then made with their insurers to strike some sort of deal, nothing came to fruition.

CONCLUSION

This is a matter which should be regarded as concluded. The CEO believes there is nothing to be gained by revisiting it and the requested report would not have served any purpose. The light tower was Council's responsibility and Council has met that responsibility.



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RECOMMENDATION

That the information be received and the item marked as "closed" on the Council's status report.

Cr Watkins – Cr Cope

That the information be received and the item designated as "closed" on the Council's status report. CARRIED

Mayor O'Neill returned to the meeting at 10.45pm and it was noted he neither spoke nor voted on the previous motion.

Mayor O'Neill resumed the Chair.

299.6 *Town Planning Advisory Panel Membership*

The CEO proposed that former Cr Alex Wilson, who had expressed interest, be appointed to the Town Planning Advisory Panel.

Mayor O'Neill – Cr McPhail

That Alex Wilson be appointed as a member of the Town Planning Advisory Panel. CARRIED

300. CONFIDENTIAL BUSINESS

300.1 *42 Glyde Street – Property Review*

The CEO provided the following information regarding this issue:

Newly elected members are advised the background to this issue is Glyde-In's concern for security of tenure in a situation whereby they do not have a lease and consequently feel threatened by amalgamation.

The CEO received the officer's report yesterday afternoon. The CEO has read the report however believes it requires more detail and is not ready to be tabled. There was insufficient time to do this before the close of the agenda.

The CEO reiterates a previously expressed view that there are important issues of equity and precedent involved, as there are a number of organisations in the Town in a similar situation and it is thus important that any decision by Council is a fully informed decision.

The CEO also notes that, at best, any amalgamation is some 19 months away and thus there appears no compelling urgency in the matter.

The CEO noted elected members' desire for this matter to be considered as soon as possible and advised he would endeavour to have a report for the December Council Meeting.

Cr de Jong – Cr Rico

That the CEO's report be received. CARRIED

**301. NOTICES OF MOTION BY ELECTED MEMBERS FOR
CONSIDERATION AT THE FOLLOWING MEETING**

301.1 *Cr McPhail*

That:

- 1. the CEO in consultation with relevant officers present a draft lease for the Glyde-In Community Centre, for consideration by Council, at the next Council meeting.*
- 2. the CEO be requested to expedite a report on outstanding leases within the Town, and provide recommendations, for consideration at the next Council Meeting.*
- 3. the CEO inform prospective tenants of Council's intent to prepare a report into the issue.*



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**302. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED
BY DECISION OF THE MEETING**

Nil.

303. CLOSURE OF MEETING

There being no further business, the meeting closed at 11.20pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **19 November 2013**, Minute Book reference **279. to 303.** were confirmed at the meeting of the Council on*

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Presiding Member