



AGENDA

SPECIAL COUNCIL MEETING

Tuesday, 1 October 2024 at 6:00 PM

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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.

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NOTICE OF MEETING

Elected Members

A Special Council Meeting of the Council will be held on 1 October 2024 at 6:00 PM in the Council Chamber, 135 Canning Highway, East Fremantle and your attendance is requested.



JONATHAN THROSSELL
Chief Executive Officer
27 September 2024

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

Cr Collinson

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 BUSINESS

Reports start on the next page

7.1 REQUEST FROM EAST FREMANTLE FOOTBALL CLUB FOR AN EXTENSION OF TIME TO EXECUTE THE SUBLEASE AT EAST FREMANTLE COMMUNITY PARK

Applicant	N/A
Report Reference Number	[Report Reference Number]
Prepared by	Jonathan Throssell, CEO
Supervised by	N/A
Meeting date	Tuesday, 1 October 2024
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Nil

PURPOSE

For Council to consider a request from East Fremantle Football Club (“EFFC”) for an extension of time to execute the sublease which is required to enable them to move into East Fremantle Community Park.

EXECUTIVE SUMMARY

At its ordinary meeting held on 20 August 2024, Council resolved, in part, to extend the time to finalise the sublease to grant EFFC occupancy of its subleased building footprint at East Fremantle Community Park to 30 September 2024. This timeframe was inclusive of receipt of all approvals and authorisations from the various stakeholders required to finalise the sublease.

On Wednesday 25 September 2024 the CEO of EFFC contacted the Town requesting an extension of time to execute the sublease and an associated extension of time for EFFC to vacate the Tricolore Community Centre – the latter request being the subject of a separate Council report in this meeting agenda.

Having identified no significant reasons to refuse the request, it is recommended that the request be approved by Council.

BACKGROUND

There have been extensive negotiations with EFFC regarding the proposed sublease. A table detailing the relevant meetings and correspondence exchanges since September 2021 was listed in the Council meeting minutes for the ordinary council meeting held on 20 August 2024.

Relevantly, Council determined in July 2024 to grant occupancy to EFFC subject to the finalisation of the sublease by 16 August 2024. Resolution number 011607 refers, reproduced in part below:

That Council, with respect to the request from the East Fremantle Football Club to be granted occupancy of the East Fremantle Community Park:

- In order to facilitate the relocation of the East Fremantle Football Club Administration from Tricolore Community Centre, resolves to grant occupancy of East Fremantle Football Club’s subleased building footprint at East Fremantle Community Park subject to the finalisation of the Sublease Agreement on terms acceptable to the Town (which includes a provision to terminate the Sublease on 3 months’ notice if the parties fail to execute the Licence Agreement within three months of the commencement date of the Sublease and an obligation on East Fremantle Football Club to play all WAFL home games and WAFL home*

*finals at the East Fremantle Community Park) by **16 August 2024 (emphasis added)**, inclusive of obtaining relevant Ministerial approval.*

- 2. authorises the Chief Executive Officer to finalise the Sublease Agreement on the above basis and forward it to the Minister for Lands for consent, prior to execution.*

At its ordinary meeting held on 20 August 2024 Council subsequently resolved (per resolution number 012008):

That Council:

- 1. agrees to amend its resolution 011607 by extending the time to finalise the sublease to grant East Fremantle Football Club occupancy of its subleased building footprint at East Fremantle Community Park to **30 September 2024 (emphasis added)**;*
- 2. notes a further report will be presented to Council regarding the proposed sublease with East Fremantle Football Club inclusive of recommended changes prior to its finalisation;*
- 3. requests the Chief Executive Officer prepare a report to Council reviewing the options available for the East Fremantle Community Park should agreement on the proposed sublease with East Fremantle Football Club not be reached by 30 September 2024;*
- 4. notes the 30 September 2024 deadline includes receipt of all approvals and authorisations from all stakeholders required to finalise the sublease; and*
- 5. requests the Chief Executive Officer report to Council when the East Fremantle Football Club, by no later than 9 September 2024, has advised of its in principle agreement to the terms of the sublease prior to its formal execution.*

On 9 September 2024 the CEO of EFFC advised that the EFFC had agreed in principle to the sublease, satisfying the requirements of point 5 of the above resolution. Subsequently instructions were provided to the Town's lawyers to finalise the draft sublease incorporating the changes requested / negotiated with EFFC.

On 11 September 2024 the amended sublease was provided to EFFC. Two further emails identifying a minor amendment and providing the finished plans depicting the subleased area to be included in the sublease were sent to EFFC on 13 and 17 September 2024 respectively.

It was understood that at its 18 September 2024 meeting the EFFC Board was to formally consider the sublease; however, this did not occur. The CEO of EFFC advised an EFFC Board meeting was held on 24 September 2024 for this purpose.

On 25 September 2024 the CEO EFFC advised by email:

"...the Board are progressing well with the review of the updated sub-lease agreement.

"The Board are confident that they will be able to confirm their approval of the sub-lease agreement by Friday 18 October, however will be aiming to achieve this earlier if possible.

"We seek your consideration of an extension of the 30 September deadline in regards to:

- Executing the sub-lease*
- Vacating Tricolore*

"Representatives of the Board and I have been in contact with our lawyer to clarify certain key points, and we are awaiting updated advice.

"We would also consider it likely that our lawyer may seek to engage your lawyer directly to clarify the wording around particular clauses, in order to expedite the process from here."

At the time of preparing this report the Town has not been advised of which points or clauses in the sublease EFFC wish to have clarified. However, the CEO EFFC has advised the matters being clarified are not considered to be material or significant but rather are legal clarifications of certain clauses.

CONSULTATION

East Fremantle Football Club CEO

STATUTORY ENVIRONMENT

The Minister for Lands has consented to a Head Lease being granted to Belgravia as Operator of the EFCP. The Head Lease makes provision for the Operator to grant subleases and licences (if applicable) to East Fremantle Football Club, East Fremantle Bowling Club, East Fremantle Croquet Club, East Fremantle Child Health Clinic and East Freo Playgroup Inc.

The Minister for Lands is required to consent to each sublease and licence granted to each the of the above clubs or community organisations before they can be executed by the relevant parties.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

While construction of the East Fremantle Community Park is complete, until all of the sporting groups (East Fremantle Bowls Club, East Fremantle Croquet Club and EFFC) are located in the facility it will not be fully operating as intended. Accordingly, the finalisation of the sublease with EFFC is an important milestone towards achieving the Town's strategic objective of redeveloping a major recreational and sporting precinct in East Fremantle.

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 does not grant an extension of time to finalise sublease, meaning EFFC does not move into the facility, therefore not fully activating the site as a community facility	Unlikely (2)	Major (4)	Moderate (5-9)	REPUTATIONAL Substantiated, public embarrassment, high impact, high news profile, third party actions	Accept Officer Recommendation

RISK MATRIX

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Likelihood	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	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	8
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

On 20 August 2024 Council resolved to extend the time to finalise the sublease to allow EFFC occupancy of its subleased area within the East Fremantle Community Park to 30 September 2024. EFFC has requested a further extension of time to 18 October 2024 to enable this to occur, noting they have provided in principle agreement to the sublease and advise they are ‘progressing well’ with their review of the sublease.

Officers have not identified any significant reasons to refuse the request. While the revenue forecast for the East Fremantle Community Park includes revenue expected to be generated by EFFC, it is noted that most of such revenue is associated with match day football; and the 2024 WAFL season has finished.

Should Council determine to not agree to the extension of time it will face substantial reputational risk.

CONCLUSION

It is recommended that Council agrees to accommodate the request for an extension of time to finalise the sublease with EFFC, to 18 October 2024.

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

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

OFFICER RECOMMENDATION

That Council agrees to extend the date to finalise the sublease to grant East Fremantle Football Club occupancy of its subleased building footprint at East Fremantle Community Park to 18 October 2024.

REPORT ATTACHMENTS

Nil

7.2 REQUEST FROM EAST FREMANTLE FOOTBALL CLUB FOR AN EXTENSION OF TIME TO VACATE THE TRICOLORE COMMUNITY CENTRE

Applicant	N/A
Report Reference Number	[Report Reference Number]
Prepared by	Jonathan Throssell, CEO
Supervised by	N/A
Meeting date	Tuesday 1 October 2024
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Nil

PURPOSE

For Council to consider a request from East Fremantle Football Club (“EFFC”) for an extension of time to vacate the Tricolore Community Centre prior to its intended move into the East Fremantle Community Park.

EXECUTIVE SUMMARY

At its ordinary meeting held on 20 August 2024, Council resolved to advise EFFC that it was required to vacate the Tricolore Community Centre by 30 September 2024. Resolution 102008 refers. This date coincided with the date identified by Council for the sublease to grant EFFC occupancy of its subleased building footprint at East Fremantle Community Park to be completed.

On Wednesday 25 September 2024 the CEO of EFFC contacted the Town requesting an extension of time to execute the sublease and an associated extension of time for EFFC to vacate the Tricolore Community Centre – the former request being the subject of a separate Council report in this meeting agenda.

Having identified no significant reasons to refuse the request, it is recommended that the request be approved by Council.

BACKGROUND

In October 2022 Council resolved to allow EFFC a temporary licence to use the Tricolore Community Centre due to the redevelopment of the East Fremantle Oval Precinct.

At the council meeting of 20 August 2024 a confidential report was presented which discussed the appropriate date by which EFFC should be required to vacate the Tricolore Community Centre, noting that the East Fremantle Community Park has been constructed and therefore available once the sublease is executed. Council subsequently resolved, per resolution 102008:

That Council, with respect to the East Fremantle Football Club occupying Tricolore Community Centre:

- 1. resolves a vacation date of 30 September 2024 (coinciding with the vacation date of Precise Massage) including the removal of all furnishings and equipment by this date, including the sea containers, and the return of building keys to the Town’s Administration by 4pm; and*
- 2. authorises the notice of vacation to be prepared and issued by the Town’s lawyers.*

A letter was sent to EFFC on 23 August 2024 per point 2 of the resolution.

On 25 September 2024 the CEO of EFFC requested by email for an extension of time to the 30 September 2024 deadline to execute the sublease and vacate the Tricolore Community Centre. A separate report has been prepared regarding the sublease.

CONSULTATION

East Fremantle Football Club CEO (Addy Wetzler)

Fremantle City Football Club (Tony Estrano and David Cain)

As Fremantle City Football Club will be returning to the Tricolore Community Centre once EFFC vacates, it was important to obtain feedback from them about the request by EFFC to extend the date for EFFC to vacate Tricolore Community Centre to 18 October 2024.

An online meeting was held with Mr Estrano and Mr Cain on 26 September 2024 to discuss the matter. They did not raise objections to the extension, provided they could gain access to the centre prior to 18 October to enable them to commence preparations to return. They also advised that the club had received a grant from the State Government to enhance facilities at Wauhop Park, including Tricolore Community Centre. A condition of the grant is for construction to be completed by December 2024; however, it is understood that this timeframe can be complied with even if EFFC doesn't vacate until 18 October 2024.

A phone call to Mr Wetzler discussed the requirements of the Fremantle City Football Club to gain access to Tricolore Community Centre prior to 18 October, to which Mr Wetzler readily agreed.

STATUTORY ENVIRONMENT

The Licence Agreement was a legal document which had been approved by the Minister for Lands pursuant to section 18 of the *Land Administration Act 1997*. However as the licence has expired, EFFC presently remains in the Licensed Area without formal legal authority in the form of a licence or lease.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Should the Town be required to enforce a notice to vacate, including removing any remaining property, costs will be incurred which be recoverable from the EFFC.

STRATEGIC IMPLICATIONS

Nil

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 the EFFC be required to vacate Tricolore Community Centre prior to the requested date of 18 October 2024	Possible (3)	Major (4)	High (10-16)	REPUTATIONAL Substantiated, public embarrassment, high impact, high news profile, third party actions	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	12
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

This report is to be read in conjunction with another report in this agenda which discusses the request to extend the timeframe by which the sublease for EFFC is to be finalised. That report recommends Council agrees to accommodate the request for an extension of time to finalise the sublease with EFFC, to 18 October 2024.

The request to extend the date by which EFFC is to vacate the Tricolore Community Centre is connected to the request to extend the time to complete the sublease, because the preference for EFFC is to vacate Tricolore and move directly into the East Fremantle Community Park.

Due to the potential impact on the Fremantle City Football Club consultation was undertaken to ascertain that club's view of the request from EFFC. As indicated in the 'Consultation' section above, provided access is granted ahead of 18 October, the Fremantle City Football Club has no objections to the extension of time.

Accordingly, there appears to be no substantive reasons to refuse the extension of time request.

CONCLUSION

It is recommended that Council agrees to accommodate the request for an extension of time for EFFC to vacate the Tricolore Community Centre, to 18 October 2024.

7.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION

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

OFFICER RECOMMENDATION

That Council agrees to extend the date for East Fremantle Football Club to vacate the Tricolore Community Centre to 18 October 2024.

REPORT ATTACHMENTS

Nil

8 MATTERS BEHIND CLOSED DOORS

PROCEDURAL MOTION

That the meeting be closed to the public to discuss a confidential report in relation to 8.1 CEO Performance Review under the terms of the Local Government Act 1995, Section 5.23(2)(a) & (e).

8.1 CEO PERFORMANCE REVIEW – APPOINTMENT OF FACILITATOR

(Confidential Report)

9 CLOSURE