



# Council Meeting 17 November 2015

## MINUTES

**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 17 NOVEMBER, 2015 COMMENCING AT 6.34PM.**

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**MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBER, ON MONDAY, 17 NOVEMBER, 2015 COMMENCING AT 6.34PM.**

**253. DECLARATION OF OPENING OF MEETING**

The Mayor (Presiding Member) declared the meeting open.

**253.1 Present**

Mayor J O'Neill	Presiding Member
Cr C Collinson	
Cr J Harrington	
Cr A McPhail	
Cr M McPhail	
Cr D Nardi	
Cr L Nicholson	
Cr A Watkins	
Cr A White	
Mr G Clark	Acting Chief Executive Officer
Mr Les Mainwaring	Executive Manager Finance & Administration (to 7.50pm)
Mr J Douglas	Manager Planning Services (to 7.45pm)
Mr A Malone	Senior Town Planner (to 7.26pm)
Ms J May	Minute Secretary

**254. 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."*

**255. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF**

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

**256. RECORD OF APPROVED LEAVE OF ABSENCE**

Nil.

**257. RECORD OF APOLOGIES**

Nil.

**258. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS**

Nil.

**259. PUBLIC QUESTION TIME**

Nil.

**260. APPLICATION FOR LEAVE OF ABSENCE**

Nil.

**261. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**261.1 Council Meeting 20 October 2015**

Cr Collinson – Cr White

That the Minutes of the Council Meeting held on 20 October be confirmed with the following correction to MB Ref 234.1 Review of Municipal Inventory and Heritage List:

*That part 2 of the motion be amended to replace "15 September" with "20 July 2015".*

CARRIED 9:0

**262. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION**

Nil.

**263. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS**

Nil.

**264. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS**

Nil.

**265. CORRESPONDENCE**

**265.1 T128.4 62 View Terrace**

Correspondence from A Gizariotis challenging the officer's assessment of the development proposal at 62 View Terrace.

**Cr M McPhail – Cr Nardi**

**That the letter from Mr Gozariotis be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 266.1(B)).**

CARRIED 9:0

**266. TOWN PLANNING & BUILDING**

**266.1 Minutes of Town Planning & Building Committee 3 November 2015 – Receipt**

**Cr Collinson – Cr M McPhail**

**That the Minutes of the Town Planning & Building Committee held on 3 November 2015 be received.**

CARRIED 9:0

**(A) Revocation Motion**

**T128.2 No 64 Glyde Street (Lot 158 & 159)**

The following memo from the Planning Officer had been previously circulated to elected members:

*The adjoining property owner at No. 62 Glyde Street (who made a submission) has brought to my attention that a condition is missing from the TP&BC Minutes of 3 November 2015 in respect to the above application.*

*The body of the administration report on this application discusses as follows:*

***“The non-compliance with visual permeability is not an issue for the sections of the fence that do not exceed 1.2 metres in height towards the southern boundary, as the RDG permit a solid front fence up to 1.2 metres. However, on the lower side of the site, the adjoining property owners have requested that the fence comply with the height and visual permeability provisions for the section of the fence abutting their property. This is considered a reasonable request from an amenity and security perspective for their lot, as well as a streetscape perspective.***

***...It is therefore considered necessary to impose a condition that restricts the height of the fence as it returns along the side boundary from exceeding a height of 1.8 metres above natural ground level on the lower side of the fence (i.e. No. 62 Glyde Street) and requiring the fence be 60% visually permeable as defined in the RDG for any portion of the fence exceeding 1.2 metres. These conditions will satisfy the aims of the RDG and the neighbour's concern about amenity, security and surveillance.”***

The condition is not contained in the Town Planning & Building Committee Minutes and was not in the recommendation section of the report due to an administrative oversight.

To address the concerns of the neighbour I recommend the condition below be included in the resolution pertaining to this development application, at the Council meeting of 17 November 2015. The owner and applicant have not been advised of the proposed additional condition, however, the matter was discussed in detail in the body of the report, as outlined in the excerpt above and they were both aware that this aspect of the application was an issue for the neighbour.

Also, the applicant and the owner have not yet been advised of the decision of the Delegated Authority decision of the Town Planning and Building Committee at its meeting of 3 November 2015.

***“The height of the fence along the northern boundary not exceeding a height of 1.8 metres (with the exception of the required sight line) above natural ground level on the lower side of the fence on the adjoining lot to the north (No. 62 Glyde Street) and requiring the fence to be 60% visually permeable as defined in the Residential Design Guidelines for any portion of the fence exceeding 1.2 metres in height.”***

To effect this addition, it will be necessary to revoke the resolution passed at the Town Planning & Building Committee Meeting of 3 November (see Council Agenda for revocation process) and then carry the resolution as follows.

#### RECOMMENDATION

That Council exercise its discretion in granting planning approval to vary:

- (a) Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to allow a nil setback for a retaining wall on the front and side boundary; and
- (b) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind the street setback line and within 1 metre of the lot boundary greater than 500mm above natural ground level,

for a timber front fence with a retractable driveway gate at No. 64 (Lot 158 and 159) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 21 September 2015, subject to the following conditions:

1. The height of the fence along the northern boundary not exceeding a height of 1.8 metres (with the exception of the required sight line) above natural ground level on the lower side of the fence on the adjoining lot to the north (No. 62 Glyde Street) and requiring the fence to be 60% visually permeable as defined in the Residential Design Guidelines for any portion of the fence exceeding 1.2 metres in height.
2. Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the fence to the satisfaction of the Chief Executive Officer.
3. The depth of the batten is not to exceed the width of the batten unless spaced more than an adequate distance apart to achieve the 60% visual permeability across the length and area of the fence.
4. A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer the fence height is not to exceed 0.75 metres at its highest point above natural ground level in this area of the required truncation.
5. The fence height along the northern boundary of the site is not to exceed 0.75 metres for a distance of 1.5 metres from the front boundary.
6. The works are to be constructed in conformity with the drawings 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.
7. 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.

8. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. 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.
11. 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 plans as stamped by Council are attached and the application for a building permit 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).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Allen (representing the applicant) addressed the meeting opposing the proposed inclusion of the additional condition regarding height and permeability of the fence.

**(1) Cr Collinson – Cr M McPhail**

**That Council give consideration to the proposal to revoke the motion passed under delegated authority at the November 2015 Town Planning Meeting relating to a proposed fence at 64 Glyde Street.** CARRIED 9:0

**(2) Cr Collinson – Cr M McPhail**

**That the resolution Minute Book reference T128.2 No 64 (Lot 158 & 159) Glyde Street East Fremantle of the Town Planning & Building Committee meeting held on 3 November 2015, passed under delegation and which is as follows, be revoked:**

*“That Council exercise its discretion in granting planning approval to vary:*

- (a) *Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to allow a nil setback for a retaining wall on the front and side boundary; and*
- (b) *Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind the street setback line and within 1 metre of the lot boundary greater than 500mm above natural ground level,*

*for a timber front fence with a retractable driveway gate at No. 64 (Lot 158 and 159) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 21 September 2015, subject to the following conditions:*

1. *Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the fence to the satisfaction of the Chief Executive Officer.*
2. *The depth of the batten is not to exceed the width of the batten unless spaced more than an adequate distance apart to achieve the 60% visual permeability across the length and area of the fence.*
3. *A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer*

- the fence height is not to exceed 0.75 metres at its highest point above natural ground level in this area of the required truncation.*
4. *The fence height along the northern boundary of the site is not to exceed 0.75 metres for a distance of 1.5 metres from the front boundary.*
  5. *The works are to be constructed in conformity with the drawings 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.*
  6. *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.*
  7. *All stormwater is to be disposed of on site, clear of all buildings and boundaries.*
  8. *All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.*
  9. *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.*
  10. *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 plans as stamped by Council are attached and the application for a building permit 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).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED 9:0  
ABSOLUTE MAJORITY

**(3) Cr Collinson – Cr Nardi**

That Council exercise its discretion in granting planning approval to vary:

- (a) Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to allow a nil setback for a retaining wall on the front and side boundary; and
- (b) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind the street setback line and within 1 metre of the lot boundary greater than 500mm above natural ground level,

for a timber front fence with a retractable driveway gate at No. 64 (Lot 158 and 159) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 21 September 2015, subject to the following conditions:

1. The height of the fence along the northern boundary not exceeding a height of 1.8 metres (with the exception of the required sight line) above natural ground level on the lower side of the fence on the adjoining lot to the north (No. 62 Glyde Street) and requiring the fence to be 60% visually permeable as defined in the Residential Design Guidelines for any portion of the fence exceeding 1.2 metres in height.



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2. Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the fence to the satisfaction of the Chief Executive Officer.
3. The depth of the batten is not to exceed the width of the batten unless spaced more than an adequate distance apart to achieve the 60% visual permeability across the length and area of the fence.
4. A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer the fence height is not to exceed 0.75 metres at its highest point above natural ground level in this area of the required truncation.
5. The fence height along the northern boundary of the site is not to exceed 0.75 metres for a distance of 1.5 metres from the front boundary.
6. The works are to be constructed in conformity with the drawings 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.
7. 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.
8. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. 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.
11. 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 plans as stamped by Council are attached and the application for a building permit 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).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED 9:0

**(B) T128.4 View Terrace No 62 (Lot 85)**

**Applicant: John Chisholm Design**

**Owner: F & C Lupis**

**Application No P134/13**

The email from Mr Gizariotis, referred from Correspondence (MB Ref 265.1) was tabled.

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The Senior Town Planner, Andrew Malone, provided the following information in response to this email.

*The author of the report and this memo makes the following impartiality declaration in the matter of No. 62 View Terrace:*

*“As a consequence of the consultant, Mr Andrew Gizariotis engaged by the owners of 64A View Terrace being known to me as a friend and previous work colleague, there may be a perception that my impartiality on the matter may be affected, notwithstanding this Mr Gizariotis was engaged prior to the report being considered by the Town Planning and Building Committee. I declare that I have considered his information entirely on its merits and with complete impartiality and objectivity and provide a response to his comments below”.*

*“Further to the discussions and information presented at the Town Planning and Building Committee meeting on 3 November 2015 with regard to the proposed boundary wall to the rear garage, Mr Andrew Gizariotis (Planning Consultant) was engaged by the owners of 64A View Terrace to provide additional information and to consider the Officer’s report.*

*The semantics raised by Mr Gizariotis of the “and / or” are noted, however the intent of the requirements is for buildings to be permitted on the boundary for a length of 9 metres and to a height of 3 metres along any one boundary and not required to be constructed simultaneously with another boundary wall, otherwise it would be unnecessary for criteria for such walls to be specified in the provisions. This intent has been considered applicable in development applications since the RDG were adopted.*

*Mr Gizariotis has stated:*

*The underlying objectives intend to limit bulk, sunlight, ventilation and privacy impacts on neighbouring properties. It is my opinion that the boundary wall and outbuilding does not pose any adverse sunlight, ventilation or privacy impacts, however, it could be argued that the boundary wall and outbuilding results in an adverse bulk impact*

*The consultant has stated the only matter to be considered as an adverse impact is the bulk of the structure. It is noted that the proposed structure is located on the eastern boundary for a length of 9 metres and to a height of 3 metres immediately adjacent to the vehicle turning area/ garage access and the front door entry of the neighbouring property. The orientation and location of the garage parapet wall is considered not to have such a bulk so as to impact significantly on any habitable area. It is considered adjoining properties are not impacted with regard to light, ventilation or views and therefore is not such a bulky structure to cause significant adverse bulk issues. The section of boundary wall is predominantly located at the entrance of the adjoining neighbour, with the parapet wall having no impact on the rear garden or swimming pool area of the adjoining property. The perceived bulk does not impact significantly on the enjoyment or amenity of the adjoining neighbours.*

*The consultant has stated:*

*The visibility from these areas creates an ongoing visual impact, compared to if the boundary wall were entirely located adjacent to a portion of the neighbouring dwelling without any major openings – in effect, ‘hiding’ the boundary wall.*

*Any wall constructed on the boundary rather than setback 1.5 metres will have a greater impact, however the extent of the impact of the boundary wall is considered to be acceptable and therefore as per the Officer’s report the boundary wall is recommended for approval.”*

Mr Gizariotis (representing neighbours at 64A) and Mr Radaich (owner of 64A View Terrace) addressed the meeting objecting to the proposal, challenging the officer’s assessment of the proposal and advising that the neighbours were willing to accept the existing overheight wall located 1.5m from the boundary.

Mr Chisholm (applicant) addressed the meeting in support of the proposal.

Mayor Jim O'Neill made the following impartiality declaration in the matter of 62 View Terrace "As a consequence of the applicant/designer for this project, John Chisholm, being known to me as he designed a rear studio at my property at 72 Allen Street, 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 Collinson – Mayor O'Neill**

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

That Council exercise its discretion in granting approval for the following:

(a) element 3.7.8 of the Residential Design Guidelines: Roof pitch;

for amended alterations to a garage currently under construction at an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle, in accordance with the plans date stamp received on 9 October 2015, subject to the following conditions:

1. This application is only for alterations to the garage. Any other changes to the previously approved development are required to be approved by Council. The previously approved development is to comply with all previous conditions, unless altered by this approval.
2. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
3. The works are to be constructed in conformity with the drawings 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.
4. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. 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.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. 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 plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation*

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*report should be lodged with Council and one copy should be given to the owner of any affected property.*

- (d) *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).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED 9:0

*The Senior Town Planner left the meeting at 7.26pm.*

**(C) T127.1 Review of Municipal Heritage Inventory and Heritage List**

Cr Collinson – Cr M McPhail

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

That:

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owners submissions
- (b) 87 Petra Street should be removed from the Municipal Inventory
- (c) with the exception of 87 Petra Street, all properties shown on the attached MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
- (d) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of Cl.7.1.4 of Town Planning Scheme No. 3.
- (e) in respect to the following structures which are contained on Council Reserves or within the Public Domain, the indicated management categories should be confirmed on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
  - Richmond Raceway Turnstiles, Corner of George and Moss Streets – Category A
  - Richmond Raceway Pavilion, Raceway Park, Raceway Circus – Category B
  - Richmond Raceway Turnstiles, Silas Street & Bay Patch Street Gate – Category B
  - Town Hall – Category A
  - Former Policy Station – Category A
  - Dovenby House - 1 Council Place – Category A
  - Plympton Steps and Parkland – Category A
  - Glasson Park – George Street – Category A
  - Locke Park – East Fremantle Oval Precinct – Category A
  - Merv Cowan Park - Angwin Street – Category B
  - Bus Shelter (opposite 53 View Terrace) – Category B

CARRIED 9:0

**(D) T127.2 Amendment 11 to Town Planning Scheme No 3 – Outcomes of Advertising and Recommendations**

Cr Collinson – Cr M McPhail

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

That:-

- (i) Council note the receipt of the submissions made on Scheme Amendment 11;
- (ii) adopt Scheme Amendment 11 without modification and submit it to the Minister for Planning for Final Approval pursuant with s.87 of the Planning and Development Act, 2005;
- (iii) the Scheme Maps be amended accordingly; and
- (iv) those who made a submission be notified of this decision.

CARRIED 9:0

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**(E) T127.3 New Planning and Development Regulations 2015**

Cr Collinson – Cr A McPhail

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

That:

1. this report be received for information.
2. Council approves the application of a 'R-Code Compliance Assessment Fee' of \$147 for all applications for a Building Permit where verification of R-Code compliance has not been submitted
3. the fee be advertised for local public notice advising of its introduction from Monday, 30 November 2015.

CARRIED 9:0

ABSOLUTE MAJORITY**266.2 Revocation motion in respect to the heritage listing of 173 Petra Street****(A) Cr M McPhail – Cr Collinson**

That Council give consideration to the proposal to revoke the motion passed at the July 2015 Council Meeting relating to the Review of Municipal Heritage Inventory and Heritage List.

CARRIED 9:0

**(B) Cr White – Cr Nardi**

That the resolution, Minute Book reference 162.1(A) T75.1 Review of Municipal Heritage Inventory and Heritage List of the Council meeting held on 20 July 2015 and which is as follows, be revoked:

That:

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owners' submissions.
- (b) 1 Munro Street should be removed from the Municipal Inventory.
- (c) 43 View Terrace (water tower) be changed to a 'D' classification and not included in the Heritage List.
- (d) Council defer consideration of the listing of 10 View Terrace to the Council Meeting on 18 August 2015, as per Dr Porter's request for an extension of time to provide further information on the matter.
- (e) with the exception of 150 Preston Point Road and 10 View Terrace for which an extension of time has been requested and 1 Munro Street and 43 View Terrace, all properties shown on the attached MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
- (f) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of Cl.7.1.4 of Town Planning Scheme No. 3.

CARRIED 9:0

ABSOLUTE MAJORITY**(C) Cr Collinson – Cr Nardi**

That:

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owners' submissions.
- (b) 1 Munro Street should be removed from the Municipal Inventory.
- (c) 43 View Terrace (water tower) be changed to a 'D' classification and not included in the Heritage List.
- (d) with the exception of 173 Petra Street for which an extension of time has been requested and 1 Munro Street and 43 View Terrace, all properties shown on the attached MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with Cl 7.1.3 (d) of Town Planning Scheme No. 3.
- (e) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of Cl.7.1.4 of Town Planning Scheme No. 3.

CARRIED 9:0

The Manager Planning Services left the meeting at 7.45pm.

**267. HEALTH & GENERAL PURPOSES**

**267.1 Healthy Eating Policy**

*Author – Shelley Cocks PEHO, 12 October 2015*

*Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To develop a policy to ensure access to healthy food and drink choices at Council operated facilities, workplaces and Council sponsored events.

**BACKGROUND**

Healthy behaviours such as giving up smoking, increasing physical activity and consuming healthy food and drink have been shown to improve health and quality of life as people age.

Local government is well placed to positively influence the health behaviours of staff, volunteers and visitors and to role model good health behaviours to the wider community by the adoption and implementation of a healthy eating policy.

A draft healthy eating policy was devised in collaboration with health promotion officers and the south Metropolitan Public Health Unit. Elected members were invited to provide comment on the proposed policy and procedure by 30 September. No feedback was received.

**COMMENT**

It is considered important that Council promotes a healthy lifestyle for its elected members, staff and the community at large. To this end, it is considered healthy food and beverage choices should be available.

The draft Policy is attached.

**ATTACHMENT**

**Statutory Requirements**

N/A

**Relevant Council Policies**

Policy 4.2.1 Healthy Eating Policy

**Strategic Plan Implications**

1.3 Protection of community health, safety and amenity.

**Financial/Resource/Budget Implications**

There may be a slight increase in expenditure to provide healthier food options.

**Conclusion**

It is in Council's best interests to encourage healthier eating habits for its elected members, staff and members of the East Fremantle community. It will also assist in the formulation of a future Public Health Plan.

**Voting Requirements**

Simple Majority

**RECOMMENDATION**

That Council adopt the Healthy Eating Policy attached to this report.

**Cr Watkins – Cr Collinson**

**That Council adopt the Healthy Eating Policy attached to these minutes.**

CARRIED 9:0

**268. FINANCE****268.1 Monthly Financial Activity Statement for Period Ending 31 October 2015**  
*By Les Mainwaring Executive manager Finance & Administration on 10 November 2015***PURPOSE**

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.

**BACKGROUND**

The report comprises the financial results from the month of October 2015, with commentary focusing on comparisons to the year to date budget position.

The monthly Financial Activity Statement for the period ending 31 October 2015 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

**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 2016 indicates a small surplus of \$20,900 which was the original budget position adopted 20 July 2015.

Operating YTD Actuals (compared to the YTD Budget)

Operating Revenue 102%; is \$178,000 more than the YTD budget. (Favourable)

Operating Expenditure 73%; is \$842,000 less than the YTD budget. (Favourable)

After non-cash adjustments, the total operating cash forecast is \$792,000 more than the YTD budget (Favourable).

Operating Revenue is 2% Favourable with year to date budget.

The significant favourable variances within operating revenue are receipt of an earlier than anticipated grant amounting to \$50,000, being for the development of the Recreation and Community Facilities Plan; early timing difference of HACC funding \$35,000; the early raising of yacht club lease payments \$59,000.

Operating Expenditure is 22% favourable to year to date budget.

The main areas of favourable variation for operating expenditure is timing differences in Governance - Consultants Strategic Business Planning \$60,000, Employee costs \$67,000 and Consultants – Legal/Administration \$32,000 which will be offset during the year; Community Amenities – Waste Collection \$34,000, Waste Composting Facility \$26,000 and Green waste \$30,000 which is mainly due to invoices received in

the following month. Transport which includes Road and Street Maintenance, and Street Pruning have favourable balances amounting to \$79,000, 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.

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

The current year's capitals works programmes are just beginning to mobilise at reporting date.

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 2% expended

Infrastructure Assets 1% expended

Plant & Equipment 11 expended

Furniture & Equipment 3% expended

Capital expenditure is \$2,001,000 less than the YTD budget (Favourable) which represents 98% of the capital programs to be completed. The report provides details on individual capital works to have progressed as at 31 October 2015.

**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 October 2015 Financial Activity Statement shows variances in income and expenditure when compared with year to date draft budget estimates.

**Conclusion**

The attached Financial Activity Statement for the period 1 July 2015 to 31 October 2015 is presented to the Council for timely information. The current annual forecast of a small \$20,900 surplus is confirmed by these accounts in conjunction with further analytical analysis undertaken at officer level.

**Voting Requirements**

Simple Majority

**RECOMMENDATION**

That the Financial Activity Statement for the period ending 31 October 2015 be received.

**Cr Collinson – Cr A McPhail**

**That the Financial Activity Statement for the period ending 31 October 2015 be received.**

CARRIED 9:0



17 November 2015

**MINUTES**

- 268.2**      **Accounts for Payment – October 2015**  
By Les Mainwaring, Executive Manager Finance & Administration on 2 November 2015

**PURPOSE**

To endorse the list of payments made under delegated authority for the period 1 October to 31 October 2015.

**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 a list of all payments made under delegated authority during the said period. **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 to 31 October 2015 requires endorsement by the Council.

**RECOMMENDATION**

That the List of Accounts paid for the period beginning 1 October to 31 October 2015 be received, as per the following summary table:

<b>OCTOBER 2015</b>		
<b>Voucher Nos</b>	<b>Account</b>	<b>Amount</b>
4924 – 4934	Municipal (Cheques)	\$14,345.33
EFT 21499 – EFT 21655	Electronic Transfer Funds	\$702,818.71
Payroll	Electronic Transfer Funds	\$193,105.81
Superannuation	Electronic Transfer Funds	32,689.14
Credit Card	CEO	33.31
	<b>Municipal Total Payments</b>	<b>\$942,992.30</b>

**Cr M McPhail – Cr Nardi**

That the List of Accounts paid for the period beginning 1 October to 31 October 2015 be received. CARRIED 9:0

*The Executive Manager Finance & Administration left the meeting at 7.50pm.*

**269.      REPORTS OF ELECTED MEMBERS****269.1      SMRC**

Cr M McPhail provided an update on matters relating to the SMRC.

17 November 2015

## MINUTES

**270. REPORTS OF ACTING CHIEF EXECUTIVE OFFICER**

**270.1** *Statutory Review of Local Laws under s3.16 of the Local Government Act 1995*  
By Chris Liversage (Local Laws Consultant) on 14 October 2015  
Reporting Officer - Gary Clark, Chief Executive Officer

**PURPOSE**

Section 3.16 of the Local Government Act 1995 requires Local Governments to undertake a review of their local laws every eight years. The Town's local laws are due for review.

**BACKGROUND**

The Town has a number of local laws in place. Some are clearly no longer required, and others require amendment due to changing circumstances and/or the passage of time.

A brief description of each, and action required on face value is summarised below:

Gazettal Date	GG Page		Title	Draft Recommendation
9/02/1923	207	By-Law	Rates – Discount	Repeal
17/09/1954	1606-8	By-Law	Erection and Use of Petrol Pumps	Repeal
2/04/1958	635	By-Law	Clearing of Rubbish, Inflammable Matter & Other Substances on Land	Repeal (Refer Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials By-law)
3/10/1963	2936-7	By-Law	Building Lines	Repeal
8/02/1965 26/06/1981	469-79 2347	By-Law Amend	Standing Orders	Review.
4/03/1977 6/01/1978	725 18	Amend Amend	Signs, Hoardings and Bill Postings – Draft Model No 13	Repeal. Superseded. (Original By-Law 11/6/63, Amend 10/12/64, Amend 21/6/74 not listed)
4/03/1977 6/01/1978	727 17	By-Law Amend	Vehicle Wrecking	Repeal Covered in Town Planning Scheme
4/03/1977 19/05/1978	726 1579	Amend Amend	Street Lawns and Gardens	Repeal. Covered in Activities on Thoroughfares & Public Places Local Law. (Original By-Law 7/2/63, Amend 12/2/71, Amend 21/6/74 not listed)
4/03/1977 6/01/1978	723 19	By-Law Amend	Public Reserves	Repeal. Covered in Local Government Property Local Law.
20/01/1978	222	By-Law	Prevention of Damage to Obstruction of and Misuse of Council Property and of Property on a Public Reserve	Repeal. Covered in Local Government Property and Activities on Thoroughfares Local Laws.
20/01/1978	217	By-Law	Prevention of Damage to Footpaths	Repeal. Covered in Activities of Thoroughfares Local Law.
20/01/1978 2/04/1993 25/08/2004	219-22 1950-1 3744	By-Law Amend Amend	Safety, Decency, Convenience and Comfort of Persons Bathing	Repeal.
3/08/1979 10/04/1981 2/04/1993	2209-10 1233 1950-1	By-Law Amend Amend	Nuisances and Miscellaneous Matters	Repeal. Covered in Urban Environment & Nuisance Local Law
4/01/1985 2/04/1993	128 1950-1	By-Law Amend	Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials	Repeal. Covered under the Local Government Act 1995 s3.25
7/08/1987	3112-19	By-Law Repeal? ?	Signs, Hoardings & Billposting	Review.
8/11/1999	5665-82	Local Law	Parking and Parking Facilities	Review.
16/10/2002	5177-92	Local Law	Local Government Property	Review.
16/10/2002 25/08/2004	5197- 5216 3742-3	Local Law Amend	Activities on Thoroughfares & Trading in Thoroughfares & Public Places	Review.
16/10/2002	5193-6	Local	Urban Environment and	Review

Gazettal Date	GG Page		Title	Draft Recommendation
		Law	Nuisance	
25/08/2004	3739-41	Local Law	Bee Keeping	Review
25/08/2004	3733-38	Local Law	Fencing	Review.
25/08/2004	3723-32	Local Law	Dogs Local Law	Review.

### COMMENT

From the table above it is clear that there are a number of old local laws that are simply no longer used and should be repealed. Of the remainder, most were made from 2002 – 2004 and which should be updated to reflect current circumstances and remove any conflict with ‘higher’ legislation.

For example:

- The Dog Act and its associated Regulations were amended in late 2013 to the effect that exercise areas must now be established by a Council resolution after a period of public consultation;
- There have been numerous changes to the Local Government Act 1995, although the effect on local laws has been minimal;
- A new Public Health Bill is presently before Parliament;
- The Cat Act came into effect in 2012;
- Changes to regulations that affect parking by persons with disabilities; and
- A number of others.

The process to then make, amend or repeal a local law is separate to the formal review required under s3.16 and is set out in s3.12 of the Act, which in itself requires Council to initiate any changes, advertise them, consider submissions and then decide to make the local law or amendment. Any proposed changes will therefore be brought before Council at a later stage.

In many cases however, it is apparent that it may be easier, quicker and cheaper for many local laws to simply be repealed and replaced with more up to date version. Again, these will be submitted for consideration on a case by case basis.

### Statutory Requirements

Section 3.16 of the Local Government Act 1995 provides that:

- (1) *Within a period of 8 years from the day when a local law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.*
- (2) *The local government is to give Statewide public notice stating that —*
  - a. *the local government proposes to review the local law;*
  - b. *a copy of the local law may be inspected or obtained at any place specified in the notice; and*
  - c. *submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
- (3) *(2a) A notice under subsection (2) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its council.*
- (5) *When its council has considered the report, the local government may determine\* whether or not it considers that the local law should be repealed or amended.*

\* Absolute majority required.

### Relevant Council Policies

Nil.

**Strategic Plan Implications**

Key Focus Area 4: Governance and Leadership, Outcome 4.3 Efficient regulatory tools to enhance public safety and amenity.

**Financial/Resource/Budget Implications**

The Town has engaged Chris Liversage of Conway Highbury Pty Ltd to assist with the process to update its local laws. Chris has extensive experience working with other local governments in dealing with local laws.

There will also be costs associated with advertising and Gazetting of any amendments or new local laws.

**Conclusion**

The Town should undertake the statutory formal review process required by s3.16 of the Local Government Act 1995. While generally there is little feedback from the public from this process, any feedback received from the public can be used to make amendments to the Town's suite of local laws under s3.12.

**Voting Requirements**

Simple majority.

**RECOMMENDATION**

That:

1. in accordance with s3.16 of the Local Government Act 1995, that State wide and local public notice be given stating that the Town proposes to review the following local laws:
  - a. Rates - Discount
  - b. Erection and Use of Petrol Pumps
  - c. Clearing of Rubbish, Inflammable Matter & Other Substances on Land
  - d. Building Lines
  - e. Standing Orders
  - f. Signs, Hoardings and Bill Postings – Draft Model No 13
  - g. Vehicle Wrecking
  - h. Street Lawns and Gardens
  - i. Public Reserves
  - j. Prevention of Damage to Obstruction of and Misuse of Council Property and of Property on a Public Reserve
  - k. Prevention of Damage to Footpaths
  - l. Safety, Decency, Convenience and Comfort of Persons Bathing
  - m. Nuisances and Miscellaneous Matters
  - n. Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials
  - o. Signs, Hoardings & Billposting
  - p. Parking and Parking Facilities
  - q. Local Government Property
  - r. Activities on Thoroughfares & Trading in Thoroughfares & Public Places
  - s. Urban Environment and Nuisance
  - t. Bee Keeping
  - u. Fencing
  - v. Dogs Local Law
2. it be noted that a copy of the local laws may be inspected or obtained at the Town's offices or from its website;
3. submissions about the local laws may be made to the Town before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
4. the results of the above advertising be presented to Council for consideration of any submissions received.

Cr M McPhail – Cr Watkins

That:

1. in accordance with s3.16 of the Local Government Act 1995, that State wide and local public notice be given stating that the Town proposes to review the following local laws:
  - a. Rates - Discount
  - b. Erection and Use of Petrol Pumps
  - c. Clearing of Rubbish, Inflammable Matter & Other Substances on Land
  - d. Building Lines
  - e. Standing Orders
  - f. Signs, Hoardings and Bill Postings – Draft Model No 13
  - g. Vehicle Wrecking
  - h. Street Lawns and Gardens
  - i. Public Reserves
  - j. Prevention of Damage to Obstruction of and Misuse of Council Property and of Property on a Public Reserve
  - k. Prevention of Damage to Footpaths
  - l. Safety, Decency, Convenience and Comfort of Persons Bathing
  - m. Nuisances and Miscellaneous Matters
  - n. Depositing and Removal of Refuse, Rubbish, Litter and Disused Materials
  - o. Signs, Hoardings & Billposting
  - p. Parking and Parking Facilities
  - q. Local Government Property
  - r. Activities on Thoroughfares & Trading in Thoroughfares & Public Places
  - s. Urban Environment and Nuisance
  - t. Bee Keeping
  - u. Fencing
  - v. Dogs Local Law
2. it be noted that a copy of the local laws may be inspected or obtained at the Town's offices or from its website;
3. submissions about the local laws may be made to the Town before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
4. the results of the above advertising be presented to Council for consideration of any submissions received. CARRIED 9:0

270.2

**Revocation of Redundant Policies**

*Author – Janine May, PA to the CEO, 3 November 2015  
Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To continue progressing the review of Council's existing Policies.

**BACKGROUND**

Council commenced a Policy Register in 1976 and has proceeded to develop a range of policies since that time.

Apart from the local planning policies, the remaining policies have not been regularly reviewed to ensure their ongoing relevance to Council business.

Policies should be reviewed annually to ensure continued relevance and to reflect any legislative changes.

At its July 2015 meeting, Council revoked 44 redundant policies. At that time, Cr Collinson sought further clarification about the following five policies that had been recommended for revocation:

Policy 034	Rainforest Timbers
Policy 041	Conservation of Water Resources
Policy 052	Waste Minimisation

Policy 057      Advisory Panel on Town Planning & Building Matters  
Policy 141      Strategy for a Plastic Bag Free Town of East Fremantle 2004-2006

These Policies were the subject of discussion at the October Concept Forum.

### COMMENT

#### **Policy 034 Rainforest Timbers**

Cr White commented at the Forum that a policy which encouraged the use of “certified timber products” would be more relevant.

It is proposed that Policy 034 be revoked and Council staff draft a new Policy regarding the use of certified timber products.

#### **Policy 041 Conservation of Water Resources**

Given information provided to the Forum regarding the irrelevance of this outdated Policy, it is proposed that it be revoked.

#### **Policy 052 Waste Minimisation**

Given information provided to the Forum regarding the irrelevance of this outdated Policy, it is proposed that it be revoked.

#### **Policy 141 Strategy for a Plastic Bag Free Town of East Fremantle 2004-2006**

As this document was an expired strategy and not a policy, it should not have originally been adopted as a Policy. It is proposed to revoke this document.

Staff will monitor the City of Fremantle’s progress with its draft local law on this matter.

### Further Policies

#### **Policy 003 Recreation**

The following policy was adopted in 1976 and has only been reviewed once since that time in 1997:

- “1. *The basic purpose of recreation is to enrich the lives of people and to improve the quality of life of a community.*
2. *Recreation endeavours to cater for every age group; meeting the needs of young children, adolescent young people, adults, the elderly and disabled.*
3. *Recreation covers the whole spectrum of human interest including play, sport, drama, music, dance, art, crafts, literature, social gatherings, community service and many others.*
4. *Recreation should provide for individual choice and allow freedom for a wide range of recreation opportunities to develop.*
5. *Any recreation program should encourage community involvement in its planning, organisation and implementation.”*

It is considered Council’s Strategic Community Plan and the proposed Recreation and Community Facilities Master Plan make this Policy redundant. It is proposed to revoke the Policy.

#### **Policy 110 Occupational Safety & Health**

#### **Policy 111 Occupational Safety & Health – Contractors Safety Agreement**

#### **Policy 112 Occupational Safety & Health – Employee Safety Induction**

#### **Policy 122 Injury Management and Rehabilitation Procedures**

The above policies were developed in 1997/98, have not been reviewed since that time and therefore would not relate to current health and safety legislation. Occupational health & safety protocols are developed and monitored under the authority of the CEO and should not form part of the Council Policy Register. It is proposed that these policies

be revoked and Council staff develop appropriate and current guidelines for Council employees, volunteers and contractors.

**Statutory Requirements**

Local Government Act 1995

**Relevant Council Policies**

An overall review of all Council Policies is underway.

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

N/A

**Conclusion**

The current ongoing Policy review will ensure relevant and current policies to guide Council planning and decision making.

**Voting Requirements**

Simple majority

**RECOMMENDATION**

That Council revoke the following Policies:

- Policy 003 Recreation
- Policy 034 Rainforest Timbers
- Policy 041 Conservation of Water Resources
- Policy 052 Waste Minimisation
- Policy 110 Occupational Safety & Health
- Policy 111 Occupational Safety & Health – Contractors Safety Agreement
- Policy 112 Occupational Safety & Health – Employee Safety Induction
- Policy 122 Injury Management and Rehabilitation Procedures
- Policy 141 Strategy for a Plastic Bag Free Town of East Fremantle 2004-2006

**Cr M McPhail – Cr Harrington**

**That:**

1. **Council revoke the following Policies:**
  - **Policy 003 Recreation**
  - **Policy 034 Rainforest Timbers**
  - **Policy 041 Conservation of Water Resources**
  - **Policy 052 Waste Minimisation**
  - **Policy 110 Occupational Safety & Health**
  - **Policy 111 Occupational Safety & Health – Contractors Safety Agreement**
  - **Policy 112 Occupational Safety & Health – Employee Safety Induction**
  - **Policy 122 Injury Management and Rehabilitation Procedures**
  - **Policy 141 Strategy for a Plastic Bag Free Town of East Fremantle 2004-2006**
2. **The Acting Chief Executive Officer be requested to provide a report regarding options for Council to become a plastic bay free Town.** CARRIED 8:1

Reason for Amending the Officer's Recommendation

To ensure Council's desire for a plastic bag free Town was revisited as resources became available or Council's strategic priorities allowed.

- 270.3**     **Legal Advice Policy**  
*Author – Janine May, PA to the CEO, 9 September 2015*  
*Reporting Officer - Gary Clark, Chief Executive Officer*

**PURPOSE**

To adopt a policy that provides clarity regarding the release of legal advice to elected members.

**BACKGROUND**

During the last review of Council’s delegations, issues of the CEO being authorised to obtain legal advice and commence legal action and legal advice being provided to elected members were raised.

As reported at the August Concept Forum, enquiries with a number of local governments revealed that many were of the view that no delegation was required as its considered within the role of the CEO under Section 5.41 of the Local Government Act to obtain advice and commence legal proceedings if required.

At that Forum, elected members were advised a Policy would be developed to clarify what legal advice would be shared with elected members and what advice would be considered of an operational nature.

The draft Policy was submitted to the October Concept Forum with elected members invited to provide feedback by 30 October 2015. Cr Martin raised a concern relating to legal advice on matters of governance.

**COMMENT**

The attached policy requires that legal advice is to be made available to elected members where:

1. legal advice is required to ensure that informed decisions can be made by elected members,
2. legal advice is obtained regarding a litigation risk,
3. Council has requested legal advice,
4. legal advice relates to issues of governance.

**ATTACHMENT**

The policy will ensure that the CEO is aware of the Council’s expectations about access to legal advice. Advice relating to operational matters such as debt recovery or fines enforcement will not be provided to Council unless a decision is required.

**Statutory Requirements**

Local Government Act 1995

**Relevant Council Policies**

There is no existing Council policy relating to this matter.

**Strategic Plan Implications**

N/A

**Financial/Resource/Budget Implications**

N/A

**Conclusion**

The policy will clarify guidelines for receiving legal advice.

**Voting Requirements**

Simple majority

**RECOMMENDATION**

That Council adopt the attached Legal Advice Policy.



Cr Collinson – Cr Nardi

That Council adopt the attached Legal Advice Policy.

CARRIED 9:0

**270.4 Election of Representative and Deputy to Neighbourhood Watch Committee**

The Mayor called for nominations for a representative and deputy to the Neighbourhood Watch Committee. No nominations were forthcoming.

In view of the 2pm meeting start time for this Committee, Council wished it noted that most elected members were unavailable at that time of day, however acknowledged the Committee's great work.

**270.5 Election of Representative and Deputy to Future Freo Project**

Mayor O'Neill called for nominations for a representative and deputy to the Future Freo Project.

Cr M McPhail nominated as Council's representative and advised it would be unnecessary to appoint a deputy given there was probably only one more meeting of this group.

As there were no further nominations, Mayor O'Neill declared Cr M McPhail Council's representative to the Future Freo Project.

**271. CONFIDENTIAL BUSINESS**

Nil.

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

Nil.

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

**274. CLOSURE OF MEETING**

There being no further business, the meeting closed at 8.20pm

*I hereby certify that the Minutes of the meeting of the Council of the Town of East Fremantle, held on 17 November 2015, Minute Book reference 253. to 274. were confirmed at the meeting of the Council on*

.....

\_\_\_\_\_  
*Presiding Member*