



MINUTES

Council Meeting

Tuesday, 19 March 2019 at 6.32pm

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MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY EAST FREMANTLE ON TUESDAY, 19 MARCH 2019.

1. OFFICIAL OPENING

The Presiding Member opened the meeting at 6.32pm

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Mayor J O'Neill	Presiding Member
Cr J Harrington	
Cr M Collinson	
Cr A McPhail	
Cr M McPhail	
Cr D Nardi	
Cr T Watkins	
Cr A White	

The following staff were in attendance:

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

There were three members of the public in attendance.

3.2 Apologies

Nil.

3.3 Approved

Cr Collinson

4. DISCLOSURES OF INTEREST

4.1 Financial

Nil

4.2 Proximity

Nil

4.3 Impartiality

Nil

5. PUBLIC QUESTION TIME

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

5.1.1 C Gepp, 8/16 Coolgardie Avenue

Community Engagement Plan

1. Was the Community Engagement Plan followed in relation to the Annual Electors Meeting held on 29 January 2019, and where else has it not been followed?

The following methods were used to advertise the Annual Electors' Meeting:

- *Advertised in Fremantle Herald on 22 December 2018 and 12 January 2019 and Fremantle Gazette on 15 January 2019.*
- *Advertised on Council's website from 20 December 2018 and removed after the meeting was held.*
- *Advertised on Council's noticeboard at the front of the building from 20 December 2018 and removed some time after the meeting was held.*

Unfortunately Council's December e-newsletter was sent out on 6 December (prior to the date of the electors' meeting being set) and as there was not a newsletter circulated during January, there was no email/e-newsletter advice.

There should have been a Facebook post advising of the meeting and regrettably this did not appear to have occurred. Apart from this omission, it is considered all reasonable methods were used to follow the Town's Community Engagement Plan in accordance with Level 2 Engagement.

2. If not, what steps will Councillors and staff take to ensure that the Plan is followed in future according to the Guidelines to Proposed Levels of Engagement?

To ensure a high level of compliance with these Guidelines, it is intended to hold a refresh training session for relevant staff as a reminder of their obligations in relation to this Plan.

Calico Bags

3. There are only 3,283 dwellings so why were 5000 ordered?

As per the Town's Purchasing Policy, three quotes were sought for the supply and colour printing of the calico bags. Quotes received ranged from \$2.20 per bag to \$2.80 per bag (supplied and printed in colour) and as you can appreciate, to achieve economies of scale, it was decided to order 5,000 bags @\$2.20 each – these bags are actually larger than those usually supplied at the similar cost and have proved popular with positive feedback received from members of the community.

4. How many surplus bags are still to be distributed?

Following the initial distribution to all households by the East Fremantle Junior Football club players and parents, the bags have been distributed to attendees at the Town's Pioneer Luncheon (2017 and 2018); the East Fremantle Oval Precinct Revitalisation Project workshop attendees; are available at the Town's administration office and provided to residents who request extras; and are available to be distributed at upcoming Town hosted events. The Town currently has approximately 700 calico bags to further distribute.

5. Did the funds for the bags come from the Sanitation budget or from some other Budget?

The budget for the calico bags came from the Marketing and Communication Budget and was allocated as part of the Town of East Fremantle re-branding project in early 2017.

6. What was the nature and value of the sponsorship given to the EFJFC to deliver the bags?

Rather than engage the services of a professional letter box drop company or Australia Post to distribute the bags to all households, in April 2018 following the decision to disallow the Town's proposed 'Plastic Bag Ban Local Law' and subsequent announcement by the State Government to instigate the plastic bag ban Statewide, the Town decided to offer a fund raising opportunity to all local sporting clubs and community groups. Nine (9) responses were received and assessed. The \$3,000 sponsorship was subsequently allocated to the East Fremantle Junior Football Club. This option supported a local sports club and provided a financial saving on the delivery costs.

Staff Christmas Lunch

7. Was the staff Christmas Party funded by Council or did staff reimburse Council the cost of their meal?

The staff Christmas Party was, and has always been, funded by Council.

8. Was FBT paid on this?

As reported at the Council Meeting, there are no FBT implications on this payment.

5.2 Public Question Time

5.2.1 C Gepp, 8/16 Coolgardie Avenue

Ms Gepp noted EFT27211 Fresh Promotional Products Australia for branded cups and requested information on whether they were for use by residents of the Town.

The CEO advised that in the interests of promoting reusable coffee cups, the promotional cups had been distributed to:

- staff members
- residents attending the last Pioneers' Lunch
- volunteers and in promotional gift bags at East Fremantle Festival.

6. PRESENTATIONS/DEPUTATIONS

6.1 Presentations

Nil.

6.2 Deputations

6.2.1 Richmond Circus No 70 (Lot 226) – Carport (Agenda Item 12.1.1)

Mr T McLaughlin (Builder) addressed the meeting expressing the owner's frustration with the time delay in having this matter determined and requesting a decision at tonight's meeting.

7. APPLICATIONS FOR LEAVE OF ABSENCE

7.1 Cr Watkins

Cr Watkins sought leave of absence for the period 28 April to 5 June 2019.

Moved Cr Nardi, seconded Cr Harrington

That leave of absence be granted to Cr Watkins for the period 28 April to 5 June 2019.

(CARRIED UNANIMOUSLY)

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Meeting of Council (19 February 2019)

8.1 OFFICER RECOMMENDATION

Moved Cr Watkins, seconded Cr Harrington

That the minutes of the Ordinary meeting of Council held on Tuesday, 19 February 2019 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

8.2 Special Meeting of Council (26 February 2019)

8.2 OFFICER RECOMMENDATION

Moved Cr Nardi, seconded Cr Harrington

That the minutes of the Special meeting of Council held on Tuesday, 26 February 2019 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

9.1 City of Christchurch, NZ

Mayor O'Neill advised of his intention to write to the Mayor of Christchurch, Lianne Dalziel, offering from the people of the Town of East Fremantle, support and sympathy to the community of Christchurch, following the events of 15 March 2019 that occurred in their City.

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

Nil.

11. REPORTS AND RECOMMENDATIONS OF COMMITTEES

11.1 Audit Committee Meeting (26 February 2019)

File ref	C/MTAF1
Prepared by	Peter Kocian, Executive Manager Corporate Services
Meeting Date:	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Audit Committee Minutes2. 2018 Compliance Audit Return3. Corporate Credit Card Use Policy (4.3.6)4. Supplier Payments Policy5. General Conditions of Contract for the Supply of Goods and Services under a Purchase Order

Purpose

To submit the minutes of the Audit Committee for receipt and adoption by Council.

Executive Summary

The Committee, at its meeting on 26 February 2019, provided recommendations on five officer reports. As the Committee has no delegation, these recommendations are submitted to the March Council Meeting for consideration.

Consultation

Audit Committee.

Statutory Environment

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Site Inspection

Not applicable.

Comment

The unconfirmed minutes and recommendations of the Audit Committee meeting are now presented to Council to be received and adopted.

11.1 COMMITTEE RECOMMENDATION (1)/COUNCIL RESOLUTION 010319

Moved Cr A McPhail, seconded Cr Natale

That the unconfirmed Minutes of the Audit Committee Meeting held on 26 February 2019 be received.

(CARRIED UNANIMOUSLY)

11.1 COMMITTEE RECOMMENDATION (2)/COUNCIL RESOLUTION 020319

Moved Cr A McPhail, seconded Cr Natale

That Council adopt the Compliance Audit Return for the period 1 January to 31 December 2018.

(CARRIED UNANIMOUSLY)

11.1 COMMITTEE RECOMMENDATION (3)/COUNCIL RESOLUTION 030319

Moved Cr A McPhail, seconded Cr Natale

That Council:

1. receive the review of the Town's procurement processes undertaken by the WALGA Procurement Service.
2. note the recommendations detailed in the WALGA Procurement Review will be implemented by the administration.

(CARRIED UNANIMOUSLY)

11.1 COMMITTEE RECOMMENDATION (4)/COUNCIL RESOLUTION 040319

Moved Cr A McPhail, seconded Cr Natale

That Council:

1. receive the WA Auditor General's Report on the Control over Corporate Credit Cards.
2. revoke Policy F8.6 and endorse the attached Corporate Credit Card Policy (4.3.6).

(CARRIED UNANIMOUSLY)

11.1 COMMITTEE RECOMMENDATION (5)/COUNCIL RESOLUTION 050319

Moved Cr A McPhail, seconded Cr Natale

That Council endorse the following attachments:

1. Supplier Payments Policy
2. General Conditions of Contract for the Supply of Goods and Services under a Purchase Order

(CARRIED UNANIMOUSLY)

11.2 Town Planning Committee Meeting (5 March 2019)

File ref	C/MTP1
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Town Planning Committee Minutes

Purpose

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

Executive Summary

The Committee, at its meeting on 5 March 2019, exercised its delegation in five statutory matters where at least four members voted in favour of the Reporting Officer's recommendations.

The development application for a carport at 70 Richmond Circus has been referred to the Council Meeting (see Agenda Item 12.1.1) as the Committee did not support the recommendation prepared by the planning officer.

As the Committee has no delegation to deal with strategic matters, the report regarding the WALGA Preferred Model - Third Party Appeal Rights in Planning has also been referred to the March Council Meeting (see Agenda Item 12.1.2).

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

Consultation

Town Planning Committee.

Statutory Environment

Nil.

Policy Implications

Nil.

Financial Implications

Nil.

Strategic Implications

Nil.

Site Inspection

Not applicable.

Comment

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

11.2 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 060319

Moved Cr Nardi, seconded Cr Harrington

That the unconfirmed Minutes of the Town Planning Committee Meeting held on 5 March 2019 be received.

(CARRIED UNANIMOUSLY)

11.3 Public Art Panel Minutes Report

File ref	A/ART1
Prepared by	Karen Dore Economic & Community Development Officer
Supervised by	Peter Kocian, Executive Manager Corporate Services
Meeting Date:	19 March 2019
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Minutes of Public Art Panel Meeting, 25 February 2019 (OMINS32012)2. Town of East Fremantle Art Actions Matrix 2018-20223. External Window Installation Project Proposal4. Silas Street Roundabout Project Proposal5. Turnstile Booths Project Proposal

Purpose

To consider the Public Art Panel's recommendations and requests, as a consequence of their most recent meeting.

Executive Summary

The Town's Public Art Panel have held five (5) meetings since their inception in July 2018. At their meeting held on 25 February 2019 they finalised four items to be recommended to Council for perusal and approval:

- Town of East Fremantle Art Actions Matrix 2018-2022
- External Window Installation Project Proposal
- Silas Street Roundabout Project Proposal and
- Turnstile Booths Project Proposal.

Background

Town of East Fremantle Art Actions Matrix 2018-2022

The Four-Year Public Art Plan provides a clear understanding of the initiatives the Town of East Fremantle intends to implement over the allocated four-year period (2018-19 to 2021-22). The actions were developed from community consultation, assessment of the Town of East Fremantle's current delivery of public art and a review of best practice in arts delivery. The Plan is guided by the standards set out in the Town of East Fremantle Public Art Strategy. These actions align with the Town of East Fremantle's Public Art Vision, Aims and Objectives for Public Art.

External Window Installation Project Proposal

At their meeting held on 12 August 2018, the Public Art Panel supported the application of external vinyl artwork to the windows of an empty shop in a highly visible part of the Town – namely, the corner of Canning Highway and Petra Street. The purpose is to create an ephemeral installation that will transform this unattractive, empty building into a bright, highly visible entry to the Town.

Silas Street Roundabout Project Proposal

This location was considered as one to be included in the "Art on Loan" project. However, it was ultimately decided that it was preferable to have a commissioned, bespoke, perpetual installation at the site that will be a unique entry statement for the Richmond Quarter business precinct.

Turnstile Booths Project Proposal

Concerns have been raised by members of the community and Town staff (Operations Crew) regarding the use of the two open booths by people experiencing homelessness. This can create a perception of the area being unsafe. There is also additional workload for Town staff in ensuring the area is kept clean and tidy.

An amount of \$15,000 was allocated in the 2019-2020 budget, under maintenance, to enclose the two booths.

Rather than simply blocking up the two doorways and twelve windows, it was felt that this presented an amazing opportunity to install some functional public art which can be utilised to tell the story of the Richmond Raceway. This offers a strong link to the Town's work in revitalising the Heritage Trail and undertaking the "Streets of East Fremantle" project in partnership with the Museum of Perth.

Consultation

Public Art Panel Members
Executive Management Group
Relevant artists

Statutory Environment

Nil

Policy Implications

Public Art Panel Policy (4.1.5)

Financial Implications

Town of East Fremantle Art Actions Matrix 2018-2022

There are no direct financial implications associated with the endorsement of this document, however, it should be noted that it sets a four-year forward plan for budgeting in relation to public art.

The Arts and Sculpture Reserve has a balance of \$192,022 as at 30/06/18. An allocation of \$45,000 is included in the 2018-2019 budget. Should \$45,000 be allocated in 2019-20, 2020-21 and 2021-22, the total available over four (4) years will be \$372,000.

The Matrix proposes an allocation, over four (4) years of \$125,000 for the Town Art Collection Acquisition project, to be expended as per the recommendation of the Acquisition Proposal Report. \$6,000 can be quarantined for the management of this Town Art Collection.

The balance of \$247,000 will then be available for Commissions and Projects as identified / endorsed by the Public Art Panel. With a proposed spend of \$31,000 in 2018-2019, that leaves an average of \$70,000 per year for the following three years.

External Window Installation Project Proposal

The cost of this project is \$3,000. These costs include the purchase of artwork, the rights to use the artwork, digitisation of the artwork, creation of the window vinyl and installation of the final product.

Silas Street Roundabout Project Proposal

The estimated cost of this project is \$50,000. Should Council support the proposal in principle further work will be undertaken to secure concept designs and costings.

Turnstile Booths Project Proposal

The total financial implication of endorsing this proposal is \$35,000. In relation to the Arts and Sculpture Reserve the impact is \$20,000, with the balance of \$15,000 being available from the relevant maintenance budget (as per the adopted 2018-2019 budget).

Strategic Implications

Nil

Site Inspection

Not applicable

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Theme Risk	Risk Action Plan (Controls or Treatment proposed)
That Council does not endorse the recommendation of the Public Art Panel	Possible (3)	Minor (2)	Moderate (5-9)	SERVICE INTERRUPTION Medium term temporary interruption - backlog cleared by additional resources < 1 week	Accept Officer Recommendation

Risk Matrix

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

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

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

Comment

The Public Art Panel comprises passionate, knowledgeable local practitioners, ably supported by elected members. They have, over the past six months deliberated many ideas – dismissing those which either do not align with the Town's public arts vision or are not, at this time, practical. These recommendations represent proposals which have been carefully considered and planned.

11.3 PANEL RECOMMENDATION/COUNCIL RESOLUTION 070319

Moved Cr Harrington, seconded Cr Natale

That Council:

- 1. endorse the Town of East Fremantle Art Actions Matrix 2018-2022, as attached;**
- 2. endorse the External Window Installation Project, as attached;**
- 3. supports in principle the Silas Street Roundabout Project proposal, as attached;**
- 4. supports in principle the Turnstile Booths Project proposal, as attached; and**
- 5. pursuant to Section 6.8 of the *Local Government Act 1995*, approves an additional transfer of \$23,000 from the Arts and Sculpture Reserve for the External Window Installation and Turnstile Booths projects.**

(CARRIED UNANIMOUSLY)
BY AN ABSOLUTE MAJORITY

12. REPORTS

12.1 PLANNING REPORTS

12.1.1 Richmond Circus No 70 (Lot 226) - Carport

Owner	Mark Hochstadt and Rachel Bodel
Applicant	Softwoods Timberyard Pty Ltd
File ref	P908/18; P/RIC70
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

For Council to consider the Town Planning Committee (TPC) recommendation to refuse a single carport for vehicle parking in the front setback at No 70 (Lot 226) Richmond Circus as outlined in the Report contained within the TPC minutes (Agenda Item 11.2 Attachment 1).

Background

The Officer's original recommendation to refuse the carport was not supported at the Council meeting on 19 February 2019 and the administration was directed to prepare an alternative approval recommendation with planning conditions for the March TPC Meeting.

Executive Summary

The Town Planning Committee at its meeting on 5 March 2019 did not support the officer's recommendation to approve this carport.

(Refer to Town Planning Committee minutes to view the full report and Resolution.)

As the officer's recommendation was not supported, delegated authority could not be exercised. The recommendation presented to the March TPC meeting and lost 2:3 is reprinted below:

12.1.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 080319

Moved Cr Harrington, seconded Cr White

That development approval be granted and discretion exercised in regard to the following:

- (i) Clause 3.7.20.3.2 of the Residential Design Guidelines - garages and carports shall be incorporated into and be compatible with the design of the dwelling and garages and carports shall not visually dominate the dwelling as viewed from the street;
- (ii) Clause 3.7.20.3.3 A2 of the Residential Design Guidelines - garages and carports are to be setback a minimum distance of 1.2m behind the building line;

for a single carport in the front setback area at No 70 (Lot 226) Richmond Circus, East Fremantle, in accordance with the plans date stamped received on 19 October 2018 subject to the following conditions:

1. The carport is to remain open on all sides and not to be fully enclosed.
2. Installation of a garage door is not permitted.

3. Any proposal to fully enclose the carport and/or install a garage door is required to have a development application submitted for Council's consideration.
4. The construction materials and colours are to be to the satisfaction of the Chief Executive Officer and are to be submitted with the Building Permit application plans.
5. The crossover to the carport is not to exceed 3.2 metres in width (including splays).
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. 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.
8. 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.
9. All storm water 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.
10. 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.
11. 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.
12. 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:

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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 report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) *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).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(CARRIED 6:2)

12.1.2 WALGA Preferred Model – Third Party Appeal Rights in Planning

File ref	A/WALGA; B/PTP1
Prepared by	Stacey Towne, Urban Project Planner
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. WALGA Preferred Model – Third Party Appeal rights for decisions made by Development Assessment Panels

Purpose

For Council to consider the Town Planning Committee (TPC) recommendation to provide a response to WALGA as outlined in the Report contained within the TPC minutes (Agenda Item 11.2 Attach 1).

Background

This matter was discussed at the February Concept Forum and ordinary Council Meeting with further clarification sought. Following a request to WALGA, the comment period was extended to the end of March. A further report was prepared for the March Committee meeting, where the officer recommendation was supported for consideration at the 19 March Council Meeting.

The matter was discussed further at the Concept Forum held on 12 March.

Executive Summary

The Town Planning Committee at its meeting on 5 March 2019 supported the officer's recommendation, however, has no delegation authority to deal with strategic matters, hence its referral to the Council Meeting.

(Refer to Town Planning Committee minutes to view the full report and Resolution.)

12.1.2 COMMITTEE RECOMMENDATION/COUNCIL RESOLUTION 090319

Moved Cr M McPhail, seconded Cr White

That Council advise the Western Australian Local Government Association that the Town of East Fremantle:

1. does not support Third Party Appeal Rights for planning and therefore does not support the WALGA Preferred Model *"Third Party Appeal Rights for decisions made by Development Assessment Panels"*, received on 12 December 2018; and
2. supports the principle of Local Governments being able to challenge and seek review of DAP decisions that are made contrary to recommendations of a RAR or Council position;
3. supports the principle of other third parties being able to challenge and seek review of DAP decisions only when decisions are made contrary to recommendations of a RAR or Council position;
4. supports the principle of generally improving the accountability and transparency of Development Assessment Panel decisions; and

5. considers that alternative planning reform measures associated with DAP function and processes, rather than the appeals process, would be a more appropriate method of addressing issues associated with DAP decision making.

(CARRIED UNANIMOUSLY)

12.2 FINANCE REPORTS

12.2.1 Monthly Financial Report (Containing the Statement of Financial Activity) – February 2019

Applicant	Not Applicable
File ref	F/FNS2
Prepared by	Peter Kocian, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Meeting Date:	19 March 2019
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Monthly Financial Report for the Period Ended 28 February 2019

Purpose

The purpose of this report is to present to Council the Monthly Financial Report (containing the Statement of Financial Activity) for the month ended 28 February 2019.

Executive Summary

A new Monthly Financial Report template has been developed to provide an overview of key financial activity. Two Statements of Financial Activity have been prepared, one by program and the other by nature and type. Both of these Statements provide a projection of the closing surplus position as at 30 June 2019.

Background

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

As part of the adopted 2018/19 Budget, Council adopted the following thresholds as levels of material variances for financial reporting.

In accordance with regulation 34 (5) of the Local Government (Financial Management) Regulations 1996, and AASB 1031 Materiality, the level to be used in statements of financial activity in 2018/19 for reporting material variances shall be:

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

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

The monthly Financial Report for the period ended 28 February 2019 is appended and includes the following:

- Statement of Financial Activity by Program
- Statement of Financial Activity by Nature and Type
- Notes to the Statement of Financial Activity including:
 - Statement of capital acquisitions and capital funding
 - Significant Accounting Policies
 - Explanation of Material Variances
 - Net Current Funding Position

- Cash and Investments
- Budget amendments
- Receivables
- Cashed Back Reserves
- Capital Disposals
- Rating Information
- Information on Borrowings
- Grants and Contributions

The attached Monthly Financial Reports 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 covering activities undertaken during the financial year.

Consultation

Nil.

Statutory Environment

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

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

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

Policy Implications

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

Financial Implications

Material variances are disclosed in the Statement of Financial Activity.

There are no proposed changes to the current budget forecast as presented to Council in the mid-year budget review.

The statement of financial activity is to be supported by such information as is considered relevant by the local government containing:

- an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets; and
- an explanation of each of the material variances; and
- supporting information as is considered relevant by the local government.

Strategic Implications

The matter being put to the Council is not likely to have a direct impact on the strategies of the Council.

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

Site Inspection

Not applicable.

Risk Implications

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

Risk Matrix

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

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

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

Comment

The following is a summary of headline numbers from the attached financial reports:

	Original Budget	Amended Budget (Mid-Year Review)	Year to Date Budget	February Actuals
Opening Surplus	782,857	785,889	785,889	785,889
Operating Income	10,430,366	10,354,928	9,515,584	9,641,558
Operating Expenditure	(12,130,190)	(11,765,902)	(7,842,408)	(7,235,602)
Capital Expenditure	(2,980,169)	(3,043,919)	(2,029,016)	(875,837)
Capital Income	307,479	307,479	258,233	174,000
Net Transfers from Reserves	867,277	867,277	578,176	(27,955)
Non-Cash Items	2,722,380	2,510,473	1,682,731	1,463,667
Closing Surplus	0	16,225	2,949,189	3,925,719
Unrestricted Cash				3,854,740
Rates Receivables				1,152,009
Restricted Cash				2,110,590

- Rates were levied in the month of July;
- Year to date budgets have been entered into the financial system. The majority of variances between year to date actuals and the year to date budget are attributable to timing differences, and are further explained in Note 2 of the Monthly Financial Report. There is a permanent downward adjustment to depreciation expense on infrastructure assets following a circa \$7m decrement in the carrying value of infrastructure assets as at 30 June 2018.
- Capital expenditure is 29% of the annual budget at the end of February, with major expenditures relating to roads (\$385,965), footpaths (\$190,117) and plant and equipment (\$155,557).
- 92% of rates were collected by the end of February, meaning that the Town has a significant unrestricted cash position, with majority of these funds placed in short term deposits, ranging in term from one to four months.

The Statements of Financial Activity have been updated to include additional columns; being the annual budget entered in the financial system (SynergySoft), the amended budget following approved budget variations at the August 2018 OCM, and the forecast position as at 30 June 2019 following the mid-year budget review. The current budget captures all budget variations that have approved by Council since the original budget adoption.

A review of debtor invoicing against the adopted Schedule of Fees and Charges indicates that the Croquet Club has not been invoiced ground fees for the 2017/18 and 2018/19 financial years. The Croquet Club has historically been charged the same amount as the Bowling Club, which is set at \$2,213.09 (GST Inc.) in 2018/19 (and \$2,189 GST Inc. in 2017/18). It is recommended that Council impose these fees under section 6.16 of the *Local Government Act 1995*.

Proposed Budget Variations:

1. Council resolved to allocate \$20,000 to the East Fremantle Football Club during the mid-year budget review. This is a contribution towards the following works:
 - Replace 8 doors to entry points in Coaches Tower and Change rooms

- Replace broken windows and panels in Coaches Tower
- Install CCTV to Sponsors Lounge and Coaches Tower

The East Fremantle Football Club have since requested a further contribution towards roof repairs, and have submitted quotes. The following priorities have been determined by the Club:

Urgent	Remove rusted out box gutter and damaged timber. Replace with new zincalume box gutter. Roof repairs and gutter repairs to member's area and undercover seating. Supply and fit new box gutter to members bar and grandstand.	\$38,291.50 (GST Inc)
2020	Remove damaged roof sheeting and replace with new zincalume roof sheeting for away change rooms	\$43,879 (GST Inc)
2021	Seal or repair areas on main asbestos roof	\$46,750 (GST Inc)

It is recommended that Council approve a budget variation of \$20,000 (GST Exc) for the urgent works, and request that the East Fremantle Football Club sign a Funding Agreement, similar to the one that was prepared for the Fremantle Rowing Club, where the Town provided a financial contribution of \$40,275 towards ablution facilities.

2. Urgent repairs have been identified for the concrete footpath on Riverside Road (opposite Sunny's Apartments). Quotes have been sourced, and the works are estimated at \$48,000 (GST Exc). It is recommended that these works be funded from the budget for parking machine upgrades, as the current budget of \$155,000 (split over two separate budgets of \$80,000 and \$75,000) is more than adequate to cover expenditure related to upgrades at the Number 1 Carpark this financial year (albeit a further budget allocation may be required in 2019/20 to fully fund this project).

12.2.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 100319

Moved Cr Natale, seconded Cr White

That Council:

1. receives the Monthly Financial Report (Containing the Statement of Financial Activity) for the month ended 28 February 2019.
2. notes the Forecast column in the Statements of Financial Activity, forecasting a small surplus of \$16,225 as at 30 June 2019.
3. notes the municipal surplus of \$3,925,719, which comprises of \$3,854,740 in unrestricted cash, as at 28 February 2019.
4. by absolute majority, impose the following ground hire fees for the East Fremantle Croquet Club pursuant to section 6.16 of the *Local Government Act 1995*, and provide local public notice:

Description	2017/18	2018/19
Ground Hire Fees – East Fremantle Croquet Club	\$2,189 (GST Inc.)	\$2,213.09 (GST Inc.)

5. by absolute majority, approve to amend the 2018/19 municipal budget pursuant to section 6.8 of the *Local Government Act 1995*, by adopting the schedule of budget variations below:

Description	GL Account	Current Budget	Amended Budget	Variation
East Fremantle Football Club – Building and Roof Upgrades	E11710	(\$20,000)	(\$40,000)	(\$20,000)
Footpath – Riverside Road	E12694	\$0	(\$48,000)	(\$48,000)
Parking Machines	E12747	(\$75,000)	(\$7,000)	\$68,000
Change in Net Current Assets as at 30 June 2019				\$0

6. request the Chief Executive Officer to prepare and execute a Funding Agreement with the East Fremantle Football Club, prior to funds being released.

(CARRIED UNANIMOUSLY)

ABSOLUTE MAJORITY

12.2.2 Accounts for Payment – February 2019

File ref	F/FNS2
Prepared by	Peter Kocian, Executive Manager, Corporate Service
Supervised by	Peter Kocian, Executive Manager, Corporate Services
Meeting Date	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Monthly List of Payments – February 2019

Purpose

For Council to receive the monthly list of accounts paid.

Executive Summary

To endorse the list of payments made under delegated authority for the month of February 2019.

It is therefore recommended that Council receives the Lists of Accounts paid for the period 1 February to 28 February 2019, as per the summary table.

Background

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

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

Consultation

Nil.

Statutory Environment

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

Policy Implications

Policy 4.2.4 Purchasing Policy

Financial Implications

Accounts for Payment are sourced from budget allocations.

All amounts quoted in this report are inclusive of GST.

Risk Implications

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

Risk Matrix

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

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

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

Strategic Implications

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

STRATEGIC PRIORITY 5: Leadership and Governance

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

Site Inspection

Not applicable.

Comment

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

- Cr A McPhail raised EFT27148 City of Fremantle and queried the second instalment library contribution amount. The EMCS advised that this 50% contribution (library and toy library) included GST which the Town claims as a credit in its Business Activity Statement. The actual cost to the Town is \$150,000 for the 18/19 financial year in accordance with Council resolution.
- Cr Natale raised EFT27302 Fulton Hogan Industries and queried whether this represented the completion of all roadworks for the current financial year. The CEO advised that he believed this was the case, with the possible exception of one street which had been deferred, however, he would check this and confirm the information.

12.2.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 110319

Moved Cr Nardi, seconded Cr A McPhail

That the list of accounts paid for the period 1 to 28 February 2019 be received, as per the following summary table:

FEBRUARY 2019		
Voucher No	Account	Amount
5209 – 5220	Municipal (Cheques)	998.03
EFT27129 – EFT 27303	Municipal (EFT)	\$1,127,836.43
Payroll	Municipal (EFT)	\$269,661.84
Credit Card/Superannuation	Municipal (Direct Debit)	\$45,510.93
	Total Payments	\$1,444,007.23

(CARRIED UNANIMOUSLY)

12.3 GOVERNANCE REPORTS

12.3.1 Delegated Authority Register

Applicant	Town of East Fremantle
File ref	C/DEL1
Prepared by	Gary Tuffin, Chief Executive Officer
Report Date	19 March 2019
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	1. Updated Delegated Authority Register

Purpose

To consider approving the delegation of designated powers and functions as listed in the Delegated Authority Register 2018 to the Chief Executive Officer and Committees pursuant to sections 5.42 & 5.16 of the *Local Government Act 1995* respectively.

Executive Summary

In accordance with section 5.46 of the *Local Government Act 1995*, delegations are to be reviewed at least once every financial year.

The Delegated Authority Register was last reviewed at Council's Ordinary meeting held on 19 June 2018 with some further additions/amendments adopted on 21 August and 20 November 2018.

The Delegated Authority Register 2019 is now presented for Council's consideration and endorsement.

Background

Under Section 5.42 of the Local Government Act, Council may resolve to delegate some of its powers and duties to the Chief Executive Officer, or certain committees of Council.

The Chief Executive Officer and the Executive Management Team have undertaken a review of the Delegated Authority Register.

Consultation

Executive Manager Regulatory Services
Executive Manager Corporate Services

Statutory Environment

Any of the duties designated in the Local Government Act 1995 may be delegated to the CEO except for those stated in section 5.43, which are:

- *Any duty requiring an absolute or higher majority of Council*
- *Accepting a tender greater than an amount set by Council*
- *Appointing an auditor*
- *Disposing of or acquiring property valued higher than an amount set by Council*
- *Deciding fees payable to elected members*
- *Borrowing money*
- *Determining objections to a Council decision of a kind referred to in Section 9.5*

Powers delegated to the CEO may be further delegated (with or without conditions) by the CEO to other officers, as deemed appropriate by the Chief Executive Officer.

The delegation of any power from Council to the Chief Executive Officer and from the Chief Executive Officer to any other officer must be in writing and when the delegated power is used it must be recorded by the officer exercising it.

A Chief Executive Officer cannot exercise delegated powers or duties if the CEO has an interest in the matter. The nature of the interest must be disclosed to the Mayor as soon as practicable after the CEO becomes aware of the interest.

Policy Implications

Various policies have been referred to in the delegations, these are detailed in the Delegated Authority Register.

Financial Implications

Nil

Strategic Implications

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

Strategic Priority 5: Leadership and Governance

5.1 Strengthen organisational accountability and transparency

5.1.3 Improve the efficiency

5.3 Strive for excellence in leadership and governance

5.3.2 Improve organisational systems with a focus on innovation

Site Inspection

Not applicable

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council won't meet its statutory obligations if delegations are not reviewed annually.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Some temporary non-compliances	Accept Officer Recommendation

Risk Matrix

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

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

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

Comment

The only change to the previously adopted Delegations Register is the addition of a new delegation DA78 Disbursement of Petty Cash

The Council, as delegator, is required to review its delegations annually. It is recommended that the Council endorses the revised Delegated Authority Register.

12.3.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 120319

Moved Cr Natale, seconded Cr Nardi

That Council endorse the revised Delegated Authority Register 2019 as attached.

(CARRIED UNANIMOUSLY)

12.3.2 Local Government Act 1995 Review

Applicant	Minister for Local Government
File ref	A/DLC1 & A/WALGA1
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Meeting Date	19 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. WALGA Advocacy Positions

Purpose

The purpose of this report is for Council to consider WALGA's advocacy positions in relation to Phase 2 of the Local Government Act 1995 review, and indicate whether it supports or otherwise said positions.

Council's decision will then be submitted to both WALGA and the DLGSC.

Executive Summary

Phase 2 of the Local Government Act review process will result in a complete review of the Act, the first time this has occurred since the legislation was introduced (July 1996). In response to the review WALGA has prepared a position statement for local governments' consideration. Responses have been provided for the position statements for Council's consideration.

Background

In 2017 the McGowan Government announced a review of the Local Government Act 1995. This is the first significant reform of local government conducted in more than two decades. The aim is to modernise local governments and better position them to deliver services for the community. The first phase of the review was completed in 2018. This is the second phase of the review, the theme of which is "*Delivering for the Community*", with 11 themes arranged under the 'Smart, Agile, Inclusive' headings:

- Agile
 - Beneficial Enterprises
 - Financial Management
 - Rates
- Smart
 - Administrative Efficiencies
 - Local Laws
 - Council Meetings
 - Interventions
- Inclusive
 - Community Engagement
 - Integrated Planning and Reporting
 - Complaints Management
 - Elections

Consultation

DLGSC

WALGA
TOEF Executive Group

Statutory Environment
Local Government Act 1995
Policy Implications
Nil.

Financial Implications

There may be financial implications that result as a change to legislation (ie voting online). However, as it is unknown what changes may occur at this stage, it is difficult to assess.

Strategic Implications

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

5.1 Strengthen organisational accountability and transparency

5.1.1 Strengthen governance, risk management and compliance

5.1.2 Ensure an effective engagement process is undertaken with community and stakeholders.

5.1.3 Improve the efficiency and effectiveness of services

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not make a submission.	Unlikely (2)	Insignificant (1)	Low (1-4)	REPUTATIONAL Unsubstantiated, low impact, low profile or 'no news' item	Accept Officer Recommendation

Risk Matrix

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

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

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

Site Inspection

Not applicable.

Comment

(AGILE)

1. Beneficial Enterprises - WALGA's Position Statement:

The Local Government Act 1995 should be amended to enable Local Governments to establish Beneficial Enterprises (formerly known as Council Controlled Organisations).

WALGA has been advocating for Local Governments to have the ability to form Beneficial Enterprises (formerly known as Council Controlled Organisations) for approximately ten (10) years. A Beneficial Enterprise is a standalone arm's length business entity to carry out commercial enterprises and to deliver projects and services for the community. Local Governments would have the ability to create Beneficial Enterprises through the Local Government Act, however the stand alone business entity would be governed by the Corporations Act (ie normal company law).

Beneficial Enterprises provide services and facilities that are not attractive to private investors or where there is market failure. A Beneficial Enterprise cannot carry out a regulatory function of a Local Government.

Example:

- Urban regeneration; A Land Development may not be attractive to a private developer, however the ability to develop the land may be beneficial for the Local Government in respect to strategic development/connection of an area. Or may be worth a joint venture with a developer.

WALGA has identified the following benefits of establishing a Beneficial Enterprise would include:

- (a) *The ability to employ professional directors and management with experience specific to the commercial objectives of the entity;*
- (b) *Removal of detailed investment decisions from day-to-day political processes while retaining political oversight of the overarching objectives and strategy;*
- (c) *The ability to take an overall view of commercial strategy and outcomes rather than having each individual transaction within a complex chain of inter-related decisions being subject to the individual notification and approval requirements of the Local Government Act;*

- (d) *The ability to quarantine ratepayers from legal liability and financial risk arising from commercial or investment activities;*
- (e) *The ability to set clear financial and non-financial performance objectives for the entity to achieve; and*
- (f) *Greater flexibility to enter into joint venture and partnering relationships with the private sector on conventional commercial terms.*

A model such as this may be an appropriate future structure for the South Metropolitan Regional Council (SMRC) or the South West Group (SWG).

Officer recommendation

It is recommended WALGA's position be supported to establish "*Beneficial Enterprises*".

2. Financial Management

2.1 Tender Threshold - WALGA's Position Statement:

WALGA supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000, with a timeframe of one financial year for individual vendors.

The current tender threshold requirement for calling tenders is \$150,000. The proposal is to increase this to \$250,000 in line with State Government.

This is the maximum threshold above which tenders must be called. Nothing precludes a tender being called for a lesser value purchase. The Town's Purchasing Policy and associated internal operating procedures set out the requirements for purchases below the threshold where a tender is not called. The proposal reflects the growth in value of purchases and would enable greater flexibility and responsiveness in procurement.

Officer recommendation

It is recommended WALGA's position be supported and the Tender threshold be increased to \$250,000.

2.2 Procurement - WALGA's Position Statement:

That Regulation 30(3) be amended to delete any financial threshold limitation (currently \$75,000) on a disposition where it is used exclusively to purchase other property in the course of acquiring goods and services, commonly applied to a trade-in activity.

This provision essentially relates to where a disposal is part of a purchase and typically this occurs where plant and equipment are traded in as part of the purchase of new plant and equipment. The current limit has the effect of forcing old plant and equipment above the limit to be disposed of by a separate disposal process even though a better net change over may be achieved by trading it in. The proposal is to retain the exemption but remove the \$75,000 limit. The impact of the change would be particularly relevant to those Local Governments who have fleets with large high-value earth moving and waste disposal equipment.

2.3 Imposition of Fees and Charges: Section 6.16 - WALGA's Position Statement:

That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.

Section 6.16 requires that if Council wishes to impose any new fees and charges after it has adopted its Budget, it must provide local notice before they can be introduced and become effective. This can create an unnecessary delay.

Fees determined by State Government legislation are of particular concern to Local Governments and represent significant revenue leakage because of:

- Lack of indexation;
- Lack of regular review (fees may remain at the same nominal levels for decades), and
- Lack of transparent methodology in setting the fees (fees do not appear to be set with regard to appropriate costs recovery levels).

Officer recommendation

It is recommended WALGA's position be supported

2.4 Power to Borrow: section 6.60 - WALGA's Position Statement:

That section 6.20(2) of the Act requiring one month's notice of intent to borrow be deleted.

Section 6.20(2) requires, where a power to borrow is proposed to be exercised and details of the proposal are not included in the annual budget, that the Local Government must give one month's public notice of the proposal (unless an exemption applies). There is no associated requirement to request or consider written submission prior to exercising the power to borrow, as is usually associated with giving public notice. Section 6.20(2) simply stops the exercise of power to borrow for one month, and it is recommended it be deleted.

Officer recommendation

It is recommended WALGA's position be supported

2.5 Differential General Rates: Section 6.33 - WALGA's Position Statement:

That Section 6.33 of the Local Government Act be reviewed in contemplation of time-based differential rating, to encourage development of vacant land.

This matter has arisen as there is a view by some within the industry that councils should be able to impose higher rates on undeveloped (vacant) land to encourage more timely development.

Officer recommendation

It is recommended WALGA's position be supported

2.6 Member Interests - Exemption from AASB 124 - WALGA's Position Statement:

Create an exemption under Regulation 4 relating to AASB 124 'Related Party Transactions' for EMs to declare interests.

Regulation 4 of the Financial Management Regulations provides a mechanism for an exemption from the Australian Accounting Standards (AAS).

WALGA has been requested by some of its members that an exemption be allowed from the implementation of AASB 124 'Related Party Transactions' due to the current provisions in the Act on declarations of interest at meetings and in Primary and Annual returns. This is regarded as providing appropriate material declaration and disclosure of interests associated with function of Local Government.

Officer recommendation

It is recommended WALGA's position be supported

3. Rates, Fees & Charges

3.1 Imposition of Fees and Charges: Section 6.16 - WALGA's Position Statement:

That a review be undertaken to remove fees and charges from legislation and Councils be empowered to set fees and charges for Local Government services.

Section 6.16 requires that if Council wishes to impose any new fees and charges after it has adopted its Budget, it must provide local notice before they can be introduced and become effective. This can create an unnecessary delay.

Officer recommendation

It is recommended WALGA's position be supported

3.2 Rating Exemptions – Charitable Purposes: Section 6.26(2)(g) - WALGA's Position Statement:

- 1. Amend the Act to clarify that Independent Living Units should only be exempt from rates where they qualify under Commonwealth Aged Care Act 1997;**
- 2. Either:**
 - (a) amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or**
 - (b) establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and**
- 3. Request that a broad review be conducted into the justification and fairness of all rating exemption categories currently prescribed under Section 6.26 of the Local Government Act.**

Exemptions under this section of the Act have extended beyond the original intention and now provide rating exemptions for non-charitable purposes, which increase the rate burden to other ratepayers.

Officer recommendation

It is recommended WALGA's position (2) be supported

- (a) *amend the charitable organisations section of the Local Government Act 1995 to eliminate exemptions for commercial (non-charitable) business activities of charitable organisations; or*
- (b) *establish a compensatory fund for Local Governments, similar to the pensioner discount provisions, if the State Government believes charitable organisations remain exempt from payment of Local Government rates; and*

3.3 Rating Exemptions – Rate Equivalency Payments - WALGA’s Position Statement:

Legislation should be amended so rate equivalency payments made by LandCorp and other Government Trading Entities are made to the relevant Local Governments instead of the State Government.

Rate Equivalency payments apply mainly to Government agencies who operate in a commercial environment and although otherwise exempt from Local Government rates are required to make a rate equivalent payment to the State Treasury based on competitive neutrality principles. There are only a few agencies that are in this position, the most relevant example is Landcorp.

The Town does not have any properties affected by this exemption. This matter is of concern to Local Governments with significant LandCorp holdings in their district. The loss of rates revenue is effectively paid by other ratepayers.

Officer recommendation

It is recommended WALGA’s position be supported

3.4 Rates or Service Charges Recoverable in Court: Section 6.56 - WALGA’s Position Statement:

That Section 6.56 be amended to clarify that all debt recovery action costs incurred by a Local Government in pursuing recovery of unpaid rates and services charges be recoverable and not be limited by reference to the ‘cost of proceedings’.

Officer recommendation

It is recommended WALGA’s position be supported

3.5 Rating Restrictions – State Agreement Acts - WALGA’s Position Statement:

Resource projects covered by State Agreement Acts should be liable for Local Government rates.

No impact direct on Town of East Fremantle, however is a significant issue for regional and remote local governments.

Officer recommendation

It is recommended WALGA’s position be supported

(SMART)

4. Administrative Efficiencies

4.1 Control of Certain Unvested Facilities: Section 3.53 - WALGA's Position Statement:

That section 3.53 be repealed and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

The Local Government Act 1995 includes a provisions, under Section 3.53, that is carried forward from Section 300 of the former Local Government Act 1960. Former Section 300 stated:

"A council has the care, control, and management of public places, streets, ways, bridges, culverts, fords, ferries, jetties, and drains, which are within the district, or, which although not within the district, are by this Act placed under the care, control, and management, of the council, or are to be regarded as being within the district, except where and to the extent that under an Act, another authority has that care, control, and management."

Section 3.53 refers to infrastructure as an 'otherwise unvested facility', and is defined to mean: *"a thoroughfare, bridge, jetty, drain, or watercourse belonging to the Crown, the responsibility for controlling or managing which is not vested in any person other than under this section."*

Section 3.53 places responsibility for an otherwise unvested facility on the Local Government in whose district the facility is located. Lack of ongoing maintenance and accreting age has resulted in much infrastructure falling into a dilapidated state. This, together with the uncertain provenance of many of these facilities, particularly bridges, is reported as placing an unwarranted and unfunded burden on a number of Local Governments. WALGA recommends section 3.53 of the Act be deleted and that responsibility for facilities located on Crown Land return to the State as the appropriate land manager.

Officer recommendation

It is recommended WALGA's position be supported

4.2 Local Government Grants Commission and Local Government Advisory Board – WALGA's Position Statement:

WALGA seeks inclusion of a proposal to allow electors of a Local Government affected by any boundary change or amalgamation proposal entitlement to petition the Minister for a binding poll under Schedule 2.1 of the Local Government Act.

Currently there is no provision in the Act to provide electors with the ability to call a poll for a proposed boundary change, like there is for proposed amalgamations.

Officer recommendation

It is recommended WALGA's position be supported

4.3 Schedule 2.1 – Proposal to the Advisory Board, Number of Electors - WALGA's Position Statement:

That Schedule 2.1 Clause 2(1)(d) be amended so that the prescribed number of electors required to put forward a proposal for change increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Officer recommendation

It is recommended WALGA's position be supported

4.4 Schedule 2.2 – Proposal to amend names, wards and representation, Number of Electors WALGA's Position Statement:

That Schedule 2.2 Clause 3(1) be amended so that the prescribed number of electors required to put forward a submission increase from 250 (or 10% of electors) to 500 (or 10% of electors) whichever is fewer.

Officer recommendation

It is recommended WALGA's position be supported

4.5 Transferability of employees between State & Local Government - WALGA's Position Statement:

A General Agreement between State and Local Government should be established to facilitate the transfer of accrued leave entitlements (annual leave, sick leave, superannuation and long service leave) for staff between the two sectors of Government. This will benefit public sector employees and employers by increasing the skills and diversity of the public sector, and lead to improved collaboration between State and Local Government

Officer comment

It is noted in the March (2019) State Council Agenda, that WALGA's position on this matter has changed due to the complexities/differences in State and Federal legislation regulating entitlements in the respective sectors.

4.6 Proof in Vehicle Offences may be shifted: Section 9.13(6) - WALGA's Position Statement:

Amend Section 9.13 by introducing the definition of 'responsible person' and enable Local Governments to administer and apply effective provisions associated with vehicle related offences

There have been cases in the past where the owner of the vehicle claims they cannot remember who was driving the vehicle and avoided prosecution.

Officer recommendation

It is recommended WALGA's position be supported

(INCLUSIVE)

5. Complaints Management

5.1 Querulous, Vexatious and Frivolous Complainants - WALGA Position Statement:

The Complaints Management commentary contemplates the issue up to the point of unresolved complaints and then references the Ombudsman resources with regard to unreasonable complainants. WALGA seeks inclusion of commentary and questions relating to Local Governments adopting within their proposed complaints management framework, the capacity to permit a Local Government to declare a member of the public a vexatious or frivolous complainant, subject to the declaration relating to the nature of complaint and not to the person.

Amend the Local Government Act 1995, to:

- *Enable Local Government discretion to refuse to further respond to a complainant where the CEO is of the opinion that the complaint is trivial, frivolous or vexatious or is not made in good faith, or has been determined to have been previously properly investigated and concluded, similar to the terms of section 18 of the Parliamentary Commissioner Act 1971.*
- *Provide for a complainant, who receives a Local Government discretion to refuse to deal with that complainant, to refer the Local Government's decision for third party review.*
- *Enable Local Government discretion to declare a member of the public a vexatious or frivolous complainant for reasons, including:*
 - *Abuse of process;*
 - *Harassing or intimidating an individual or an employee of the Local Government in relation to the complaint;*
 - *Unreasonably interfering with the operations of the Local Government in relation to complaint.*

Officer recommendation

It is recommended WALGA's position be supported

6 Council Meetings

6.1 Electors General Meeting; Section 5.27 - WALGA Position Statement:

Section 5.27 of the Local Government Act 1995 should be amended so that Electors' General Meetings are not compulsory.

There is different views across the industry in relation to the value of these meetings, giving all Ordinary Council meetings are open to members of the public.

Officer recommendation

It is recommended WALGA's position be supported/ not be supported.

6.2 Special Electors' Meeting: Section 5.28 - WALGA Position Statement:

That Section 5.28(1)(a) be amended:

- (a) so that the prescribed number of electors required to request a meeting increase from 100 (or 5% of electors) to 500 (or 5% of electors), whichever is fewer; and*
- (b) to preclude the calling of Electors' Special Meeting on the same issue within a 12 month period, unless Council determines otherwise.*

It is considered that a minimum figure of 5% or 500 electors would demonstrate that the issue is one that is of concern to a significant number of electors.

Officer recommendation

It is recommended WALGA's position be supported.

6.3 Minutes, contents of: Regulation 11- WALGA Position Statement:

Regulation 11 should be amended to require that information presented in a Council or Committee Agenda must also be included in the Minutes to that meeting.

Regulation 11 contains a potential anomaly in that the content requirements relating to Minutes of a Council or Committee meeting do not make reference to the reports and information that formed the basis of the Agenda to that meeting.

Officer recommendation

It is recommended WALGA's position be supported

6.4 Revoking or Changing Decisions: Regulation 10 - WALGA Position Statement:

That Regulation 10 be amended to clarify that a revocation or change to a previous decision does not apply to Council decisions that have already been implemented.

Regulation 10 provides a mechanism for the revocation or change to a previous decision of Council. It does not however, contain any provision clarifying that the provisions do not apply to Council decisions that have already been implemented. This regulatory deficiency is currently managed administratively, but warrants an appropriate amendment to assist clarify the rights of a Councillor to seek a revocation or change.

Officer recommendation

It is recommended WALGA's position be supported

6.5 Elected Member attendance at Council meetings by technology - WALGA Position Statement:

The regulations require amendment to consider allowing attendance at a meeting via technology from any location suitable to a Council.

The current Local Government (Administration) Regulations 1996 allows for attendance by telephone, however only if approved by Council and in a suitable place. This requirement does not cater for remote locations or the ability to attend via teleconference whilst in another state or overseas.

Officer recommendation

It is recommended WALGA's position be supported

7 Elections

7.1 Conduct of Postal Elections: Sections 4.20 and 4.61 - WALGA Position Statement:

The Local Government Act 1995 should be amended to allow the Australian Electoral Commission (AEC) and or any other third party provider to conduct postal elections.

Currently, the WAEC has a legislatively enshrined monopoly on the conduct of postal elections that has not been tested by the market. This could include the Australian Electoral Commission, individual local governments or private companies.

Officer recommendation

It is recommended WALGA's position be supported

7.2 Voluntary Voting: Section 4.65 - WALGA Position Statement:

Voting in Local Government elections should remain voluntary.

The Australian Electoral Commission notes the following arguments are advanced for/against compulsory voting:

Arguments used in favour of compulsory voting

- Voting is a civic duty comparable to other duties citizens perform eg. taxation, compulsory education, jury duty
- Teaches the benefits of political participation
- Parliament reflects more accurately the "will of the electorate"
- Governments must consider the total electorate in policy formulation and management
- Candidates can concentrate their campaigning energies on issues rather than encouraging voters to attend the poll
- The voter isn't actually compelled to vote for anyone because voting is by secret ballot.

Arguments used against compulsory voting:

- It is undemocratic to force people to vote – an infringement of liberty
- The ill-informed and those with little interest in politics are forced to the polls
- It may increase the number of "donkey votes"
- It may increase the number of informal votes

- It increases the number of safe, single-member electorates – political parties then concentrate on the more marginal electorates
- Resources must be allocated to determine whether those who failed to vote have "valid and sufficient" reasons.

7.3 Method of Election of Mayor/President: Section 2.11 - WALGA Position Statement

Local Governments should determine whether their Mayor or President will be elected by the Council or elected by the community.

Officer recommendation

It is recommended WALGA's position be supported

7.4 On-Line Voting - WALGA Position Statement

That WALGA continue to investigate online voting and other opportunities to increase voter turnout.

WALGA has received requests from three (3) Zones to explore the possibility of introducing on-line voting in Local Government elections. A State Council Item for Noting was prepared in May 2017 advising that WALGA staff will liaise with the WAEC regarding the use of the iVote system and also seek feedback from the Local Government sector on online voting and other opportunities to increase voter turnout. The Minister for Local Government has indicated that online voting is likely to be considered in the context of increasing elector participation.

Officer recommendation

It is recommended WALGA's position be supported

7.5 Method of Voting - Schedule 4.1 – WALGA's Position Statement

Elections should be conducted utilising the first-past-the-post (FPTP) method of voting.

Officer recommendation

It is recommended WALGA's position be supported

7.6 Leave of Absence when Contesting State or Federal Election - WALGA's Position Statement

Amend the Act to require an Elected Member to take leave of absence when contesting a State or Federal election, applying from the issue of Writs. The options to consider include:

- I. that an Elected Member remove themselves from any decision making role and not attend Council and Committee meetings; or***
- II. that an Elected Member take leave of absence from all aspects of their role as a Councillor and not be able to perform the role as specified in Section 2.10 of the Local Government Act.***

Under the Local Government Act 1995, there is no requirement for an Elected Member to either stand down or take leave of absence if they are a candidate for a State or Federal election. If elected to Parliament the Elected Member is immediately ineligible to continue as an Elected Member.

Conclusion

Council is now requested to give consideration whether it supports WALGA's position statements presented in this paper.

- Cr A McPhail raised Part 7.6 Leave of Absence when Contesting State or Federal Election and queried whether an elected member would be eligible to receive their allowance during this absence as it was not considered appropriate for an elected member to be remunerated in this instance.

The CEO undertook to query this with WALGA, and if an elected member could receive payment during their absence, he would amend Council's response to reflect it non-support for this aspect.

12.3.2 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 130319

Moved Cr M McPhail, seconded Cr Natale

That Council support the position statements contained within this report excluding 2.1 and 6.1 and advise WALGA and the Department of Local Government & Communities accordingly.
(CARRIED UNANIMOUSLY)

COUNCIL RESOLUTION 140319

2.1 Tender Threshold

Moved Cr Natale, seconded A McPhail

That Council supports an increase in the tender threshold to align with the State Government tender threshold of \$250 000.
(CARRIED UNANIMOUSLY)

COUNCIL RESOLUTION 150319

6.1 Electors General Meeting; Section 5.27

Moved Cr White, seconded Cr M McPhail

That Council does not support WALGA's position statement and Electors' General meetings remain compulsory.
(CARRIED UNANIMOUSLY)

COUNCIL RESOLUTION 160319

Moved Cr M McPhail, seconded Cr Natale

Council requests the role of the Department of Local Government be considered in WALGA's position statement particularly giving regard to how the Department can play a role strategically coordinating and enabling capability of the local government sector.
(CARRIED UNANIMOUSLY)



13. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
Nil.
14. NOTICE OF MOTION FOR CONSIDERATION AT THE NEXT MEETING
Nil.
15. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN
Nil.
16. NEW BUSINESS OF AN URGENT NATURE
Nil.
17. MATTERS BEHIND CLOSED DOORS
Nil.
18. CLOSURE
There being no further business, the Presiding Member declared the meeting closed at 7.39pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **19 March 2019**, Minute Book reference **1. to 18.** were confirmed at the meeting of the Council on*

16 APRIL 2019



Presiding Member