



# AGENDA

## SPECIAL COUNCIL MEETING

Tuesday, 31 October 2023 at 6:30 PM

### **Disclaimer**

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the Local Government Act 1995 (section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Town of East Fremantle expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the Council meeting.

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## NOTICE OF MEETING

Elected Members

A Special Council Meeting of the Council will be held on 31 October 2023 at 6:30 PM in the Council Chamber, 135 Canning Highway, East Fremantle and your attendance is requested.



JONATHAN THROSSELL  
Chief Executive Officer  
**26 October 2023**

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# AGENDA

## 1 OFFICIAL OPENING

## 2 ACKNOWLEDGEMENT OF COUNTRY

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

## 3 ANNOUNCEMENT TO GALLERY

*“Members of the gallery are advised that no Council decision from tonight’s meeting will be communicated or implemented until 12 noon on the first clear working day after this meeting, unless Council, by resolution carried at this meeting, requested the CEO to take immediate action to implement the decision.”*

## 4 RECORD OF ATTENDANCE

### 4.1 ATTENDANCE

### 4.2 APOLOGIES

### 4.3 APPROVED

## 5 DISCLOSURES OF INTEREST

### 5.1 FINANCIAL

### 5.2 PROXIMITY

### 5.3 IMPARTIALITY

## 6 PUBLIC QUESTION TIME

### 6.1 PUBLIC QUESTION TIME

### 6.2 DEPUTATIONS

## 7 ELECTION OF DEPUTY MAYOR

### 7.1 ELECTION OF DEPUTY MAYOR

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-204
<b>Prepared by</b>	Jonathan Throssell, Chief Executive Officer
<b>Supervised by</b>	N/A
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil

#### **Attachments**

1. Deputy Mayor Nomination Form
2. Deputy Mayor Nomination by Nominee Form
3. Deputy Mayor Declaration Form

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## EXECUTIVE SUMMARY

The Local Government Act 1995 (the Act) includes provisions for the election of a councillor to hold the office of deputy mayor. The election of the Deputy Mayor is to be the first matter dealt with at the first meeting of Council after the ordinary local government elections.

Refer to **Attachment 1** for a copy of the nomination form to be used when nominating for the office of deputy mayor. Refer to **Attachment 2** for a copy of the nomination form to be used when nominating another council member for the office of deputy mayor.

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## STATUTORY ENVIRONMENT

Division 2 of Schedule 2.3 of the *Local Government Act 1995* (“the Act”) provides when and how a councillor is elected to hold the office of deputy mayor.

Clause 7 of Schedule 2.3 provides that the office of deputy mayor is to be filled as the first matter dealt with at the first meeting of council after an ordinary elections day.

The procedure to elect the deputy mayor is set out in **Schedule 2.3**. This procedure requires the election to be conducted in the same manner as for the local government elections; a key change resulting from amendments to the *Local Government Act 1995* mean that the method of voting to be used is the ‘optional preferential’ method.

The details are as follows:

### **“8. How deputy mayor or deputy president is elected**

- (1) *The council is to elect a councillor (other than the mayor or president) to fill the office.*
- (2) *The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.*
- (3) *Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The council members are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.*

### **9. Votes may be cast a second time**

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election*

Division 3 of **Schedule 4.1A** of the Act provides how votes are to be counted and how to ascertain results in a one office election.

2. **One office election: 2 candidates**

(1) *If there are only 2 candidates in a one office election —*

- (a) the first-preference votes for each candidate must be counted; and*
- (b) the candidate who has the greater number of first-preference votes is elected.*

(2) *If the candidates have the same number of first-preference votes, the returning officer must draw lots in accordance with regulations to determine which candidate is elected.*

3. **One office election: 3 or more candidates**

*Clauses 4 and 5 apply if there are 3 or more candidates in a one office election.*

4. **Count of first-preference votes**

(1) *The first-preference votes for each candidate must be counted.*

(2) *A candidate is elected if the number of first-preference votes for the candidate exceeds 50% of the total number of all the first-preference votes for candidates.*

5. **Process if no candidate elected under clause 4**

(1) *The process in subclause (2) —*

- (a) must be followed if no candidate is elected under clause 4; and*
- (b) as necessary, must be repeated until a candidate is elected under subclause (3).*

*Notes for this subclause:*

- 1. Subclauses (4) to (6) supplement subclauses (2) and (3) for cases where candidates have the same number of votes.*
- 2. Subclauses (7) and (8) explain how the terms ballot paper and continuing candidate are used in this clause.*

(2) *The process is as follows —*

*a. exclude the candidate (the **excluded candidate**) with —*

- i. if this process is being followed for the first time — the fewest first-preference votes; or*
- ii. if this process is being repeated — the fewest votes on the last count under paragraph (d);*

*b. set aside as exhausted any ballot paper of the excluded candidate that contains —*

- i. no preference votes at all; or*
- ii. no preference votes for any continuing candidates;*

*c. transfer any remaining ballot papers of the excluded candidate that indicate the next available preference for a particular continuing candidate to that continuing candidate;*

*d. count the number of votes for each of the continuing candidates by totalling the following —*

- i. the number of first-preference votes for the continuing candidate;*

- ii. *if this process is being followed for the first time — the total number of ballot papers transferred to the continuing candidate under paragraph (c);*
  - iii. *if this process is being repeated — the total number of ballot papers transferred to the continuing candidate under paragraph (c) on this or a previous occasion.*
- (3) *A continuing candidate is elected if, on a count under subclause (2)(d), the number of votes for the continuing candidate exceeds 50% of the total number of all the votes for continuing candidates.*
- (4) *Subclause (6) applies if subclause (2)(a) cannot otherwise be applied because, as the case requires —*
  - (a) 2 or more candidates have the same number of first-preference votes (no other candidates having fewer first-preference votes); or*
  - (b) 2 or more candidates have the same number of votes on the last count under subclause (2)(d) (no other candidates having fewer votes).*
- (5) *Subclause (6) also applies if subclause (3) cannot otherwise be applied because —*
  - (a) there are only 2 continuing candidates in a count under subclause (2)(d); and*
  - (b) on the count, the continuing candidates have the same number of votes.*
- (6) *The returning officer must draw lots in accordance with regulations to determine, as the case requires —*
  - (a) the candidate to be excluded; or*
  - (b) the continuing candidate to be elected.*
- (7) *For the purposes of the process in subclause (2), a ballot paper is a ballot paper of the excluded candidate if either of the following applies —*
  - (a) the ballot paper contains a first-preference vote for the excluded candidate;*
  - (b) the process is being repeated and the ballot paper was transferred to the excluded candidate under subclause (2)(c) on a previous occasion.*
- (8) *For the purposes of the process in subclause (2), a continuing candidate is a candidate to whom neither of the following applies —*
  - (a) the candidate is the excluded candidate;*
  - (b) the process is being repeated and the candidate was excluded under subclause(2)(a) on a previous occasion.”*

The regulations referred to in Schedule 4.1 clause 2(2) are the *Local Government (Elections) Regulations 1997*.

### **Declaration by the Deputy Mayor**

Section 2.29 of the Act requires that a person elected by the council as deputy mayor is to make a declaration in the prescribed form before acting in the office (refer **Attachment 3**).

Regulation 13 of the *Local Government (Constitution) Regulations 1995* provides the prescribed form, Form 7, and the following (in part):

- (3) *A declaration required by section 2.29 to be made by a person elected as a councillor, deputy mayor or deputy president is to be made before an authorised person. ...*

(5) *In this regulation —*

**authorised person** means a person before whom a statutory declaration can be made under the Oaths, Affidavits and Statutory Declarations Act 2005.

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## REPORT ATTACHMENTS

Attachments start on the next page





**NOMINATION FOR DEPUTY MAYOR**

**I, Cr** \_\_\_\_\_

**nominate for the position of DEPUTY MAYOR.**

**Signed Cr** \_\_\_\_\_ **Date** \_\_\_\_\_



**NOMINATION FOR DEPUTY MAYOR**

I nominate, Cr \_\_\_\_\_

for the position of DEPUTY MAYOR.

Signed Cr \_\_\_\_\_ Date \_\_\_\_\_

I accept the nomination

Signed Cr \_\_\_\_\_ Date \_\_\_\_\_



Form 7  
Local Government Act 1995  
Local Government (Constitution) Regulations 1998 [reg.13(1)(c)]

**DECLARATION BY ELECTED MEMBER OF COUNCIL**

I,  
of **EAST FREMANTLE**

having been elected to the office of **DEPUTY MAYOR** of the **TOWN OF EAST FREMANTLE**  
declare that I take the office upon myself, and will duly, faithfully, honestly, and with integrity fulfil  
the duties of the office for the people in the district according to the best of my judgment and ability,  
and will observe the Code of Conduct adopted by the **TOWN OF EAST FREMANTLE** under section  
5.104 of the *Local Government Act 1995*.

Declared at **EAST FREMANTLE** on **31 OCTOBER 2023**

by .....

Before me .....

**JAMES FRANCIS O'NEILL**  
**MAYOR**

8 BUSINESS

Reports start on the next page

## 8.1 PLANNING COMMITTEE

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-191
<b>Prepared by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Absolute Majority – part 2
<b>Documents tabled</b>	Nil

### Attachments

1. Proposed Terms of Reference – Town of East Fremantle Planning Committee

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### PURPOSE

To seek Council approval to adopt the attached draft Terms of Reference for the Town of East Fremantle Planning Committee (“the Planning Committee”) and to appoint council members to the Planning Committee per the Terms of Reference.

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### EXECUTIVE SUMMARY

The role of the Planning Committee is to consider matters and make decisions of Council within the defined scope and to provide recommendations and advice to Council as required.

The Planning Committee has a primary role in considering and determining statutory development applications of the Town’s planning services and functions and providing advice on the strategic direction on the whole of the Town’s Planning Framework where required.

The attached terms of reference define the scope, roles and responsibilities and meeting requirements of the Planning Committee.

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### BACKGROUND

A review revealed that the Planning Committee does not have current terms of reference. Attached are draft terms of reference for the Planning Committee to be considered by Council.

The purpose of the Planning Committee is to:

- determine matters regarding development applications submitted to the Town which are not otherwise delegated to Officers (DA29 Determination of Applications for Planning Approval);
- provide advice to Council on planning matters affecting the community, and
- provide strategic direction on matters as detailed in the Planning Committee's Roles and Responsibilities.

As with all Council committee membership following Council elections, previous council member appointments expire and new appointments must be made.

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### CONSULTATION

N/A

## STATUTORY ENVIRONMENT

The Planning Committee is established by Council under Section 5.9 of the *Local Government Act 1995* as a committee comprised of council members under section (2)(a).

Under section 5.10 of the Act the appointment of committee members requires an absolute majority vote.

Under section 5.10(4) if the Mayor informs Council of their wish to be a member of a committee of Council, Council is to appoint the Mayor to be a member of the committee.

Council has delegated authority to the Planning Committee to *DA 73 Determination of Planning Applications or Advice to Referral Agencies or Other Planning Authorities*.

## POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

Nil

## STRATEGIC IMPLICATIONS

Strategic Community Plan 2020 -2030

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

5.1 Strengthen organisational accountability and transparency

5.1.2 Ensure effective engagement with community and stakeholders

5.2 Proactively collaborate with the community and other stakeholders

5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies

## RISK IMPLICATIONS

### RISKS

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council failing to appoint elected members to the Planning Committee	Rare (1)	Moderate (3)	Low (1-4)	REPUTATIONAL Substantiated, public embarrassment, moderate impact, moderate news profile	Accept Officer Recommendation
Without members of the Planning Committee, no delegated planning determinations can be made	Rare (1)	Moderate (3)	Low (1-4)	SERVICE INTERRUPTION Prolonged interruption of services - additional resources; performance affected <1month	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

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

N/A

### COMMENT

It is open to Council to consider adopting the attached terms of reference with or without amendment.

### CONCLUSION

It is recommended that Council adopts the Planning Committee Terms of Reference and appoints council members to the Planning Committee per its Terms of Reference.

---

8.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council:**

1. **adopts the terms of reference for the Town of East Fremantle Planning Committee, per Attachment 1 to this report; and**
2. **appoints the following council members to the Town of East Fremantle Planning Committee:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**REPORT ATTACHMENTS**

Attachments start on the next page





# Planning Committee Terms of Reference

(October 2023)

**Version history**

<b>Version</b>	<b>Release Date</b>	<b>Author</b>	<b>Reason for Change</b>
1.0	23/10/23	Executive Manager Regulatory Services	New document

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## 1 Interpretation

For the purpose of this document:

*Chairperson* means the chairperson of the Planning Committee.

*Committee* means Town of East Fremantle Planning Committee.

*Council* means the Council of the Town of East Fremantle.

*Mayor* means the elected Mayor of the Town of East Fremantle.

*Member* means a member of the Planning Committee.

*Town* means the Town of East Fremantle.

## 2 Purpose

The purpose of the Committee is to determine planning matters of Council in accordance with delegated authority, provide advice to Council on planning matters affecting the community, and to provide strategic direction on matters as detailed in the Committee's Roles and Responsibilities.

Council has, by resolution, delegated authority to the Committee to decide matters regarding development applications submitted to the Town.

The Committee will provide much of the investigative and detailed work leading to a recommendation to council should an application be presented to Council.

## 3 Roles and responsibilities

The role of the Committee is to consider matters and make decisions of Council within the defined scope and to provide recommendations and advice to council as required.

The Committee shall have a primary role in considering and determining statutory development applications of the Town's planning services and functions and to provide advice on the strategic direction on the whole of the Town's Planning Framework where required.

The Committee is charged with considering matters relating to the following services and functions:

- Statutory Planning Development Assessment
- Heritage Planning
- Strategic Planning
- Urban Design
- Planning Scheme
- Community and Stakeholder Engagement relating to the above
- Strategy and Policy (planning recommendations and innovations)
- Plan for the sustainable development of the Town of East Fremantle
- Plan for a range of housing choices to cater for our diverse population
- Review Strategic Planning documents and plans as required

## 4 Status of Committee

The Committee is a formal committee of Council established under section 5.9 of the *Local Government Act 1995*.

Part 5, Subdivision 2 provides for committees including establishment and appointment of members. Part 5 Subdivision 3 of the Act provides for the quorum, voting, decisions and minutes of committees. The *Local Government (Administration) Regulations 1996* also make provisions in regards to committees.

## 5 Delegations

The Committee may make decisions of Council as per the Delegations Policy or make recommendations to Council on all matters before it.

Delegations of authority are specific to an individual matter (Planning and Development). Such delegations must be in accordance with Council's Delegations Policy and be included in council's Delegation Register. Delegation may be removed by Council.

The Committee does not have the power to incur expenditure, nor does it have the power to bind Council, unless delegated to make a determination of Council.

A decision of the Committee is to be made by a simple majority.

## 6 Membership

### 6.1 Overview

Council will appoint Committee members by *Absolute Majority*. Following each ordinary local government elections all previous appointments on committees are declared vacant in accordance with section 5.11 of the Act.

### 6.2 Council Members

The Committee is to consist of a minimum of four (4) Council Members.

All other Council Members are welcome to attend meetings of the Committee as observers and contribute to discussions but are not entitled to vote.

### 6.3 Chair and Deputy Chair

The Chairperson and Deputy Chairperson are elected by the Committee at the first meeting of the Committee following the biennial ordinary local government elections.

### 6.4 Quorum

The quorum for the Committee is at least 50% of all members, whether present or not (i.e., half the total number of committee members plus one).

In the event of a tied vote, the Chairperson will exercise a casting vote.

## **6.5 Term of office**

Committee members are appointed for a period coinciding with the local government election cycle.

A committee member continues as a member of the Committee until the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference, if such event occurs before the next general local government election.

Any casual vacancy in membership is to be filled by Council appointment.

## **7 Other attendance**

### **7.1 Community representation**

The Chairperson and/or the Chief Executive Officer may invite community representatives and/or technical specialists to specific meetings of the Committee in order to assist the Committee in the consideration of matters before it.

Such community representatives attend at the invitation of the Chairperson, are not entitled to vote, and may be requested to leave the meeting if confidential matters are before the Committee.

### **7.2 General public**

The Committee meetings are generally open to the public unless the Chairperson or Chief Executive Officer deems it necessary to proceed behind closed doors pursuant to Section 5.23 of the *Local Government Act 1995*.

## **8 Support**

### **8.1 Specialist support**

Town officers will provide specialist information on the areas of regulatory and legislative frameworks. Such information includes:

- Identification of statutory issues for consideration by the Committee.
- Background research on issues relevant to the Committee.
- Preparation of reports on issues, including submissions to be considered in Committee meetings.
- Proposing strategic issues for consideration by the Committee/ Council.

## **9 Meeting schedule**

The schedule of the Committee meetings is to be adopted by Council each year for the following calendar year.

The frequency and location of meetings may be varied by the Chairperson in consultation with the Chief Executive Officer, following consideration of the matters before it and appropriate notification provided.

## 10 Meeting practices and procedures

All meetings of the Committee shall be open to the public unless resolved by the Committee to be closed to the public for the purpose of discussing a matter deemed to be confidential.

The administrative provisions of Town's *Meeting Procedures Local Law 2016* apply.

The minutes of each meeting are submitted to the next available Council Meeting with a view to the Committee's recommendations (if any) being considered.

### 10.1 Conduct and Conflict of Interest

Committee members are required by the *Local Government Act 1995* and the Town's adopted Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.

## 11 Document control

The Committee and these Terms of Reference will be reviewed each election cycle. Apart from any inconsequential editing, amendments to these Terms of Reference are to be approved by the Council.

## 8.2 AUDIT COMMITTEE

<b>Report Reference Number</b>	OCR-2423
<b>Prepared by</b>	Peter Kocian, Executive Manager Corporate Services
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Absolute Majority – part 2
<b>Documents tabled</b>	Nil
<b>Attachments</b>	

1. Audit Committee – Terms of Reference

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### PURPOSE

This report seeks Council nominations for appointment to the Audit Committee in accordance with the adopted Terms of Reference.

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### EXECUTIVE SUMMARY

The Audit Committee is an advisory committee formally appointed by the Council and is responsible to the Council. Pursuant to the adopted Terms of Reference, the Audit Committee is to comprise of six council members and up to two external independent members.

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### BACKGROUND

As a result of the October 2023 Council elections, all Committee appointments are spilled. The term of Committee appointments is thus two years, with the Committee to be appointed biennially after the Ordinary Local Government Elections.

The Presiding Member and Deputy Presiding Member of the Audit Committee will be appointed by the Audit Committee at its first meeting held after the Ordinary Local Government Elections.

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### CONSULTATION

N/A

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### STATUTORY ENVIRONMENT

Committee appointments are made in accordance with section 5.10 of the *Local Government Act 1995*.

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### POLICY IMPLICATIONS

Nil

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### FINANCIAL IMPLICATIONS

Council previously considered advice with respect to fees paid to independent members of Audit Committees. The advice summarised:

1. The *Local Government Act 1995* (the Act) provides for payments to members of Council and Committees.



2. Section 5.100 of the Act expressly provides that a person who is a committee member but is not a council member or an employee is not to be paid a fee for attending any meeting.
3. The clear distinction between a reimbursement of an expense and a payment in respect of attending a meeting and concluded that there is no power to pay an independent member of an audit committee a fee for preparing for, attending or participating in an audit committee meeting.

However, the *Local Government Amendment Bill 2023* has progressed through Parliament with Royal Assent given on 18 May 2023. It is expected that this Bill will be gazetted shortly. Section 5.100 of the Act will be amended as follows:

**5.100. Fees paid and expenses reimbursed to committee members**

- (1) In this section —
  - committee member* means a person who is a committee member but who is neither a council member nor an employee;
  - determined* means determined by the Salaries and Allowances Tribunal under the *Salaries and Allowances Act 1975* section 7BAA.
- (2) A committee member who attends a meeting of the committee is entitled to be paid —
  - (a) the fee determined for attending a committee meeting; or
  - (b) if the local government has set a fee within the range determined for committee meeting attendance fees — that fee.

The above amendment will enable Independent Members of the Audit Committee to be paid a meeting attendance fee. The determination of the Salaries and Wages Tribunal dated 6 April 2023 prescribes a Council Meeting Attendance Fee per Meeting of between \$205 - \$430 for a Band 3 Local Government. As there are generally three (3) Audit Committee Meetings per year, the meeting agenda and attachments can be quite substantial. Given the amount of reading preparation, it will be recommended that Council approve a meeting attendance fee within the prescribed range for external independent members. This can be resolved at the time of appointment of the independent member(s), at which time the *Local Government Amendment Bill 2023* is likely to have been gazetted.

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**STRATEGIC IMPLICATIONS**

Strategic Community Plan 2020-2030

Strategic Priority 5: Leadership and Governance

5.1.1 Strengthen organisational accountability and transparency

## RISK IMPLICATIONS

### RISKS

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 appoint an Audit Committee	Rare (1)	Extreme (5)	Moderate (5-9)	COMPLIANCE Short term non-compliance but with significant regulatory requirements imposed	Accept Officer Recommendation

### RISK MATRIX

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

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

### RISK RATING

Risk Rating	5
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

## SITE INSPECTION

N/A

## COMMENT

The Audit Committee endorsed amendments to its Terms of Reference in July 2021 to make provision for the appointment of a maximum of two external independent members to the Audit Committee.

- 5.2 *The Audit Committee will comprise of up to two (2) external independent members. An external member will be a person independent to the local government and will not have provided paid services to the Town either directly or indirectly.*
- 5.3 *External independent members will be selected based on the following criteria:*
- A demonstrated high level of expertise and knowledge in financial management, reporting, governance and audit; and*
  - Relevant skills and experience in providing independent expert advice.*

- 5.4 *Appointments of external independent members will be made following a public advertisement. The Chief Executive Officer will evaluate potential members and make a recommendation to Council.*
- 5.5 *External members shall be appointed for a period of up to two (2) years terminating on the day of the Local Government Ordinary Elections, unless Council resolves otherwise.*

Council may wish to take the opportunity to review the composition of the Audit Committee, as it currently comprises six council members (ie two thirds of the total number of offices of council members). This number presents some administrative challenges, such as coordination of meeting schedules. In addition it is considered that an uneven number of committee members is preferable where voting is required.

The quorum for the Committee is a minimum 50% of the membership. The following table illustrates different compositions should Council wish to amend the Terms of Reference. The last row reflects the composition of the Audit Committee as it has been for the last two years. A minimum quorum of 3 is desirable.

<b>Number of Council Members</b>	<b>Number of Independent Members</b>	<b>Total Committee Members</b>	<b>Quorum</b>
3	2	5	3
3	1	4	2
4	2	6	3
4	1	5	3
5	2	7	4
5	1	6	3
6	2	8	4
<b>6</b>	<b>1</b>	<b>7</b>	<b>4</b>

## CONCLUSION

Council is requested to appoint Council Members to the Audit Committee and note that advertising has commenced for Expressions of Interest from interested persons for appointment to the Audit Committee as external independent members.

It is recommended that Council considers appointing four (4) council members, in addition to one (1) external member, and amending the Audit Committee terms of reference accordingly.

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8.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION:**

**That Council, by absolute majority in accordance with section 5.10 of the *Local Government Act 1995*:**

1. amends the terms of reference for the Town of East Fremantle Audit Committee as follows:
  - a. Clause 5.1 to read “The Audit Committee will comprise four (4) elected members and a maximum of five (5) members in total inclusive of the external independent members.”
  - b. Clause 5.2 to read “The Audit Committee will comprise of one (1) external independent member.”
2. appoints, in accordance with the Audit Committee adopted Terms of Reference (as amended per point one) the following council members:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

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REPORT ATTACHMENTS

Attachments start on the next page

**Town of East Fremantle**  
**Audit Committee**  
**Terms of Reference**

## Audit Committee Terms of Reference

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### 1. Purpose of the Terms of Reference

The purpose of the terms of reference is to facilitate the operation of the Audit Committee.

### 2. Introduction

The Audit Committee is an advisory committee formally appointed by the Council and is responsible to the Council. The Audit Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any financial responsibility. The Audit Committee does not have any management functions and is therefore independent of management.

The Audit Committee objective is to assist the Town of East Fremantle Council in liaising with the auditor and overseeing the external audit function and promoting the transparency and accountability of the Town's financial management systems and reporting. The role of the Committee is to report to the Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

### 3. Objectives

The objectives of the Audit Committee are to oversee council's obligations under the *Local Government Act 1995*, and *Local Government (Audit) Regulations 1996*, more specifically;

- 3.1 The integrity of external financial reporting, including accounting policies.
- 3.2 The scope of work, objectivity, performance and independence of the external and internal audit charter.
- 3.3 Ensure the Town has established effective controls and systems to safeguard the Town's financial and physical resources.
- 3.4 The systems or procedures that are designed to ensure that the Town and its subsidiaries comply with relevant statutory and regulatory requirements.
- 3.5 The process for recognising risks arising from the Town's operations and strategies, and consider the adequacy of measures taken to manage those risks.
- 3.6 The process and systems which protect the Council against fraud and irregularities.

The Audit Committee must also add to the credibility of Council by promoting ethical standards through its work.

### 4. Authority

The Audit Committee has the authority to:

- 4.1 Review the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken.
- 4.2 Formally meet with the Town's appointed external auditors as necessary.
- 4.3 Seek resolution on any disagreements between management and the external auditors on financial reporting.
- 4.4 Advise Council on any or all of the above as deemed necessary.

**Audit Committee Terms of Reference**

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**5. Composition**

- 5.1 The Audit Committee will comprise six (6) elected members and a maximum of 8 members in total inclusive of the external independent members..
- 5.2 The Audit Committee will comprise of up to two (2) external independent members. An external member will be a person independent to the local government and will not have provided paid services to the Town either directly or indirectly.
- 5.3 External independent members will be selected based on the following criteria:
  - a) A demonstrated high level of expertise and knowledge in financial management, reporting, governance and audit; and
  - b) Relevant skills and experience in providing independent expert advice.
- 5.4 Appointments of external independent members will be made following a public advertisement. The Chief Executive Officer will evaluate potential members and make a recommendation to Council.
- 5.5 External members shall be appointed for a period of up to two (2) years terminating on the day of the Local Government Ordinary Elections, unless Council resolves otherwise
- 5.6 In accordance with 7.1A (3) of the Local Government Act, "A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent the CEO as a member of an audit committee."
- 5.7 The Council will appoint Audit Committee members. Voting requirement of Council is an *Absolute Majority*.
- 5.8 The Presiding Member and Deputy Presiding Member will be appointed by the Audit Committee, biennially by election by all committee members after the Ordinary Local Government Election.
- 5.9 The members, taken collectively, will have a broad range of skills and experience relevant to the operations of the Town. At least one member of the committee will have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.
- 5.10 A quorum will be a minimum of 50% of the membership.
- 5.11 Audit Committee members are required by the *Local Government Act 1995* and Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.
- 5.12 New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

**6. Meetings**

- 6.1 The Audit Committee will meet at least three (3) times per year, with the dates to be set each year by Council, with authority to convene additional meetings, as circumstances require.
- 6.2 Meetings may be called by the Presiding Member of the Audit Committee, or at the request of the Mayor or Chief Executive Officer.
- 6.3 The Audit Committee meetings are generally open to the public unless the Presiding

### Audit Committee Terms of Reference

Member or Chief Executive Officer deem it necessary to proceed behind closed doors pursuant to Section 5.23 of the Local Government Act 1995.

- 6.4 All Elected Members are invited to attend each Audit Committee meeting.
- 6.5 All Audit Committee members are expected to attend each meeting in person.
- 6.6 The Chief Executive Officer will facilitate the meetings of the Audit Committee and invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary.
- 6.7 The Audit Committee will develop a forward meeting schedule that includes the dates, location, and proposed work plan for each meeting for the forthcoming year, that cover all the responsibilities outlined in this terms of reference.
- 6.8 Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials.
- 6.9 A decision of the Audit Committee is to be made by a simple majority.
- 6.10 Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.

### **7. Responsibilities**

The Audit Committee will carry out the following responsibilities:

#### 7.1 Risk management

- 7.1.1 Review whether management has in place a current and comprehensive enterprise risk management framework and associated procedures for effective identification and management of the Town's business and financial risks, including fraud.
- 7.1.2 Determine whether a sound and effective approach has been followed in managing the Town's major risks including those associated with individual projects, program implementation, and activities.
- 7.1.3 Review the process of developing and implementing the Town's fraud control arrangements and satisfy itself the Town has appropriate processes and systems in place to detect, capture and effectively respond to fraud-related information.

#### 7.2 Business continuity

- 7.2.1 Determine whether a sound and effective approach has been followed in establishing the Town's business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically updated and tested.

#### 7.3 Internal Control

- 7.3.1 Review whether management has in place relevant policies and procedures and that they are periodically reviewed and updated.
- 7.3.2 Review whether appropriate policies and supporting procedures are in place for the management and exercise of delegations.

#### 7.4 Financial Report



## Audit Committee Terms of Reference

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- 7.4.1 Review with management and the external auditors the results of the audit, including any difficulties encountered.
  - 7.4.2 Review the annual financial report and performance report of the Town of East Fremantle and its subsidiaries, and consider whether it is complete, consistent with information known to Audit Committee members, and reflects appropriate accounting principles.
  - 7.4.3 Review the process for the consolidation of financial information of the Town related entities into the financial reports of the Town.
  - 7.4.4 Review with management and the external auditors all matters required to be communicated to the Audit Committee under the Australian Auditing Standards.
  - 7.4.5 Review the draft Annual Financial Statements and recommend the adoption of the Annual Financial Statements to Council.
- 7.5 Compliance
- 7.5.1 Keep informed of the findings of any examinations by regulatory agencies and any auditor (external) observations and monitor management's response to these findings.
  - 7.5.2 Obtain regular updates from management about compliance matters.
- 7.6 Internal Audit Charter
- 7.6.1 Review and recommend the annual internal audit plan for approval by the Council and all major changes to the plan.
  - 7.6.2 Monitor that the internal annual plan is linked with and covers the material business risks.
  - 7.6.3 Review all audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.
  - 7.6.4 Monitor management's implementation of audit recommendations.
- 7.7 External Audit
- 7.7.1 Note the external auditor's proposed audit scope and approach for financial performance audits, including any reliance on internal auditor activity.
  - 7.7.2 Consider the findings and recommendations of relevant Performance Audits undertaken by the external auditor and ensure the Town implements relevant recommendations.
  - 7.7.3 Provide an opportunity for the Audit Committee to meet with the external auditors to discuss any matters that the Audit Committee or the external auditors believe should be discussed privately.
  - 7.7.4 Annually review the performance of external audit including the level of satisfaction with external audit function.
  - 7.7.5 Monitor management's implementation of external audit recommendations.

### Audit Committee Terms of Reference

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#### 7.8 Reporting Responsibilities

- 7.8.1 Report regularly to the Council about Audit Committee activities, issues, and related recommendations through circulation of minutes.
- 7.8.2 Monitor that open communication between the external auditors, and the Town's management occurs.
- 7.8.3 To review a report given to it by the CEO under regulation 17(3) of the Local Government (Audit) Regulations and is to —
  - (i) report to the council the results of that review;  
and
  - (ii) give a copy of the CEO's report to the council.

#### 7.9 Other Responsibilities

- 7.9.1 Perform other activities related to this terms of reference as requested by the Council or as required by *Local Government Act 1995* or *Local Government (Audit) Regulations 1996*.
- 7.9.2 Annually review and assess the adequacy of the Audit Committee terms of reference, request Council approval for proposed changes, and ensure appropriate disclosure as might be required by legislation or regulation.

## 8.3 WORKS COMMITTEE

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-191
<b>Prepared by</b>	Nicholas King, Executive Manager Technical Services
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Absolute Majority - point 2
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Works Committee Terms of Reference – current</li> <li>2. Works Committee Terms of Reference – proposed</li> </ol>

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### PURPOSE

To seek Council consideration to adopt revised Terms of Reference and appoint Council Members to the Town of East Fremantle Works Committee (“the Works Committee”).

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### EXECUTIVE SUMMARY

The role of the Works Committee is to make recommendations to Council in relation to matters falling within the responsibility of the Works Committee.

The Works Committee provides advice on strategic direction, priorities and policy principles related to the Committee’s function.

The attached terms of reference define the scope, roles and responsibilities and meeting requirements of the Works Committee.

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### BACKGROUND

The objective/function of the TOEF’s Works Committee is to consider all issues relating to Town Assets and Works.

The Works Committee may make recommendations to Council on all matters before it. These recommendations are submitted via the minutes of each meeting to Council for consideration.

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### CONSULTATION

N/A

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### STATUTORY ENVIRONMENT

Under section 5.10 of the Act the appointment of committee members requires an absolute majority vote.

Under section 5.10(4) if the Mayor informs Council of their wish to be a member of a committee of Council, Council is to appoint the Mayor to be a member of the committee.

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### POLICY IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

The Committee does not have the power to incur expenditure, nor does it have the power to bind Council.

## STRATEGIC IMPLICATIONS

Strategic Community Plan 2020 -2030

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

#### 5.1 Strengthen organisational accountability and transparency

##### 5.1.2 Ensure effective engagement with community and stakeholders

#### 5.2 Proactively collaborate with the community and other stakeholders

##### 5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies

## RISK IMPLICATIONS

### RISKS

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council failing to appoint elected members to the Works Committee	Rare (1)	Moderate (3)	Low (1-4)	REPUTATIONAL Substantiated, low impact, low news item	Accept Officer Recommendation

### RISK MATRIX

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

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

### RISK RATING

Risk Rating	2
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

## SITE INSPECTION

N/A

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## COMMENT

It is open to Council to consider adopting the attached terms of reference with or without amendment. Amendments have been proposed to the adopted terms of reference to reflect greater consistency with other Committee terms of reference. These changes include amendments to the purpose, the addition of section 3 'roles and responsibilities', additional legislative requirements, the confirmation of up to five (5) council members on the committee, the addition of section 10 'meeting practices and procedures', and the addition of section 11 'document control'.

Attachment One to this report reflects the current terms of reference; Attachment Two incorporates the revisions as noted above.

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## CONCLUSION

It is recommended that Council adopts the Works Committee Terms of Reference and appoints council members to the Works Committee per the amended Terms of Reference.

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## OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

### OFFICER RECOMMENDATION

**That Council:**

- 1. adopts the amended terms of reference for the Town of East Fremantle Works Committee, per Attachment 2 to this report; and**
- 2. appoints the following council members to the Town of East Fremantle Works Committee:**

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## REPORT ATTACHMENTS

Attachments start on the next page



TOWN *of*  
**EAST FREMANTLE**

# **Works Committee Terms of Reference**

**(July 2022)**

**Version history**

<b>Version</b>	<b>Release Date</b>	<b>Author</b>	<b>Reason for Change</b>
1.0	4/04/2022	CEO	New document

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## 1 Purpose

To make recommendations to Council in relation to matters falling within the responsibility of the TOEF's Works Committee.

To support the success of Council's Integrated planning and reporting framework goals and objectives through the provision of strategic direction and informed decision making.

The Works Committee provides advice on strategic direction, priorities and policy principles related to the Committee function. The terms of reference outlines the function, structure, authority and reporting requirements of the Committee.

The objective/function of the TOEF's Works Committee is to consider all issues relating to Town Assets and Works. The Committee shall have responsibility for consideration of all matters/issues related to all functions that fall within the respective directorate including but not limited to the following: -

Endorsement of engineering standards; traffic management; construction and maintenance, civil infrastructure; capital projects implementation and monitoring; roads, pathways and reserves; construction, maintenance and management of buildings and facilities; tender's process (works relate); operational works and services programs, capital works programs, streetscapes and landscaping, maintenance of parks, reserves and open spaces, protection of the environment (including River walls), waste management services, general infrastructure maintenance and renewal, residential parking schemes.

The role of the Town's Works Committee includes but is not limited to the following functions:

- Capital Works Program
- Asset Management Planning
- Town Infrastructure Projects
- Parks & Open Space
- Civil Works
- Waste & Cleaning
- Property management
- Assistance with Annual Works Budget
  - Consideration of works budget for the forthcoming year including maintenance schedules, and the 5 year capital works plan
  - Receive annual asset condition assessments
  - Receive Asset Revaluation Reports, as applicable

## 2 Interpretation

For the purpose of this document:

*Member* means a member of the TOEF's Works Committee.

*Committee* means TOEF Works Committee.

*Council* means East Fremantle Council.

*Chairperson* means the chairperson of the Town's Works Committee appointed by Council.

*Mayor* means the elected Mayor.

### 3 Status of Committee

The TOEF Works Committee is a 'formal committee' of Council established under section 5.9 (2)(a) of the *Local Government Act 1995*.

### 4 Delegations

TOEF Works Committee may make recommendations to Council on all matters before it. These recommendations are submitted via the minutes of each meeting to Council for consideration.

The Committee does not have the power to incur expenditure, nor does it have the power to bind Council.

A decision of the Works Committee is to be made by a simple majority.

### 5 Membership

#### 5.1 Overview

TOEF Works Committee comprises Elected Members only with the attendance of the respective Executive Manager, Chief Executive Officer and any other nominated Council officer.

#### 5.2 Elected Members

Council appoints the number of Elected Members to be members of the Works Committee. As per Council resolution this Committee is to consist of **?** Elected Members.

All other Councillors are welcome to attend meetings of the Works Committee as observers and contribute to discussions but are not entitled to vote.

All Works Committee members are expected to attend each meeting in person.

#### 5.3 Chair and Deputy Chair

**The Chairperson** is the Mayor, otherwise, if the Mayor does not wish to be the chairperson of a committee, either

- (a) a member of the committee elected by the council, or
- (b) if the council does not elect such a member, a member of the committee elected by the committee.

The Deputy Chairperson – Council to elect a member of a committee as deputy chairperson of the committee or if the council does not make the election, the committee may elect a deputy chairperson.

## **5.4 Quorum**

The quorum for the TOEF Works Committee is at least 50% of all members Elected Members whether present or not (i.e., half the total members plus one).

If a quorum is not present within 30 minutes of the time appointed for the commencement of the meeting, the meeting is to be adjourned.

In the event of a tied vote, the Chairperson will exercise a casting vote.

## **5.5 Term of office**

TOEF Works Committee members are appointed for a period coinciding with the local government election cycle.

A member continues as a member of the Committee until the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference, if such event occurs before the next general local government election.

Any casual vacancy in membership is to be filled by Council appointment.

# **6 Other attendance**

## **6.1 Community representation**

The Chairperson, and/or the CEO may invite community representatives and/or technical specialists to specific meetings of the TOEF Works Committee in order to assist the Committee in the consideration of matters before it.

Such community representatives attend at the invitation of the Chairperson, are not entitled to vote, and may be requested to leave the meeting if confidential matters are before the Committee.

## **6.2 Council staff**

TOEF Works Committee is supported by Council officers, who will provide technical support and secretariat services by the Operation Department. Council officers are not entitled to vote.

TOEF Works Committee is serviced by the Executive Manager Technical Services.

## **6.3 General public**

The Works Committee meetings are generally open to the public unless the Presiding Member or Chief Executive Officer deem it necessary to proceed behind closed doors pursuant to Section 5.23 of the *Local Government Act 1995*.

## 7 Support

### 7.1 Specialist support

Council provides specialist information on the areas of interest to the Works Committee. Such information includes:

- Proposing strategic issues for consideration by the Committee.
- Background research on issues relevant to the Committee.
- Preparation of reports on issues to be considered in Committee meetings.

### 7.2 Administrative support

Council provides administrative support as determined by the CEO to assist the Works Committee in their deliberations. Such support includes:

- Preparing and publishing notices of meeting, agendas and minutes.
- Liaising with Council officers of any reports and actions required.
- Arranging meetings and refreshments.

Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.

## 8 Meeting schedule

TOEF Works Committee will meet once a month on the **Fourth Tuesday of the month** commencing at 6:30pm at the Town Hall.

The frequency and location of meetings may be varied by the Chairperson in consultation with the CEO, following consideration of the matters before it and appropriate notification provided.

## 9 Meeting practices and procedures

The administrative provisions of Council's Meeting Procedure Local Law apply, in addition to any higher standard imposed by these Terms of Reference.

The proceedings of each meeting are recorded in minutes of the meeting, and the order of business will be;

- Official Opening
- Record attendance
- Apologies
- Disclosure of interests – Financial, Proximity or Impartiality.
- Public Question Time
- Presentations & Deputations
- Confirmation of Minutes
- Announcements by the Presiding Member
- Reports & Recommendations.
  - Capital Works Progress Report
  - Strategic Projects
    - Implementation of Works Review
    - Implementation of Integrated Traffic Management Plan
    - Implementation of Foreshore Management Plan
    - Implementation of Asset Management Plan
  - Building Maintenance & Improvement Program
  - Park & Gardens.
  - Risk & Hazards.
  - OHS/WHS.
  - Others.

The minutes of each meeting are submitted to the next available Council Meeting with a view to the Committee's recommendations (if any) being considered.

## 10 Document control

The Committee and this Terms of Reference will be reviewed as and when required.

Apart from any inconsequential editing, amendments to these Terms of Reference are approved by the Council.



TOWN *of*  
EAST FREMANTLE

# Works Committee Terms of Reference

(October 2023)

**Version history**

<b>Version</b>	<b>Release Date</b>	<b>Author</b>	<b>Reason for Change</b>
1.0	4/04/2022	CEO	New document
2.0	23/10/2023	EMTS	Update

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## 1 Interpretation

For the purpose of this document:

*Chairperson* means the chairperson of the Works Committee.

*Committee* means Town of East Fremantle Works Committee.

*Council* means the Council of the Town of East Fremantle.

*Mayor* means the elected Mayor of the Town of East Fremantle.

*Member* means a member of the Works Committee.

*Town* means the Town of East Fremantle.

## 2 Purpose

To make recommendations to Council in relation to matters falling within the responsibility of the Works Committee.

To support the success of Council's Integrated planning and reporting framework goals and objectives through the provision of strategic direction and informed decision making.

The Works Committee provides advice on strategic direction, priorities and policy principles related to the Committee function. The terms of reference outlines the function, structure, authority and reporting requirements of the Committee.

The objective/function of the Works Committee is to consider all issues relating to Town Assets and Works. The Committee shall have responsibility for consideration of all matters/issues related to all functions that fall within the respective directorate including but not limited to the following: -

Endorsement of engineering standards; traffic management; construction and maintenance, civil infrastructure; capital projects implementation and monitoring; roads, pathways and reserves; construction, maintenance and management of buildings and facilities; tender's process (works relate); operational works and services programs, capital works programs, streetscapes and landscaping, maintenance of parks, reserves and open spaces, protection of the environment (including River walls), waste management services, general infrastructure maintenance and renewal, residential parking schemes.

## 3 Roles and responsibilities

The role of the Works Committee includes but is not limited to the following functions:

- Capital Works Program
- Asset Management Planning
- Town Infrastructure Projects
- Parks & Open Space
- Civil Works
- Waste & Cleaning
- Property management
- Assistance with Annual Works Budget

- Consideration of works budget for the forthcoming year including maintenance schedules, and the 5 year capital works plan
- Receive annual asset condition assessments
- Receive Asset Revaluation Reports, as applicable

## 4 Status of Committee

The Works Committee is a 'formal committee' of Council established under section 5.9 (2)(a) of the *Local Government Act 1995*.

Part 5, Subdivision 2 provides for committees including establishment and appointment of members. Part 5 Subdivision 3 of the Act provides for the quorum, voting, decisions and minutes of committees. The *Local Government (Administration) Regulations 1996* also make provisions in regards to committees.

## 5 Delegations

The Works Committee has no delegated authority. It may make recommendations to Council on all matters before it. These recommendations are submitted via the minutes of each meeting to Council for consideration.

The Committee does not have the power to incur expenditure, nor does it have the power to bind Council.

A decision of the Works Committee is to be made by a simple majority.

## 6 Membership

### 6.1 Overview

Council will appoint Committee members by *Absolute Majority*. Following each ordinary local government elections all previous appointments on committees are declared vacant in accordance with section 5.11 of the Act.

### 6.2 Council Members

The Committee shall comprise up to five (5) Council members.

All other Council Members are welcome to attend meetings of the Works Committee as observers and contribute to discussions but are not entitled to vote.

### 6.3 Chair and Deputy Chair

The Chairperson and Deputy Chairperson are elected by the Committee at the first meeting of the Committee following the biennial ordinary local government elections.

## 6.4 Quorum

The quorum for the Works Committee is at least 50% of all members whether present or not (i.e., half the total members plus one).

In the event of a tied vote, the Chairperson will exercise a casting vote.

## 6.5 Term of office

Works Committee members are appointed for a period coinciding with the local government election cycle.

A member continues as a member of the Committee until the next general election of Council, or until the Committee is disbanded or completes its purpose in accordance with these Terms of Reference, if such event occurs before the next general local government election.

Any casual vacancy in membership is to be filled by Council appointment.

# 7 Other attendance

## 7.1 Community representation

The Chairperson, and/or the CEO may invite community representatives and/or technical specialists to specific meetings of the Works Committee in order to assist the Committee in the consideration of matters before it.

Such community representatives attend at the invitation of the Chairperson, are not entitled to vote, and may be requested to leave the meeting if confidential matters are before the Committee.

## 7.2 General public

The Works Committee meetings are generally open to the public unless the Presiding Member or Chief Executive Officer deems it necessary to proceed behind closed doors pursuant to Section 5.23 of the *Local Government Act 1995*.

# 8 Support

## 8.1 Specialist support

Council provides specialist information on the areas of interest to the Works Committee. Such information includes:

- Proposing strategic issues for consideration by the Committee.
- Background research on issues relevant to the Committee.
- Preparation of reports on issues to be considered in Committee meetings.

# 9 Meeting schedule

The schedule of the Committee meetings is to be adopted by Council each year for the following calendar year.

The frequency and location of meetings may be varied by the Chairperson in consultation with the Chief Executive Officer, following consideration of the matters before it and appropriate

notification provided.

## **10 Meeting practices and procedures**

All meetings of the Committee shall be open to the public unless resolved by the Committee to be closed to the public for the purpose of discussing a matter deemed to be confidential.

The administrative provisions of Town's *Meeting Procedures Local Law 2016* apply.

The minutes of each meeting are submitted to the next available Council Meeting with a view to the Committee's recommendations (if any) being considered.

### **10.1 Conduct and Conflict of Interest**

Committee members are required by the *Local Government Act 1995* and the Town's adopted Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.

## **11 Document control**

The Committee and these Terms of Reference will be reviewed each election cycle. Apart from any inconsequential editing, amendments to these Terms of Reference are to be approved by the Council.

## 8.4 BEHAVIOUR COMPLAINTS COMMITTEE

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-249
<b>Prepared by</b>	Janine May EA/Governance Coordinator
<b>Supervised by</b>	Jonathan Throssell Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Absolute Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	
	1. Terms of Reference

### PURPOSE

To seek Council approval to appoint council members to the Town of East Fremantle Behaviour Complaints Committee.

### EXECUTIVE SUMMARY

The Behaviour Complaints Committee (the Committee) is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Town of East Fremantle's *Code of Conduct for Council Members, Committee Members and Candidates* (the Code of Conduct).

### BACKGROUND

In accordance with s.5.8 of the *Local Government Act* the Committee was established for the purpose of dealing with Behaviour Complaints made under Division 3 of the Town of East Fremantle's Code of Conduct.

In line with this legislation, on 18 May 2021 Council adopted:

- Code of Conduct Behaviour Complaints Management Policy
- Behaviour Complaint Committee – Terms of Reference
- Complaints Committee Delegation
- Behaviour Complaint Form
- Behaviour Complaint Statutory Declaration

Current membership on this Committee is:

Mayor O'Neill  
 Cr Kerry Donovan  
 Cr Andrew McPhail  
 Cr Andrew White  
 Cr Dean Nardi (former)

### CONSULTATION

N/A

**STATUTORY ENVIRONMENT**

The *Local Government (Model Code of Conduct) Regulations 2021*, *Local Government (Administration) Amendment Regulations 2021* and *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021* gazetted on 2 February 2021

**POLICY IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**STRATEGIC IMPLICATIONS**

Strategic Community Plan 2020 -2030

**Strategic Priority 5: Leadership and Governance**

5.1 Strengthen organisational accountability and transparency

5.1.2 Ensure effective engagement with community and stakeholders

5.2 Proactively collaborate with the community and other stakeholders

5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies

**RISK IMPLICATIONS**

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council failing to appoint elected members to the Behaviour Complaint Committee	Rare (1)	Moderate (3)	Low (1-4)	COMPLIANCE Short term non-compliance but with significant regulatory requirements imposed	Accept Officer Recommendation

**RISK MATRIX**

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

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

RISK RATING

<b>Risk Rating</b>	3
<b>Does this item need to be added to the Town’s Risk Register</b>	No
<b>Is a Risk Treatment Plan Required</b>	No

SITE INSPECTION

N/A

COMMENT

The existing terms of reference require a minimum of three council members with at least two deputy members.

8.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council appoints the following council members to the Town of East Fremantle Behaviour Complaints Committee:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (deputy member)

\_\_\_\_\_ (deputy member)

REPORT ATTACHMENTS

Attachments start on the next page



## Behaviour Complaints Committee

### Terms of Reference

#### Objective

To establish Terms of Reference for the Behaviour Complaints Committee of the Town of East Fremantle.

#### Scope

These Terms of Reference apply exclusively to the Town of East Fremantle's Behaviour Complaints Committee.

#### Committee Function

The Behaviour Complaints Committee is a Committee of Council established in accordance with s.5.8 of the *Local Government Act 1995* (the Act) for the purpose of dealing with Behaviour Complaints made under Division 3 of the Town of East Fremantle's Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct).

The extent of authority provided to the Behaviour Complaints Committee is specified in the relevant Delegated Authority, and includes:

- Dismissing a behaviour complaint in accordance with clause 13 of the Code of Conduct and providing reasons for any such dismissal.
- Making a Finding as to whether an alleged complaint has or has not occurred, based upon evidence from which it may be concluded that it is more likely that the breach occurred than it did not occur [*clause 12(3) of the Code of Conduct*].
- Determining reasons for such a Finding.
- Where a Finding is made that a breach has occurred, determining:
  - To take no further action; or
  - Prepare and implement a plan to address the behaviour of the person to whom the complaint relates.

The extent of authority of the Behaviour Complaints Committee is limited by Condition of the Delegated Authority.

#### Membership

The Complaints Committee is a Committee of Council Members only in accordance with s.5.9(2)(a) of the Act.



Membership of the Behaviour Complaints Committee will comprise of a minimum of three Council Members, appointed by Council in accordance with s.5.10 of the Act.

In addition, at least two Council Members will be appointed as Deputy Committee Members in accordance with s.5.11A of the Act.

The Delegated Authority Condition prescribes that if an appointed Committee Member is identified in the Complaint as either the Complainant or the Respondent, they are to recuse themselves from the Committee's Function by providing an apology. They are to be replaced for the duration of the handling of the subject Complaint by a Deputy Committee Member, selected by the Presiding Member of the Committee.

There is no external membership associated with this Group.

### **Term of membership**

Two (2) years in line with the local government election cycle.

### **Presiding Member/Chairperson**

The members shall elect a meeting Chairperson from the Group membership as required.

### **Meeting Schedule**

Meetings are to be scheduled as required by the CEO or Behaviour Complaints Officer in consultation with the Committee Presiding Member.

### **Delegated Authority**

The Behaviour Complaints Committee will act under Delegated Authority in accordance with s.5.16 of the Act. The delegation is recorded in the Town of East Fremantle Register of Delegations.

It is a Condition of Delegated Authority that the Behaviour Complaints Committee will be unable to exercise delegated authority if the Complainant or Respondent attend as a Complaints Committee Member.

### **Committee Governance**

Complaints Behaviour Committee meetings are required to:

- be called and convened by the CEO, as required, in consultation with the Committee's Presiding Member;
- include public question time *[Admin.r.5]*
- make the Committee Notice Papers and Agenda publicly available *[s.5.94(p), s.5.96A(ff)]*, with the exception of agenda content that relates to that part of the meeting which will be closed to members of the public under s.5.23(2) *[Admin.r.14]*; and
- make Committee minutes publicly available *[s.5.94(n), s.5.96A(h)]*, with the exception of Minutes content that relates to that part of the meeting which was closed to the public or was determined as confidential under s.5.23(2).

## Administration

Town officers will:

- be responsible for coordinating meetings;
- circulate an agenda before each meeting to Committee Members;
- take Minutes of the meeting and register them in the City’s Document Management System.

Document Control Box			
<b>Document Responsibilities:</b>			
<b>Owner:</b>	CEO	<b>Owner Business Unit:</b>	Office of the CEO
<b>Reviewer:</b>		<b>Decision Maker:</b>	Council
<b>Compliance Requirements:</b>			
<b>Legislation:</b>	<a href="#">Local Government Act 1995</a> <a href="#">Local Government (Model Code of Conduct) Regulations 2021</a>		
<b>Other:</b>			
<b>Organisational:</b>	Council Policy 1.1.10 Code of Conduct Behaviour Complaints Management Delegated Authority DA84 Behaviour Complaints Committee		

## 8.5 CEO PERFORMANCE REVIEW COMMITTEE

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-254
<b>Prepared by</b>	Jonathan Throssell, Chief Executive Officer
<b>Supervised by</b>	N/A
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Absolute Majority – points 1 and 3
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>Proposed Terms of Reference for the CEO Performance Review Committee</li> <li>Standards for CEO Recruitment, Performance and Termination</li> <li><b>CEO Contract of Employment (CONFIDENTIAL)</b></li> </ol>

### PURPOSE

To seek Council approval for the establishment of a CEO Performance Review Committee (CEOPRC), the adoption of proposed terms of reference for the committee and to appoint council members to the committee.

### EXECUTIVE SUMMARY

Council is requested to establish a CEO Performance Review Committee to enable it to comply with its obligations to annually review the CEO's performance and remuneration.

The formation of a committee is proposed as an effective method of discharging this responsibility in an efficient manner, noting all recommendations from the CEOPRC would be presented to Council as the committee would have no delegated authority.

Terms of Reference have been drafted for Council's consideration, which detail the objectives, review process, structure and responsibilities of the committee – refer **Attachment 1**.

### BACKGROUND

It is a requirement of the *Local Government Act 1995* (the Act) that all employees whose employment is for a term of one year or more, including the Chief Executive Officer (CEO), have their performance reviewed on an annual basis.

In accordance with the Act and Schedule 2 of the *Local Government (Administration) Regulations 1996*, Standards for reviewing the CEO's performance have been adopted by Council. These standards require that Council and the CEO agree on the process by which the CEO's performance will be assessed.

### CONSULTATION

N/A

### STATUTORY ENVIRONMENT

Generally, committees are established under section 5.8 of the Act and may be comprised of council members and other persons (referred to as 'external members' in the adopted Terms of Reference) consistent with section 5.9 of the Act.

Part 5, Subdivision 2 provides for committees including establishment and appointment of members. Part 5 Subdivision 3 of the Act provides for the quorum, voting, decisions and minutes of committees. The *Local Government (Administration) Regulations 1996* also make provisions in regards to committees.

Part 5, Division 4 of the Act provides statutory obligations in regards to local government employees including:

- that all employees whose employment is for a term of one year or more, including the Chief Executive Officer (CEO), have their performance reviewed on an annual basis (section 5.38); and
- the standards for reviewing CEOs performance (section 5.39A and 5.39B)

Schedule 2 of the *Local Government (Administration) Regulations 1996* prescribes the standards for the recruitment, selection, performance and termination of a local government CEO. Council adopted “Standards for CEO Recruitment, Performance and Termination” on 16 March 2021, per **Attachment 2**.

It is proposed that the CEOPRC be established in accordance with section 5.9(2)(a) of the Act, meaning that the committee is to comprise council members only.

#### POLICY IMPLICATIONS

The proposed CEOPRC Terms of Reference are to be read in conjunction with the “Standards for CEO Recruitment Performance and Termination” and the CEO’s contract of employment – in particular clause 4 “Performance Criteria and Review” (refer **Confidential Attachment 1**).

#### FINANCIAL IMPLICATIONS

Nil

#### STRATEGIC IMPLICATIONS

Strategic Community Plan 2020-2030

Strategic Priority 5: Leadership and Governance

5.1.1 Strengthen organisational accountability and transparency

The review of the CEO’s performance is not only a statutory requirement, but also a critical component in monitoring the delivery of the strategic objectives of the Town.

#### RISK IMPLICATIONS

##### RISKS

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 fails to undertake an annual review of the CEO’s performance	Unlikely (2)	Moderate (3)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

**RISK MATRIX**

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
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**

<b>Risk Rating</b>	6
<b>Does this item need to be added to the Town’s Risk Register</b>	No
<b>Is a Risk Treatment Plan Required</b>	No

**SITE INSPECTION**

N/A

**COMMENT**

It is proposed to establish the CEOPRC to meet the Town’s statutory obligations. The objectives of the committee are to undertake an annual assessment of the CEO’s performance in accordance with section 5.38 of the Act and the provisions of the CEO’s contract of employment, and to review the CEO’s remuneration package.

The CEOPRC will not have delegated authority. As such, all recommendations of the committee related the CEO performance review process and consideration of any changes to remuneration will be presented to Council for determination. Such recommendations are advisory only and are not binding on Council.

The CEOPRC will be supported by the appointment of an independent facilitator, who is not a member of the committee, but is appointed to provide specialist advice in the performance of the annual review of the CEO’s performance.

**CONCLUSION**

It is recommended Council establishes the CEO Performance Review Committee, adopts the CEOPRC Terms of Reference, and appoints up to five council members to the CEOPRC.

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8.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council:**

1. **By absolute majority, establishes a Chief Executive Officer Performance Review Committee in accordance with section 5.8 of the *Local Government Act 1995*;**
2. **Adopts the Chief Executive Officer Performance Review Committee Terms of Reference in accordance with Attachment 1 to this report;**
3. **By absolute majority, appoints the following council members to the Chief Executive Officer Performance Review Committee:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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REPORT ATTACHMENTS

Attachments start on the next page



## CEO PERFORMANCE REVIEW COMMITTEE

### TERMS OF REFERENCE

These Terms of Reference are to be read in conjunction with:

- the “Standards for CEO Recruitment, Performance and Termination”; and
- the Chief Executive Officer Employment Contract.

#### 1. Name

The name of the Committee shall be the Town of East Fremantle CEO Performance Review Committee.

#### 2. Head of Power

The Committee is established by Council under Section 5.8 of the Local Government Act 1995.

#### 3. Definitions

<b>Act</b>	<i>Local Government Act 1995</i>
<b>CEO</b>	the Chief Executive Officer of the Town of East Fremantle.
<b>committee</b>	CEO Performance Review Committee.
<b>Council</b>	the body consisting of all council members sitting formally as the Council of the Town of East Fremantle.
<b>council member</b>	a person elected under the Act as a member of Council. The Town’s council members include the Mayor, Deputy Mayor and Councillors (as defined by the Act).
<b>Independent Facilitator</b>	the person appointed by Council to coordinate and facilitate the performance review process.
<b>member</b>	a person appointed to this committee.

**Performance Criteria**

includes reference to Key Result Areas, Key Focus Areas or Key Performance Indicators, as agreed between the CEO and Council to deliver the key priorities of the Town of East Fremantle.

**Salaries and Allowances Determination**

the determination provided by the Salaries and Allowances Tribunal under Section 7A of the *Salaries and Allowances Act 1975* which requires the Tribunal at intervals of not more than 12 months, to *"inquire into and determine, the amount of remuneration, or the minimum and maximum amounts of remuneration, to be paid or provided to chief executive officers of local governments"*

**4. Objectives**

The objectives of the committee are to

- undertake an annual assessment of the CEO's performance in accordance with the section 3.58 of the Act and the provisions of the CEO's contract of employment; and
- review the CEO's remuneration package.

Reports from the committee will provide recommendations to Council to:

- Develop Performance Criteria, in conjunction with the CEO, to deliver the key priorities of the Town, and other methods that will be used to assess the CEO's future performance and to meet the expectation of Council.
- Utilise the Performance Criteria to assess the CEOs performance.
- Review remuneration, in accordance with the CEO's contract of employment, having consideration to the CEO's performance, current level of remuneration, and the Salaries and Allowances Determination.

**5. Review Process**

The annual review process may comprise the following steps:

- a. Council appoints an independent facilitator to assist with the performance review process who is acceptable to both parties ie CEO and Council.
- b. Committee meets to confirm review process with independent facilitator.
- c. CEO provides written report and self-rating to the committee against the agreed Performance Criteria.



- d. All council members participate in the performance review process by individually and independently rating the performance of the CEO against the Performance Criteria. The individual rating assessment is provided directly (via a confidential interview) to the independent facilitator.
- e. The independent facilitator consolidates all ratings and comments from interviews to present a first draft of the assessment report to the committee, who will discuss and agree overall ratings.
- f. The CEO meets with the committee and independent facilitator for feedback and discussion.
- g. The committee agree on final ratings.
- h. The committee and CEO agree to the draft Performance Criteria for the forthcoming year.
- i. The independent facilitator completes the final report with final ratings and specific comments against each Performance Criteria.
- j. The CEO meets with the committee and independent facilitator to discuss any proposed changes to the CEO's remuneration package.
- k. The performance review final report, new Performance Criteria and any review of the CEO's remuneration package will be presented to Council for consideration each year, in accordance with the CEO contract of employment.

## **6. Timetable**

The timetable for the review process will be determined annually at the start of the review process.

## **7. Dispute**

Where the CEO disagrees with the recommendations, the CEO is entitled to raise the matter with Council.

## **8. Powers**

The committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference. This is in order to facilitate informed decision making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

The committee has no delegated authority.

The committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated financial responsibility. The committee does not have any management functions and cannot involve itself in management processes or procedures.

## **9. Committee Structure**

The committee shall consist of up to five council members.

An independent facilitator, who is acceptable to both parties (ie CEO and Council), shall be appointed by Council to assist with the performance review process but is not a member of the committee.

If authorised by the committee, council members who are not committee members may attend as observers but are not able to vote.

## **10. Appointment**

Members are appointed to the committee by Council for a term to expire on the date of the subsequent ordinary local government elections.

If for any reason a member is unable to hold office for the full period of their appointment, Council shall fill that vacancy. The member appointed to fill the vacancy shall hold the office for the balance of the term of the member originally appointed.

### **10.1 Council Members**

Council members are appointed in accordance with section 5.10 of the Act.

### **10.2 Presiding Member**

The presiding member and deputy presiding member are to be appointed by the committee at its first meeting immediately following the biennial local government elections.

## **11. Roles and Responsibilities**

Each member is expected to abide by the Town's "Code of Conduct for Council Members, Committee Members and Candidates" (Code of Conduct) to have open and honest discussions and to treat each member and employees with due courtesy and respect.

Council members and employees are to disclose financial, proximity and impartiality interests in accordance with the Act.

Each member is responsible for attending meetings, reviewing relevant material to enable informed discussion, and making timely decisions/actions to progress the objectives of the committee.

In addition to the above, the specific roles for each membership type are as follows:

- Council members are responsible for contributing from a Town-wide perspective and ensure the delivery of the committee's objectives.
- The presiding member is responsible for ensuring that the committee adheres to the direction set by Council, that all members have the opportunity to participate in discussions in an open and encouraging manner and ensuring the timely consideration of items.
- Where the presiding member is unable or unwilling to chair the meeting, the deputy presiding person shall chair the meeting.
- The independent facilitator is to coordinate and facilitate the performance review process.
- Employees are responsible for conducting necessary research as required by the committee, providing professional advice, and for administering committee meetings.

## **12. Meetings**

Meetings shall be held in accordance with the provisions of the Act, the *Local Government (Administration) Regulations 1996* and the *Meeting Procedures Local Law 2016*.

Ordinary meetings will be held at least three times per year to undertake the annual assessment of the CEO's performance.

Special meetings may be held:

- a. If called for by either the presiding person or at least two members in a notice to the CEO setting out the date and purpose of the proposed meeting; or
- b. If so decided by the committee; or
- c. If called for by Council.

Meetings are not open to the public.

Meeting quorum is at least 50% of the number of members of the committee whether vacant or not. Each member of the committee will have one vote. In accordance with section 5.21 (3) of the Local Government Act 1995, the presiding member, in the event of an equality of votes, is to cast a second vote.

If a member is unable to attend a meeting they must advise the presiding member as soon as reasonably practicable.

**13. Recording and Reporting**

The contents of committee minutes are to be in accordance with the Act and the *Meeting Procedures Local Law 2016*.

Recommendations of the committee are to be included in a Council meeting agenda to obtain a formal Council decision. Recommendations are advisory only and are not binding on Council.

**14. Changes to Terms of Reference**

These Terms of Reference are to be reviewed prior to each ordinary local government elections.

The Terms of Reference may be amended by Council when required.

**15. Disband**

Council may determine at any time that the committee is no longer required and is to be disbanded.

**Document Control**

<b>Item</b>	<b>Date</b>	<b>Resolution #</b>
Committee established	October 2023	



***Standards for CEO recruitment, performance  
and termination***

***Local Government (Administration) Regulations 1996  
(Reg 18FA & Schedule 2)***

*Adopted by Council 16 March 2021*

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## Division 1 — Preliminary provisions

### 1. Citation

These are the Town of East Fremantle *Standards for CEO Recruitment, Performance and Termination*.

### 2. Terms used

(1) In these standards —

*Act* means the *Local Government Act 1995*;

*additional performance criteria* means performance criteria agreed by the local government and the CEO under clause 16(1)(b);

*applicant* means a person who submits an application to the local government for the position of CEO;

*contract of employment* means the written contract, as referred to in section 5.39 of the Act, that governs the employment of the CEO;

*contractual performance criteria* means the performance criteria specified in the CEO's contract of employment as referred to in section 5.39(3)(b) of the Act;

*job description form* means the job description form for the position of CEO approved by the local government under clause 5(2);

*local government* means the Town of East Fremantle;

*selection criteria* means the selection criteria for the position of CEO determined by the local government under clause 5(1) and set out in the job description form;

*selection panel* means the selection panel established by the local government under clause 8 for the employment of a person in the position of CEO.

(2) Other terms used in these standards that are also used in the Act have the same meaning as they have in the Act, unless the contrary intention appears.

## **Division 2 — Standards for recruitment of CEOs**

### **3. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the recruitment of CEOs.

### **4. Application of Division**

- (1) Except as provided in subclause (2), this Division applies to any recruitment and selection process carried out by the local government for the employment of a person in the position of CEO.
- (2) This Division does not apply —
  - (a) if it is proposed that the position of CEO be filled by a person in a class prescribed for the purposes of section 5.36(5A) of the Act; or
  - (b) in relation to a renewal of the CEO's contract of employment, except in the circumstances referred to in clause 13(2).

### **5. Determination of selection criteria and approval of job description form**

- (1) The local government must determine the selection criteria for the position of CEO, based on the local government's consideration of the knowledge, experience, qualifications and skills necessary to effectively perform the duties and responsibilities of the position of CEO of the local government.
- (2) The local government must, by resolution of an absolute majority of the council, approve a job description form for the position of CEO which sets out —
  - (a) the duties and responsibilities of the position; and
  - (b) the selection criteria for the position determined in accordance with subclause (1).

### **6. Advertising requirements**

- (1) If the position of CEO is vacant, the local government must ensure it complies with section 5.36(4) of the Act and the *Local Government (Administration) Regulations 1996* regulation 18A.
- (2) If clause 13 applies, the local government must advertise the position of CEO in the manner referred to in the *Local Government (Administration) Regulations 1996* regulation 18A as if the position was vacant.

### **7. Job description form to be made available by local government**

If a person requests the local government to provide to the person a copy of the job description form, the local government must —

- (a) inform the person of the website address referred to in the *Local Government (Administration) Regulations 1996* regulation 18A(2)(da); or
- (b) if the person advises the local government that the person is unable to access that website address —
  - (i) email a copy of the job description form to an email address provided by the person; or



- (ii) mail a copy of the job description form to a postal address provided by the person.

**8. Establishment of selection panel for employment of CEO**

- (1) In this clause —  
*independent person* means a person other than any of the following —
  - (a) a council member;
  - (b) an employee of the local government;
  - (c) a human resources consultant engaged by the local government.
- (2) The local government must establish a selection panel to conduct the recruitment and selection process for the employment of a person in the position of CEO.
- (3) The selection panel must comprise —
  - (a) council members (the number of which must be determined by the local government); and
  - (b) at least 1 independent person.

**9. Recommendation by selection panel**

- (1) Each applicant’s knowledge, experience, qualifications and skills must be assessed against the selection criteria by or on behalf of the selection panel.
- (2) Following the assessment referred to in subclause (1), the selection panel must provide to the local government —
  - (a) a summary of the selection panel’s assessment of each applicant; and
  - (b) unless subclause (3) applies, the selection panel’s recommendation as to which applicant or applicants are suitable to be employed in the position of CEO.
- (3) If the selection panel considers that none of the applicants are suitable to be employed in the position of CEO, the selection panel must recommend to the local government —
  - (a) that a new recruitment and selection process for the position be carried out in accordance with these standards; and
  - (b) the changes (if any) that the selection panel considers should be made to the duties and responsibilities of the position or the selection criteria.
- (4) The selection panel must act under subclauses (1), (2) and (3) —
  - (a) in an impartial and transparent manner; and
  - (b) in accordance with the principles set out in section 5.40 of the Act.
- (5) The selection panel must not recommend an applicant to the local government under subclause (2)(b) unless the selection panel has —
  - (a) assessed the applicant as having demonstrated that the applicant’s knowledge, experience, qualifications and skills meet the selection criteria; and
  - (b) verified any academic, or other tertiary level, qualifications the applicant claims to hold; and
  - (c) whether by contacting referees provided by the applicant or making any other inquiries the selection panel considers appropriate, verified the applicant’s character, work history, skills, performance and any other claims made by the applicant.

- (6) The local government must have regard to, but is not bound to accept, a recommendation made by the selection panel under this clause.

**10. Application of cl. 5 where new process carried out**

- (1) This clause applies if the local government accepts a recommendation by the selection panel under clause 9(3)(a) that a new recruitment and selection process for the position of CEO be carried out in accordance with these standards.
- (2) Unless the local government considers that changes should be made to the duties and responsibilities of the position or the selection criteria —
  - (a) clause 5 does not apply to the new recruitment and selection process; and
  - (b) the job description form previously approved by the local government under clause 5(2) is the job description form for the purposes of the new recruitment and selection process.

**11. Offer of employment in position of CEO**

Before making an applicant an offer of employment in the position of CEO, the local government must, by resolution of an absolute majority of the council, approve —

- (a) the making of the offer of employment to the applicant; and
- (b) the proposed terms of the contract of employment to be entered into by the local government and the applicant.

**12. Variations to proposed terms of contract of employment**

- (1) This clause applies if an applicant who is made an offer of employment in the position of CEO under clause 11 negotiates with the local government a contract of employment (the *negotiated contract*) containing terms different to the proposed terms approved by the local government under clause 11(b).
- (2) Before entering into the negotiated contract with the applicant, the local government must, by resolution of an absolute majority of the council, approve the terms of the negotiated contract.

**13. Recruitment to be undertaken on expiry of certain CEO contracts**

- (1) In this clause —  
*commencement day* means the day on which the *Local Government (Administration) Amendment Regulations 2021* regulation 6 comes into operation.
- (2) This clause applies if —
  - (a) upon the expiry of the contract of employment of the person (the *incumbent CEO*) who holds the position of CEO —
    - (i) the incumbent CEO will have held the position for a period of 10 or more consecutive years, whether that period commenced before, on or after commencement day; and
    - (ii) a period of 10 or more consecutive years has elapsed since a recruitment and selection process for the position was carried out, whether that process was carried out before, on or after commencement day;and

- (b) the incumbent CEO has notified the local government that they wish to have their contract of employment renewed upon its expiry.
- (3) Before the expiry of the incumbent CEO's contract of employment, the local government must carry out a recruitment and selection process in accordance with these standards to select a person to be employed in the position of CEO after the expiry of the incumbent CEO's contract of employment.
- (4) This clause does not prevent the incumbent CEO's contract of employment from being renewed upon its expiry if the incumbent CEO is selected in the recruitment and selection process referred to in subclause (3) to be employed in the position of CEO.

**14. Confidentiality of information**

The local government must ensure that information provided to, or obtained by, the local government in the course of a recruitment and selection process for the position of CEO is not disclosed, or made use of, except for the purpose of, or in connection with, that recruitment and selection process.

**Division 3 — Standards for review of performance of CEOs**

**15. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the review of the performance of CEOs.

**16. Performance review process to be agreed between local government and CEO**

- (1) The local government and the CEO must agree on —
  - (a) the process by which the CEO’s performance will be reviewed; and
  - (b) any performance criteria to be met by the CEO that are in addition to the contractual performance criteria.
- (2) Without limiting subclause (1), the process agreed under subclause (1)(a) must be consistent with clauses 17, 18 and 19.
- (3) The matters referred to in subclause (1) must be set out in a written document.

**17. Carrying out a performance review**

- (1) A review of the performance of the CEO by the local government must be carried out in an impartial and transparent manner.
- (2) The local government must —
  - (a) collect evidence regarding the CEO’s performance in respect of the contractual performance criteria and any additional performance criteria in a thorough and comprehensive manner; and
  - (b) review the CEO’s performance against the contractual performance criteria and any additional performance criteria, based on that evidence.

**18. Endorsement of performance review by local government**

Following a review of the performance of the CEO, the local government must, by resolution of an absolute majority of the council, endorse the review.

**19. CEO to be notified of results of performance review**

After the local government has endorsed a review of the performance of the CEO under clause 18, the local government must inform the CEO in writing of —

- (a) the results of the review; and
- (b) if the review identifies any issues about the performance of the CEO — how the local government proposes to address and manage those issues.

#### **Division 4 — Standards for termination of employment of CEOs**

##### **20. Overview of Division**

This Division sets out standards to be observed by the local government in relation to the termination of the employment of CEOs.

##### **21. General principles applying to any termination**

- (1) The local government must make decisions relating to the termination of the employment of a CEO in an impartial and transparent manner.
- (2) The local government must accord a CEO procedural fairness in relation to the process for the termination of the CEO's employment, including —
  - (a) informing the CEO of the CEO's rights, entitlements and responsibilities in relation to the termination process; and
  - (b) notifying the CEO of any allegations against the CEO; and
  - (c) giving the CEO a reasonable opportunity to respond to the allegations; and
  - (d) genuinely considering any response given by the CEO in response to the allegations.

##### **22. Additional principles applying to termination for performance-related reasons**

- (1) This clause applies if the local government proposes to terminate the employment of a CEO for reasons related to the CEO's performance.
- (2) The local government must not terminate the CEO's employment unless the local government has —
  - (a) in the course of carrying out the review of the CEO's performance referred to in subclause (3) or any other review of the CEO's performance, identified any issues (the *performance issues*) related to the performance of the CEO; and
  - (b) informed the CEO of the performance issues; and
  - (c) given the CEO a reasonable opportunity to address, and implement a plan to remedy, the performance issues; and
  - (d) determined that the CEO has not remedied the performance issues to the satisfaction of the local government.
- (3) The local government must not terminate the CEO's employment unless the local government has, within the preceding 12-month period, reviewed the performance of the CEO under section 5.38(1) of the Act.

##### **23. Decision to terminate**

Any decision by the local government to terminate the employment of a CEO must be made by resolution of an absolute majority of the council.

##### **24. Notice of termination of employment**

- (1) If the local government terminates the employment of a CEO, the local government must give the CEO notice in writing of the termination.
- (2) The notice must set out the local government's reasons for terminating the employment of the CEO.

**CONFIDENTIAL ATTACHMENT**

## 8.6 MEMBERSHIP TO ADVISORY GROUPS

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-215
<b>Prepared by</b>	Janine May, EA/Governance Coordinator
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil

### Attachments

1. Climate Action Reference Group Terms of Reference
2. Reconciliation Action Plan Steering Committee Terms of Reference
3. Public Art Panel Policy (No 4.1.2)
4. Community Grants and Sponsorship Policy (No 2.1.11)
5. East Fremantle Oval Precinct Redevelopment Project (EFORPR) – Governance Model and Steering Committee Charter.

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### PURPOSE

To seek Council approval to appoint council members to the following advisory groups:

- Climate Action Reference Group;
- Reconciliation Action Plan Steering Group;
- Public Art Panel;
- Community Assistance Grants Advisory Group; and
- East Fremantle Oval Precinct Redevelopment Project (EFORPR) Steering Committee.

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### BACKGROUND

Following the local government elections on 21 October 2023 all previous appointments to advisory groups are declared vacant.

Although appointments to advisory groups do not have the same formal status as a committee of Council established under section 5.8 of the *Local Government Act 1995*, the principle of appointments for the same two year period (in keeping with the election cycle) is still applied.

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### CONSULTATION

Nil

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### STATUTORY ENVIRONMENT

Nil

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### POLICY IMPLICATIONS

The *Code of Conduct for Council Members, Committee Members and Candidates* (Policy No 1.1.9) provides an expected standard of conduct for Council members.

## FINANCIAL IMPLICATIONS

Nil

## STRATEGIC IMPLICATIONS

Strategic Community Plan 2020 -2030

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

#### 5.1 Strengthen organisational accountability and transparency

##### 5.1.2 Ensure effective engagement with community and stakeholders

#### 5.2 Proactively collaborate with the community and other stakeholders

##### 5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies

## RISK IMPLICATIONS

### RISKS

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council decline to appoint elected members to Town advisory groups	Unlikely (2)	Minor (2)	Low (1-4)	REPUTATIONAL Substantiated, public embarrassment, moderate impact, moderate news profile	Accept Officer Recommendation

### RISK MATRIX

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

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

### RISK RATING

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



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**SITE INSPECTION**

Nil

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**COMMENT**

The Mayor will call for council member nominations to advisory groups and then preside over any ballot required to determine appointment(s).

**Climate Action Reference Group**

Terms of Reference	Refer Attachment 1
Purpose	The CARG is a community led reference group whose purpose is to assist in identifying targets, corporate projects and actions that the Town can undertake with community and local businesses to build the community's capacity to identify and address (where practicable) climate-based issues.
Meeting Schedule	Four times per year (Feb/May/Aug/Nov)
Membership	Current Terms of Reference stipulate: <ul style="list-style-type: none"> <li>• Up to three (3) elected members to provide guidance to the Group, with one Councillor acting as Chair of the Reference Group and one acting as a Proxy.</li> <li>• CEO and/or Proxy.</li> <li>• A total of up to ten (10) community, relevant industry or subject matter experts to assist with the development of the Town of East Fremantle Community Climate Action Plan.</li> <li>• Up to two (2) designated Town of East Fremantle employees be appointed to act as technical advisor to the Group.</li> </ul>
Current Council representatives	Cr Tony Natale (Presiding Member) Cr Cliff Collinson Cr Dean Nardi (former)

**Reconciliation Action Plan Steering Group**

Terms of Reference	Refer Attachment 2
Purpose	The primary objective of the RAP Steering Group is to oversee the implementation the Town of East Fremantle's Reflect Reconciliation Action Plan (RAP) and the Development of an Innovate RAP in consultation with Reconciliation Australia, using their toolkit, templates and resources. .
Meeting Schedule	As required
Membership	The Steering Group shall consist of Council Members, designated Town of East Fremantle employees, Aboriginal and Torres Strait Islander community members and a minimum of four (4) community members (to be invited by way of public advertisement).
Current Council representatives	Cr Cliff Collinson Cr Kerry Donovan Cr Dean Nardi (former) Cr Tony Natale

### Public Art Panel

Terms of Reference	Refer Attachment 3 (Policy No 4.1.2 Public Art Panel)
Purpose	<p>The Public Art Panel will:</p> <ol style="list-style-type: none"> <li>oversee and make recommendations to the Council on matters related to: <ul style="list-style-type: none"> <li>the strategic direction, policy and public program matters of the Town of East Fremantle Public Art Strategy;</li> <li>the development of public art project briefs;</li> <li>the deaccession, relocation, removal and disposal of public artworks; and</li> <li>to assess and determine the suitability of percent for public art proposals submitted in accordance with the Town’s Percent for Public Art Policy</li> </ul> </li> <li>consider the recommendations of specialist selection panels;</li> <li>assess the implementation of the public art annual action plan.</li> </ol>
Meeting Schedule	Four times per year (Feb/May/Aug/Nov)
Membership	<ul style="list-style-type: none"> <li>The Town will engage the correct or suitable expertise (art, architecture, urban design and cultural expertise) to achieve high-quality art outcomes for the Town.</li> <li>It is important that Panel Members are specialists in their field and that the membership covers a range of expertise in public art to ensure a balance of skill and opinion.</li> <li>Artists, curators, architects and other design and cultural experts will help the Council achieve public art outcomes for the Town of East Fremantle that are world-class and innovative, and that surprise, delight, challenge and stimulate.</li> <li>Invitations to nominate for the Public Art Panel are to be advertised biennially. Nominees will be invited to provide a response to the criteria.</li> <li>The Council will appoint Panel Members on the recommendation of the administration following the assessment of applications.</li> <li>The Panel should have up to eight representatives (including the Chair) covering a range of expertise and ideally made up as follows: <ul style="list-style-type: none"> <li>Two Elected Members (including the Mayor or representative);</li> <li>Chief Executive Officer (or representative)</li> <li>Five other specialists such as a practising artist, public art coordinator, curator, art historian, academic, art critic or design professional (expertise in theory and/or practice of contemporary art, urban design or related practice or national and international public art perspectives should be rated highly).</li> </ul> </li> </ul>
Current Council representatives	Mayor O’Neill Cr Cliff Collinson

### Community Assistance Grants Advisory Group

Terms of Reference	Refer Attachment 4 (Policy 2.1.11 Community Grants & Sponsorship)
Purpose	To assessment applications received from individuals and incorporated not-for-profit organisations/associations that meet the criteria set out in the Town’s Policy 2.1.11 Community Grants and Sponsorship.
Meeting Schedule	Annually following close of grant application deadline
Membership	<p>The Community Grants Advisory Group will consist of the following membership:</p> <ul style="list-style-type: none"> <li>Mayor (or his/her representative) &amp; two Councillors</li> <li>2 x staff members</li> <li>2 x Community members.</li> </ul>
Current Council representatives	Cr Kerry Donovan Cr Andrew McPhail

**East Fremantle Oval Precinct Redevelopment Project Steering Committee**

Terms of Reference	Refer Attachment 5
Purpose	Responsible for overall guidance on the Project at a strategic level ensuring that the Business Case, Vision and Objectives of the Project are being met or, where possible exceeded.
Meeting Schedule	Currently 4 <sup>th</sup> Tuesday of the month commencing at 3.30pm
Membership	<p>The Committee comprises:</p> <ul style="list-style-type: none"> <li>• Chair: Mayor or Proxy</li> <li>• Deputy Chair: CEO</li> <li>• Two additional council members</li> <li>• One representative from Department of Local Government, Sport &amp; Cultural Industries</li> <li>• Up to three independent members as required</li> <li>• The following are ex-officio members: <ul style="list-style-type: none"> <li>➢ Client Project Lead</li> <li>➢ Project Manager</li> <li>➢ Design Team Lead</li> <li>➢ Quantity Surveyor</li> </ul> </li> </ul>
Current Council representatives	Cr Tony Natale

**CONCLUSION**

It is proposed to review the terms of reference and associated Policies for all Committees over the coming months for further consideration by Council.

**8.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION**

**Council Resolution** Choose an item.Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council appoints the following council members to the Climate Action Refence Group:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Council Resolution** Choose an item.Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council appoints the following council members to the Reconciliation Action Plan Steering Group:**

\_\_\_\_\_

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

That Council appoints Mayor O'Neill and Cr \_\_\_\_\_ to the Public Art Panel.

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

That Council appoints the following council members to the Community Assistance Grants Advisory Group:

\_\_\_\_\_  
\_\_\_\_\_

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

That Council appoints the following council member(s) to the East Fremantle Oval Precinct Redevelopment Project (EFOPRP) Steering Committee:

\_\_\_\_\_  
\_\_\_\_\_

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**REPORT ATTACHMENTS**

Attachments start on the next page



**Town of East Fremantle  
TERMS OF REFERENCE  
Climate Action Reference Group**

**1. Introduction**

On the 19<sup>th</sup> of November 2019 at the Ordinary Council meeting, the Town of East Fremantle recognised the Climate Emergency and supports the call to action for all levels of government in the goal of minimising the impacts of climate change. Furthermore on the 17<sup>th</sup> of March 2020 as a result of the Annual Electors meeting, the Town resolved to develop a Community Climate Action Plan (CCAP). The CCAP will include actions and strategies for the reduction of community wide greenhouse gas emissions and prepare the Community and Council to adapt and become resilient to the impacts of climate change. The Town acknowledges that climate change is a result of human behaviours, pollution and that consumption patterns have both immediate and long term effects on the climate and the environment. The Town of East Fremantle supports the Western Australian Local Government Association declaration on climate change and commits to reviewing and setting appropriate emissions reduction targets based on scientific measurable data. The Town of East Fremantle aims to empower the local community including local businesses through strategies formulated in the CCAP on how to mitigate and adapt to the impacts of climate change.

The Climate Action Reference Group (CARG) is to be formed to assist Council with local challenges and opportunities that address the issues raised because of climate change, through measurable outcomes as outlined in the CCAP. CARG will assist in identifying targets, corporate projects, and actions that the Town can undertake itself, with community and local businesses to build the community’s capacity to meet the needs and challenges of the future.

**2. Purpose**

To establish a CARG and set the terms of reference for the CARG to ensure a CCAP is developed and supported in the long term to support Council’s efforts with local level climate change adaptation. As well as advance ways to mitigate the Town of East Fremantle’s corporate and community greenhouse gas emissions currently and into the future.

### 3. Membership

The CARG will include:

- 3.1 Up to three (3) elected members to provide guidance to the Group, with one Councillor acting as Chair of the Reference Group and one acting as a Proxy.
- 3.2 CEO and/or Proxy.
- 3.3 A total of up to ten (10) community, relevant industry or subject matter experts to assist with the development of the Town of East Fremantle Community Climate Action Plan.
- 3.4 Up to two (2) designated Town of East Fremantle employees be appointed to act as technical advisor to the Group.

Vacancies for Community representatives will be advertised in a local newspapers and on the Town of East Fremantle social media pages for a minimum period of fourteen (14) days. A report will be prepared for Council outlining the applicants and selection and appointment will be made by Council. It shall be a pre-requisite that community representatives live, work or have an active interest in the Town of East Fremantle, unless as otherwise appointed by Council due to services or expertise which is considered to add to the proficiencies of the Reference Group.

Positions on Committee are voluntary and no meeting fee is paid, however, refreshments will be provided.

### 4. Responsibilities

The Responsibilities of this Reference Group include:

- 4.1 Providing a forum where climate change issues and needs relating to the Town can be raised and discussed.
- 4.2 Provide advice, recommendations and assistance to Council in relation to the development and formation of the Town of East Fremantle Community Climate Action Plan.
- 4.3 Assist the Town in determining actions and solutions related to mitigating and adapting to climate change in the Town of East Fremantle.
- 4.4 Locating and sharing research or other documents as determined by the Reference Group members.
- 4.5 Represent the community, by providing feedback, advice and opinion in the development of the Town of East Fremantle's Climate Change Action Plan.

### 5. Powers of the Climate Action Reference Group

The Climate Action Reference Group is an informal working group appointed by the Council. CARG does not have executive powers or authority to direct Council or implement actions in areas over Council or administration which the CEO has responsibility. The Reference Group does not have any delegated decision making or financial responsibility.

- 5.1 CARG has no involvement in the day to day functions of the Council, the Committee will meet in regards to mitigating and adapting to the effects of climate change in the Town of East Fremantle only.

- 5.2 Members of the group have the same rights to all community members to raise issues of concern through the appropriate Council system.
- 5.3 Members of CARG do not have responsibility for posting material (social or otherwise) from the perspective of the Town unless requested by the Town (individuals in the Reference Group may approach the media, however not as a member of the Reference Group) to do so.

## **6. Expertise**

- 6.1 Industry or service sector representatives must:
  - 6.1.1 Demonstrate experience and knowledge of one or more areas within environmental sustainability or climate change.
  - 6.1.2 Have the ability to achieve objectives in a team environment.
- 6.2 Community representatives must:
  - 6.2.1 Demonstrate interest in and/or experience/knowledge of one or more areas within environmental sustainability or climate change.
  - 6.2.2 Have the ability to work and operate in a team environment to achieve desired objectives.

## **7. Meetings**

- 7.1 The Committee will determine the number of times it meets, but this should not be less than 4 times a year.
- 7.2 Meetings may be attended in person or by video conference.
- 7.3 Each meeting will have an agenda, which must include:
  - 7.3.1 Welcome & Acknowledgement of country
  - 7.3.2 Attendance & Apologies
  - 7.3.3 Disclosure of Interests
  - 7.3.4 Presentations
  - 7.3.5 Confirmation of minutes
  - 7.3.6 Matters arising from minutes
  - 7.3.7 Reports
  - 7.3.8 Closure
- 7.4 A quorum of the meeting must be established prior to a meeting being undertaken. A quorum must be a minimum of one (1) Councillor and 50% of active Reference Group members. The committee is responsible for ensuring a record of its meeting is kept. At a minimum such record must contain:
  - 7.4.1 The persons present at the meeting;
  - 7.4.2 A brief summary of matters discussed; and

**7.4.3** Any agreements or conclusions reached and any recommendations which the Working Group has requested be taken to the Council or a Committee meeting by a Council Member or a Council Officer.

7.5 For a decision to be passed as a recommendation from the CARG a majority decision must be carried at the meeting. Voting will be one vote per members, including the Councillors, with a casting vote given to the Chair of the Reference Group. Town's staff are technical advisor only and will not have any vote on the Reference Group.

## 8 Agenda

8.1 Members of the CARG can ask for any item relating to the core business of the group to be placed on any agenda.

## 9 Strategic Alignment

The specific tasks and actions undertaken by the CARG will assist the Town of East Fremantle in achieving the following objectives as noted in the Strategic Community Plan 2017-2027;

***“Strategic Priority 4: Natural Environment***

4.3 *Acknowledge the change in our climate and understand the impact of those changes.*

**4.3.1** *Improve systems and infrastructure standards to assist with mitigating climate change impacts.”*

## 10 Code of Conduct

Members of the Reference Group are bound by Council's Code of Conduct and Media Policy 4.4.1, which applies to Volunteers of the Town.



## Terms of Reference Reconciliation Action Plan (RAP) Steering Group

### 1. Reconciliation Action Plans

Reconciliation Australia's RAP Framework provides organisations with a structured approach to advance reconciliation. Each type of RAP is designed to suit an organisation at different stages of their reconciliation journey and organisations can repeat the same type of RAP if appropriate.

- Reflect: Scoping capacity for reconciliation
- Innovate: Implementing reconciliation initiatives
- Stretch RAP: Embedding reconciliation
- Elevate RAP: Leadership in Reconciliation

The Town formally received endorsement from Reconciliation Australia for its first (Reflect) Reconciliation Action Plan.

### 2. Objectives of the Town of East Fremantle RAP Steering Group

The primary objective of the RAP Steering Group is to oversee the implementation the Town of East Fremantle's Reflect Reconciliation Action Plan (RAP) and the Development of an Innovate RAP in consultation with Reconciliation Australia, using their toolkit, templates and resources. .

### 3. Powers of the Town of East Fremantle RAP Steering Group

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

The Steering Group is to report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

### 4. Membership

The Steering Group shall consist of Elected Members, designated Town of East Fremantle employees and Aboriginal and Torres Strait Islander community members as follows:



- Crs \_\_\_\_\_
- Town of East Fremantle CEO or nominated officer.

Minimum of four (4) community members (to be invited by way of public advertisement). Council strongly encourages and would welcome nominations from Aboriginal and Torres Strait Community members.

### **5. Structure**

The RAP Steering Group will be administered by the CEO or representative and include:

- Taking and disseminating minutes to the RAP Steering Group.
- Planning up-coming meetings.
- Locating and sharing research or other documents as determined by the Steering Group members.
- Facilitating consultation with interested staff, external stakeholders (as decided by the RAP Steering Group), and Reconciliation Australia.

### **6. Agenda**

Members of the RAP Steering Group can ask for any item relating to the core business of the group to be placed on any agenda.

### **7. Meetings**

The Steering Group shall meet as and when required.

Additional meetings shall be convened at the discretion of the presiding member.

### **8. Reporting**

Notes and recommendations of each Steering Group meeting shall be presented to the Council via the Council Concept Forum and or next Ordinary Meeting of the Council.

The RAP Steering Group is responsible for liaising with all relevant staff to complete and submit the RAP Impact Measurement Questionnaire to Reconciliation Australia as required.

### **9. Duties and Responsibilities**

The following activities will be carried out by the RAP Steering Group:

- Oversee the implementation of the Town of East Fremantle (Reflect) RAP
- Develop an Innovate RAP within the context of the Town's core business and in-line with the Town's over-arching community strategic plan and corporate business plan.



- Establish a collaborative/consultative process for engaging staff across the organisation so that they can provide ideas for the RAP and comment on drafts.
- Develop a project plan and timeline to development, launch and begin implementing the RAP, including consultation with Reconciliation Australia at regular intervals.
- Regularly liaise with relevant staff and stakeholders to review progress of RAP actions and:
  - Report RAP progress to Reconciliation Australia annually.
  - Report RAP progress internally to Council and staff as per Town requirements.
  - Report RAP progress to the community and relevant Aboriginal and Torres Strait Islander stakeholders.
  - Reflect on key learnings in the development of RAPs.
  - Consider RAP implementation issues and consult with relevant business units to find solutions.
  - Liaise with Town staff to finalise the RAP document, and register it on Reconciliation Australia's website.

#### **10. Tenure of Membership**

Until the Town of East Fremantle Reconciliation Plan has been adopted by Council.

#### **11. Steering Group**

##### **11.1. Chairperson**

The members shall appoint the Chairperson.

##### **11.2. Secretary**

As appointed by the Chief Executive Officer.

##### **11.3. Quorum**

The quorum at any meeting shall be half plus one of the number of offices. Therefore, the number for a Quorum shall be four (4) voting members.

##### **11.4. Voting**

Shall be in accordance with the *Local Government Act*, Section 5.21

##### **11.5. Minutes**

Shall be in accordance with the *Local Government Act*, Section 5.22.

##### **11.6. Who Acts If No Presiding Member**

Shall be in accordance with the *Local Government Act*, Section 5.14.

##### **11.7. Meetings**



Meetings shall be generally open to the public pursuant to Section 5.23 of the *Local Government Act* and include question time for members of the pursuant to Section 5.24 of the *Local Government Act*.

**11.8. Members Interests to be Disclosed**

Members of the Steering Group are bound by the provisions of the *Local Government Act* Section 5.65 with respect to disclosure of financial, impartiality or proximity interests.

**11.9. Code of Conduct**

Members of the Steering Group are bound by Council's Code of Conduct.

**11. Meeting Fees**

Positions on the Steering Group are voluntary, therefore, no meeting fees are payable to any member of the Steering group, however, a light meal and refreshments will be provided at each meeting.

**12 Cultural Advisor Fees**

A fee of \$250 per meeting will be paid to each Aboriginal and Torres Strait member for their cultural direction and advice in relation to reconciliation matters.



#### 4.1.2 Public Art Panel

<b>Type:</b>	Operations – Public Infrastructure
<b>Legislation:</b>	Local Government Act 1995
<b>Delegation:</b>	
<b>Other Related Document:</b>	Public Art Policy 4.1.3

#### Objective

To establish a Public Art Panel to guide the Town of East Fremantle Public Art Strategy in accordance with associated policies, processes and procedures.

#### Policy Statement Definitions

*"The Panel"* means the Public Art Panel referred to in this Policy.

*"Financial Interest"* has the same meaning as given by Section 5.60A of the *Local Government Act 1995*.

*"Proximity Interest"* has the same meaning as given by Section 5.60B of the *Local Government Act 1995*.

*"Impartiality Interest"* means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having interest arising from kinship, friendship or membership of an association.

#### Policy Scope

##### Background

Consultation and research undertaken has shown that it is best practice for Local Government Authorities to appoint a panel or committee with responsibility for making decisions and recommendations about public art.

The Town of East Fremantle Public Art Panel should comprise Elected Members, staff and dedicated experts in the field. It is important that Panel Membership covers a range of expertise in public art to ensure a balance of skill and opinion.

The Panel would conduct itself according to the role given to it by the Council, which would outline the Panel's responsibilities, operations and composition.

##### Status and Role of the Panel

The Public Art Panel will:

1. oversee and make recommendations to the Council on matters related to:
  - 1.1 the strategic direction, policy and public program matters of the Town of East Fremantle Public Art Strategy;
  - 1.2 the development of public art project briefs;
  - 1.3 the deaccession, relocation, removal and disposal of public artworks; and
  - 1.4 to assess and determine the suitability of percent for public art proposals submitted in accordance with the Town's Percent for Public Art Policy

2. consider the recommendations of specialist selection panels;
3. assess the implementation of the public art annual action plan.

Positions on the Panel will be non-paid.

## **Policy**

### **Section 1: Terms of Reference**

- To provide guidance for the Town of East Fremantle Public Art Strategy.
- To act in an advisory capacity and make recommendations on specified projects in relation to the acquisition of public art; development projects with public art components; and any proposed projects that have the potential for public controversy and/or risk to the Town's reputation (noting that this does not include the selection or approval of new works where they meet the Policy);
- The Panel will provide expert advice in the development and review of the Town's public art program and on public art projects.
- The Panel's advice will help the Town achieve high-quality public art outcomes; an excellent reputation with stakeholders; effective relationships with partners and the arts sector.

### **Section 2: Membership**

- The Town will engage the correct or suitable expertise (art, architecture, urban design and cultural expertise) to achieve high-quality art outcomes for the Town.
- It is important that Panel Members are specialists in their field and that the membership covers a range of expertise in public art to ensure a balance of skill and opinion.
- Artists, curators, architects and other design and cultural experts will help the Council achieve public art outcomes for the Town of East Fremantle that are world-class and innovative, and that surprise, delight, challenge and stimulate.
- Invitations to nominate for the Public Art Panel are to be advertised biennially. Nominees will be invited to provide a response to the criteria.
- The Council will appoint Panel Members on the recommendation of the administration following the assessment of applications.
- The Panel should have up to eight representatives (including the Chair) covering a range of expertise and ideally made up as follows:
  - Two Elected Members (including the Mayor or representative);
  - Chief Executive Officer (or representative)
  - Five other specialists such as a practising artist, public art coordinator, curator, art historian, academic, art critic or design professional (expertise in theory and/or practice of contemporary art, urban design or related practice or national and international public art perspectives should be rated highly).

### **The Chairperson**

- The Panel Chairperson is an Elected Member of Council and appointed by Council.
- The Chief Executive Officer shall give all assistance to the Panel Chairperson in respect to administrative support for the Panel.

### **Section 3: Meeting Procedure and Process**

- Unless approved by the Council or there is a need to address an urgent issue (the latter to be agreed by the Chairperson and the Chief Executive Officer), the Panel shall meet as required. Additional meetings may be convened at the discretion of the Chief Executive Officer.

- Members will be required to provide sufficient notice of their ability or inability to attend the next scheduled meeting.
- Panel Meetings are not open to the Public.

**Quorum**

- A quorum for the meeting of the Committee will be at least 50% of voting members (including the Chairperson).
- The Panel meeting shall not proceed unless a quorum is present.

**Chairperson**

The Council appointed Chairperson will preside at all meetings. In the absence of the Chairperson, a person elected by the quorum will assume the Chair.

**Agendas**

- The Chief Executive Officer will determine the Agenda for each meeting. All meetings shall be confined to items listed on the Agenda. Agendas will be distributed to all members at least four (4) working days in advance of meeting dates.
- Detailed documents will be distributed to Panel members at least four (4) working days in advance of the meeting dates.

**Minutes**

- The Panel Chairperson (in liaison with the Chief Executive Officer) shall be responsible to ensure the preparation and accuracy of the Minutes/Meeting notes.
- Items considered at the meeting will not be formally voted upon. The Minutes/Meeting notes of the Panel will record consensus agreement and any points of agreement/disagreement. They will not reflect verbatim discussion on matters discussed during debate prior to consensus agreement being reached. The Minutes/Meeting notes of the Meeting will be prepared by an officer of the Town and distributed to members within five (5) working days after the date of the meeting.
- The Panel Minutes/Meeting notes are to be presented in the form of:
  - explanatory comments on the matters before Panel and general views regarding the proposal;
  - formal recommendation to the Council, where appropriate reflecting the views of the majority of members present at the meeting;
  - The Panel Chairperson will endorse the Minutes/Meeting notes and proposed recommendations; and
  - Original copy of the endorsed Minutes/Meeting notes to be retained for record purposes.

**Administrative Support**

A Town employee will be assigned to provide administrative support to the Panel. This person will be responsible for the following;

- Issuing of the Agenda;
- Recording of Apologies prior to the meeting;
- Preparation of the Minutes/Meeting notes;
- Room booking; and
- Catering requirements.

#### **Code of Conduct**

- The Town's Code of Conduct shall apply to members of the Panel.
- All Panel members shall be required to declare any conflicts of interest in matters being considered.
- A copy of the Town's Code of Conduct will be provided to each member upon their appointment.
- The Town's Chief Executive Officer is available to provide any assistance or guidance concerning the Code or any matters of Interest.

#### **Conflict of Interest**

- All members need to be aware that any conflict of interest needs to be recognised. On receipt of the Agenda, if a member has an interest in the matter, then the member is required to declare the interest.
- Any person who has a financial and proximity interest in a matter shall exclude themselves from the room and not participate in that part of the meeting.

#### **Financial and Insurances**

The Town will arrange all insurance to cover Panel members whilst discharging their normal course of duty, including travel to and from the meeting.

#### **Tenure of Appointment**

- The Council will appoint a member to the Panel including the prescribed term and any conditions.
- The Panel Membership is normally for a period of 2 years from the period of the ratification of the Panel by the Council. (Generally the term is from November after the Ordinary local government elections.).
- Once selected by the Council, if a member fails to attend three (3) consecutive meetings of the Panel, his/her appointment shall be automatically terminated, unless Leave of Absence has been granted and approved by the Panel. The Chief Executive Officer shall advise any member, in writing, when their membership of Panel is terminated.
- The Council may terminate the appointment of any member prior to the expiry of his/her term, if:
- The Chairperson and Chief Executive Officer consider that the member is not making a positive contribution to the Panel; or
- The member is found to be in breach of the Town of East Fremantle Code of Conduct or a serious contravention of the Local Government Act 1995; or
- A member's conduct, action or comments brings the Town of East Fremantle into disrepute.

#### **Vacancies**

Vacancies shall be filled by calling for nominations of external members. Members filling a vacated position will hold that position for the remainder of the vacant positions' term as approved by the Council.

#### **Section 4: Related Policies and Plans**

Interpretation and implementation of this Policy is in accordance with the Town of East Fremantle documents as outlined below.

- Town of East Fremantle Public Art Strategy
- Town of East Fremantle Local Planning Policy - Percent for Public Art
- Town of East Fremantle Public Art Annual Action Plan 2017/18 – 2020/21



- Town of East Fremantle Public Art Panel Policy

**Other Related Policies or Plans**

- Town of East Fremantle Strategic Community Plan 2017-2027

**Section 5: Definitions**

**Public Art**

*For the purposes of this Policy, public art is defined as a work of art that is created by an artist, sited in a visually accessible public location. Public art can include (but is not limited to):*

- *the artistic treatment of functional equipment such as bike racks, benches, fountains, playground equipment, light posts or shade structures which are unique;*
- *landscape art enhancements such as walkways, bridges or art features within a public garden;*
- *murals, tiles and mosaics covering walls, floors and walkways; and*
- *sculptures, free-standing or incorporated as an integral element of a building’s design, paintings, pictures and photographic works.*

*Public art does not include:*

- *business logos;*
- *advertising signage;*
- *art objects which are mass produced or off the-shelf reproductions; and*
- *landscaping or architectural features which are considered by the Town to be normally integrated into the building or development.*

**Attachment**

For an extended list of detailed definitions please refer to the Appendix.

<b>Responsible Directorate:</b>	Corporate Services
<b>Reviewing Officer:</b>	Executive Manager Corporate Services
<b>Decision making Authority:</b>	Council
<b>Policy Adopted:</b>	21/10/17
<b>Policy Amended/Reviewed:</b>	17/04/18, 17/9/19, 15/10/19
<b>Former Policy No:</b>	4.1.6

## A. Types of public art

The descriptors that follow indicate the diversity of approaches to public art projects.

**Ephemeral Artworks:** those works that are short lived, based on a specific occasion or event and are transitory in nature. Ephemeral art describes projects that may be environmental, lighting or projection where there is no physical artwork created. The term also applies to physical works in non-permanent materials such as natural found materials that degrade as part of the art process.

**Functional Artworks:** where the primary purpose of the element is utilitarian such as seating, lighting, bollards, rubbish bins, bike racks, shelters and paving. These can vary in form, scale or quantity, dependent on the location. Functional works can reinforce a design aesthetic or thematic concern and be playful, delightful or sophisticated.

**Ground Plane Artworks:** form part of the ground in a public setting and may be experienced as carved/shaped paving elements, metal relief elements, toughened glass panels and ceramic or mosaic inserts, amongst others. Ground plane works are designed to be viewed closely by pedestrians in the space, potentially slowing their movement through the area and creating the opportunity for an intimate and personal engagement between the work and the viewer. Ground Plane works are useful as a way finding tool.

**Iconic Artworks:** a significant, freestanding work, where the approach is largely independent of other considerations.

**Integrated Artworks:** works that are fully incorporated within the design of the built or natural environment.

**Interactive Artworks:** are works that are designed to encourage a tactile response.

**Interpretive Artworks:** where the primary purpose of the artwork is to tell a story, describe, educate or comment on an issue, event or situation.

**Intervention Artworks:** provoke an idea or thought or an element of surprise often in an unexpected location.

**Landmark Artworks:** could be considered a signature or icon for a city. Large in scale or ambitious in concept, such works tend to be major stand-alone commissions and not part of a capital works project.

**Medium Scale/Human Scale Artworks:** are artworks approximately the size of an average person. These artworks are easily interacted with and are accessible to pedestrians.

**Memorial:** a structure, sculpture or other object erected to commemorate a person or an event.

**Nodal Artwork:** an artwork that comprises of a series of component parts and a central focus element.

**Site Specific Artworks:** designed specifically for and responding to a particular site through scale, material, form or concept.

**Permanent Artworks:** refers to public art with a lifespan of at least twenty years.

**Plaque:** a flat tablet or sign, affixed to an object, building or pavement, of metal, stone or other appropriate material, which may include text and/or images in order to provide interpretive information. Plaques may identify an artwork, commemorate a person, place, object or an event and/or provide historical text or information relevant to its location.

**Street Art:** may include spray or aerosol art, stencils, sticker art, paste-ups (wheat pasting and poster art), video projection, art interventions, guerrilla art, flash-mobbing and installations.

**Temporary Artwork:** refers to artwork that is made to last for a specific duration for example, one week or one year. This may include one off or scheduled events such as outdoor exhibitions or installations. The dynamic nature of temporary works are an important place activation tool.

**Textural Artworks:** are small in scale, often items of architectural, streetscape and landscape detail, which contributes to the local character of a place.

**Transition Artworks:** provide an element that links one space to another such as an internal to an external public space or a hardscaped space to a landscaped space.

## **B. Definitions**

### **Artist**

A professional visual artist can be defined as a person who fits into at least two of the following categories:

- a person who has a tertiary qualification in the visual arts, or when the brief calls for it, other art forms such as multimedia;
- a person who has a track record of exhibiting their artwork at reputable art galleries that sells the work of professional artists;
- a person whose work is represented in major public or private collections; and

A person who earns more than 50% of their income from arts related activities, such as teaching, selling artwork or undertaking public art commissions. In some cases, this definition may be relaxed where it may be specified for a particular project.

For example, a project involving emerging artists, Indigenous artists, students or street/graffiti artists.

### **Artist Fees**

That portion of the art project budget reserved for payment to the artist for his/her creative services for design, fabrication, and/or project management services.

### **Artwork or Work of Art**

Any work or object designed by an Artist.

### **Collection Management**

The administration and management of an Art Collection. This encompasses the management of collection records both electronic and hard copy, the database, catalogues, inventories and condition assessments, maintenance and conservation programs, accession of new acquisitions and overseeing the deaccession, disposal or relocation of public artwork.

### **Community Art**

A process where the community initiates or participates in the art project.

### **Contemporary Art**

Artwork created in the present day that engages with issues relevant to its time or uses materials and processes that are at the forefront of arts practice.

### **Hand-over**

The transfer of ownership of an artwork from one party to another. This includes the transfer of legal title and the supplying of the Maintenance Manual and other associated contractual documents.

### **Maintenance Manual**

Those forms completed by the artist detailing the maintenance and technical information for the completed artwork.

### **Public Art**

Public art is a work of art that is created by an artist, sited in a visually accessible public location. Public art can include (but is not limited to):

- the artistic treatment of functional equipment such as bike racks, benches, fountains, playground equipment, light posts or shade structures which are unique;
- landscape art enhancements such as walkways, bridges or art features within a garden;
- murals, tiles and mosaics covering walls, floors and walkways; and
- sculptures, free-standing or incorporated as an integral element of a building's design, paintings, pictures and photographic works.

### **Public art does not include:**

- business logos;

- advertising signage;
- art objects which are mass produced or off the-shelf reproductions; and
- landscaping or architectural features which would normally be integrated into the building or development.

**Public Art Maintenance & Conservation Program**

The coordinated administration of regular treatments, professional conservation and repairs to works in an Art Collection to maintain their integrity.

**Public Art Consultant**

A professional specialising in public art, engaged to provide expert advice or project management.

**Public Art Project Manager**

A professional employee or contractor responsible for the planning, execution, contract management and close-out of the public art project.

### 2.1.11 Community Grants & Sponsorship

<b>Type:</b>	Corporate Services – Financial Management
<b>Legislation:</b>	
<b>Delegation:</b>	
<b>Other Related Document:</b>	Community Assistance Grants & Sponsorship Funding Guidelines Community Grants & Sponsorship Process

#### Objective

To provide financial assistance to community groups and individuals that will build capacity within the community, stimulate volunteering and youth development, and deliver sustainable, accessible and demonstrated social, environmental and economic benefits.

#### Policy Scope

Funding for individuals and incorporated not-for-profit organisations/associations that are resident-based or those providing services within the East Fremantle community.

#### Policy

The Community Grants Assistance Program aims to provide assistance to individuals and incorporated associations that can deliver meaningful benefits and outcomes in the following target areas:

- Community Development
- Sport and Recreation
- Economic Development
- Environment and Heritage
- Culture and the Arts
- Emergency Services

#### Grant Categories

*“Community Assistance Grants”* refers to funding towards infrastructure and equipment. Examples of this type of funding are uniforms or equipment.

*“Sponsorships”* refers to funding towards events, projects (annual or one off), Community Bus use and Photocopying/Printing.

Funding of up to \$5,000 will be considered for Community Assistance Grants.

Funding of up to \$3,000 will be considered for Sponsorship Funding.

Council contributions will generally be limited to:

\$0 - \$1,000	100% funded
\$1,001 - \$3,000	50% matching contribution (dollar for dollar up to \$3,000)
\$3,001 - \$5,000	1/3 matching contribution

The value of in-kind work undertaken by volunteers may not exceed one third of the completed value of the project. The voluntary work should be described and valued at a rate of \$20 per hour (generally \$15 per hour for unskilled works and \$20 per hour for skilled labour).

Minor grants are to be considered by the Mayor. Formal acquittal processes are not mandatory but may be requested if considered appropriate.

**Funding Application Assessment Criteria**

Consideration will be given to priority areas, not limited to, emergency services, education, youth, sports, recreation, heritage and culture within the Town of East Fremantle.

Only one application for assistance towards one project will be assessed for the provision of minor sporting, recreation, cultural or other project.

The applicant organisation must operate from the Town of East Fremantle and beneficiaries must be residents of the Town of East Fremantle. If managed by an outside group, demonstrated evidence that a high percentage of members/users reside in the Town of East Fremantle must be included in the application.

Only groups who can demonstrate that they are a not-for-profit community organisation will be considered eligible for funding.

**Community Grants Committee**

The Community Grants Advisory Group will consist of the following membership;

- Mayor (or his/her representative) & two Councillors
- 2 x staff members
- 2 x Community members.

**Retrospective Funding**

No application for retrospective projects will be considered as part of this grant/funding scheme.

Projects may not materially commence before the announcement of successful applicants.

**Ineligibility**

State and Federal Government agencies, incorporated associations whose members derive individual benefit or financial return from their activities, individuals outside of Travel Subsidy and Youth Encouragement grants.

**Perception of Bias**

In accordance with best practice public sector transparency and accountability principles, all committee members and staff who are, or have in the last three years, been a board member, committee member, executive member or life member of an association applying for funds, shall disqualify themselves from all aspects of the consideration process from receipt of application through to consideration at the Community Grants Committee.

<b>Responsible Directorate:</b>	Corporate Services
<b>Reviewing Officer:</b>	CEO
<b>Decision making Authority:</b>	Council
<b>Policy Adopted:</b>	21/06/16
<b>Policy Amended/Reviewed:</b>	17/9/19, 19/11/19
<b>Former Policy No:</b>	1.2.2



TOWN *of*  
**EAST FREMANTLE**

**EAST FREMANTLE OVAL PRECINCT  
REDEVELOPMENT PROJECT (EFOPRP)**

**GOVERNANCE MODEL AND  
STEERING COMMITTEE CHARTER**

Adopted by Council on June 2021

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1. **Purpose**

The purpose of this Charter is to document the roles, responsibilities and accountabilities of parties involved in the planning and delivery of the East Fremantle Oval Redevelopment Project. The project will be delivered in five phases as follows:

- Phase 1 – Project Establishment
- Phase 2 – Planning and Preliminary Design
- Phase 3 – Detailed Design and Tenders
- Phase 4 – Construction
- Phase 5 – Transition to Operations.

The Charter will be reviewed and updated at the conclusion of each phase to reflect the status of the Project.

2. **East Fremantle Oval Precinct Redevelopment Project**

The Town of East Fremantle in partnership with the East Fremantle Football Club, the East Fremantle Bowls Club, the East Fremantle Croquet Club, East Fremantle Playgroup and other local community groups are jointly pursuing the development of a new Integrated Community, Sport and Leisure Precinct on the East Fremantle Oval site. A \$20M funding commitment has been secured from the State Government.

The new state of the art hub will be a welcoming and vibrant local space where sports, leisure and recreation thrive together. The redevelopment is being guided by the mantra “a community facility for people of all ages and interests with a community at its heart”.

The redevelopment of the East Fremantle Oval Precinct is being actioned as a priority major project for the Town of East Fremantle to achieve the following objectives:

- To maximise the opportunities for local residents to pursue a healthy and active lifestyle through a range of sporting and leisure pursuits and for personal development for all ages and abilities.
- To provide a venue where local teams can develop excellence by competing at the highest level, in high quality facilities that can be enjoyed equally by local and visiting teams, coaches and spectators.
- To provide a place where people can develop and impart skills and to fulfil their potential in their chosen sport/activity.
- To build social connectedness and cohesion amongst our community.
- To build a space where East Fremantle can gather, share and celebrate, start conversations and host functions.
- To reflect on our shared history (both ancient and contemporary) and to make new stories.
- To create opportunities for new businesses to be created and to thrive.
- To create an environmentally and socially sustainable precinct.
- To maintain the precinct as an A-class reserve.

**3. Governance Structure**

As the owner, the Town of East Fremantle Council is ultimately responsible for the project planning and delivery of the EFOPRP. The Governance Structure recognises the Council's various accountabilities to the funding partners.

The fundamental principle underpinning the governance structure is identifying the decision-making responsibilities at the appropriate level. In this regard, detailed project reporting and issue resolution will be dealt with by the relevant Groups for further consideration by the CEO or Council subject to the CEO's delegations. Those issues that are beyond the CEO delegated authority or that involve unresolved, conflicting objectives will be referred to the Steering Committee for its endorsement and recommendation to the Council.

The Governance Structure to be approved by the Council for the planning phase of the Project is outlined Appendix 1.

**4. Project Governance Bodies**

**4.1 Steering Committee**

**4.1.1 Remit**

To act as the Steering Committee (SC) of the Town of East Fremantle Council for the East Fremantle Oval Precinct Redevelopment Project (EFOPRP), providing recommendations & strategic advice to the Council.

The SC is responsible for overall guidance on the Project at a strategic level ensuring that the Business Case, Vision, and Objectives of the Project are being met or, where possible exceeded.

The EFOPRP will comprise the following in line with the business and master planning process:

- East Fremantle Football Club WAFL facilities
- East Fremantle Bowls Club facilities
- East Fremantle Croquet Club Facilities
- Playgroup facilities
- Health club
- Café/restaurant
- Allied health tenancies
- Function room
- Adventure playground
- Community hall
- Outdoor hard courts
- Skate park zone
- Dog exercise area
- Landscaped paths
- Community garden
- Open green space
- Reinstated native landscape
- Community meeting rooms

Funding has been committed in writing by the following parties:

- State Government - \$20m
- Town of East Fremantle up to - \$6m

Further funding is being sought from the Federal Government, the AFL/WAFC and the commercial sector.

Please note formal documentation outlining key milestones etc. is yet to be finalized between the funding partners and the Town of East Fremantle.

#### 4.1.2 Scope

- (a) Oversee the EFOPRP and make recommendations to the Council in line with the Project's governance model, commercial opportunities, business model for the completed project, business case and project brief.
- (b) Ensure that strategic directions are given in line with the approved Business Plan or where relevant develop the approved Business Plan to align with any adaptations required for consideration by the Town of East Fremantle Council.
- (c) Provide advice on issues brought forward by the Project Working Group (PWG) and endorse recommendations made by the PWG and any other strategic recommendations required to maintain the Project.
- (d) Provide recommendations and advice to the Council on the Project.
- (e) Review the PWG and Project Team's management of risk and provide direction and advice where necessary on mitigating risk.
- (f) Review the communications principles and public relations strategies ensuring that the Project Team has adequately informed/engaged stakeholders as required.
- (g) Assess and recommend to Council the appointment of key consultants, including but not limited to:
  - a. Project Manager
  - b. Design Team
  - c. Quantity Surveyor

Note: It is assumed that the Client Project Lead is appointed by the Town of East Fremantle Council prior to the implementation of the Charter.

- (h) Proactively monitor overall Project progress, including:
  - a. Brief Development
  - b. Stakeholder engagement
  - c. Design solutions
  - d. Construction Works
  - e. Achievement of time cost and quality standards
- (i) Encourage innovative ideas and initiatives, that will:
  - a. Enhance the value for money
  - b. Encourage leading edge designs that enhance sport, spectator and community experiences
  - c. Deliver quality facilities and systems

- d. Incorporate environmentally sustainable design to minimise the facility's carbon footprint
- e. Ensure efficient use of landed property, building assets and funding resources
- f. Facilitate commercial partnerships
- g. Achieve the Town of East Fremantle vision and values

#### 4.1.3 Responsibilities

- (a) Review and recommend to the Town of East Fremantle Council the project scope, detailed planning; budget and program parameters and ensure the content of the works to be included meet the Project's performance requirements.
- (b) Prepare and present proposals to the Town of East Fremantle Council on matters of strategic direction associated with the EFOPRP.
- (c) Ensure only those functional, cost and program matters contained in the approved brief are implemented and all changes to the brief and budget are sufficiently reported to permit review and recommend to the Town of East Fremantle Council such changes.
- (d) Recommend to the Town of East Fremantle Council the scope, design and content of the Project brief for all approved consultants. Monitor services, responsibilities and duties of the consultants throughout all stages of the appointment.
- (e) Recommend to the Town of East Fremantle Council key design and scope initiatives that will ensure the environmental sustainability of the venue.
- (f) Make recommendations to the Town of East Fremantle Council on the appointment and engagement of major consultant appointments such as the project manager, design team, quantity surveyor and other consultants as necessary.
- (g) Ensure all recommendations and processes are in line with the Town of East Fremantle's policies and procedures as contained in this Charter and other relevant Town of East Fremantle Governance documents.
- (h) Finalise and update as required the Town of East Fremantle Ground Improvement Project Governance Model and Steering Committee Charter.
- (i) Ensure that the existing knowledge of operational, functional planning, management, financial and Project delivery aspects is being efficiently and effectively applied in the review of all Project decisions.
- (j) Establish and recommend to the Town of East Fremantle Council the criteria for project success and monitor throughout the Project life.
- (k) Monitor overall Project progress against the set time, cost and quality parameters through receipt, critical review and endorsement of the SC Report prepared by the Project Team and quantity surveyor.

#### 4.1.4 General

- (a) The SC has the authority to access information and consult with and interview Organisation and Project Team personnel, and through the Town of East Fremantle CEO, may contract independent professional advisers it considers appropriate to provide advice on matters within the scope of its remit.
- (b) The SC may be requested by the Town of East Fremantle Council to perform other related tasks.

#### 4.1.5 Steering Committee Administration

The structure and timing of the meetings for the Steering Committee are below:

##### (a) Meetings

At least 6 meetings per year or as required. In early project implementation the SC is likely to meet on a 4-6 weekly basis.

At least 4 working days prior to each meeting, the following shall occur:

- Preparation and distribution of the agenda
- Preparation and distribution of the SC Report which will include as appropriate to the stage of the Project concise details of:
  - Any decisions required from the SC (including supporting documentation)
  - Decisions received from the previous SC
  - Overall Progress
  - Occupational Health and Safety
  - Design Progress and Issues
  - Budget and Financial Update
  - Stakeholder Engagement
  - Statutory Authorities and Approvals
  - Quality
  - Procurement
  - Risk
- Minutes of the meetings will be distributed within 1 week of the meeting.

##### (b) Membership of the Steering Committee

- Chair – Town of East Fremantle Mayor or Proxy
- Deputy Chair – Town of East Fremantle CEO
- Two (2) additional Town of East Fremantle Council Member
- One representative from the State Government – Department of Local Government, Sport and Cultural Industries
- Up to three independent members as required

- The following are ex-officio members of the SC:
  - Client Project Lead
  - Project Manager
  - Design Team Lead
  - Quantity Surveyor

The SC reports to the Town of East Fremantle Council through the Chair of the SC and the Town of East Fremantle CEO.

#### **4.2 Project Working Group (PWG)**

##### **4.2.1 Remit**

The EFOPRP Project Working Group (PWG) is responsible for managing and monitoring the day-to-day definition, planning and delivery of the Project ensuring that agreed program, cost, and quality targets are achieved. The PWG will manage the delivery of the EFOPRP through planning, design, commission, transition to operations and defects resolution.

The PWG shall provide direction to the Project Team ensuring the progress of the Project and shall provide advice to the Steering Committee and the Town of East Fremantle Council.

##### **4.4.2 Responsibilities**

- Monitor the Project to ensure scope and budgeted costs are met.
- Monitor detailed Project progress against the time, cost and quality parameters for the Project;
- Manage the Project to ensure all approved scope is implemented in an efficient manner.
- Manage the Project to ensure the overall budget is adhered to and all construction and non-construction cost components are achieved within their defined limits.
- Be the detailed decision-making Group for efficient, effective and quality outcomes of the Project.
- Provide direction and advice where necessary and review the role of the Project Team in adequately managing the planning, design, fit-out, construction, commissioning and transition to operations of the EFOPRP.
- Ensure schematic design, design development, procurement and other key deliverables are completed for consideration by the Steering Committee.
- Ensure timely rectification of any defects.
- Provide advice on issues brought forward by the Design Team and Project Reference Group(s).
- Provide advice to the SC as to the number, purpose and composition of Project Reference Groups.
- Through the SC, provide the Town of East Fremantle Council with advice on the EFOPRP.
- Oversee the statutory planning approval process and ensure all statutory approvals are obtained.
- Through the Steering Committee, provide advice to the Council on matters related to the EFOPRP.
- Advise on, and review the identification, mitigation and management of risk including the management of risk by the Project Team and provide advice

- where necessary on mitigating risks.
- Provide advice and review the communications principles and public relations strategies ensuring that the Project Team has adequately informed and engaged stakeholders as required.
  - Encourage, assess and recommend for implementation those ideas of an innovative or world's best practice nature.
  - Ensure relevant stakeholder input is received for all aspects of the Project.
  - Review and approve the design drawings and relevant project documentation as prepared by the consultant team.
  - Monitor a stakeholder engagement, communication, consultation and organisational strategy.

The PWG will undertake its responsibilities cognisant:

- That in order to constitute a quorum at any meeting of the PWG, at least four members must be present;
- That the SC may determine procedural and governance rules for the PWG from time to time, with which all representatives must comply;
- Of the need to ensure that the design and construction of the EFOPRP is consistent with the masterplan, business plan/operating model, design and specifications;
- Of the need to ensure all statutory requirements are met;
- Of the need for appropriate control systems to be in place to protect the Town of East Fremantle from unnecessary risk; and
- Of the need for effective communication with all relevant stakeholders to ensure clarity.

#### 4.2.3 Membership

The PWG will comprise the following:

- Town of East Fremantle CEO (Chair)
- Client Project Lead
- Town of East Fremantle Executive Staff Members x 3
- Funding Partners – 1 representative each
- Project Manager (ex officio)
- Design Team Lead (ex officio)
- Quantity Surveyor (ex officio)
- Other Project Consultants as required (ex-officio)

**5. Project Reference Group(s) (PRG)**

The PRG's will be established as required by the Project. The SC reserves the right to add and/or delete PRG(s) as required. The initial PRGs will be as follows:

- Community
- Venue and Precinct Operations
- Commercial / Finance
- Australian Rules Football
- Bowls
- Croquet

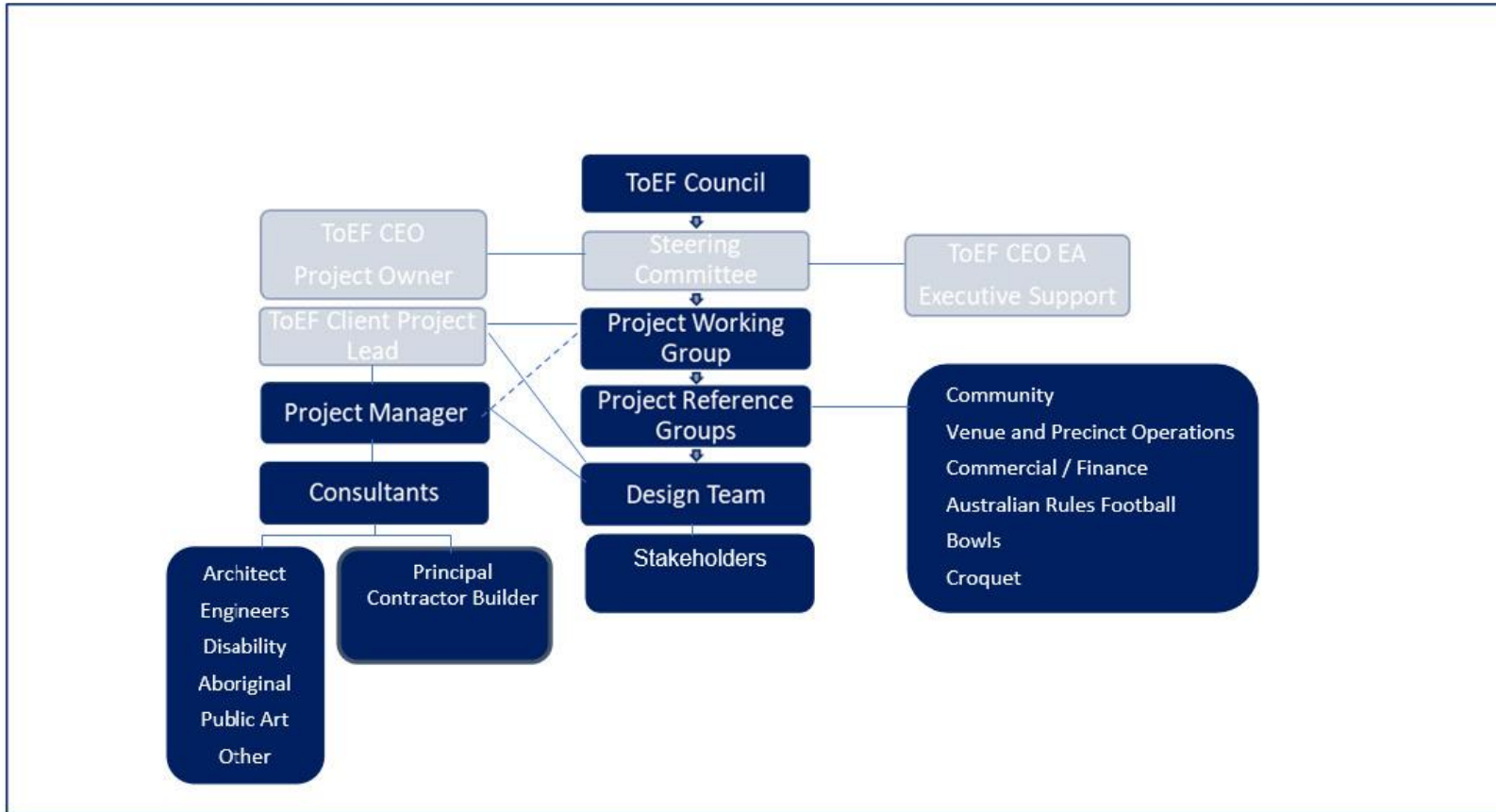
**6. Stakeholders**

Stakeholders Groups are to be consulted as required throughout the Project and are to include but not be limited to:

- Residents Groups
- East Fremantle Football Club and WAFC
- East Fremantle Bowls Club and Bowls WA
- East Fremantle Croquet Club and Croquet WA
- East Fremantle Playgroup
- Health club, food and beverage and precinct operator(s).



APPENDIX 1- EFOPRP GOVERNANCE STRUCTURE



## APPENDIX 2 - EFOPRP PURCHASING GUIDELINES AND DELEGATION OF AUTHORITY

### 1. General Purpose and Principle

The Town of East Fremantle will incur many millions of dollars of expenditure on behalf of its rate payers and project partners as it delivers the EFOPRP. Therefore, it is vital that this expenditure is incurred appropriately and efficiently to maximise the resources available to the EFOPRP and the Town of East Fremantle.

A significant proportion of EFOPRP project expenditure will involve “purchases” of goods and services from third parties involved in planning and delivery of the Project.

The EFOPRP Purchasing Policy (to be ratified by the Town of East Fremantle Council) stipulates how purchases must be made and the purchasing framework and delegative authority for purchases within the EFOPRP. This policy is to be read in conjunction with the current overall Town of East Fremantle Purchasing Policy.

All purchases for the project shall be as per the Town of East Fremantle Purchasing Policy (included in Appendix 3).

### 2. Responsibility for Policy

The Town of East Fremantle Council retains ultimate accountability for this Policy, with the Town of East Fremantle Council seeking and accepting guidance and recommendation from the Project Steering Committee as to implementation of this policy.

The Town of East Fremantle has delegated to the CEO the responsibility for the administration of this Policy (including its reporting to the Council, and/or the Audit & Risk Committee as appropriate). The CEO will work with the SC in terms of implementation of this policy.

The CEO will also be assisted in the administration of this policy by the Client Project Lead and the Project Manager (once appointed).

### 3. Code of Conduct (Consultants & Contractors)

In part the *Local Government (Administration) Regulations 1996* state;

**19AA local government employee means a person —**

(a) *employed by a local government under section 5.36(1);*

*or*

(b) *engaged by a local government under a contract for services;*

In accordance with *Local Government Act 1995*, s5.51A and associated Regulations, all committee members are required to comply with the Town's Codes of Conduct for employees, which now includes consultants and contractors. A copy of the Code of Conduct has been provided as Appendix (7)

All conflicts of Interest are to be disclosed in accordance with the LG Act and recorded using the Town's Disclosure of Interest form Appendix (8).

This requirement will be incorporated into all procurement documents.

#### 4. Major Items of Purchase

- Design
- Construction
- Demolition
- Consultants
- Project Lead
- Project Manager
- Waste Removal
- Contract Labour
- Legal advice
- Other as required

The above purchases will not impact operating results and will be capitalised to the balance sheet and be offset by the funding received to complete the Project. This Project will provide benefits to the Town of East Fremantle and the Community over future periods.

The EFOPRP will deliver a range of ongoing benefits for the community, the East Fremantle Football Club, the East Fremantle Bowls Club, the East Fremantle Croquet Club, and Playgroup, the region and local sporting clubs and community groups, including:

- Enhancement and provision of quality recreation facilities
- Creation and access to a quality community centre
- Creation of integrated recreational facilities
- Football participation development pathways
- Secures long-term future of the East Fremantle Football Club, the East Fremantle Bowls Club, the East Fremantle Croquet Club and the East Fremantle Playgroup and Child Nurse
- Genuine support and improved delivery of Government priorities
- Creation of employment opportunities.

The funding to offset these purchases will be received from the following key stakeholders:

- State Government - \$20m
- Town of East Fremantle up to - \$6m

Further funding is being sought from the Federal Government, the AFL/WAFC and the commercial sector.

#### 5. Budgets

The Town of East Fremantle will use a Project Budget to plan, control and measure these costs. All costs expected to be incurred during the Project life will be included in the Project Budget. This budget is to be broken up into the following stages:

1. Concept Design – Inclusive of feasibility and business plan – **Complete**;
2. 100% Schematic Design - Inclusive of market sounding and business plan update – **Complete**;
3. Procurement model selection;
4. Next Stage design (dependent on procurement model);
5. Construction of Project; and
6. Commissioning and Transition to Operations.

The Project Budget is to be prepared by the Project Working Group, reviewed by the SC and the Audit & Risk Committee and ultimately approved by the Town of East Fremantle Council.

All costs included in the Project Budget process must be in accordance with Delegation of Authority.

Costs not included in the Project Budget can only be incurred with written approval from the Chief Executive Officer (CEO) with the recommendation of the Project Steering Committee and endorsement of the PWG. If the additional unbudgeted item of expenditure for contract variations is more than \$50,000, Council approval is required. This CEO approval limit of up to \$50,000 per item for variations is subject to an aggregate annual limit of \$500,000 (refer Delegation of Authority).

## 6. Authorisations

All Purchases must be approved in writing by the CEO prior to commitment, refer section 8, Purchase Orders.

The managerial positions with responsibility for budgeted costs are:

Chief Executive Officer

The above position has authority for budgeted costs for the Project and are subject to the requirements of this Purchasing Policy.

The Chief Executive Officer shall seek the advice and recommendation of the Client Project Lead in approving Purchase Orders.

## 7. Contract Variations

Contract variations shall be as per as per Delegated Authority Register DA7 in Attachment 4.

Any variations not included in the Project Budget can only be incurred with written approval from the Chief Executive Officer (CEO) with the recommendation of the Project Steering Committee. If the additional unbudgeted item of expenditure for contract variations is more than \$50,000, Council approval is required.

If the variation is below \$50,000 it can be approved by the CEO following the approval of the SC and the recommendation of the PWG.

This CEO approval limit of up to \$50,000 per item is subject to an aggregate project limit of \$500,000 (refer Delegation of Authority).

## 8. Quotes – Value up to \$250,000

(a) Purchasing that is \$250,000 or below in total value (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under the Town of East Fremantle Purchasing Policy.

(b) The following quotation requirements shall apply at each threshold:

- Up to \$5,000 – single (1) oral or written quote;

- \$5,000 - \$20,000 – at least two (2) written quotes;
- \$20,000 - \$50,000 – at least three (3) written quotations;
- \$50,000 - \$250,000 – at least three (3) written quotations by formal invitations under a request for Quotation

All quotations shall contain price and detailed specification of goods and services prior to the raising of a purchase order.

- (c) The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations.
- (d) The only exceptions to this are when:
- A formal written supply agreement is in place; or
  - Written approval has been obtained from the Town of East Fremantle Council with the recommendation of the Steering Committee.
- (e) The quotes must be on a “like by like” basis so that an appropriate purchasing decision can be made.
- (f) A quotation number should be shown on each purchase order.
- (g) After receiving the quotes as required where the value is greater than \$50,000, the decision to purchase must be discussed with the Project Working Group for recommendation to the SC.
- (h) All quotes under \$50,000 can be authorised by the CEO following discussion at the Project Working Group. The purchase shall then be noted by the Steering Committee.

Notwithstanding the above, where it can be effectively demonstrated that there is a limited availability of suitably qualified and experienced suppliers, the minimum requirements can be reduced.

Refer Town’s Purchasing policy in Appendix 3

## 9. Procurement Value greater than \$250,000

### Tenders

Where the value of the scope exceeds (\$250,000) being the value in which a quote system will be applied the procurement of the scope will be done through a tender process.

The tender process will be an open process in accordance with the *Local Government Act 1995 and associated Regulations*, using AS Suite of contracts, this applies to all aspects described in 7.2, 7.3 and 7.4

### Construction and Funding Contracts and Agreements

- (a) Construction and Funding Contracts and Agreements are agreed written terms and conditions for the supply of goods or services and the receipt of funding for the Project for an estimated total value more than \$150,000 or for an extended period, being at least six (6) months. These Agreements include Contracts and Agreements entered with:

- Project consultants
  - Construction companies
  - State Government
  - AFL/WAFC - TBC
- (b) These agreements must be for a maximum duration of one (1) year unless otherwise approved by the Council (refer 7,2 (d) below). The supplier must be subject to due diligence and tender process before a supply agreement is entered.
- (c) The CEO and Client Project Lead must review all Agreements with the CEO to sign all contracts under \$150,000.
- (d) If a contract and agreement is for longer than 1 year, or for a total value of \$150,000 or more, Council Approval for the entering into this Contract or Agreement is required.

**Engagement of Consultants (Tender Process)**

- (e) For the engagement of Project consultants, this will be managed in-house by the Town of East Fremantle with the support of the Project Client Lead and the Project Manager (once appointed) in accordance with this Charter. Documentation will be reviewed by the PWG and if required the SC prior to issue.
- (f) Consultant engagements will be based on a predetermined assessment criteria in accordance with Regulation 14 of the **Local Government (Functions and General) Regulations 1996** and will primarily be based on their ability to achieve a successful outcome for the Town of East Fremantle .

**Selection of preferred Contractors (Tender process)**

- (g) As a result of the Project value the main construction works will be procured via some form of public tender in accordance with the Town's Purchasing Policy 2.1.3 and section 3.57 of the *Local Government Act 1995* and relevant Regulations.
- (h) This process will be managed by the Project Manager (once appointed) in conjunction with the Client Project Lead in accordance with this Charter. A procurement workshop will consider the Project scope, objectives and risks. By analysing this information, and through discussion and analysis of the available options, a consensus will be reached on an optimal procurement strategy for the works.
- (i) An Expression of Interest (EOI) process may be considered to shortlist proven contractors separately for the main building works. An EOI would cover organisational details, management structure, financial capacity, previous experience, resourcing capacity, experience of topside down construction (if any) and any other relevant information. Subject to sufficient EOI's being received, between four and five Contractors would be selected from this process. This process reduces the number of contractors pricing and creates improved responses from the market and improves competition.
- (j) It is anticipated that the Contractor will be appointed using the AS Suite of contracts, with special amendments to reflect Project specific requirements. The final Contract form will be resolved through the procurement workshop.

### **Engagement of contractor**

- (k) Contractor engagements will be based on a predetermined assessment criterion in accordance with Regulation 14 of the *Local Government (Functions and General) Regulations 1996* and will primarily be based on their ability to achieve a successful outcome for the Town of East Fremantle.
- (l) The Project Manager (once appointed) in conjunction with the Client Project Lead will provide a detailed assessment report of tenders submitted, with a recommendation for a preferred contractor discussed and agreed with the PWG and endorsed by the SC for the council's consideration and approval.

### **Price Considerations (Consultants & Contractors)**

#### **Non Weighted Cost Criteria**

The non-weighted cost method is used where functional considerations such as capacity, quality, transitional and adaptability are seen to be crucial to the outcome of the contract. The evaluation panels will make a series of value judgements based on the capability of the Consultant/Contractor to complete the Requirements and a number of factors will be considered including:

- (a) the qualitative ranking of each Consultant or Contractor; and
- (b) the pricing submitted by each Consultant or Contractor.

Once the submissions have been ranked, the evaluation panel will make a value judgement as to the cost affordability, qualitative ranking and risk of each submission, in order to determine the submission which is most advantageous to the Town.

#### **Use of Common Seal**

Any contract requiring the affixing of the Town's Common Seal will be subject to receiving formal authorisation from Council in accordance with section 9.49A of the *Local Government Act 1995*.

#### **Supplier Procurement**

- (m) The procurement routes for remaining work packages including: Workstations; Loose Furniture; ICT; and Art are likely (but not yet confirmed) will be determined at the appropriate time but maintain an approach within this Charter.

#### **Exceptions**

Exceptions to this Charter will only be agreed when best value for money has been clearly demonstrated.

### **10. Purchase Orders (PO)**

- (a) All purchases must be subject to a written and authorised purchase order. A requisition must be raised prior to generating the purchase order and prior to commitment to the expenditure. This gives the CEO and/or Client Project Lead the opportunity to review and decline the requisition.
- (b) The PO must be authorised by the CEO for the relevant item of budgeted expenditure or the CEO as per the Delegation of Authority shown in [this document \(Appendix 2\) and the Town of East Fremantle Purchasing Policy in Appendix 3.](#)

- (c) It is the responsibility of the authorising person to ensure the PO is coded correctly.
- (d) All queries in relation to the PO system must be referred to the Finance Manager.

#### **11. Purchases where no ABN Quoted**

Purchases through suppliers without an ABN should be avoided where possible. If a supplier does not have an ABN, the Town of East Fremantle will, as obliged by the ATO rules, deduct income tax at the top rate from the payment.

#### **12. Breach of Policy**

- (a) It is a condition of employment that employees of the Town of East Fremantle (including the Town of East Fremantle Project Lead) comply with this policy and all other applicable laws.
- (b) A breach of this policy will be considered serious and appropriate disciplinary action will be taken which may include a verbal warning, written warning or termination of employment/contract.

#### **13. Subject to Change**

- (a) This policy and other Town of East Fremantle policies will be regularly reviewed considering legislation and company changes. The Town of East Fremantle will provide employees (including the Town of East Fremantle Client Project Lead) with 7 days' notice of any proposed change either in writing, electronic transmission, Town of East Fremantle Intranet or by other means considered appropriate.
- (b) Employees (including the Town of East Fremantle Project Lead) will be required to comply with the policy as amended from time to time:
  - By way of transparency and accountability; and
  - To promote the obligations of the Policy.

#### **14. Accountability**

Reporting and accountability in the terms of this Policy will be a periodic item on the Town of East Fremantle Council and the SC Agenda.

#### **15. Ethical Behaviours**

All individuals who contribute to procurement activities must comply with the standards of integrity, probity, professional conduct, and ethical behavior as stated below:

- To deal fairly, impartially and consistently with all suppliers.
- To keep confidential all sensitive information obtained as part of the procurement process.
- To formally declare any actual, potential or perceived conflict of interest prior to the commencement of a procurement activity and abstain from any procurement activity where it has been deemed that a potential, perceived or actual conflict of interest exists.
- To ensure that the entire procurement process is documented in such a way as



to demonstrate that decisions and purchases were made in accordance with this Charter.

- Staff, contractors and external parties who conduct, or are involved in, procurement activities on behalf of the Town of East Fremantle during the planning, sourcing and/or contract formation phase will not elicit or accept gifts, benefits or hospitality from respondents. Where respondent(s) are the incumbent contracted supplier, then involvement with the supplier should be minimised to day to day contract operations only during the planning, sourcing or contract formation phases.

**16. Delegation of Authority**

The overall EFORP Project budget is to be prepared by the Project Working Group and reviewed by the SC and the Audit & Risk Committee before being approved by the Town of East Fremantle Council.

Once approved by the Town of East Fremantle Council the following delegation of authority must be adhered to. If a situation falls outside the below matrix and/or there is confusion where the cost sits, Town of East Fremantle Council approval must be obtained.

Commitment	Council	CEO	Relevant Doc
Contract or Deed which must be signed under Seal	Yes	No	
Contract – more than \$150,000	Yes	No	As per Delegated Authority Register DA9 in Attachment 6
Contract – more than 1 years	Yes	No	As per Delegated Authority Register DA9 in Attachment 6
Contracts – less than \$150,000 and less than 1 years	N/A	Yes	As per Delegated Authority Register DA9 in Attachment 6
Project Purchases – In Budget	N/A	Yes	
Project Purchases & Contracts – Not in Budget and less than \$50,000 and less than 1 years	Items >\$50k	Yes - Items <\$50k (aggregate \$500k p.a.)	Will be treated as variations as per Delegated Authority Register DA7 in Attachment 4
Tender Process – more than \$250,000	Yes	No	As per Delegated Authority Register DA8 in Attachment 5

## APPENDIX 3 - TOWN OF EAST FREMANTLE PURCHASING POLICY



### 2.1.3 Purchasing

Type:	Corporate Services – Financial Management
Legislation:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996
Delegation:	DA35 Ordering Thresholds
Other Related Document:	Purchasing Procedures PRO2.1.3

#### Objective

The objectives of this Policy are to ensure that all purchasing activities:

- demonstrate that best value for money is attained for the Town;
- are compliant with relevant legislations, including the Act and Regulations;
- are recorded in compliance with the State Records Act 2000 and associated records management practices and procedures of the Town;
- mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment; and
- are conducted in a consistent and efficient manner across the Town and that ethical decision making is demonstrated.

#### Policy Scope

This policy will affect all staff members.

#### Policy

The Town of East Fremantle (the “Town”) is committed to delivering best practice in the purchasing of goods, services and works that align with the principles of transparency, probity and good governance and complies with the Local Government Act 1995 (the “Act”) and Part 4 of the Local Government (Functions and General) Regulations 1996, (the “Regulations”). Procurement processes and practices to be complied with are defined within this Policy and the Town’s prescribed procurement procedures.

#### Ethics and Integrity

##### *Code of Conduct*

All officers and employees of the Town undertaking purchasing activities must have regard for the Code of Conduct requirements and shall observe the highest standards of ethics and integrity. All officers and employees of the Town must act in an honest and professional manner at all times which supports the standing of the Town.

##### *Purchasing Principles*

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Town’s policies and Code of Conduct;

- purchasing is to be undertaken on a competitive basis where all potential suppliers are treated impartially, honestly and consistently;
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, audit requirements and relevant legislation;
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed; and
- any information provided to the Town's by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

### **Value for Money**

#### *Policy*

Value for money is determined when the consideration of price, risk and qualitative factors that are assessed to determine the most advantageous outcome to be achieved for the Town.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

#### *Application*

An assessment of the best value for money outcome for any purchasing process should consider:

- all relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality, including but not limited to an assessment of levels and currency of compliances, value adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.
- financial viability and capacity to supply without risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
- the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- providing opportunities for businesses within the Town's boundaries to be given the opportunity to quote for providing goods and services wherever possible.

### **Purchasing Requirements**

#### *Legislative / Regulatory Requirements*

The requirements that must be complied with by the Town, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the Town.

Purchasing that is \$250,000 or below in total value (excluding GST) must be in accordance with the purchasing requirements under the relevant threshold as defined under section 7 of this Purchasing Policy.

Purchasing that exceeds \$250,000 in total value (excluding GST) must be put to public Tender when it is determined that a regulatory Tender exemption, as stated under section 8 of this Policy is not deemed to be suitable.

#### *Purchasing Value Definition*

Determining purchasing value is to be based on the following considerations:

1. Exclusive of Goods and Services Tax (GST);
2. The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the Town will continue to purchase a particular category of goods, services or works and what total value is or could be reasonably expected to be purchased. A best practice suggestion is that if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply.
3. Must incorporate any variation to the scope of the purchase and be limited to a 10% tolerance of the original purchasing value.

*Purchasing from Existing Contracts*

Where the Town has an existing contract in place, it must ensure that goods and services required are purchased under these contracts to the extent that the scope of the contract allows. When planning the purchase, the Town must consult its Contracts Register in the first instance before seeking to obtain quotes and tenders on its own accord.

**Purchasing Thresholds**

The table below prescribes the purchasing process that the Town must follow, based on the purchase value:

Purchase Value Threshold	Purchasing Requirement
Up to \$5,000 (exc GST)	<p>Purchase directly from a supplier using a Purchasing or Corporate Credit Card issued by the Town, or obtain at least one (1) oral or written quotation from a suitable supplier, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the Town; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program (e-Quotes) or State Government Common Use Arrangement (CUA); or</li> <li>• from the open market.</li> </ul> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a brief outline of the specified requirement for the goods; services or works required; and</li> <li>• value for money criteria, not necessarily the lowest price.</li> <li>• The procurement decision is to be represented using the Brief Evaluation Report Template.</li> </ul>
Over \$5,001 and up to \$20,000 (exc GST)	<p>Request at least two (2) written quotations from suppliers following a brief outlining the specified requirement, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the Town; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program (e-Quotes) or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a written brief outline of the specified requirement for the goods; services or works required; and</li> </ul>

	<ul style="list-style-type: none"> <li>• value for money criteria, not necessarily the lowest price.</li> </ul> <p>The procurement decision is to be represented using the Brief Evaluation Report Template.</p>
Over \$20,001 and up to \$50,000	<p>Request at least three (3) written quotations from suppliers following a brief outlining the specified requirement, either from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the Town; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a written brief outline of the specified requirement for the goods; services or works required; and</li> <li>• value for money criteria, not necessarily the lowest price.</li> </ul> <p>The procurement decision is to be represented using the Brief Evaluation Report Template.</p>
Over \$50,001 and up to \$250,000 (exc GST)	<p>Request at least three (3) written quotations from suppliers by formal invitation under a Request for Quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> <li>• an existing panel of pre-qualified suppliers administered by the Town; or</li> <li>• a pre-qualified supplier on the WALGA Preferred Supply Program (e-Quotes) or State Government CUA; or</li> <li>• from the open market.</li> </ul> <p>Requests for quotation from a pre-qualified panel of suppliers (whether administered by the Town through the WALGA preferred supply program or State Government CUA) are not required to be invited using a Request for Quotation form, however at least three written quotes are still required to be obtained.</p> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a detailed written specification for the goods, services or works required and</li> <li>• pre-determined evaluation criteria that assesses all best and sustainable value considerations.</li> </ul> <p>The procurement decision is to be represented using the Evaluation Report template.</p>
Over \$250,000 (exc GST)	<p>Where the purchasing requirement is not suitable to be met through a panel of pre-qualified suppliers, or any other tender-exempt arrangement as listed under section 8 of this Policy, conduct a public</p>

	<p>Request for Tender process in accordance with the Regulations, this policy and the Town’s tender procedures. The procurement decision is to be based on pre-determined evaluation criteria that assesses all value for money considerations in accordance with the definition stated within this Policy.</p> <p>The purchasing decision is to be based upon the suppliers response to:</p> <ul style="list-style-type: none"> <li>• a specification of the goods, services or works (for a tender exempt process including the WALGA Preferred Supplier Arrangement); or a detailed specification for the open tender process; and</li> <li>• pre-determined evaluation criteria that assesses all best and sustainable value considerations.</li> </ul> <p>The procurement decision is to be represented using the Evaluation Report template.</p>
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**Requirement for Contracts**

Purchases over \$50,000 ex GST will require a written contract for the following supply categories:

- Consultants (General Conditions of Contract AS4122-2010)
- Minor Works
- General Goods and Services
- Building and Construction Services
- ICT Services
- Waste Services

A copy of the executed contract must be provided to the Executive Assistant Corporate Services prior to the Purchase Order being released. The contract details will be entered into the Contract Register which has been prepared in accordance with Treasurers Instruction 820 ‘Register of Contracts’.

Contract Reviews – all contracts established by the Town shall contain a requirement to review the performance of the Contractor/Supplier/Consultant at least annually and prior to the extension, if any, of the Contract term.

**Strategic Purchasing Value Assessments**

The Town will periodically review recent past purchasing activity across its operations to identify categories of supply for which the Town will have continuing need and which can be aggregated into single contract arrangements in order to achieve best value for money and efficiency in future purchasing activity.

The assessment of aggregated expenditure for the same category of supply capable of being supplied by a single supplier will determine the Purchasing Value threshold applicable to future purchasing activity.

**Quotation Exemptions**

An exemption to Request for Quotations may apply in accordance with Regulation 11 of the Local Government (Functions & General) Regulations 1996.

**Insufficient Suppliers / Waiver of Quotation**

Where this policy requires a certain number of quotations to be obtained, but it is not possible to obtain that number of quotations, then best endeavours must be used to obtain as many quotes as possible.

If it is not possible to obtain the required number of quotations then:

1. the requirement to obtain that number of quotations may be waived by the Chief Executive Officer or Executive Manager Corporate Services if the purchase is below \$20,000 and justification has

been provided by an officer with appropriate authority to incur the liability. The following are examples of where an exemption may be approved:

- Supplier is a sole provider registered in the Town of East Fremantle
- Supplier is an Aboriginal Business
- Supplier is Disability Enterprise
- Delivery of goods or services is time critical

2. all other requirements of this policy applicable to that type or value of purchase apply.

#### **Purchasing from Legal Service Providers**

The Town of East Fremantle will utilise the WALGA preferred supplier contract for legal services. The selection of the service provider will be undertaken by the Chief Executive Officer or relevant Executive Manager (under delegated authority) based on factors including the panel provider undertaking similar work on behalf of the Town, specialist expertise as well as being based on standard contract performance.

#### **Buying Local**

Where possible, suppliers operating with the Town of East Fremantle and neighbouring local government areas are to be given the opportunity to quote for goods and services required by the Town. Officers are required to review the local Business Directory when determining possible suppliers. However, it is recognised that not every category of goods or services required by the Town will lend itself to supply by local businesses.

#### **Standing Offer Agreement**

This is an agreement where a supplier(s) agrees to provide specified goods (which are considered commodities off the shelf which are readily available from multiple suppliers and frequently purchased), at an agreed price fixed for a set period of time (usually for one year). Standing Offers are a commitment by suppliers to provide agreed products at the fixed price on receipt of a Town Purchase Order. Standing offers do not commit the Town to any minimum volume. A standing offer once accepted by the Town is deemed to have met the quotation process.

#### **Tendering Exemptions**

An exemption to publicly invite tenders may apply in the following instances:

- the supply of the goods or services is associated with a State of Emergency which has been declared in accordance with section 3 of the Emergency Management Act 2005;
- the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;
- the purchase is from a Regional Local Government or another Local Government;
- the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- within 6 months of no tender being accepted;
- where the contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- the purchase is from a pre-qualified supplier under a Panel established by the Town; or
- any of the other exclusions under Regulation 11 of the Regulations apply.

#### **Inviting Tenders under the Tender Threshold**

Where considered appropriate and beneficial, the Town may consider publicly advertising Tenders in lieu of undertaking a Request for Quotation for purchases under the tender threshold. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements and also whether the purchasing requirement can be met through the WALGA Preferred Supply Program or State Government CUA.

If a decision is made to undertake a public Tender for contracts expected to be \$250,000 or less in value, the Town's tendering procedures must be followed in full.

#### **Sole Source of Supply**

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the Town is satisfied and can evidence that there is only one source of supply for those goods, services or works. The Town must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. Once determined, the justification must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

From time to time, the Town may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

#### **Anti-Avoidance**

The Town shall not enter into two or more contracts or create multiple purchase order transactions of a similar nature for the purpose of "splitting" the value of the purchase or contract to take the value of the consideration of the purchase below a particular purchasing threshold, particularly in relation to Tenders and to avoid the need to call a public Tender.

#### **Emergency Purchases**

An emergency purchase is defined as an unanticipated and unbudgeted purchase which is required in response to an emergency situation as provided for in the *Local Government Act 1995*. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

An emergency purchase does not relate to purchases not planned for due to time constraints. Every effort must be made to anticipate purchases required by the Town in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

#### **Record Management**

Records of all purchasing activity must be retained in compliance with the State Records Act 2000 (WA); the Town's Records Keeping Plan and associated procurement procedures.

For each procurement activity, such documents may include:

- the Procurement initiation document such as a procurement business case which justifies the need for a contract to be created (where applicable);
- procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the contract;
- request for Quotation/Tender documentation;
- copy of public advertisement inviting tenders, or the notice of private invitation (whichever is applicable);
- copies of quotes/tenders received;
- evaluation documentation, including individual evaluators note and clarifications sought;
- negotiation documents such as negotiation plans and negotiation logs;
- approval of award documentation;
- all correspondence to respondents notifying of the outcome to award a contract;
- contract Management Plans which describes how the contract will be managed; and
- copies of contract(s) with supplier(s) formed from the procurement process.

#### **Sustainable Procurement and Corporate Social Responsibility**

The Town is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the Town shall



endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the Town's sustainability objectives.

For formal procurement decisions, the Town may weight sustainability up to a total of 20%, with a maximum of 10% able to be assigned for any one of the following elements:

1. Environmental

Procurement that minimises unnecessary resource consumption, considers whole of life costs and delivers beneficial environmental economic outcomes is encouraged.

The Town will support the purchasing of recycled and environmentally sustainable products whenever a value for money assessment demonstrates benefit toward achieving the Town's strategic and operational objectives.

Qualitative weighted selection criteria will be used in the evaluation of Requests for Quote and Tenders to provide advantages to suppliers which:

- (a) Demonstrate policies and practices that have been implemented by the business as part of its operations;
- (b) Generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used and disposed; and
- (c) Encourage waste prevention, recycling, market development and use of recycled/recyclable materials.

2. Social

Procurement from organisations such as Aboriginal controlled businesses and social enterprises including Australian Disability Enterprises is encouraged.

3. Local Economy (with boundaries of the South West Group)

The Town will provide supply opportunities for local organisations that can demonstrate economic benefits, either through being a local business, the use of local sub-contractors or local employees. This will be dependent on the extent to which the local business can demonstrate a contribution to the local economy but does not include any preferential; treatment of pricing in the evaluation process.

Requests for Quotation and Tenders will include a request for Suppliers to provide information regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

Examples of criteria include the following:

- 1. The Tenderer must provide details of the benefits to the local community from their involvement in this contract. Examples may include, but should not be limited to things such as:
  - Local employment
  - Use of local service providers
  - Use of local food and beverage providers
  - Sourcing of materials and consumables locally

2. Community Participation and Benefits – provide commentary on initiatives to support Aboriginal business and indigenous community, local trade support, Australian manufacturing, and community benefit (i.e. corporate philanthropy or employment development programs for Corporate Social Responsibility such as disability enterprise or special needs)

#### **Local Economic Benefit**

The Town encourages the development of competitive local businesses within its boundary and as much as practicable, the Town will:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- consider buying practices, procedures and specifications that encourage the inclusion of local businesses and employment of local residents;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans, and analysis is undertaken prior to developing Requests to understand local business capability and local content availability where components of goods or services may be sourced from within the district for inclusion in selection criteria;
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- avoid bias in the design and specifications for Requests for Quotation and Tenders;
- provide adequate and consistent information to potential suppliers.

#### **Purchasing from Disability Enterprises**

Pursuant to Part 4 of the Local Government (Functions and General) Regulations 1996, the Town is not required to publicly invite tenders if the goods or services are to be supplied from an Australian Disability Enterprise, as registered on [www.ade.org.au](http://www.ade.org.au). This is contingent on the demonstration of value for money.

Where possible, Australian Disability Enterprises are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

#### **Purchasing from Aboriginal Businesses**

Pursuant to Part 4 of the Local Government (Functions and General) Regulations 1996, the Town is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation on [www.abdwa.com.au](http://www.abdwa.com.au), where the expected consideration under contract is worth \$250,000 or less. This is contingent on the demonstration of value for money.

Where possible, Aboriginal businesses are to be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

#### **Panels of Pre-Qualified Suppliers**

In accordance with Regulation 24AC of the Local Government (Functions and General) Regulations 1996, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

- the Town determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and

- the Town has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The Town will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

*Establishing a Panel*

Should the Town determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the Local Government (Functions and General) Regulations 1996.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a minimum of two (2) years and for a maximum length of time deemed appropriate by the Town.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the Town will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the Town must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

*Distributing Work Amongst Panel Members*

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Town intends to:

- i. obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with Clause 20; or
- ii. purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. develop a ranking system for selection to the Panel, with work awarded in accordance with Clause 19 (b).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- a) each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or
- b) work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the Panel. The Town is to invite the highest ranked

Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Town may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 5.5 of this Policy. When a ranking system is established, the Panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

#### *Purchasing from the Panel*

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications may be made through eQuotes, or any other electronic quotation facility or otherwise must all be captured on the Town's electronic records system. A separate file is to be maintained for quotation processes made under each Panel that captures all communications between the Town and Panel members.

#### *Recordkeeping*

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept.

For the creation of a Panel, this includes:

- the Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- request for Applications documentation;
- copy of public advertisement inviting applications;
- copies of applications received;
- evaluation documentation, including clarifications sought;
- negotiation documents such as negotiation plans and negotiation logs;
- approval of award documentation;
- all correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- contract Management Plans which describes how the contract will be managed; and
- copies of framework agreements entered into with pre-qualified suppliers.

The Town is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the Town.

#### **Authorisation of Expenditure**

Acceptance of tenders and quotations and the authorisation of expenditure is to comply with the Town's purchasing requirements, associated policies and procedures and within the relevant delegation or limit of authority.

All purchases of goods or services other than those goods or services deemed an emergency or those outside of normal business hours are only to be purchases after the approval of an appropriate purchase requisition and the receipt of a relevant purchase order.

The confirmation of any purchase after the completion of a quotation / tender process must be authorised by an officer to whom authority to incur a liability has been delegated ensuring that sufficient funds have been provided for in the Town’s annual budget.

Issuing Purchase Orders where a quotation or tender process has been undertaken will be required to be released by the Manager Finance and Administration , who is required to ensure that all details in the Register of Contracts have been complied with, and that the required number of quotes and the contract have been attached to the purchase requisition.

Responsible Directorate:	Corporate Services
Reviewing Officer:	Chief Executive Officer
Decision making Authority:	Council
Policy Adopted:	16/8/16
Policy Amended/Reviewed:	19/6/18, 17/9/19, 19/11/19, 10/12/19, 19/5/20, 15/9/20, 8/12/20
Former Policy No:	4.2.4

Attachment  
Purchasing Procedures



### PURCHASING PROCEDURES (PRO2.1.3)

1. Council purchase orders are to be signed only by Officers authorised by Council, namely the :
  - Chief Executive Officer; (unlimited)
  - Executive Manager Corporate Services; Limit \$50,000
  - Executive Manager Regulatory Services; Limit \$50,000
  - Principal Environmental Health Officer; Limit \$1,500
  - Operations Supervisor; Limit \$15,000
  - Operations Manager; Limit \$50,000
  - Manager Administration and Finance, Limit \$15,000
  - Communications & Marketing Officer; Limit \$1,500
  - HR Coordinator; Limit \$5,000
  - Senior Ranger; Limit \$2,000
  - Coordinator Capacity Building; Limit \$1,500
  - Executive Assistant Corporate Services; Limit \$1,500
  - Executive Assistant to CEO; Limit \$1,500
  - Coordinator Planning and Building; Limit \$500
  - Coordinator CHSP (CHSP related purchases only); Limit \$1,500
  - Administration Support Officer – Operations; Limit \$500

or those Officers acting in the positions from time to time;
2. Authority limitations apply to any purchase including signing of contracts in accordance with Delegation DA8 and DA9;
3. An official purchase order must be placed for all goods or services (including consultants' opinions, eg legal, engineering, town planning, etc) ordered;
4. Standing Purchase Order – these are commitments made against a particular supplier for good or services that are regularly procured over a specified period, usually one financial year. The full value of the commitment is restricted to the amount in the approved budget, allowing for a spread over more than one supplier. Standing order numbers will need to be quoted to the supplier for inclusion in their invoice. Do not provide a printed copy of "Standing Purchase Orders" to suppliers. Standing orders will be expedited by Finance at the end of each financial year and will need to be re-established in the new financial year.
5. Emergency Order – emergency orders can only be processed outside the procurement process when any of the following events are likely to occur:
  - Possible cause of injury or loss of life
  - Potential to result in destruction of property
  - Possible loss or disruption to the Town's stakeholders or core functions
  - Will seriously impair the reputation of the Town in the local or wider community

In such cases, the purchaser will initially make a purchase commitment with a third party without following all the processes in this procedure. The purchase order is to be raised as soon as possible following the initial commitment.
6. When ordering by telephone a purchase order number must be quoted and the original of the order to be forwarded to the supplier endorsed "Confirmation of Telephone Order on "(date)";
7. All Officers are to ensure that when issuing a Council order for goods or services that a current account number (which will reflect the Budget estimate for those goods or services) be quoted on the Council order. This will ensure that:-

- 7.1 expenditure is allocated to the correct Budget item (with the job number account being noted on the Council order); and
  - 7.2 that sufficient funds are identified against the job number account before expenditure is authorised.
8. In order that costs are adequately controlled before issuing a Council purchase order Officers must check against their current Budget estimates for the current financial year and monthly expenditure reports to ensure that there are sufficient funds to cover the cost of the goods or services being ordered;
9. Roles of Finance:
  - Finance Officers will provide initial training and support to Authorised Purchasing Officer;
  - Finance staff will review purchase orders prior to paying invoices to ensure compliance with the Purchasing Policy including ensuring that all relevant quotes are attached. Should there be any non-compliance, payment of the invoice will be placed on hold. An email will be sent to the Purchaser seeking a valid reason which will need to be confirmed by the CEO. Once this has been received, payment will be processed.
  - Goods receipt amounts will be matched to supplier's invoice and processed for payment in line with their terms. Any variance greater than 10% will be referred back to the Purchaser.
  - Purchase orders will be reviewed every three months to ensure obsolete orders are expedited.
10. Where possible, Council use environmentally friendly paper products including recycled paper;
11. All purchases must also comply with Policy 2.1.3 – Purchasing Policy.

**APPENDIX 4 - DELEGATED AUTHORITY REGISTER – DA7 – CONTRACT PRICE VARIATION**

**DA7 CONTRACT PRICE VARIATION**

- Objective of Delegation:** To approve minor price variations to contracts
- Extent of Delegation:** The power to approve a minor price variation for a contract subject to sufficient funds being available within the approved expenditure budget and that the price variation is necessary.
- Conditions imposed:**
1. For the purposes of this delegation, a minor price variation is limited to \$50,000.
  2. Sub-delegations are authorised to approve variations up to 10% of their authority limit set in DA35 & Policy 2.1.3 – Purchasing.
  3. Pursuant to Regulation 21A of the Local Government (Functions and General) Regulations 1996, the contract must not be varied unless the variation is necessary in order for the goods or services to be supplied and does not change the scope of the contract.

<b>Delegation by Council to:</b>	Chief Executive Officer
<b>Delegation by Chief Executive Officer to:</b>	Executive Manager Corporate Services Executive Manager Regulatory Services Operations Manager
<b>Formal Record:</b>	Any contract variation is to be recorded in a register of contracts. Recorded in central records system
<b>Heads of Power:</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995 – section 3.58</i></li> <li>• <i>Policy 2.1.3 Purchasing</i></li> </ul>
<b>Last Reviewed:</b>	19 May 2020
<b>Amended:</b>	19 May 2020



**APPENDIX 5 - DELEGATED AUTHORITY REGISTER – DA8 – ENGAGING CONSULTANTS/CONTRACTORS**

**DA8 ENGAGING CONSULTANTS/CONTRACTORS**

- Objective of Delegation:** To appoint consultants/contractors to the Town of East Fremantle
- Extent of Delegation:** The power to:
- appoint consultants, such as architects, valuers, planning consultants etc. for projects and tasks where specific external skills or knowledge are required.
  - Engage private contractors to assist and complement the Town’s work staff in implementing the works program.
- Conditions imposed:**
- Consultants
- Any applicable Council Policy must be implemented.
  - The consideration for the consultancy is less than \$150,000
  - Specific budget provision exists
- Contractors
1. Applies to Contracts under \$150,000.
  2. In exercising this authority, the Chief Executive Officer must be satisfied that it will be in the best interest of Town and have regard for:
    - adequate budget provision exists;
    - the engagement of contractors is made in accordance with the Town’s purchasing policy;
    - that all contracts are in writing; and
    - that appropriate performance measures are in place and performance is subject to supervision.
  3. The payment for any work carried out under contract must be specifically authorised by the responsible senior officer and certified as carried out to a satisfactory standard.

<b>Delegation by Council to:</b>	Chief Executive Officer
<b>Delegation by Chief Executive Officer to:</b>	Executive Manager Regulatory Services Operations Manager Executive Manager Corporate Services
<b>Formal Record:</b>	Recorded in central records system
<b>Heads of Power:</b>	<b><i>Local Government Act 1995 – section 6.5 – 6.10</i></b> <b><i>Policy 2.1.3 Purchasing</i></b>
<b>Last Reviewed:</b>	19 May 2020
<b>Amended:</b>	18 February 2020

**APPENDIX 6 - DELEGATED AUTHORITY REGISTER – DA9 – ENTERING INTO CONTRACTS**

**DA9 ENTERING INTO CONTRACTS**

- Objective of Delegation:** To enter into contracts on behalf of the Town of East Fremantle
- Extent of Delegation:** The administrative duty to prepare the necessary documentation to execute documents taking into account any specific policy requirements of Council where:
- the Council has authorised entering into a formal contract; or
  - a formal contract is considered necessary by the Chief Executive Officer as part of the day to day operation of the Council and where the consideration under the contract is less than \$150,000; or
  - a formal contract is authorised under a delegated authority from the Council
- Conditions imposed:**
1. All contracts where the consideration is greater than \$150,000 must be subject to specific authorization of the Council.
  2. Compliance with the requirements of the Standing Orders Local Law in respect of signing documents under seal if applicable.

<b>Delegation by Council to:</b>	Chief Executive Officer
<b>Delegation by Chief Executive Officer to:</b>	Not applicable
<b>Formal Record:</b>	Recorded in central records system
<b>Heads of Power:</b>	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Policy 2.1.3 Purchasing</i></li> <li>• <i>Town of East Fremantle Administration Policy –Signing of Documents</i></li> <li>• </li> </ul>
<b>Last Reviewed:</b>	19 May 2020
<b>Amended:</b>	19 May 2020

**APPENDIX 7 – EMPLOYEES CODE OF CONDUCT**

A copy will be provided as a separate attachment.

**APPENDIX 8 – DISCLOSURE OF INTEREST FORM**



# Disclosure of interest

(completed form must be handed to the minute secretary at the meeting)

**Name:**

\_\_\_\_\_

**Meeting of the: Council/Town Planning/Audit Committee or Other** (please circle)

**Date of meeting:** \_\_\_\_\_

**Item number:** \_\_\_\_\_ **Name of item:** \_\_\_\_\_

**Brief description of interest:** \_\_\_\_\_

\_\_\_\_\_

(Financial interest extent includes value and amount of interest - not necessary if you wish to leave the meeting)

I wish to disclose an interest as follows:

- 1. Proximity interest in accordance with the LG Act
- 2. Financial interest in accordance with the LG Act
- 3. Impartiality

- I wish to:
- 1. Leave
  - 2. Stay and observe
  - 3. Stay and discuss
  - 4. Stay, discuss and vote

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Under [Part 5, Division 6 of the Local Government Act 1995](#), Elected Members are obliged to declare any interests, and the extent of the interest, in regard to any matter being considered at a Council or Committee meeting. An Elected Member is considered to have an 'interest' in a matter if the Elected Member, or a person closely associated with the Elected Member, has a direct or indirect financial interest, or a proximity interest.

Elected Members are exempted for declaring an interest in certain circumstances that are prescribed in [Section 5.63 of the Local Government Act 1995](#).

It is essential that Elected Members fully understand and comply with [Part 5, Division 6 of the Local Government Act 1995](#)

Financial Interest

A person has a 'financial interest' in a matter if it is reasonable to expect that the matter will, if dealt with by the council in a particular way, result in a financial gain, loss, benefit or detriment for the person, regardless of the amount.

Proximity Interest

A person has a 'proximity interest' in a matter if the matter contains a proposed development or a proposed change to a planning scheme, zoning or land use in relation to and adjoining the persons' land or land of a person with whom the person is closely associated. Adjoining land is land with a common boundary or directly across a thoroughfare from the person's land.

Interest Affecting Impartiality

An Elected Member or Committee Member must regard himself or herself as having an interest affecting impartiality in any matter if the matter relates to:

- (a) General control or management of a:
  - (i) Body to which he or she has been appointed or nominated by the local government as its representative where the local government is not a member of that organisation;
  - (ii) Public authority or body exercising functions of a public nature;
  - (iii) Incorporated body, charity or body directed to charitable purposes;
  - (iv) Professional body or association;
  - (v) Sporting, leisure or social club of any description
- (b) Any subject or matter other than a personal belief or philosophy which significantly affects the Elected Member or Committee Member to a greater extent than other local government ratepayers or residents of the local government generally.
- (c) A relative, known friend or known adversary.

Depending on the type of interest an Elected Member or Committee Member has in relation to a matter, the member may be required to leave a Council or Committee meeting to ensure they do not participate in, or are present during, any discussion or decision making procedure that relates to a matter under consideration by Council or Committee.

[Part 5, Division 6 of the Local Government Act 1995](#) defines Elected Member and Committee Member responsibilities in this regard. Non-compliance can result in severe penalties for an Elected Member.

## 8.7 APPOINTMENT TO EXTERNAL ORGANISATIONS

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-194
<b>Prepared by</b>	Janine May, EA/Governance Coordinator
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

### PURPOSE

To seek Council approval to appoint council member representatives to the following external organisations:

- Western Australian Local Government Association (WALGA) South Metropolitan Zone
- South West Corridor Development Foundation (SWCDF) & Environmental Forum
- Resource Recovery Group (RRG)
- Fremantle Ports Inner Harbour Community Liaison Group
- Glyde-In Community Learning Group Committee

### EXECUTIVE SUMMARY

Delegates to these external organisations are appointed immediately following local government elections.

### BACKGROUND

Current representation is as follows:

- WALGA – Crs Collinson, Donovan and Natale with (former) Cr Nardi (Deputy)
- SWCDF/Environmental Forum – Cr Natale & (former) Cr Nardi (Deputy)
- RRG – Cr White
- Ftle Ports Inner Harbour Community Liaison Group – Cr McPhail
- Glyde-In Community Learning Group Committee – Cr Collinson with Cr Wilson (Deputy)

### CONSULTATION

N/A

### STATUTORY ENVIRONMENT

N/A

### POLICY IMPLICATIONS

N/A

### FINANCIAL IMPLICATIONS

N/A

## STRATEGIC IMPLICATIONS

Strategic Community Plan 2020 -2030

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

5.2 Proactively collaborate with the community and other stakeholders

5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies

## RISK IMPLICATIONS

### RISKS

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council fail to appoint elected members to external organisations	Rare (1)	Moderate (3)	Low (1-4)	REPUTATIONAL Substantiated, low impact, low news item	Accept Officer Recommendation

### RISK MATRIX

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

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

### RISK RATING

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

## SITE INSPECTION

N/A

## COMMENT

<b>WALGA South Metro Zone</b>	
<b>Membership</b>	Requires the appointment of three elected members plus a deputy.
<b>Meeting Day/Time</b>	Bi-monthly (generally 4 <sup>th</sup> Monday of the month) at 5.30pm. Venue on a rotation basis between member councils.
<b>Summary/Purpose</b>	South Metro Zone incorporates representatives from Cities of Rockingham, Fremantle, Cockburn and Melville and the Towns of Kwinana and East Fremantle. All decisions made at the South Metro Zone meetings are referred to the WALGA State Council meetings for consideration.
<b>South West Corridor Development Foundation &amp; Environmental Forum</b>	
<b>Membership</b>	Previously representatives were elected to each Group, however one member and one deputy member are now appointed to sit on both Groups in a combined capacity.
<b>Meeting Frequency</b>	Approximately 4-6 meetings per year (Thursdays 12-3pm)
<b>Summary/Purpose</b>	<u>SWCDF</u> : To facilitate and promote sustainable development of the Perth South West Metropolitan Region. <u>Environmental Forum</u> : To oversee the implementation of the Regional Natural Resources Management (NRM) Strategy Development by the Perth South West Metropolitan Alliance.
<b>Resource Recovery Group</b>	
<b>Membership</b>	One delegate – Current Fee paid is \$686.92 per month (\$8,243pa)
<b>Meeting Day/Time</b>	Attendance is required at approximately 12 meetings per year (including various Committee meetings). Ordinary Council Meetings are held quarterly (last Thursday of February, May, August & November) at 5pm.
<b>Summary/Purpose</b>	To be Council's representative as a Regional Councillor on the Resource Recovery Group. Its primary purposes are: (i) to plan, coordinate and implement the removal, processing, treatment and disposal of waste for the benefit of the communities of the Participants (ii) to influence local, state and federal governments in the development of regional waste management policies and legislation.
<b>Additional Information</b>	<ul style="list-style-type: none"> <li>Town of East Fremantle has resolved to withdraw as a Member Participant from 1 July 2024.</li> <li>RRG's new Establishment Agreement, currently pending approval by the Minister. Once approved the updated Agreement will require each Participant to appoint two members as Regional Council Members. The above fee will reduce to \$5,495pa if two members are appointed.</li> </ul>



<b>Fremantle Ports Inner Harbour Community Liaison Group</b>	
<b>Membership</b>	One delegate and deputy. Representation from various government and community agencies.
<b>Meeting Day/Time</b>	Quarterly on a Tuesday evening at 5.00pm
<b>Summary/Purpose</b>	To represent Council in relation to Fremantle Port issues.
<b>Glyde-In Community Learning Centre Committee</b>	
<b>Membership</b>	One delegate and deputy.
<b>Meeting Day/Time</b>	3 <sup>rd</sup> Tuesday of each month 2pm to 3.30pm
<b>Summary Purpose</b>	To represent Council on the Glyde In Community Learning Centre Committee

8.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

**OFFICER RECOMMENDATION**

**That Council:**

1. notes all previous appointments to external organisations referred to in this report have expired; and
2. appoints council members to the following external committees/groups:
  - a) **WALGA South Metropolitan Zone**  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ (Deputy)
  - b) **South West Corridor Development Foundation (SWCDF) & Environmental Forum**  
 \_\_\_\_\_  
 \_\_\_\_\_ (Deputy)
  - c) **Fremantle Ports Inner Harbour Community Liaison Group**  
 \_\_\_\_\_  
 \_\_\_\_\_ (Deputy)
  - d) **Glyde-In Community Learning Group Committee**  
 \_\_\_\_\_  
 \_\_\_\_\_ (Deputy)
  - e) **Resource Recovery Group**  
 \_\_\_\_\_

REPORT ATTACHMENTS

Nil

## 8.8 REPRESENTATION ON JOINT DEVELOPMENT ASSESSMENT PANEL (JDAP)

<b>Applicant</b>	N/A
<b>Report Reference Number</b>	SCR-238
<b>Prepared by</b>	Janine May, EA/Governance Coordinator
<b>Supervised by</b>	Jonathan Throssell, Chief Executive Officer
<b>Meeting date</b>	Tuesday, 31 October 2023
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil

**Attachments**

1. Correspondence from Department of Planning, Land and Heritage dated 28 September 2023

**PURPOSE**

To seek Council nomination of four council members to sit as DAP members (two members and two alternate members) for the period 27 January 2024 to 26 January 2026.

**EXECUTIVE SUMMARY**

Under Regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, local governments are required to nominate, as soon as possible following elections, four council members to sit as DAP members.

**BACKGROUND**

In October 2021, Council nominated Cr Collinson and former Cr Nardi as the Town's DAP members and Cr Andrew White and former Cr Mascaro as the alternate members. In May 2023 Cr Natale was appointed to replace the vacant alternate member position following Cr Mascaro's resignation.

**CONSULTATION**

N/A

**STATUTORY ENVIRONMENT**

Regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

**POLICY IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Strategic Community Plan 2020-2030

**Strategic Priority 5: Leadership and Governance**

5.2.1 Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies.

## RISK IMPLICATIONS

### RISKS

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council decline to appoint members to the JDAP	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE Non-compliance results in termination of services or imposed penalties	Accept Officer Recommendation

### RISK MATRIX

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Likelihood	Almost Certain	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	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

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

## SITE INSPECTION

N/A

## COMMENT

Given the short appointment term remaining (to 26 January 2024), it is recommended that former Cr Nardi's position remain vacant, as there are currently two alternates who can fulfil the role if required. Accordingly Council's current DAP appointments would remain as:

- Member - Cr Collinson and
- Alternate Members Crs White and Natale.

The Town has been requested to nominate four council members to sit as DAP members for the period 27 January 2024 to 26 January 2026.

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## CONCLUSION

It is recommended that current representation to the JDAP remain until expiry (24 January 2024) and Council determine appointments for the period 27 January 2024 to 26 January 2026.

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## 8.8 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

**Council Resolution** Choose an item. Click or tap to enter a date.

### OFFICER RECOMMENDATION

**That Council advises the Development Assessment Panel (DAP) Secretariat:**

- 1. former Cr Nardi (the Town's current DAP member) is no longer a council member; however it is not proposed to appoint a replacement member for the period expiring 26 January 2024; and**
- 2. the following council members are nominated as DAP members for the period 27 January 2024 to 26 January 2026:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (alternate member)

\_\_\_\_\_ (alternate member)

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## REPORT ATTACHMENTS

Attachments start on the next page



Department of **Planning,  
Lands and Heritage**

Our ref: PLH2023P1487 DG-2023-2773  
Enquiries: DAP Secretariat 6551 9919

Mr Jonathan Throssell  
Chief Executive Officer  
Town of East Fremantle  
Via email to: [jthrossell@eastfremantle.wa.gov.au](mailto:jthrossell@eastfremantle.wa.gov.au)

Dear Mr Throssell

**DEVELOPMENT ASSESSMENT PANELS – LOCAL GOVERNMENT  
NOMINATIONS**

As you are aware, representation of local interests is a key part of the Development Assessment Panel (DAP) system. In accordance with this premise, under Regulation 24 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, Councils are required to nominate, as soon as possible following elections, four elected members to sit as DAP members.

In addition to the above, all existing local government DAP members are currently appointed for a term ending 26 January 2024. Prior to this expiry date, your local government is required to nominate four (4) DAP members for appointment by the Minister for Planning.

Given the upcoming local government elections on 21 October 2023, both requirements can be met by using the attached form and submitting it and a copy of the Council resolution, it via email to the DAP Secretariat at [daps@dplh.wa.gov.au](mailto:daps@dplh.wa.gov.au), no later than Friday 24 November 2023.

If you are unable to provide nominations by the above date, please contact the DAP Secretariat to discuss alternative arrangements and implications.

The WA Government has launched OnBoardWA as part of its commitment to increase the diversity and backgrounds of Government Boards and Committees along with the total number of women appointed.

I encourage you to consider diversity of representation when putting forward your nominations in supporting this important commitment. Further Information about OnBoardWA can be found at [OnBoardWA | Welcome to OnBoardWA \(jobs.wa.gov.au\)](https://www.onboard.wa.gov.au).

The WA Government is committed to continue implementing the Action Plan for Planning reform to ensure the planning system continues to deliver great outcomes and great places for Western Australians. Changes to the DAP system, identified as part of the reform initiatives, aim to provide a more robust DAP process that promotes consistency and transparency in decision-making.

Please note that the local government membership configuration on DAPs will not be affected by the reform initiatives.

If you have any queries regarding this request for nominations, please contact Ashlee Kelly at the DAP Secretariat on (08) 6551 9919 or email [daps@dplh.wa.gov.au](mailto:daps@dplh.wa.gov.au). Further information is available online at [Development Assessment Panels \(www.wa.gov.au\)](http://www.wa.gov.au).

Yours sincerely



Anthony Kannis PSM  
Director General  
28 September 2023

*Att. Local Government Development Assessment Panel Member Nomination Form*

9 MATTERS BEHIND CLOSED DOORS

10 CLOSURE