



**City of Belmont**  
**ORDINARY COUNCIL MEETING**  
**MINUTES**  
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25 August 2020

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**MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBER,  
CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON  
TUESDAY, 25 AUGUST 2020 COMMENCING AT 7.00PM.**

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## **MINUTES**

### **PRESENT**

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr G Sekulla, JP, Deputy Mayor	West Ward
Cr M Bass	East Ward
Cr B Ryan	East Ward
Cr J Davis	South Ward
Cr J Powell	South Ward
Cr S Wolff	South Ward
Cr L Cayoun	West Ward
Cr R Rossi, JP	West Ward

### **IN ATTENDANCE**

Mr J Christie	Chief Executive Officer
Mr R Garrett	Director Corporate and Governance
Ms J Gillan	Director Development and Communities
Ms M Reid	Director Infrastructure Services
Mr J Olynyk, JP	Manager Governance
Ms J Parker	Manager Parks Leisure and Environment
Mrs M Lymon	Principal Governance and Compliance Advisor
Ms K Spalding	Coordinator Marketing and Communications
Ms D Morton	Media and Communications Adviser
Mrs H Mark	Governance Officer

### **MEMBERS OF THE GALLERY**

There were 21 members of the public in the gallery and one press representative.

**1. OFFICIAL OPENING**

**7.00pm** The Presiding Member welcomed all those in attendance and declared the meeting open.

The Presiding Member read the Acknowledgement of Country.

*Before I begin I would like to acknowledge the traditional owners of the land on which we are meeting today, the Noongar Whadjuk people, and pay respect to Elders past, present and future leaders.*

The Presiding Member invited Cr Wolff to read aloud the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers. Cr Wolff read aloud the affirmation.

**Affirmation of Civic Duty and Responsibility**  
*I make this affirmation in good faith and declare that I will duly, faithfully, honestly, and with integrity fulfil the duties of my office for all the people in the City of Belmont according to the best of my judgement and ability. I will observe the City's Code of Conduct and Standing Orders to ensure the efficient, effective and orderly decision making within this forum.*

**2. APOLOGIES AND LEAVE OF ABSENCE**

Nil.

**3. DECLARATIONS OF INTEREST THAT MIGHT CAUSE A CONFLICT**

**3.1 FINANCIAL INTERESTS**

Nil.

### 3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY

Name	Item No and Title	Nature of Interest (and extent, where appropriate)
Cr Rossi	Item 13.3 - Notice of Motion – Councillor Sekulla – Request to Support the Government of Western Australia to Retain a Hard Border During the Spread of COVID-19	Given assistance to a local resident regarding hard borders.
Cr Cayoun	Item 13.3 - Notice of Motion – Councillor Sekulla – Request to Support the Government of Western Australia to Retain a Hard Border During the Spread of COVID-19	Works in office of Premier Mark McGowan MLA.

## 4. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS

### 4.1 ANNOUNCEMENTS

It is with regret that I announce tonight is the last Council Meeting Mr Robin Garrett, Director Corporate and Governance, will attend as an officer of the City of Belmont.

After 27 years as an employee of the City, Robin will retire on the 2nd September 2020.

Robin has contributed greatly to the City through his role and is highly respected by his peers and the Elected Members.

On behalf of the Elected Members and the people of Belmont, I wish to thank him for his magnificent service over these years and I wish Robin and his family the very best for the future and a long and happy retirement.

### 4.2 DISCLAIMER

**7.05pm The Presiding Member drew the public gallery's attention to the Disclaimer.**

The Presiding Member advised the following:

*'I wish to draw attention to the Disclaimer Notice contained within the Agenda document and advise members of the public that any decisions made at the meeting tonight can be revoked, pursuant to the Local Government Act 1995.*

*Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received.'*

**4.3 DECLARATIONS BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTLY BEFORE THE MEETING**

Nil.

**5. PUBLIC QUESTION TIME**

**5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE**

**5.1.1 MR R REAKES, 203 KEYMER STREET, BELMONT**

The following questions were taken on notice at the 28 July 2020 Ordinary Council Meeting. Mr Reakes was provided with a response on 3 August 2020. The response from the City is recorded accordingly:

1. Has the City of Belmont purchased gym equipment for the Oasis Leisure Centre and if so how much money was spent on this equipment?

**Response**

**Yes, the City recently replaced a number of strength equipment pieces that were City owned assets, totalling \$89,912.75 excluding GST.**

2. If the City has bought equipment for them why is the ratepayer paying for equipment for a private business? Aren't we responsible just for the building as far as the lease goes?

**Response**

**Belmont Oasis is a leisure centre which is owned by the City. The City owns the vast majority of equipment and assets (internal and external) at the Centre. The property is not leased. The City tendered the operation of the Centre in 2018 and BlueFit Pty Ltd was the successful tenderer. As part of the Contract for Management, the City maintains all City owned assets forming part of the facility.**

3. If you are buying equipment for Oasis what other private businesses are you providing equipment or other items for and how much does it cost the ratepayer each year?

**Response**

**As is the case with Belmont Oasis, the City does not buy equipment for private businesses therefore there are no cost implications for the ratepayer.**

### **5.1.2 MR P HITT, 14 MCLACHLAN WAY, BELMONT**

The following questions were taken on notice at the 28 July 2020 Ordinary Council Meeting. Mr Hitt was provided with a response on 12 August 2020. The response from the City is recorded accordingly:

1. Have the two previous CEO's Shane Silcox and Stuart Cole plus the serving Councillors during their incumbency been privy to discussions, looking at the alteration of a full or partial withdrawal of the deed of trust covering Parry Fields?

#### **Response**

**A number of meetings of the Belmont Trust have been conducted as evidenced by the publicly available minutes.**

2. Did the City, during the last two incumbents Silcox & Cole serving as CEO's, engage legal opinions as to the validity of the Deed of Trust covering Parry Fields and advice on ways forward to change or withdraw the Trust?

#### **Response**

**Legal advice required to enable informed decision making for matters considered by the Belmont Trust has been obtained where required.**

3. If the answer to question two is yes, my question 3 is what is the legal costs to date of any consultation and advice from the City's lawyers relevant to the Belmont Trust, to the residents and ratepayers of Belmont?

#### **Response**

**The total legal expense costs incurred over the last 15 years by the Belmont Trust amounts to \$134,775.**

### **5.1.3 MR R BROINOWSKI, 66 ARMADALE ROAD, RIVERVALE**

The following questions were taken on notice at the 28 July 2020 Ordinary Council Meeting. Mr Broinowski was provided with a response on 11 August 2020. The response from the City is recorded accordingly:

1. I ask Council to pressure the Department of Communities to refrain from any placement of small children at Francisco St at the corner of Toorak Road in those units because they have been classified as temporary housing only and not permanent housing?

#### **Response**

**As the City of Belmont is not responsible for the properties mentioned it is unable to comment. The City however agrees to discuss the matters raised by Mr Broinowski at the next opportunity with the Department of Communities.**

*Item 5.1.3 Continued*

2. I ask the Council to persuade the Department of Communities to close down the derelict units at Nannine Place? I am asking Council, at their regular meetings with Homeswest, to persuade them to do more at Nannine Place.

**Response**

The Department of Communities (DOC) complex at 48-52 Nannine Place, Rivervale comprises of 82 residential units. The City is aware that the complex has over the years been the focus of ongoing community complaints related to anti-social behaviour, dumping and general property disrepair.

In early 2020, the City was informed by DOC that they were organising a multi-agency response to address these problems and requested support from the City. As a result, on 12 February 2020 a large number of officers met on site to undertake inspections of all the tenancies. In attendance were:

- Department of Communities Housing Officers (12)
- Disruptive Behaviour Case Managers (2)
- Property Services Officers (2)
- Regional Manager
- Police Officers (5)
- City of Belmont Officers:
  - Environmental Health Officer
  - Ranger
  - Community Safety and Crime Prevention Officers (2)
  - Coordinator Community Safety.

City Officers provided advice and information to tenants.

The operation was considered a success and DOC intended to undertake ongoing quarterly inspections with the assistance of police and Council officers. Unfortunately, due to the restrictions introduced as a result of the COVID-19 pandemic, a follow up inspection has not occurred. However when the next inspection does occur, the City will provide a 'pop up' Community Safety display for the benefit of the tenants.

In view of this proactive response by DOC and other supporting agencies, the City will not be seeking the closure of the complex.

*Item 5.1.3 Continued*

3. I ask Council to consider opening the Councillors bar on more occasions? Public relations is very important and very few Councillors apparently drink and I have never seen anyone misbehave at meetings. Because this is a peaceful community, a little bit of wine and occasional beer so residents can meet more with Councillors would help improve relations.

**Response**

**The use of the City of Belmont's refreshment facilities is guided by Council policy and may be utilised at the Mayor's discretion.**

4. Can Council ban really "over the top" serial council culture people? Should such people be termed as "vexatious", sometimes making the auditorium an unpleasant place to be? Voicing opinions should be less personal and less sexist, racist or plain nasty. Can the Council correct or introduce mediation to handle some of the questions outside of this Council meeting?

**Response**

**The City does have the ability to manage inappropriate behaviour during Council meetings in accordance with its *Standing Orders Local Law 2017*. During meetings, the Presiding Member has discretion in its application. Council meetings are established with the intent to include appropriate public participation and the circumstances in which a member of the public can be refused access are very limited.**

**5.1.4 Ms L HOLLANDS ON BEHALF OF BELMONT RESIDENT AND RATEPAYER ACTION GROUP (BRRAG)**

The following questions were taken on notice at the 28 July 2020 Ordinary Council Meeting. Ms Hollands was provided with a response on 12 August 2020. The response from the City is recorded accordingly:

1. The City of Belmont adopted Policy BEXB10.1 Gratuity Payments and Gifts to Employees. Under Section 5.50 1 (b) which reads, "the manner of assessment of the additional amount and cause local public notice to be given in relation to the policy, I ask:
  - a) What year did the Policy get adopted by the Council?
  - b) On what date was public notice given?
  - c) Where can we obtain a copy of the public notice?

**Response**

- a) **The Policy is reviewed and adopted annually. The Gratuity Policy itself, has been in existence for over 25 years.**
- b) **The latest Public Notice was on 23/01/07.**
- c) **The Southern Gazette may provide a back copy of the relevant issue otherwise the State Library of WA may be able to assist.**

*Item 5.1.4 Continued*

2. Section 5.52 (b) reads “a local government may make a payment that is more than the additional amount set in the Policy under Sub Section 1 and adopted by the local government but local public notice is to be given in relation to the payment paid. With the two employees that will be leaving soon and taking home around \$170,000 between them, are either of them getting more gratuity payment than set out in the policy and, if so, when can we expect the public notice to be given?

**Response**

**The officers’ payments accord with Council Policy.**

3. In the budget tonight we find that residents who do not pay rates in one hit and pay by the four instalments will be hit with a \$20 fee on each payment, interest of more than 5% and the payment of 8%, all allowed under the Local Government Act. The City of Canning voted to remove the additional costs allowed under the Local Government Act, the budgeted cost for this is approximately (according to their figures) \$300,000. Why has the City of Belmont decided to keep these additional costs for Belmont residents in these tough times, but potentially give away vehicles valued at more than \$300,000? How can this be justified when there are many residents out there that may not be in hardship but still doing it tough?

**Response**

**The \$20 Instalment Fee is charged per instalment arrangement, not per payment. Hence the fee incurred will be \$20 per arrangement (if the instalment option is elected by the rate payer) and not \$80 as incorrectly indicated by BRRAG. The City of Canning revenue figures are irrelevant.**

**The inclusion of the small fees associated with payment by instalments, and interest on overdue rates where a rate payer cannot be considered to be in hardship contribute to the associated costs and is also a practical mechanism to ensure that there remains an encouragement for payments to be made in a timely manner. If all rate payers delayed their payments until 30 June 2021, the City would be unable to provide the services that the community needs during this time. This approach assists in ensuring that funds are available to provide appropriate assistance and services as required.**

4. The Councillors have been provided with a copy of a letter that we wrote to the Federal Aged Care Minister. We asked why HACC services were given to an organisation which, if the report is accurate, may not be able to continue with transport services without these vehicles. What involvement did the City of Belmont have in the selection of MercyCare as the replacement provider and were you made aware of what facilities they could or could not provide?

*Item 5.1.4 Continued*

## **Response**

The City of Belmont ran an Expression of Interest (EOI) for prospective service providers in accordance with a transition out plan agreed with the Commonwealth. Despite the fact that Council had no say in who the service provider appointed by the Commonwealth would be, the EOI was intended to assist the Commonwealth with shortlisting appropriate service providers who would deliver services on par or better with the existing service then provided by the City. It was indicated use of vehicles would be provided as a part of that EOI.

In their response to the EOI, MercyCare indicated they would be able to continue and expand on current Harman Park activities, plus provide additional benefits, such as extended hours of operation. This was on the basis of the EOI which advised the use of the vehicles.

## **5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC**

7.05pm The Presiding Member drew the public gallery's attention to the rules of Public Question Time as written in the Agenda. In accordance with rule (I), the Mayor advised that he had registered 12 members of the public who had given prior notice to ask questions.

The Presiding Member invited members of the public who had yet to register their interest to ask a question to do so. Three further registrations were forthcoming.

### **5.2.1 MR G J SUTHERLAND, 74A MORRISON STREET, REDCLIFFE**

Re: To the Belmont City Council, The Haven Centre Inc is a registered Charity (Federal & State) feeding the homeless and those living in financial difficulties in the Community, THCI is applying for Exemption from the Belmont City Council Rates for Leasing-Outgoings of Rates-(Lessee). Rates Exemption Exclusive for Charity Purposes and seeking Approval,

That Part of the Building situated at and known as;

(Rear) 22 Wynyard Street, Belmont 6104 WA. The Haven Centre Inc- Newday Furnishings Distribution Warehouse.

LAND:

Lot (part of 83) on 02094 and being the whole of the land in the Certificate of Title Volume 1148 Folio 993.

1. Requesting follow up and updates from previous submissions on Tuesday 23 June 2020 at 7pm in Council Chambers.

## **Response**

The Presiding Member advised that in accordance with section 6.2(6) of the *Standing Orders Local Law 2017*, this question is to be responded to as normal business correspondence. However, the Director Corporate and Governance has already responded to this question by email dated, 17 August 2020.

### **5.2.2 MR A HAN, 393 DALY STREET, CLOVERDALE**

1. Due to the fact that there are 48 car parking bays on-site at 106 Robinson Ave, we are wondering if it is possible to give consideration to some sort of probationary period. We understand there was a shortage of 35 car parking bays. We will be speaking to our strata owners to make provisions for the 48 car parking bays that are already there. We will require time and effort to get this shortfall across. Would Council give consideration to a probationary period?

#### **Response**

**The Director Development and Communities advised that in regard to the shortfall, that has been covered a number of times. In reference to temporary approval for one to two years, that is a matter for Council to consider.**

2. We understand there are other Councils that have approved shortfalls such as Osborne Park Church, which gained approval with a shortfall of 340 car parking bays. Would this be a consideration, given where Robinson Avenue is as there are currently no activities on Sundays and allow us the opportunity to go into the area and build up the community there?

#### **Response**

**The Director of Development and Communities advised that the site and context is likely to be different to the subject proposal. Drawing comparison with a development proposal in Osborne Park, which is within another Local Government, would not be appropriate.**

### **5.2.3 Ms P BIN HO, 28 NETHERCOTT STREET, HUNTINGDALE**

1. In talking about the one to two years probationary period, when we talked to potential builders to draw up the renovations, we were advised that the renovations would take at least nine months, so a probationary period of one year would not make sense to us to complete the renovations, move in and try out and try to follow the probation criteria. I would like to request whether you would consider a longer term of probation, as it is too short for us to work through the differences?

Would you consider a two to three years term rather than a one year term as a period of probation?

#### **Response**

**The Director Development and Communities advised that irrespective of whether a temporary approval or a perpetual approval is granted for the proposal, it is considered that the extensive shortfall of on-site car parking will have a detrimental impact on the surrounding businesses in the locality and this is because the lease arrangements cannot be guaranteed that patrons will not use the publicly available street parking. This would prejudice the existing and future businesses to have access to the on-street car parking. Again, it is up to Council whether they would want to consider a temporary approval, which tend not be temporary, or an ongoing approval.**

Item 5.2.3 Continued

2. One of the reasons we chose this location for our church was because we have many church members who live in the City of Belmont. What is Council's future plan in the area so we can partake?

### **Response**

The Director Development and Communities advised that the City has aimed to support and facilitate existing businesses and the establishment of new businesses to support revitalisation of the business park through initiatives such as the upgrade of Belmont Avenue. The work undertaken to date has improved amenity and sustainable transport options for workers and visitors. These include road upgrades, installation of underground power, developing additional parking bays, landscaping, signage, new streetscape and public transport infrastructure, such as the addition of bus stops with shelter provision. Other initiatives to boost revival of this mixed use business area include regular communications with businesses and electronic newsletters as well as the opportunity for local businesses to apply for Belmont Business Innovation Grants with funding for innovative business ideas that contribute to the City's economic development. In terms of social development, that tends to be focused on our residential precincts and is facilitated through the Economic Development team.

### **5.2.4 MR R BROINOWSKI, 66 ARMADALE ROAD, RIVERVALE**

1. Will the Council Legal Department advise the Gallery how unwise it would be to sue for petty defamation actions in the light of the costs to go to the Supreme Court of WA with Barristers. Can I cause an action in a Lower Court?

### **Response**

**The Chief Executive Officer advised that Council does not have a Legal Department. We do not provide legal advice on such matters.**

2. As I today received a letter threatening action for defamation, I ask Council to look into this and other erroneous 'STUFF' and call them out so we can get on with 'Building a Better Belmont'?

### **Response**

**The Chief Executive Officer advised that Council is unable to undertake an investigation as requested, nor can it provide legal support on this matter.**

3. Will Council please place some "See and Hear" Security signs around in Belvidere Street before the new project starts at IGA?

### **Response**

**The Chief Executive Officer advised that the question would be taken on notice.**

Item 5.2.4 Continued

4. Please ask the Legal Department to define the term 'Vexatious Litigants' and the outcome if people are in receipt of such a court order in the Magistrates Court or other Court.

#### **Response**

**The Chief Executive Officer advised, as stated previously, the Council does not have a Legal Department and does provide legal advice on such matters.**

#### **5.2.5 MS L HOLLANDS ON BEHALF OF Ms S CARTER, 3/10 MARINA DRIVE, ASCOT**

Council may recall matters were previously raised by several members of the Public (Refer Lot 262 on Plan 26711 (16A) Tidewater Way Grant of easement for encroachment of public art, Council's OCM Minutes 26 May 2020, Item 12. 4; and Items 5.2.1, 5.2.3 and 5.2.4 Public Question Time).

Upon reading the documents above, I do not understand why the easement had not been finalised until after the majority of lots had been sold and I seek from the City:

1. The reasons the public art concept had not been finalised as the process appears to have been outlined quite well on the information sheet's guidelines?

#### **Response**

**The Director Development and Communities advised that this question would be taken on notice.**

2. Clarification of whether or not the building permit for the development was granted without the public artwork comprising part of it? It is a legal requirement under the Building Act 2011 for ALL building work, including incidental structures, to be approved by a building permit prior to the work commencing, so the easement requirement ought to have been known in 2016.

A review of the published documents, the process and terms so that in future public artwork which encroaches on Council land will NOT be approved. It is my recommendation that a statement be made that if a development cannot contain the public artwork within its property boundaries, a financial contribution to the City in lieu of the artwork will be sought instead?

#### **Response**

**The Presiding Member advised that this question would be taken on notice.**

Item 5.2.5 Continued

3. Regarding Item 12.7 of the Agenda – Policy SB4.1, can the Council please refer the proposed Policy back to the officer for further review for the following reasons?
- That metadata analysis as a reason for the use of the video surveillance system and ‘improved function of services’ within the City of Belmont does not offset the fact that such recording devices and activities will intrude to an unreasonable extent on the privacy of 99.9% of individuals, who will have their activity monitored and who are not engaged in any criminal behaviour. Data collection does not justify intrusion. The review of metadata collected by the City will allow its officers to view, indiscriminately, for example, women’s cleavages, shortness of women’s skirts, men’s musculature, people bending over accidentally exposing themselves etc.
  - The gathering of metadata for analysis from video footage should be transparent and accountable and conducted only by qualified independent research organisations who have no link or interest to the data derived by the City of Belmont. Such outsourcing would have financial implications and should be considered before endorsement of any collection of any metadata analysis.
  - The policy, as put forward, does not state the City’s legal requirement to prominently display signage that notifies individuals of the reason, legislative authority and agency disclosure relevant to obtaining such footage, for the purpose of acquiring such metadata, and the officer’s report does not quantify the financial expenses of doing so.
  - The policy neither includes statements on the need for the City to store the data, establish time limits and safeguard areas where this footage is viewed, retained, stored and overwritten, nor does it make statements regarding standards for the disposal of the footage and auditing of such disposal methods.

For reasons above, the ‘policy’ in its current form is inadequate in that it does not address some key issues.

## Response

**The Director Development and Communities advised that since 2009 the City’s CCTV network has grown to over 470 CCTV cameras, installed at various locations throughout the City.**

**Only a small number of staff are authorised to access and view CCTV footage. All authorised officers have signed a code of conduct and any access to the City’s CCTV system is monitored and recorded.**

**Officers cannot view CCTV footage speculatively and must always have good reason to access the system. Such reasons would be for example police requests for evidentiary/investigative purposes and to carry out maintenance checks on the system.**

**The City’s CCTV Management and Operations Manual details all the City’s responsibilities pertaining to data retention times, onsite erection of CCTV signage and collection, storage and handling of CCTV footage.**

Item 5.2.5 Continued

**The Manual is currently under review but is still available on the City's BeCrimeFree website.**

**In contrast to the above, Policy SB4.1 – Closed Circuit Television – (CCTV) Video Analytics Policy deals with the collection of CCTV metadata.**

**Metadata is a set of data that describes and gives information about other data, in this case elements of the captured CCTV footage. This does not include personal information which would identify an individual.**

**To clarify further, the CCTV cameras at the Belmont Hub will record and store CCTV footage in the normal manner and will allow for the identification of individuals when required. However the analytics software, subject to the Policy, will extract information from the captured CCTV footage and provide data such as number of people, man, woman, child, dog, movement, colour of clothing etc.**

**As such, concerns regarding the indiscriminate or inappropriate viewing of residents in terms of this Policy is not warranted. However as previously mentioned, the City does have long established procedures and controls within its Manual to deal with such concerns.**

**If however Ms Carter has any other concerns in relation to the Policy or the City's use of CCTV, the Coordinator Community Safety would be more than willing to discuss this matter with her.**

#### **5.2.6 MR B CHILDS, 122 SYDENHAM STREET, KEWDALE**

1. Can you confirm that Council's (\$25m - \$45m) overrun of \$17m to build our Community Hub will not directly affect our rates?

#### **Response**

**The Director Development and Communities advised that there is no overrun. The estimated cost of \$28m related to a project estimate for an early design concept dating back to mid-2015. Subsequent to this, the detailed specification for the building was developed, including the various community-focused facilities; achieving a 5 star Green Star environmentally sustainable design; and addressing the latent site conditions that were identified during the design phase. During the course of this process, the estimated construction cost was reviewed and updated on several occasions to factor in these requirements, all of which were reported to Council. The inference that this equates to an overrun misconstrues the process that took place by comparing preliminary cost estimate information that dates back to mid-2015 with updated information that formed the basis for the City proceeding to tender the construction of the building and awarding a contract in late 2017. The tender cost was \$38m excluding fitout. This has not impacted Rates negatively.**

Item 5.2.6 Continued

2. Can you confirm that alcohol is consumed by those attending the meal prior to the Ordinary Council Meeting?

**Response**

**The Presiding Member confirmed that alcohol is not consumed by Elected Members or Officers at meals prior to any Council Meeting.**

**5.2.7 MR L ROSOLIN, 250 HARDEY ROAD, BELMONT**

1. Who looks after the mobile telephone numbers listed on Council's website for Elected Members?

**Response**

**The Chief Executive Officer advised that anyone contacting the City using the numbers provided for the Administration Centre with a query, will be responded to by an Officer. Similarly, submitting an enquiry in writing or via email, the enquiry would be responded to in accordance with our Customer Service Charter. Any enquiry relating to the individual Councillor's details would need to be directed to the individual Councillor.**

2. Does someone at the Council manage the Councillor's contact telephone numbers?

**Response**

**The Chief Executive Officer advised that the City's Administration Officers do not monitor individual Councillor's mobile phones.**

**7.39pm ROSSI MOVED, DAVIS SECONDED that Public Question Time be extended.**

**CARRIED 9 VOTES TO 0**

**5.2.8 MR P HITT, 14 MCLACHLAN WAY, BELMONT**

1. If Councillor Sekulla's Motion gets up tonight and the Seconder are Members of the Labour Party, I would be interested to hear how they can justify voting for the head representative of the Political Party to which they may belong. I believe to vote for your boss in this instance could be seen rightly or wrongly as "feathering your own nest" and a direct conflict of interest. In the interest of Local Government being seen to be completely impartial, I therefore request this motion be withdrawn. This may save immediate and future embarrassment to all parties.

**Response**

**The Presiding Member stated that Cr Cayoun had declared an interest and advised that the matter would be considered by Council at Item 13.3.**

**5.2.9 Ms E WALLACE, 80 ARMADALE ROAD, RIVERVALE AND MS D SESSIONS, 19 ARMADALE ROAD, RIVERVALE**

Attending the Community Engagement for the Wilson Park Upgrade a few years ago, we have not seen any output for the project excluding the netball courts.

1. Is the Wilson Park Upgrade still an active project for the City of Belmont and is there still good sentiment within the City of Belmont for the future of the upgrade development?

**Response**

**The Chief Executive Officer advised that at this stage, this project is still in the development phase, however will take this question on notice to be able to provide a more comprehensive response.**

2. Was there a preferred development plan created from the Community Engagement and if so, what were the general features and stages of the development?

**Response**

**The Chief Executive Officer advised that the question will be taken on notice.**

3. Was there a capital cost estimate produced for the preferred development expenditure and if so, what was the order of magnitude cost?

**Response**

**The Chief Executive Officer advised that there was not a firm capital costs estimate produced and will take this question on notice to provide accurate information.**

4. What funding opportunities have the City of Belmont explored for the Wilson Park Precinct Upgrade?

**Response**

**The Chief Executive Officer advised that the City is always looking at opportunities for funding from State and Federal Government but will take the question on notice to enable a detailed response.**

5. Where does the Wilson Park Precinct Upgrade rank in comparison to other City of Belmont projects that are competing for capital expenditure?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

*Item 5.2.9 Continued*

6. Is there anything further that the residents can do to productively assist the City of Belmont in progressing with Wilson Park Precinct Upgrade?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice and responded to in due course.**

**5.2.10 MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE**

1. At the July Council Meeting, I asked what the \$200,591 legal bill from McLeods was for. The response was taken as correspondence. The question was regarding the provision of legal advice and services to the City with the most significant cost for June relating to legal services to assist with the confidential land acquisition resolved by Council on 23 June 2020 at the Ordinary Council Meeting.

Does the matter relating to the land acquisition involve any court hearings and was any of this money attributed to any other matters before any other panel or tribunal?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

2. In terms of the cost being significant, two days in the Supreme Court with preparation and appearance would normally be in that vicinity. Did the Mayor or Councillors ask to see a copy of the invoice or scrutinise the account?

**Response**

**The Presiding Member advised that that would be an operational matter that Councillors would not be involved in.**

3. Do Councillors not check the accounts because it is operational?

**Response**

**The Chief Executive Officer advised that the Schedule of Accounts are presented to Council on a monthly basis and Council review those as part of the Agenda Item each month.**

4. Questions asked at the last Council Meeting relating to the Accounts were responded to as correspondence, as opposed to the questions being taken on notice. Why did you decide to respond to these as correspondence when it relates to money that belongs to the rate payer and do you think it is being transparent to the ratepayer?

**Response**

**The Chief Executive Officer advised that these questions were answered as correspondence as these matters were operational in nature and a response was provided accordingly.**

*Item 5.2.10 Continued*

5. When a matter is operational does that mean it is not open to residents knowing the answer?

**Response**

**The Chief Executive Officer advised, the response was given on the night and in accordance with the Standing Orders of this Council.**

6. Is there any reason why the City does not want the ratepayer to hear these questions that come up about finances?

**Response**

**The Chief Executive Officer advised that there was not.**

7. On this month's accounts under the heading of Comestibles, Catering and Supplies, there is an amount of \$3,975.72 and on top of this there is another sum of a large invoice on 16 July for \$19,056 for practical products under Catering and Catering Supplies. What was this purchase for?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

**5.2.11 Ms L HOLLANDS ON BEHALF OF BELMONT RESIDENT AND RATEPAYER ACTION GROUP (BRRAG)**

1. I asked a question about the Gratuity Payments Policy last month and my question might not have been clear. What was the commencement date of the original policy over 25 years ago?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

2. What date did the advertisement run and what paper ran the advertisement?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

3. Where can a copy of the original advertisement be obtained as well as a copy of the original policy?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

*Item 5.2.11 Continued*

4. The report for Item 12.2 refers to the City assuming some legal liability if the tree causes damage to property or injury to a person. Have the Councillors been provided with written legal advice that this would be the case, as previously the Planning Department has been proven wrong in their interpretation?

**Response**

**The Director Development and Communities advised that advice sought from our insurers LGIS indicated there may be some liability to the City.**

5. The Arborist's report assessed the tree as being a healthy and structurally sound amenity tree, becoming increasingly rare due to the loss of backyard and land use practices. Why is the Arborist opinion given less regard than the opinion of the Planning Department?

**Response**

**The Director Development and Communities advised that the Arborist assessment is just one aspect of the assessment. All the aspects are taken on board which includes advice from LGIS, the Arborist and the planning assessment. A report is then prepared that weighs up all the issues and subsequently makes a recommendation to Council.**

6. How is not encouraging residents to keep a healthy, structurally sound tree in keeping with the Urban Forest Canopy Plan?

**Response**

**The Chief Executive Officer advised the assessment was carried out and addressed a number of criteria and the Arborist report is just one of those criteria. The City encourages all residents to retain trees and the resident who owns the property in this matter does intend to retain the tree.**

7. As a Tree Preservation Order (TPO) is not being recommended, how is this complying with the Urban Forest Canopy Plan?

**Response**

**The Chief Executive Officer advised that the City's Urban Forest Canopy Plan mainly deals with trees in the public realm. The resident here has no intention of removing the tree and will continue to contribute to the canopy cover within the City.**

8. Can anybody apply for a TPO on a tree that fits the requirements?

**Response**

**The Chief Executive Officer advised that anyone who applies would be required to go through the same rigorous assessment that was carried out in this instance.**

**5.2.12 Ms J GEE, 97 GABRIEL STREET, CLOVERDALE**

1. Can Council tell me why many of the questions asked at recent meetings have been deemed correspondence?

**Response**

**The Chief Executive Officer advised that those questions were treated in accordance with the City's Standing Orders and a response is given.**

2. Are we circumventing having questions kept out of the minutes?

**Response**

**The Chief Executive Officer advised the City is following the Standing Orders that have been adopted by this Council.**

3. On many occasions I have raised the issue of the City's Complaints Management System. I would like to know what the process is for dealing with complaints about staff and Councillors and the general public after the incident following the July's meeting. Can Council tell me if there is a Complaints Management Policy and process and where can I get a copy?

**Response**

**The Chief Executive Officer advised that this question would be taken on notice.**

4. Is the new building next door open yet? I notice it is all lit up.

**Response**

**The Chief Executive Officer advised that there are still some fit out issues that need to be addressed before the building can open.**

5. Why then is it lit up, wasting energy?

**Response**

**The Chief Executive Officer advised that staff are still in there at night and there are security patrols that go around the building and the lights deter any antisocial behaviour or vandalism.**

6. There has been a judgement in favour of Mark McGowan, so is Item 13.3 still relevant?

**Response**

**The Presiding Member advised that this will be decided when the item is discussed.**

**5.2.13 Ms C ROWE MLA, UNIT 1, 275 BELMONT AVENUE, CLOVERDALE**

There are 600 members and six clubs associated with the netball association. Part of the court's popularity means that the courts are deteriorated, needing to be completely resurfaced and new lighting so that players can do so in the evening safely. The quality of existing courts makes it difficult to play top quality netball and increases the likelihood of injuries. I am here to support the upgrade of the netball club courts.

1. Will Council consider supporting in this endeavour?

**Response**

**The Chief Executive Officer advised that Council will consider the level of support at this Item in the Agenda.**

**5.2.14 MR E TEASDALE, 25 WILLOW TREE DRIVE, KEWDALE**

1. There was an inequity in the representation per Councillor in 1995. My question is in relation to Item 12.5 on the Agenda. Why is Council going down that road again?

**Response**

**The Manager Governance advised that there is a legislative requirement under *the Local Government Act 1995* to undertake a review in a period of not more than eight years. It is a requirement that Council must consider its ward structure and the number of Councillors that it currently has. Tonight is the commencement of the process to go out to public consultation, after which there will hopefully be some feedback from the public and a further report to Council in the coming months.**

**8.02pm As there were no further questions, the Presiding Member declared Public Question Time closed.**

**6. CONFIRMATION OF MINUTES/RECEIPT OF MATRIX**

**6.1 ORDINARY COUNCIL MEETING HELD 28 JULY 2020**

**OFFICER RECOMMENDATION**

**DAVIS MOVED, POWELL SECONDED**

**That the Minutes of the Ordinary Council Meeting held on 28 July 2020 as printed and circulated to all Councillors, be confirmed as a true and accurate record.**

**CARRIED 9 VOTES TO 0**

**6.2 MATRIX FOR THE AGENDA BRIEFING FORUM HELD 18 AUGUST 2020**

**OFFICER RECOMMENDATION**

**POWELL MOVED, DAVIS SECONDED**

That the Matrix for the Agenda Briefing Forum held on 18 August 2020 as printed and circulated to all Councillors, be received and noted.

**CARRIED 9 VOTES TO 0**

**7. QUESTIONS BY MEMBERS ON WHICH DUE NOTICE HAS BEEN GIVEN  
(WITHOUT DECISION)**

Nil.

**8. QUESTIONS BY MEMBERS WITHOUT NOTICE**

**8.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE**

Nil.

**8.2 QUESTIONS BY MEMBERS WITHOUT NOTICE**

Nil.

**9. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON  
PRESIDING OR BY DECISION**

Nil.

**10. BUSINESS ADJOURNED FROM A PREVIOUS MEETING**

Nil.

**11. REPORTS OF COMMITTEES**

**11.1 STANDING COMMITTEE (AUDIT AND RISK) HELD 27 JULY 2020**  
(Circulated under separate cover)

**OFFICER RECOMMENDATION**

**DAVIS MOVED, SEKULLA SECONDED**

That the Minutes for the Standing Committee (Audit and Risk) meeting held on 27 July 2020 as previously circulated to all Councillors, be received and noted.

**CARRIED 9 VOTES TO 0**

**11.2 STANDING COMMITTEE (COMMUNITY VISION) HELD 18 AUGUST 2020**  
(Circulated under separate cover)

**OFFICER RECOMMENDATION**

**ROSSI MOVED, POWELL SECONDED**

That the Minutes for the Standing Committee (Community Vision) meeting held on 18 August 2020 as previously circulated to all Councillors, be received and noted.

**CARRIED 9 VOTES TO 0**

**12. REPORTS OF ADMINISTRATION**

**WITHDRAWN ITEMS**

Item 12.1 was withdrawn at the request of Cr Davis  
Item 12.2 was withdrawn at the request of Cr Davis  
Item 12.4 was withdrawn at the request of Cr Wolff  
Item 12.7 was withdrawn at the request of Cr Cayoun

**BASS MOVED, DAVIS SECONDED**

*That with the exception of Items 12.1, 12.2, 12.4 and 12.7, which are to be considered separately, the Officer or Committee Recommendations for Items 12.3, 12.5, 12.6, 12.8, 12.9 and 12.10 be adopted en bloc by an Absolute Majority decision.*

**CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0**

**12.1 CHANGE OF USE – WAREHOUSE AND OFFICE TO PLACE OF WORSHIP (WITH ASSOCIATED SIGNAGE) – LOT 2 (2/106) ROBINSON AVENUE, BELMONT**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 1 – Item 12. 1 refers	<a href="#">Development Plans</a>
Attachment 2 – Item 12. 1 refers	<a href="#">Parking Management Plan</a>
Attachment 3 – Item 12. 1 refers	<a href="#">Traffic and Parking Impact Assessment</a>
Attachment 4 – Item 12. 1 refers	<a href="#">Waste Management Plan</a>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001-Development/Subdivision/Strata-Applications and Application Correspondence
Location / Property Index	:	Lot 2 (2/106) Robinson Avenue, Belmont
Application Index	:	100/2019
Disclosure of any Interest	:	Nil
Previous Items	:	26 May 2020 Ordinary Council Meeting Item 12.1
Applicant	:	Aquila Architects Pty Ltd
Owner	:	D Gerace ATF The Gerace Family Trust
Responsible Division	:	Development and Communities Division

**COUNCIL ROLE**

- |                                     |                       |   |
|-------------------------------------|-----------------------|---|
| <input type="checkbox"/>            | <b>Advocacy</b>       | <i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>   |
| <input type="checkbox"/>            | <b>Executive</b>      | <i>The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>  |
| <input type="checkbox"/>            | <b>Legislative</b>    | <i>Includes adopting local laws, local planning schemes and policies.</i>   |
| <input type="checkbox"/>            | <b>Review</b>         | <i>When Council reviews decisions made by Officers.</i>   |
| <input checked="" type="checkbox"/> | <b>Quasi-Judicial</b> | <i>When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

**PURPOSE OF REPORT**

For Council to determine a development application for a Change of Use from Warehouse and Office to Place of Worship at Lot 2 (2/106) Robinson Avenue, Belmont.

*Item 12.1 Continued*

**SUMMARY AND KEY ISSUES**

- The subject site is zoned Mixed Business under Local Planning Scheme No. 15 (LPS 15). Under Table 1 of LPS 15, a Place of Worship is designated as a 'D' use in the Mixed Business zone, which means it is not permitted unless the local government has exercised discretion by granting planning approval.
- The Change of Use was previously considered by Council at the 26 May 2020 Ordinary Council Meeting (OCM). Council resolved to defer the application to allow the proponent further time to address the car parking shortfall for the proposed Place of Worship.
- Eight car parking bays are allocated on the strata plan for use by the subject tenancy. In accordance with LPS 15, 43 car bays are required for the proposal. This represents a shortfall of 35 bays. The applicant previously proposed that the 35 bay shortfall could be accommodated in the on-street car parking bays.
- The applicant now proposes to lease the use of 60 bays to supplement the car parking shortfall for the proposed Place of Worship. These lease arrangements are not considered acceptable on the basis that the landowners of the properties have not consented to the application. This means the perpetual use of the car parking bays cannot be guaranteed.
- The amended proposal has not been advertised to property owners/occupants in the locality. This is on the basis that the proposal was previously advertised to neighbouring business owners and operators, and the applicant has not proposed any significant change to the car parking arrangements.
- As the ongoing use of the 60 bays cannot be guaranteed, the car parking arrangements are inadequate and is likely to default to the use of on-street bays which will have a detrimental impact on the amenity of the locality.
- It is recommended the application be refused.

**LOCATION**

The subject Strata Lot (Lot 2) is 571m<sup>2</sup> in area and is located within a commercial strata complex comprising six tenancies. The surrounding area is characterised by a mix of Office, Warehouse, Showroom and Light Industry uses.

The subject site is located along the street block between Esther Street and Alexander Road, within the Belmont Business Park (refer Figure 1 below).

Item 12.1 Continued



Figure 1: Aerial of Subject Property

The street block between Esther Street and Alexander Road has 48 car parking bays within the road reserve, with an additional 16 bays located at the Esther Street car park.

The subject property is also located within close proximity to the three properties which the applicant proposes to lease the use of car parking to supplement the on-site car parking shortfall for the Place of Worship. This provides an additional 54 bays for use by the proposed Place of Worship on Sunday mornings.

Figure 2 below depicts the location of the on-street bays and the three lease properties.

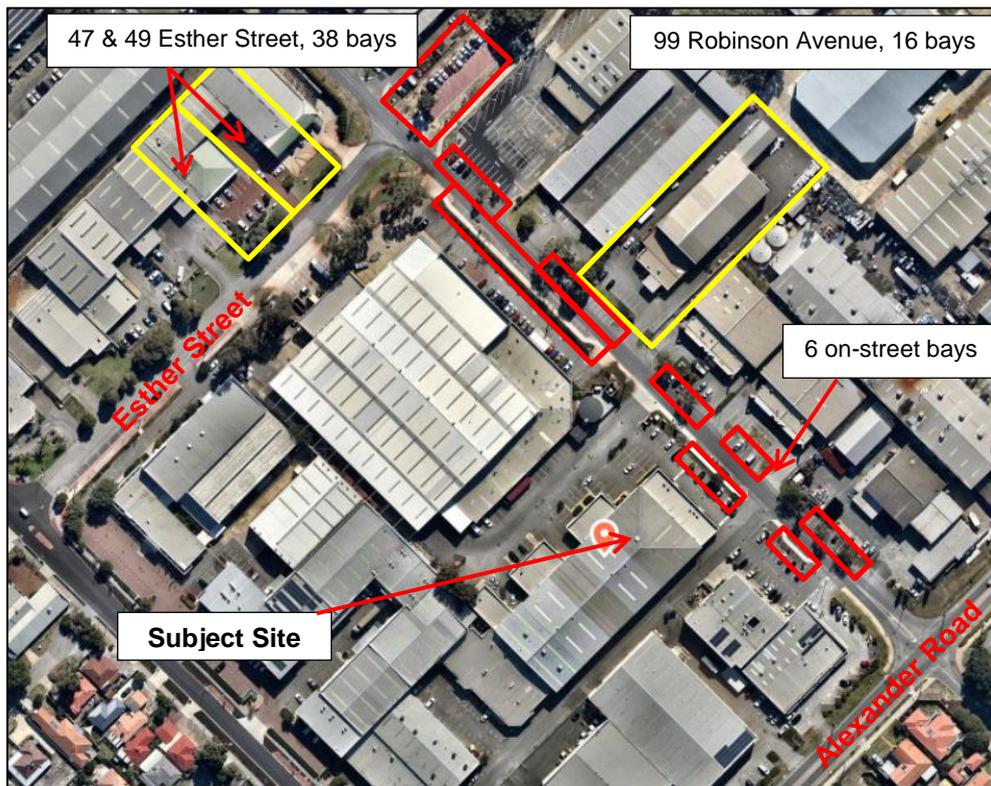


Figure 2: On-street Car Parking (bordered red) & Lease Properties (bordered yellow)

Item 12.1 Continued

## **CONSULTATION**

Category B applications are those that need advertising, additional information, documentation or revisions, approvals from other bodies such as Committees or Council, or are building licences that required a development application. Category B applications may need statutory advertising, referral to neighbours or consideration by Council.

The application was previously advertised for 15 days from 10 February 2020 to 24 February 2020 (inclusive). The modified application has not been advertised to surrounding property owners and occupiers on the basis that there is no significant change to the proposal that guarantees the provision of car parking for the proposed Place of Worship. It is considered that submissions from the previous consultation period already identified relevant concerns. A summary of the outcome from the previous consultation is outlined below.

Figure 3 below depicts the extent of advertising previously carried out.

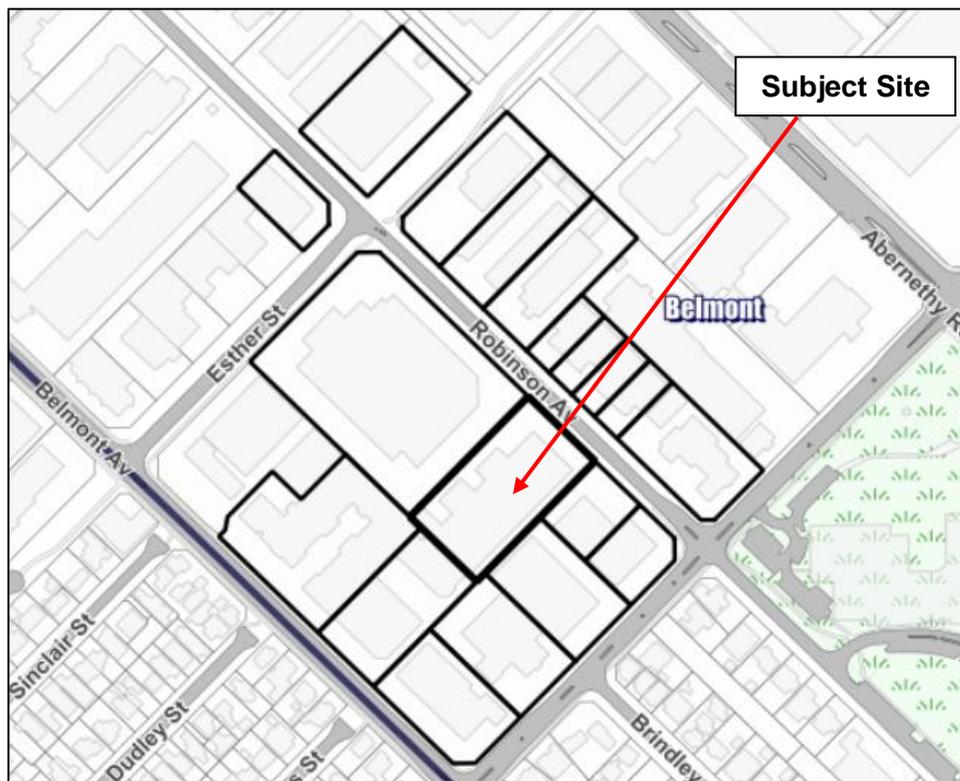


Figure 3: Referral Area (owners and occupiers)

A total of 12 submissions were received. Two submissions were in support while 10 submissions objected to the proposal. The main concerns raised in the submissions include:

- The use of the on-street bays will negatively impact on existing and future business within the precinct by causing an increase in the demand in car parking.
- The use of the on-street bays by the proposed Place of Worship will prejudice future businesses within the area that may also require the use of these bays.

*Item 12.1 Continued*

To address the car parking shortfall, the proponent subsequently approached various businesses in the surrounding area to discuss the car parking arrangements for the proposed Place of Worship.

Two (2) business owners/operators contacted the City to raise concerns over the application. Their concerns include:

- That the proposed Place of Worship cannot be accommodated within the subject site as there are not enough car bays allocated for the use.
- The likelihood that the proposed Place of Worship will conduct weekday activities as they previously intended, even though they now propose that weekday activities will not take place.
- The proponent's conduct towards business owners/operators in their discussions regarding the proposed car parking arrangements. In particular, repeatedly requesting business owners to make their car parking spaces available for the proposed use even when they previously declined.

One business operator provided support for the application. The support was on the proviso that the proponent will not be hosting large groups during weekdays.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Built Belmont.

**Objective:** Achieve a planned City that is safe and meets the needs of the community.

**Strategy:** Encourage a wide choice and consistent implementation of development approaches.

**Corporate Key Action:** Implement LPS 15.

### **POLICY IMPLICATIONS**

#### **Local Planning Policy No. 12 – Advertisement Signs**

The applicant is also proposing signage as part of this application. Local Planning Policy No. 12 (LPP 12) provides standards for advertisement signage within the City of Belmont. The Policy outlines the objectives and standards against which the City will assess applications for advertisement signs.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City.

Item 12.1 Continued

## **STATUTORY ENVIRONMENT**

### **Local Planning Scheme No. 15**

The subject site is zoned Mixed Business under LPS 15. Under Table 1 – Zoning Table, a Place of Worship is designated as a ‘D’ use within the Mixed Business zone which means that the use is not permitted unless the local government has exercised discretion and granted planning approval. Clause 5.12 of LPS 15 sets out the development standards that apply specifically to the Mixed Business zone.

Clause 4.2 of LPS 15 states the objective of the Mixed Business zone:

*“The ‘Mixed Business’ zone is intended to allow for the development of a mix of varied but compatible business uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents...”*

Clause 5.5.1 of LPS 15 states that where a development does not comply with a standard or requirement under LPS 15, the local government may, despite the non-compliance, approve the application unconditionally or subject to conditions as the local government thinks fit.

Clause 5.5.3 of LPS 15 sets out that the power of Clause 5.5.1 may only be conferred where:

- “(a) approval of the proposed development would be appropriate having regard to the criteria set out in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015; and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality”.*

Clause 5.16.4 of LPS 15 specifies that when making decisions relative to parking provision, the City shall at all times have regard to any existing or proposed public parking facilities nearby.

### **Planning and Development (Local Planning Schemes) Regulations 2015**

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)* states the matters to be considered by local government in determining a development application. The following matters are of particular relevance to this application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning...*
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality...*

*Item 12.1 Continued*

- (s) *the adequacy of –*
  - (i) *the proposed means of access to and egress from the site; and*
  - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *the availability and adequacy for the development of the following –*
  - (i) *public transport services;*
  - (iii) *storage, management and collection of waste;*
  - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
  - (v) *access by older people and people with disability;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between the new and existing businesses;*
- (y) *any submissions received on the application.”*

**Deemed Refusal**

Under Clause 75 of the deemed provisions of the *Regulations*, an application is ‘deemed to be refused’ if it is not determined within a 90 day period. The only exception is where there is a written agreement for further time between the applicant and the City of Belmont.

At the 26 May 2020 Ordinary Council Meeting, the applicant requested Council defer the application to provide an opportunity to address concerns raised over the car parking arrangements. Although no timeframe for the deferral was specified, a reasonable amount of time has been provided for the applicant to address the car parking requirements, and it is appropriate for Council to proceed with determining the application.

**Right of Review**

Is there a right of review?  Yes  No

The applicant/owner may make application for review of a development approval/planning refusal to the State Administrative Tribunal (SAT) subject to Part 14 of the *Planning and Development Act 2005*. Applications for review must be lodged with SAT within 28 days. Further information can be obtained from the SAT website—[www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au).

Item 12.1 Continued

## **BACKGROUND**

<b>Lodgement Date:</b>	26 April 2019	<b>Use Class:</b>	Place of Worship – 'D' use
<b>Lot Area:</b>	Parent lot: 6,368m <sup>2</sup> Strata lot: 571m <sup>2</sup> (not inclusive of allocated car bay areas)	<b>LPS Zoning:</b>	Mixed Business
<b>Estimated Cost:</b>	\$500,000 (internal works only)	<b>MRS:</b>	Industrial

## **Proposal**

The applicant is proposing the following:

- A foyer/entry area, storage areas and three classrooms totalling 194m<sup>2</sup>.
- A 200m<sup>2</sup> hall/seating area and a 52m<sup>2</sup> mezzanine area.
- Two bicycle parking bays.
- Eight existing car parking bays are provided at the front of the tenancy. The remaining on-site car parking bays are allocated to the other five tenancies within the strata complex.
- One window sign is proposed on the front façade of the tenancy. The proposed sign complies with the requirements of LPP 12.

A copy of the Development Plans is contained as ([Attachment 1](#)).

The proposed Change of Use was previously considered by Council at the 26 May 2020 OCM. At that meeting, Council resolved to:

*“Defer Item 12.1 as requested via email dated 25/05/20 from Joshua Carmody, a planning consultant on behalf of the applicant.*

### **Reasons:**

1. *The applicant would like additional time to respond in a considered manner to any objections from surrounding landowners and tenants on the strata site.*
2. *The applicant requires additional time to address any concerns of neighbouring landowners; and*
3. *The applicant requires additional time to investigate a potential shared parking arrangement with another site.”*

The applicant previously proposed the use of 35 on-street bays in addition to the existing eight located on-site for a congregation size of 172 patrons. It was recommended that this arrangement should not be supported on the basis that the use of 35 on-street bays would have a detrimental impact on existing and future businesses within the precinct and their access to shared use of the on-street bays.

*Item 12.1 Continued*

### **Amended Proposal**

The applicant has now proposed modified operating hours. The applicant previously proposed to operate during business hours on weekdays, and for the full day on weekends. The applicant now proposes to operate only during the evening hours (5.30pm to 10.30pm) Monday to Friday, and 8:00am to 10:30pm on Saturdays and Sundays.

The applicant is also proposing to modify the car parking arrangements as follows:

- Eight bays to be provided on-site.
- The use of six on-street car parking bays along Robinson Avenue.
- The use of 16 additional car parking bays for an eight hour period on Sundays at 99 Robinson Avenue through a lease agreement with the tenant of this property.
- The use of 38 additional car parking bays for an eight hour period at 47 and 49 Esther Street through a lease agreement with the tenant of this property.

In total, the applicant is proposing the use of 60 off-site bays at the locations listed above.

### **Parking Management Plan**

The applicant has prepared a Parking Management Plan (PMP). The PMP has not been modified despite the proposed change to operating hours (refer [Attachment 2](#)).

The PMP proposes the following measures:

- Traffic Controllers to direct patrons to appropriate places to park within the property and street. A minimum of three Traffic Controllers will be available for evening and weekend activities.
- Traffic Managers will be appointed by the proponent to lead the Traffic Controller volunteer team, train new volunteers, prepare a volunteer roster, conduct inspections of parked vehicles, monitor safety, undertake audits and incident investigation and ensure directional traffic control signage is maintained.
- The PMP proposes a 30 minute gap between the conclusion of general business hours (5:00pm) and the commencement of the evening activities for the Place of Worship (5.30pm).
- Church patrons will be informed of permitted parking arrangements via the monthly newsletter and during church service announcements.

The Traffic and Parking Impact Assessment has remained unchanged from that previously submitted, however it is considered that traffic generation proposed by the Place of Worship would not impact on the capacity of the existing road network (refer [Attachment 3](#)).

The Waste Management Plan also remains unchanged and it is considered that waste concerns have been adequately addressed (refer [Attachment 4](#)).

*Item 12.1 Continued*

### **OFFICER COMMENT**

In determining this application, Council needs to consider whether the measures proposed by the applicant are adequate, and whether conditions imposed on the Place of Worship activities and car parking arrangements are reasonable and can be practically regulated.

#### **Adequacy of Car Parking Arrangements**

Given there are only eight (8) car parking bays on the property for the exclusive use of the subject tenancy, the applicant has proposed a number of measures to provide car parking for the proposed Place of Worship. The adequacy of these measures is discussed below.

#### *Limiting Hours of Operation*

As there is limited availability of car parking spaces allocated for the exclusive use of the subject tenancy, it is inevitable that operating a Place of Worship during business hours on weekdays will result in a significant lack of car parking spaces for patrons of the Place of Worship, and will in turn impact on the availability of on street car parking spaces for other businesses and users in the precinct. On this basis, the applicant has indicated that they do not intend to operate during business hours on weekdays.

It may be appropriate for ancillary operations of the Place of Worship – such as the church office to operate during business hours. An appropriate condition of development approval may be applied to limit the Place of Worship activities in that manner.

Notwithstanding this, there is concern that the dominant activity of a Place of Worship is the congregation of patrons for worship. The proposal for this activity to occur during the evening hours on weekdays presents significant planning concern as it would rely heavily on the use of on street car parking bays. Table 2 of Local Planning Scheme No. 15 specifies that a parking space shall be provided for every 4 persons whom the building is designed to accommodate. Given the applicant has indicated the intent to accommodate up to 172 patrons, a total of 43 car parking spaces should be provided for the Place of Worship. As there are only 8 car parking spaces allocated for use of the tenancy, the majority of patrons attending the proposed Place of Worship would rely on an alternative parking arrangement.

It is necessary to consider that the Mixed Business zone provides for a range of land uses to operate during weekday evenings as well as weekends. This includes existing Private Recreation land uses in the locality that operate in the evenings as well as weekends. The applicant has indicated an alternative arrangement of leasing car parking spaces on neighbouring properties to cater for church services on Sundays, however, they have not indicated any arrangements for weekday evenings or Saturdays, therefore it is expected that patrons attending the Place of Worship will default to parking on the street during those times.

The extensive use of on street car parking bays by the proposed Place of Worship is therefore not appropriate, as it would prejudice the opportunity for existing and future businesses or users of the precinct access to the on street parking bays.

*Item 12.1 Continued*

*Leasing of Car Parking Spaces on Other Properties*

Ordinarily, provision for car parking associated with a development application must be provided on-site. This is because the proposed development should not impact on the amenity of businesses in the locality by using on street car parking bays to the extent that it does not allow equitable use by other occupants and businesses in the locality.

In some instances it is reasonable to accept provision for car parking for a development on a secondary property. There are two criteria where car parking on a secondary property may be considered appropriate. The first is that the secondary property must be located within a reasonable walking distance to the development site. The second criterion being that car parking arrangements must be permanent, meaning that the availability of the car parking must be guaranteed in perpetuity for the use of the subject development.

In this instance, the secondary properties are located within a walkable distance (maximum of 250m) of the proposed Place of Worship (refer to Figure 4). While the proximity is considered acceptable, there are concerns that the provision of the car parking cannot be guaranteed. It should also be noted that once established there will be no mechanism for the City to prohibit the use of on-street car parking by church users in preference to the proposed lease areas.

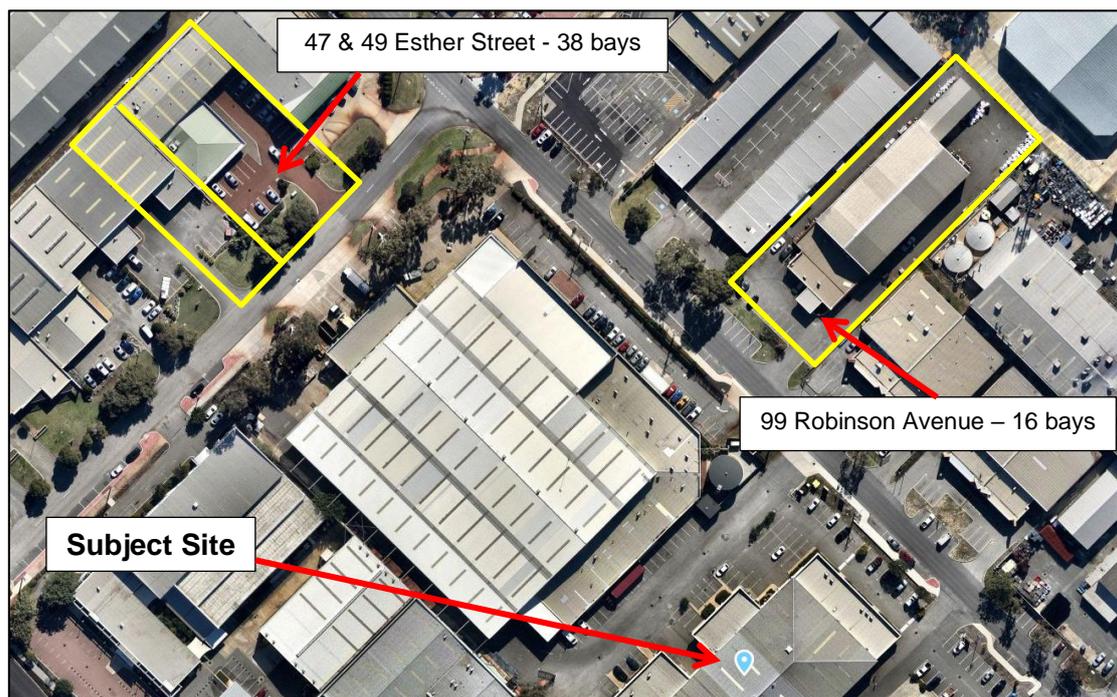


Figure 4: Lease properties (bordered yellow)

To guarantee the ongoing provision of car parking, it is necessary to register a caveat on the Certificate of Title on the property providing the car parking. Such an arrangement requires the landowner of that property to consent to a development application over their property, and the encumbrance of the caveat. The deed associated with the caveat would specify that car parking on the property must be made available for use of the Place of Worship at 2/106 Robinson Avenue. If the property used for car parking were transferred or sold to another party, the new landowner would be obliged to comply with the terms of the deed.

*Item 12.1 Continued*

It is noted that the use of the bays at this secondary property will impact the development approval and land use activities on that site. For example, it is likely that conditions will be imposed to limit the use of that property to ensure that the car parking spaces are available for use by the proposed Place of Worship during the prescribed hours.

In this instance, the landowners of 47 and 49 Esther Street and 99 Robinson Avenue have not signed the application. This means that the ongoing provision of car parking spaces cannot be guaranteed.

While the applicant has indicated that they will enter into a commercial lease agreement for the use of the car parking spaces on neighbouring properties, the termination clause (as standard with commercial lease arrangements) mean that the arrangement can be terminated through a short notice period. The provision of car parking through a commercial lease arrangement therefore cannot be guaranteed on an ongoing basis. If the lease agreement for use of car parking on the neighbouring properties is terminated, it is likely that patrons of the proposed Place of Worship would default to using the on street car parking bays, or use the parking bays on neighbouring properties in a de facto manner.

Having regard for the above, there is no means for a reasonable condition of development approval to be imposed that could compel the proponent to provide the number of car parking spaces required under the Local Planning Scheme. On this basis, granting approval for the proposed Place of Worship would mean that a car parking shortfall is accepted, and the proposed Place of Worship can operate with eight on-site bays and a shortfall of 35 bays.

Granting approval for a shortfall in 35 car parking bays would effectively set an undesirable precedent and allow future applicants seeking development approval in the locality to propose a similar arrangement.

Given the above, the car parking arrangement for the proposed Place of Worship is not considered acceptable.

**Alternative Option**

Council may consider an alternative to approve the proposed Change of Use with conditions.

It is considered that the measures and controls identified in the PMP could be acceptable if the number of patrons, and the time of congregation at the Place of Worship is limited.

This alternative option may be acceptable on the basis that the 64 on-street car parking bays along Robinson Avenue can be theoretically equitably apportioned to the 24 tenancies with access to the street block between Esther Street and Alexander Road. This would mean each tenancy may use up to an additional six on-street bays. The use of six on-street bays with the eight bays provided on the subject site equates to a total of 14 bays. In accordance with the standards under Table 2 – Car Parking Requirements of LPS 15, this would mean a maximum of 56 people would be permitted on the site at any given time.

*Item 12.1 Continued*

The conditions of such an approval would include:

- A restriction on the number of people to no more than a maximum of 56 on-site at any given time.
- A requirement to update the Schedule of Activities in the PMP to demonstrate how multiple services would be managed.

Holding multiple services with a limit on the number of people would allow for smaller gatherings at staggered times. This would ensure the proposed Place of Worship only uses their equitable share of the on-street parking bays. Notwithstanding this, there is concern that such a condition to an approval would be impractical to regulate. This is on the basis that City officers would need to attend the property to monitor and ensure that the number of patrons attending the Place of Worship does not contravene the condition of approval.

Further to the above, it is noted that during previous discussions, the applicant indicated that there is already approximately 100 to 130 patrons attending their current place of worship in Victoria Park. The proponent intends that this property at 2/106 Robinson Avenue will provide capacity for the congregation to grow beyond the current capacity. As places of worship typically welcome guests and visitors to attend at any time, it is not possible or practical for the proponent to guarantee strict adherence to the maximum congregation size at each meeting. Given this, smaller, more frequent church services would not be desirable for the proponent. It is likely that this would then result in a planning compliance issue that is difficult to enforce. This alternative option is therefore not recommended.

### **Conclusion**

#### *Impacts on Amenity in the Mixed Business Zone*

Effectively the lack of parking on site encourages patrons to use parking facilities outside the site and beyond the care and control of the Place of Worship operator. At best, this would lead to the Place of Worship using the majority of the on street bays, which limits equitable access to those bays for other in the locality. As the general public are entitled to use the on street parking bays, it is not practical or possible for the City to restrict or enforce that patrons of the Place of Worship cannot use those bays. Ultimately, it would be the immediate surrounding landowners who would have to deal with the greatest level of negative impacts arising from the lack of sufficient parking on site.

Having regard for the above, it is considered that approving a land use with such a significant shortfall of onsite car parking spaces will unduly impact on the amenity of the locality. Clause 67(n) of the *Regulations* states that in considering an application for development approval, the decision maker is to have regard for the amenity of the locality.

Having regard for the assessment discussed above, the proposed Change of Use to Place of Worship should be refused as:

- The eight on-site bays are not sufficient to cater for 172 patrons.

*Item 12.1 Continued*

- The proposed use of neighbouring properties to supplement the car parking requirements under LPS 15 for a Place of Worship is considered inappropriate on the basis that the applicant has not been able to secure an arrangement that guarantees provision of car parking spaces in perpetuity.
- Granting approval for a proposed Place of Worship with informal car parking arrangements is likely to default to an on-street car parking arrangement, and ultimately affect the amenity of business owners and operators within the immediate locality.
- Having regard for the capacity of the subject tenancy to accommodate 172 patrons, the car parking demand generated by the proposed Place of Worship land use, the limited availability of onsite car parking spaces, and the need to ensure equitable access for all users of the precinct to on-street car parking bays, it is considered that the land use is not appropriate in the context of the locality.

### **FINANCIAL IMPLICATIONS**

Should the applicant seek to exercise their right to review by SAT then there would be costs associated with the City addressing the review.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

That Council:

- A. Refuse development application 100/2019 as detailed in plans dated 15 April 2019 and 29 June 2020 submitted by Aquila Architects Pty Ltd on behalf of the owner D Gerace ATF The Gerace Family Trust for a Place of Worship at Lot 2 (No 2/106) Robinson Avenue, Belmont for the following reasons:
1. The development proposes a shortfall of 35 bays which does not meet the requirements of Table 2 – Car Parking Requirements of Local Planning Scheme No. 15 for a Place of Worship land use.
  2. The proposed lease arrangement to supplement provision of car parking for the proposed Place of Worship cannot be guaranteed, does not warrant varying of the car parking requirements under Clause 5.16.4 of Local Planning Scheme No. 15, and cannot be supported pursuant to Clause 5.5.3 of Local Planning Scheme No. 15.

*Item 12.1 Continued*

3. The development would result in the extensive use of on street car parking bays which is contrary to the requirements of Clause 5.16.4(3) of Local Planning Scheme No. 15. The extensive use of on street car parking bays will also have a detrimental impact on the amenity of surrounding properties and does not meet the objectives of the Mixed Business zone in catering for a varied mix of compatible business land uses as outlined in Clause 4.2 of Local Planning Scheme No. 15.
4. The extensive use of the on-street bays and the likely de facto use of parking bays on neighbouring properties for the benefit of the subject Place of Worship would result in a loss of community benefit within the Mixed Business zone, contrary to the intent under Schedule 2, Clause 67(v) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
5. The Place of Worship land use in the Mixed Business zone has a 'D' use classification under Table 1 of Local Planning Scheme No. 15 and is not permitted unless the decision maker has exercised its discretion to approve the land use; the Place of Worship is not appropriate in the context of the subject tenancy having regard for the car parking demand generated by the proposed Place of Worship land use, the limited availability of onsite car parking spaces, and the need to ensure equitable access for all users of the precinct to on street car parking bays.

B. Advise those who made a submission of Council's decision.

**Note:**

**Cr Davis put forward the following Alternative Councillor Motion.**

ALTERNATIVE COUNCILLOR MOTION:

That Council:

- A. Approve planning application 100/2019 as detailed in plans dated 15 April 2019 and 29 June 2020 submitted by Aquila Architects Pty Ltd on behalf of the owner D Gerace ATF The Gerace Family Trust for a Place of Worship at Lot 2 (No 2/106) Robinson Avenue, Belmont subject to the following conditions:
  1. Development/land use shall be in accordance with the attached approved plan(s) dated 15 April 2019 and 29 June 2020 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the City of Belmont.
  2. The gathering of patrons for worship at the premises shall be limited to a maximum of 172 patrons and only:
    - (a) after 5:30pm on Monday to Friday; and
    - (b) before 12:00noon on Saturdays and Sundays.

*Item 12.1 Continued*

- (c) A maximum of 32 people are permitted on the premises at all other times.
- 3. A minimum of eight (8) on-site car parking bays are to be provided and maintained to the satisfaction of the City. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
- 4. All access ways, parking areas and hard stand areas shall be maintained in accordance with the City's engineering requirements and design guidelines.
- 5. The landowners shall implement the approved Parking Management Plan (as well as subsequent updates and approved versions of the Parking Management Plan) to the satisfaction of the City. The parking management measures shall include regular communication from the management of the place of worship to their patrons on the permitted parking arrangement.
- 6. The landowner shall maintain a complaint register and outline the measures taken to address any complaints. This register shall be submitted to the City for review within six months of the date of this approval. The landowner shall update the Parking Management Plan to address any issues arising from the review to the satisfaction of the City.
- 7. Prior to the occupation of the development, a minimum of 10 bicycle bays, 10 ventilated equipment lockers and one unisex shower are to be installed and thereafter maintained for the course of the use to the specifications outlined within AS2890.3:2015, to the satisfaction of the City.
- 8. Prior to the lodgement of an application for building permit, the landowner shall update the development plans and Waste Management Plan to incorporate a suitable bin storage location. The bin storage area must be paved with an impervious material and must not drain to a stormwater drainage system or to the environment. The updated development plans and Waste Management Plan shall be submitted to the City for approval. The landowner shall implement the approved Waste Management Plan (as well as any subsequently updated and approved versions of the Waste Management Plan) to the satisfaction of the City.
- 9. The window signage shall not cover more than 50% of the glazed area of the window/s, or exceed 10.0m<sup>2</sup> in area in aggregate per tenancy on a lot.
- 10. The sign shall only advertise the businesses operating on the subject lot.

*Item 12.1 Continued*

- B. Advise those who made a submission of Council's decision.

**Reason:**

The item was deferred to address the issue of additional parking. The applicant has now presented to Council 87 available car bays with the potential of an additional 24 car bays.

The Belmont business area peak parking times is during the day business hours. The applicant intends on using the premises during non-business hours, evenings and weekends. Additional parking has recently been fitted along Robinson Avenue and various other parts of the Belmont business area.

The City of Belmont will enforce illegal parking in the same manner as other areas within the City. Surrounding businesses have the ability to install signage of 'no parking' on their allocated car parking bays.

The landowner shall maintain a complaint register and outline the measures taken to address any complaints. This register shall be submitted to the City for review within six months of the date of this approval. The landowner shall update the Parking Management Plan to address any issues arising from the review to the satisfaction of the City.

**Note:**

**Cr Cayoun suggested an amendment to the Councillor Motion which was agreed to by Cr Davis and Cr Sekulla.**

**8.32pm The Presiding Member requested a mover and seconder to adjourn the meeting for a short period to clarify the wording for the Amended Councillor Motion.**

**8.32pm POWELL MOVED, ROSSI SECONDED that the meeting be adjourned for a short period.**

**CARRIED 9 VOTES TO 0**

**Note:**

**The Presiding Member reconvened the meeting at 8.43pm.**

**AMENDED COUNCILLOR MOTION:**

**DAVIS MOVED, SEKULLA SECONDED**

**That Council:**

- A. Approve planning application 100/2019 for a temporary 36 month period as detailed in plans dated 15 April 2019 and 29 June 2020 submitted by Aquila Architects Pty Ltd on behalf of the owner D Gerace ATF The Gerace Family Trust for a Place of Worship at Lot 2 (No 2/106) Robinson Avenue, Belmont subject to the following conditions:**

*Item 12.1 Continued*

- 1. Development/land use shall be in accordance with the attached approved plan(s) dated 15 April 2019 and 29 June 2020 and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the City of Belmont.**
- 2. The gathering of patrons for worship at the premises shall be limited to a maximum of 172 patrons and only:**
  - (a) after 5:30pm on Monday to Friday; and**
  - (b) before 12:00noon on Saturdays and Sundays.**

**A maximum of 32 people are permitted on the premises at all other times.**
- 3. A minimum of eight (8) on-site car parking bays are to be provided and maintained to the satisfaction of the City. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.**
- 4. All access ways, parking areas and hard stand areas shall be maintained in accordance with the City's engineering requirements and design guidelines.**
- 5. The landowners shall implement the approved Parking Management Plan (as well as subsequent updates and approved versions of the Parking Management Plan) to the satisfaction of the City. The parking management measures shall include regular communication from the management of the place of worship to their patrons on the permitted parking arrangement.**
- 6. The landowner shall maintain a complaint register and outline the measures taken to address any complaints. This register shall be submitted to the City for review within six months of the date of this approval. The landowner shall update the Parking Management Plan to address any issues arising from the review to the satisfaction of the City.**
- 7. Prior to the occupation of the development, a minimum of 10 bicycle bays, 10 ventilated equipment lockers and one unisex shower are to be installed and thereafter maintained for the course of the use to the specifications outlined within AS2890.3:2015, to the satisfaction of the City.**

*Item 12.1 Continued*

8. **Prior to the lodgement of an application for building permit, the landowner shall update the development plans and Waste Management Plan to incorporate a suitable bin storage location. The bin storage area must be paved with an impervious material and must not drain to a stormwater drainage system or to the environment. The updated development plans and Waste Management Plan shall be submitted to the City for approval. The landowner shall implement the approved Waste Management Plan (as well as any subsequently updated and approved versions of the Waste Management Plan) to the satisfaction of the City.**
9. **The window signage shall not cover more than 50% of the glazed area of the window/s, or exceed 10.0m<sup>2</sup> in area in aggregate per tenancy on a lot.**
10. **The sign shall only advertise the businesses operating on the subject lot.**
11. **The temporary approval shall commence from the occupation of the building. On expiration of the 36 month approval period the landuse shall revert to a Warehouse and Office.**

**B. Advise those who made a submission of Council's decision.**

Reason:

The item was deferred to address the issue of additional parking. The applicant has now presented to Council 87 available car bays with the potential of an additional 24 car bays.

The Belmont business area peak parking times is during the day business hours. The applicant intends on using the premises during non-business hours, evenings and weekends. Additional parking has recently been fitted along Robinson Avenue and various other parts of the Belmont business area.

The City of Belmont will enforce illegal parking in the same manner as other areas within the City. Surrounding businesses have the ability to install signage of 'no parking' on their allocated car parking bays.

The landowner shall maintain a complaint register and outline the measures taken to address any complaints. This register shall be submitted to the City for review within six months of the date of this approval. The landowner shall update the Parking Management Plan to address any issues arising from the review to the satisfaction of the City.

**CARRIED 5 VOTES TO 4**

*For: Bass, Cayoun, Davis, Ryan Sekulla  
Against: Marks, Powell, Rossi, Wolff*

**12.2 REQUEST FOR TREE PRESERVATION ORDER AT LOT 22 (78) ARMADALE ROAD,  
RIVERVALE**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 5 – Item 12.2 refers</b>	<a href="#"><b>Arboricultural Report</b></a>

Voting Requirement : Simple Majority  
Subject Index : 115/001 – Development / Subdivision / Strata –  
Applications and Application Correspondence  
Location / Property Index : Lot 22 (78) Armadale Road, Rivervale  
Application Index : N/A  
Disclosure of any Interest : Nil  
Previous Items : N/A  
Applicant : D A Bending  
Owner : D A Bending and N M Bending  
Responsible Division : Development and Communities

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

Item 12.2 Continued

## **PURPOSE OF REPORT**

For Council to consider a request for a Tree Preservation Order (TPO) at Lot 22 (78) Armadale Road, Rivervale.

## **SUMMARY AND KEY ISSUES**

- The landowner of Lot 22 (78) Armadale Road, Rivervale has requested a TPO be applied for the protection of a Jacaranda tree (*Jacaranda mimosifolia*) located in the backyard of the property.
- Clause 7.3 of LPS 15 provides for the City to serve a TPO upon landowners for the preservation of a tree growing wholly or partly on private property.
- The tree has high amenity value, particularly due to its size and condition, however the tree does not have any environmental, cultural or heritage significance.
- There are significant considerations and risks associated with the serving of a TPO on private property and its ongoing management and enforcement.
- It is considered unlikely that this tree will be damaged or removed.
- It is recommended that Council does not serve a TPO for the protection of this tree.

## **LOCATION**

The subject site is located within an established residential area in Rivervale. The site is 784m<sup>2</sup> in area and contains a single house. Surrounding development consists of single houses and grouped dwellings. The location of the subject site is shown in Figure 1.



Figure 1: Location Plan (Source: IntraMaps)

*Item 12.2 Continued*

## **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter to date. If Council resolves to serve a TPO in relation to the subject tree, each landowner impacted would need to be advised of the TPO and made aware of its implications.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Natural Belmont.

**Objective:** Protect and enhance our natural environment.

**Strategy:** Ensure the City has policies and practices that safeguard and enhance the natural environment.

**Corporate Key Action:** Implement the Environment and Sustainability Strategy 2016-2021.

## **POLICY IMPLICATIONS**

There are no specific policies that control implementation of Tree Preservation Orders.

## **STATUTORY ENVIRONMENT**

### **Local Planning Scheme No. 15**

The aims of Local Planning Scheme relevant in considering this matter are:

- To protect and enhance the environmental values and natural resources of the City and to promote ecologically sustainable land use and development.
- To safeguard and enhance the character and amenity of the built and natural environment of the City.
- To maximise the built-in safety of the City.

In administering the provisions of the Local Planning Scheme, it is appropriate to apply the provisions of Schedule 2, Clause 67(x) of the *Planning and Development (Local Planning Schemes) Regulations 2015* which specifies that the local government must have due regard for the impact of a development on the community as a whole notwithstanding the impact of the development on particular individuals.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City.

*Item 12.2 Continued*

The provisions of the Scheme relevant to TPOs are as follows:

- Clause 7.3 of LPS 15 provides for the City to serve a TPO upon a landowner(s) for the preservation of a tree growing wholly or partly on that land.
- If the landowner of a property the subject of a TPO is not also the occupier, the City may also serve a copy of a TPO on the occupier of the land.
- Prior to serving a TPO, the City may require assessment or certification by an arboriculturist to be carried out prior to the determination of an application.
- No person served with a TPO, a copy of a TPO or who has knowledge of a TPO, may remove, cut, break or damage any tree the subject of a TPO, except with the prior approval in writing of the City.
- Within 28 days of a TPO being served on a landowner, they may request in writing that the City reconsider, or revoke, or modify the Order. If the City within 60 days of such a request fails or refuses to revoke or modify the Order as requested, the landowner may apply for review of the decision to the State Administrative Tribunal.
- Once the City resolves to serve a TPO on a landowner the City may without any further resolution deliver a copy of the TPO to the Registrar of Titles. The Registrar of Titles shall then register the Order and endorse or note accordingly the appropriate register book.
- The City may at any time reconsider, revoke or modify a TPO. If the City chooses to reconsider, revoke or modify a TPO, any landowner or occupier affected by the original TPO shall be notified.
- Once receiving a notification of revocation or modification of a TPO, the Registrar of Titles shall cancel or modify the registration of the TPO and endorse or note accordingly the appropriate register books.

## **BACKGROUND**

A TPO issued under Clause 7.3 of LPS 15 serves as a mechanism to preserve trees on land. The TPO provisions have formed part of the City's operative Local Planning Scheme since 1994.

The TPO provisions have been used where appropriate to facilitate the protection of trees which have special environmental, heritage or cultural value, and are under imminent threat of removal. There is currently one entry on the City's TPO register which relates to the preservation of two (2) Port Jackson Fig Trees at 57 Frederick Street, Belmont. The TPO provisions were implemented to ensure the retention of the trees during significant redevelopment to construct 65 grouped dwellings on the site.

### **Request for Tree Preservation Order**

The owner of Lot 22 (No. 78) Armadale Road, Rivervale, contacted the City in June 2019 requesting a TPO be served to protect a Jacaranda tree located on the property. The key features of the tree are as follows:

*Item 12.2 Continued*

- The tree is approximately 14 metres in height and has a canopy which is approximately 13 metres in diameter.
- The tree is located within the backyard of the property and setback 1.9 metres (as measured from its base) from the northern boundary of the lot.
- The tree's canopy overhangs the adjoining property to the north, Lot 21 (76) Armadale Road (refer to Figure 2 below).

It is understood that the owner of 78 Armadale Road is requesting a TPO as the neighbouring landowners (76 Armadale Road) expressed a desire for the tree to be removed.



*Figure 2: Aerial of 76 and 78 Armadale Road, Rivervale*

**OFFICER COMMENT**

As there is no adopted criteria to assess whether a tree should be protected through a TPO, guidance has been taken from the National Trust Significant Tree Protection document, and local planning policies established by the Cities of Stirling, Armadale and Bayswater. The key considerations from these documents, as relevant to the requested TPO, are as follows:

- The location of the tree and the number of existing trees on site.
- The size and condition of the tree (shape, health and structure), its ongoing viability and structural integrity.
- The amenity value of the tree.
- Whether the tree is subject to any pests, diseases or is an undesirable or invasive species.

*Item 12.2 Continued*

- Whether the tree poses any potential risk to safety or property.
- The environmental value of the tree (native species, remnant vegetation, rarity, proximity to conservation areas, habitat value and/or curious growth forms).
- The cultural and/or heritage significance of the tree.

To assist with the assessment, the City's Arborist has undertaken two site inspections and prepared an Arboricultural Report ([Attachment 5](#)). In considering this request, the following points are relevant:

- The tree is located within the backyard of Lot 22 and is setback clear from the boundary of the property and any existing structures. There are a number of other existing small trees located within the front and back yard of the subject site.
- The tree is approximately 14 metres in height with a canopy diameter of approximately 13 metres. This is considered to be relatively large for a Jacaranda tree and is visible from Armadale Road.
- The tree provides a substantial level of shade to the backyard of the site and flowers between October and November, providing a significant contribution to the amenity of the property.
- The tree is structurally sound, requires minimal pruning intervention and is in good health, with a remaining life expectancy in excess of 40 years.
- The tree does not have any pests or diseases and is not an undesirable or invasive species.
- The tree does not contain any Aboriginal, European or heritage significance and there is no known community association with the tree.
- The tree is not a unique or rare species and does not contain any hollows to provide sheltered habitat for wildlife.

**Benefit to the Community**

While it is recognised that the retention of high amenity trees is desirable, the intent of the Scheme's TPO provisions are aimed at balancing the needs of enhancing the natural environment, promoting ecologically sustainable development, and ensuring benefit for the community as a whole, rather than the needs of particular individuals.

It is noted that the tree does not have any environmental, cultural or heritage significance. While it is not considered to benefit the community as a whole, it has a high amenity value due to its size and condition. It is therefore appropriate to further consider the likelihood of the tree being removed, the implications for affected landowners and occupiers, and the implications for the City if the TPO is served.

*Item 12.2 Continued*

### **No Imminent Cause to Remove Tree**

The City's Urban Forest Strategy identifies that the community's preference for standalone housing rather than the consolidated built form of apartments presents significant challenges in retaining existing trees on private land. Notwithstanding this, it is noted that the subject site cannot be subdivided at the currently R20 density code applicable to the lot. As such, it is considered unlikely that the tree would be removed to make way for infill development. Further to this, development has already been undertaken on surrounding properties (to its maximum potential) without detrimentally impacting upon the health and structure of the tree. The existing dwelling on the neighbouring 76 Armadale Road was constructed in 2012 so it is unlikely that any major construction or excavation works would be undertaken on the property such that it could damage the tree. The current landowner has also expressed that they intend to retain the tree for as long as they reside at the subject property.

While the owner of 78 Armadale Road has expressed that the neighbour has indicated the desire for the tree to be removed, it is noted that in the absence of a TPO, there is an established legal principle that people are not able to damage other people's property (inclusive of trees). Whilst neighbouring residents can cut branches that overhang their property, they cannot do so in a manner that would be detrimental to the tree.

Given that there is no motive to remove the tree to facilitate development of the subject lot or neighbouring lot, and the landowner has expressed their desire to retain the tree, there is no cause for the tree to be removed. There is therefore no reason to impose a TPO on this basis.

### **Affected Landowners**

The landowner has sought a TPO partly because the neighbour has allegedly expressed the desire for the tree to be removed. The tree's canopy, and potentially its root system, extends into the neighbouring property Lot 21 (76) Armadale Road. As such, in issuing any TPO, it may be prudent to also serve a TPO on the landowner/occupier of this adjoining property.

A TPO would not remove the ability from landowners/occupiers to cut/prune the tree, including overhanging branches. However, they would be required to obtain written approval from the City before they did so.

Considering that the neighbour cannot cut branches in a manner that affects the wellbeing of the tree in any case, it is considered that imposing a TPO in this case will require the administrative process of seeking approval from the City, but would not provide any real benefit to the wellbeing of this tree.

### **Tree Preservation Order Not Recommended**

The City is required to make any owners and occupiers aware of the TPO and its implications. On the basis that it is impractical for the City to monitor the occupancy of properties, there would be difficulties associated with ensuring that landowners remain aware of the TPO and ensuring that any occupiers are made aware of the TPO. These circumstances can undermine the effectiveness of a TPO.

*Item 12.2 Continued*

In addition to the need to administer the approval and compliance process for pruning a tree (should it be subject to a TPO), the City would assume some responsibility and subsequent liability if the tree damages property or injures a person.

There are significant issues and risks associated with the serving of a TPO on private property and its ongoing management and enforcement. It is considered that serving a TPO for this tree would provide little benefit while presenting an inequitable liability implication for the City. It is therefore recommended that a TPO on the subject tree is not served in this instance.

**Alternative**

Notwithstanding the matters discussed above, Council may consider that the benefit of imposing a TPO for retention of the subject tree outweighs the concerns. If a TPO were served on this basis, it is necessary to consider that:

- The TPO is not considered an effective or appropriate means of protecting the tree from any reasonable request from the neighbour to prune branches of the tree.
- It is not the intention that a TPO is used as a means for the City to take on the role of a mediator, particularly when there is known contention between individuals. Nonetheless, the City would need to bear the cost of an arboricultural assessment to determine any request for pruning of the tree.
- The neighbour has the right to seek a review of the TPO before the State Administrative Tribunal, and the City would need to present clear reasons to affirm the appropriateness of the TPO.
- The Local Planning Scheme zoning and residential density provisions do not allow for further housing infill development for the subject site or neighbouring property. This means that there is no motive in that regard for removal of the tree.
- The City might assume some liability if the tree damages property or causes injury to a person.

Having regard for the matters above, it is not considered necessary or appropriate to serve a TPO in this instance. This is on the basis that the likelihood of damage or removal of the tree is low, there is an existing legal principle that affords the tree protection, and there is no benefit in the City assuming liability for retention of the tree in this instance. The alternative to serve the TPO is therefore not recommended.

*Item 12.2 Continued*

### **FINANCIAL IMPLICATIONS**

There would be financial expenses associated with the serving of a TPO. These expenses would include costs associated with staff resources and mail outs. In addition, if Council resolves to serve a TPO on a landowner and they are then aggrieved by this resolution, they may request that the Council reconsider the TPO. If Council fails or refuses to revoke or modify the Order, the owner may apply for the review of the decision to the State Administrative Tribunal. As such, there may be costs associated with obtaining legal representation for the City at the State Administrative Tribunal.

### **ENVIRONMENTAL IMPLICATIONS**

While the City's Urban Forest Strategy aims to increase, enhance and retain tree cover, there is a low risk of the subject tree being removed as the landowner of the property supports its protection. In addition, the Local Planning Scheme does not provide for development on the subject site that is likely to jeopardise the retention of that tree.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

That Council:

- A. Declines to serve a Tree Preservation Order relating to the *Jacaranda mimosifolia* (Jacaranda tree) located in Lot 22 (78) Armadale Road, Rivervale.
- B. Write to the landowners of Lot 22 (78) Armadale Road, Rivervale advising them of Council's decision.

*Item 12.2 Continued*

**Note:**

**Cr Davis put forward the following Alternative Councillor Motion.**

**ALTERNATIVE COUNCILLOR MOTION:**

**DAVIS MOVED, ROSSI SECONDED**

**That Council:**

- A. Defer the decision on serving a Tree Preservation Order relating to the Jacaranda mimosifolia (Jacaranda tree) located in Lot 22 (78) Armadale Road, Rivervale until Council have considered guidelines in relation to serving a Tree Preservation Order on private property.**
- B. Write to the landowners of Lot 22 (78) Armadale Road, Rivervale advising them of Council's decision.**

**Reasons:**

- The City of Belmont has no endorsed guidelines in relation to serving a TPO.
- Endorsed guidelines would enable Council and the City to make consistent informed decisions.
- Serving a TPO without clear guidelines could potentially cause neighbour dispute or conflict at the detriment of the City of Belmont.
- The owner of Lot 22 (78) Armadale Road has indicated that they have no intention of developing the site or removing the tree which allows Council adequate time to endorse Tree Preservation Order guidelines.

**CARRIED 9 VOTES TO 0**

**12.3 AMENDMENT NO. 14 TO LOCAL PLANNING SCHEME NO. 15 – RE-CODING A PORTION OF THE DEVELOPMENT AREA 9 PRECINCT FROM R20 TO R60 AND MODIFICATIONS TO SCHEDULE NO. 14**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 6 – Item 12.3 refers	<a href="#">Plan of Amendment No. 14</a>
Attachment 7 – Item 12.3 refers	<a href="#">Development Area 9 Endorsed Local Structure Plan</a>
Attachment 8 – Item 12.3 refers	<a href="#">Concept Plan</a>
Attachment 9 – Item 12.3 refers	<a href="#">Transport Impact Statement</a>
Attachment 10 – Item 12.3 refers	<a href="#">Bushfire Management Plan</a>
Attachment 11 – Item 12.3 refers	<a href="#">Servicing and Capacity Constraint Report</a>

Voting Requirement : Simple Majority  
 Subject Index : LPS15/014 – Scheme Amendment 14 – To Amend the Zoning of a Portion of Properties within Development Area 9  
 Location / Property Index : Various  
 Application Index : N/A  
 Disclosure of any Interest : Nil  
 Previous Items : Nil  
 Applicant : CLE Town Planning + Design  
 Owner : Various  
 Responsible Division : Development and Communities Division

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

*Item 12.3 Continued*

## **PURPOSE OF REPORT**

For Council to consider initiating Amendment No. 14 to Local Planning Scheme No. 15 (LPS 15) for the purposes of:

1. Recoding existing lots coded R20 within the Development Area 9 (DA9) precinct, bound by Hay Road, Fauntleroy Avenue, land reserved for Parks and Recreation and properties zoned Mixed Use fronting Great Eastern Highway (GEH), to an R60 coding.
2. Introducing development provisions into Schedule No. 14 – Development Areas, relating to DA9 which:
  - (i) Require a Local Development Plan (LDP) to be prepared to guide any vacant lot subdivision in the precinct in the absence of a development approval; and
  - (ii) Outline development standards for grouped dwellings proposed on lot sizes less than 350m<sup>2</sup>.

## **SUMMARY AND KEY ISSUES**

- A Local Structure Plan (LSP) was endorsed by the Western Australian Planning Commission (WAPC) for the DA9 precinct in 2013 (refer [Attachment 7](#)).
- The subject lots of this amendment were reflected in the LSP as being zoned 'Residential' with an 'R20/60' density code, however this was never 'normalised' into the Local Planning Scheme and the existing R20 coding has continued to apply.
- The subject amendment is proposing to recode a portion of the DA9 precinct from R20 to R60 to align with the maximum density prescribed by the adopted LSP. In addition, the amendment is proposing to introduce provisions into LPS 15 to control subdivision and development.
- It is recommended that the amendment is supported for the purposes of public advertising on the basis that:
  - The proposed R60 density coding is consistent with the maximum density provided for over these lots in the endorsed LSP.
  - The higher density will provide for an appropriate transition between the commercial/light industrial land uses fronting GEH and lower intensity residential land uses that are located closer to the Swan River.
  - The proposed development provisions will facilitate high quality development outcomes within the precinct.
- It is recommended that Council initiate Amendment No. 14 to LPS 15 as a 'standard' amendment.

Item 12.3 Continued

## **LOCATION**

The subject amendment relates to a portion of the DA9 precinct, comprising seven properties with a combined area of 1.1972ha and bound by Hay Road, Fauntleroy Avenue, land reserved for Parks and Recreation and Mixed Use zoned properties fronting GEH. Each property is 1,497m<sup>2</sup> in area, with the exception of Lot 1 Hay Road which is 2,990m<sup>2</sup>. The lots have a frontage of approximately 20 metres and a depth of 74 metres. Two of the lots are currently vacant, with the remaining lots each being occupied by single houses.

The site at its nearest point is located approximately 60 metres to GEH and approximately 950 metres to the future Redcliffe Station. Land to the south of the precinct, adjacent to GEH, is zoned 'Mixed Use' under LPS 15 and contains commercial and light industrial uses. Land to the east and north-east of the precinct is reserved for 'Parks and Recreation' under the Metropolitan Region Scheme (MRS). To the north and north-west of the precinct, land is coded R20 and contains single houses. The Invercloy Estate Special Development Precinct is located to the west of the subject site, with properties fronting Fauntleroy Avenue being approximately 400m<sup>2</sup> in area.

The location of the subject site is shown in Figure 1 and the existing zoning of the subject lots and surrounding zoning and reservation of land is illustrated in Figure 2.

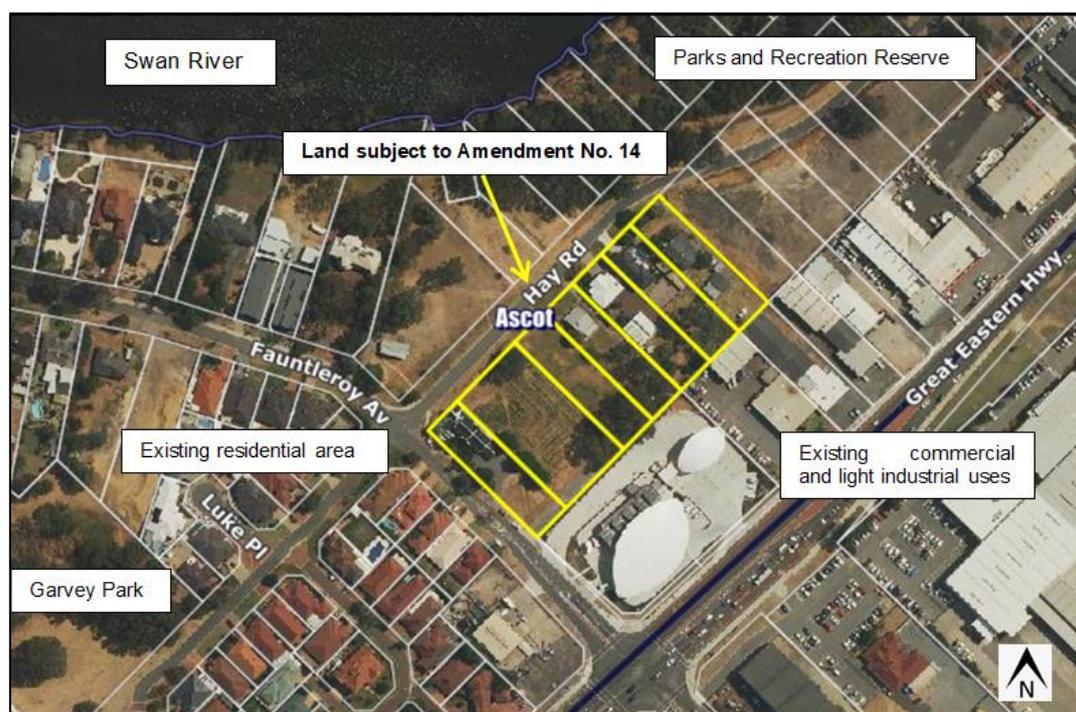


Figure 1: Location Plan (Source: IntraMaps)

Item 12.3 Continued

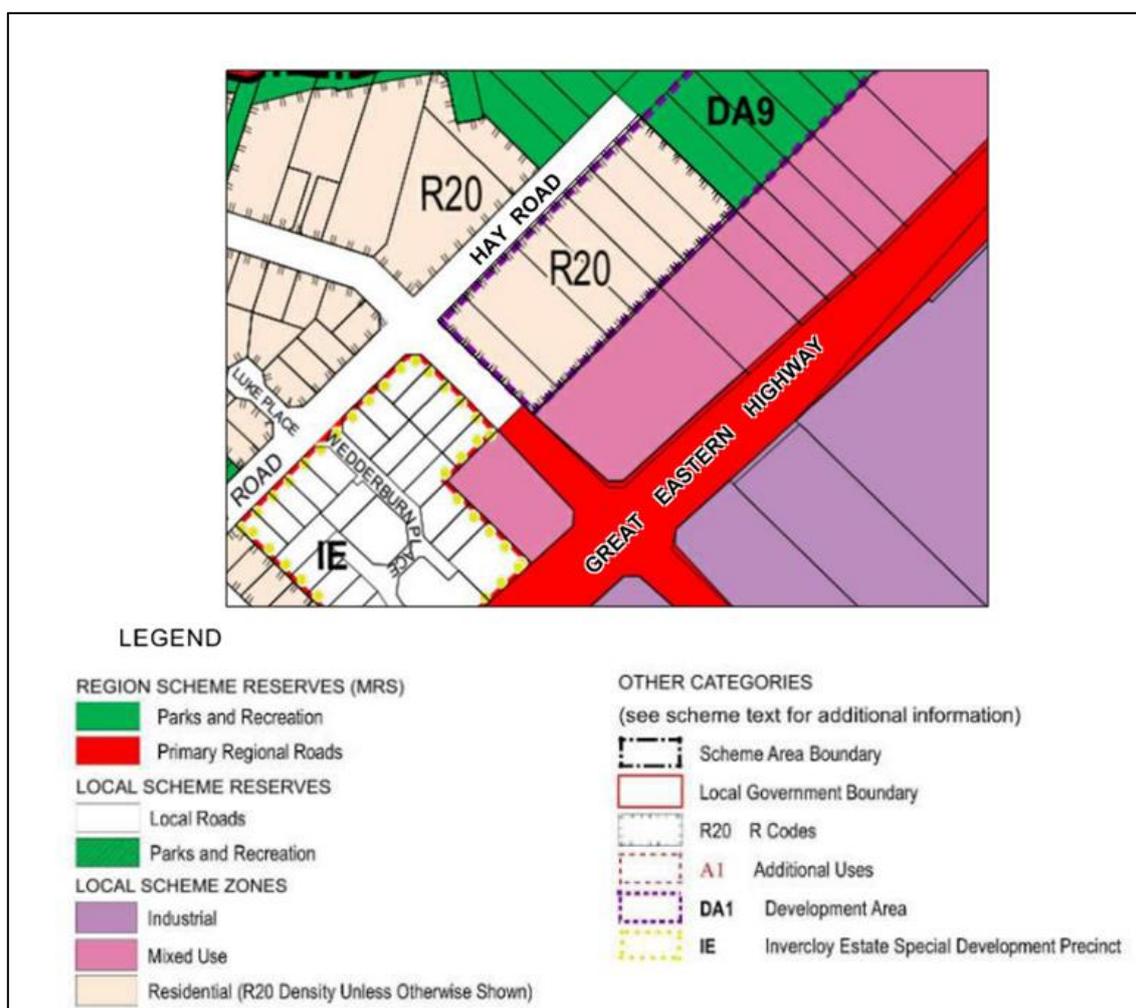


Figure 2: Existing zoning and reservation of land (Source: IntraMaps)

**CONSULTATION**

There has been no specific consultation undertaken in respect to this matter at this present point in time. It should be noted however that the applicable LSP, with its proposed R20/60 coding on the land subject of this amendment, was extensively advertised in early 2010, and the R20/60 density over the subject lots was ultimately accepted in the final adoption of the LSP in 2013.

The *Planning and Development Act 2005* requires scheme amendments to be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). The details of this statutory consultation process are outlined in the 'Statutory Environment' section of this report.

*Item 12.3 Continued*

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Business Belmont.

**Objective:** Achieve a planned City that is safe and meets the needs of the community.

**Strategy:** Encourage a wide choice and consistent implementation of development approaches.

**Corporate Key Action:** Establish and maintain local planning framework and practices for design excellence

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

## **STATUTORY ENVIRONMENT**

Section 75 of the *Planning and Development Act 2005* provides for an amendment to be made to a local planning scheme. The procedures for amending a local planning scheme are set out within Part 5 of the *Regulations*.

The *Regulations* specify three different types of Scheme amendments, being 'basic', 'standard' and 'complex'. The main differences between the amendment classifications are the differing advertising requirements, with a 'basic' amendment not having any advertising requirement unless otherwise required by the WAPC. Clause 35(2) of the *Regulations* requires a resolution of the local government specifying the type of amendment and the reasons for the classification.

Irrespective of the classification of the amendment, where a responsible authority (being the local government) has resolved to amend a Scheme, it shall be forwarded to the Environmental Protection Authority (EPA) to determine whether the amendment requires an environmental assessment. Where no environmental assessment is required, the responsible authority shall advertise the amendment for a period of 42 days, by way of:

- Publishing a notice in a newspaper circulating in the Scheme area
- Displaying a copy of the notice in the offices of the local government for the period of making submissions set out in the notice
- Giving a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment
- Publishing a copy of the notice and the amendment on the website of the local government

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City.

*Item 12.3 Continued*

- Advertising the amendment as directed by the WAPC and in any other way the local government considers appropriate.

After the conclusion of the advertising period, Council is required to consider the submissions and pass a resolution to either support the amendment, with or without modification, or not support the amendment. After passing a resolution, the amendment is to be forwarded to the WAPC to review and provide a recommendation to the Minister for Planning.

## **BACKGROUND**

### **Proposed Amendment**

Amendment No. 14 to LPS 15 proposes to:

1. Recode existing lots coded R20 within the DA9 precinct, comprising land bound by Hay Road, Fauntleroy Avenue, land reserved for Parks and Recreation and properties zoned 'Mixed Use' under LPS 15 fronting GEH, to an R60 coding.
2. Introduce development provisions into Schedule No. 14 – Development Areas, relating to DA9 as follows:

<b>Ref. No.</b>	<b>Area</b>	<b>Provisions</b>
DA9	Land bounded by Fauntleroy Avenue, Hay Road, Lot 185 Hay Road and the rear of the Mixed Use zoned lots fronting GEH.	<ol style="list-style-type: none"><li>3. A LDP shall be submitted and approved as a requirement of any subdivision approval involving the creation of vacant lots. The LDP shall address transport noise management, bushfire management, waste collection, access, crossover minimisation, interface to non-residential development, drainage requirements, site constraints and flood risk mitigation, unless otherwise determined by the local government.</li><li>4. Where a Grouped Dwelling development application proposes a minimum lot size of less than 350m<sup>2</sup>, the following development standards are applicable:<ol style="list-style-type: none"><li>a. Development comprising of two or more dwellings in a front to rear arrangement are to achieve a minimum side setback of 6 metres between the side wall of the first dwelling fronting the public street and the side boundary of the parent lot.</li><li>b. Rear dwellings are designed so that significant sections of the front elevations have an outlook to, and are visible from, the public street.</li></ol></li></ol>

*Item 12.3 Continued*

Ref. No.	Area	Provisions
		<ul style="list-style-type: none"><li>c. A minimum of 50% of the total number of dwellings in the development are to be two-storey where the lot size is 260m<sup>2</sup> or less.</li><li>d. Solid external or internal fencing is not permitted where, in the opinion of the City, views from the dwellings to the public street will be limited.</li><li>e. Dwellings located adjacent to public open space, right of ways, pedestrian access ways and other public spaces are orientated and designed to provide views and surveillance of those public areas.</li><li>f. Solar design principles are incorporated in the design and orientation of each dwelling.</li><li>g. Carports and garages visible from the street are incorporated into the dwelling design so that they are not the dominant feature of the appearance of the dwelling and the streetscape.</li></ul>

A copy of the draft Amendment No. 14 map is contained as ([Attachment 6](#)).

### **Local Planning Scheme No. 15**

The subject area is zoned 'Residential' with a density code of 'R20' under LPS 15 and is located within the Development Area 9 Special Control Area.

Part 6 of LPS 15 sets out particular provisions that apply to land, referred to as a 'Special Control Area', that are in addition to any usual zoning and/or development requirements. Part 6 and Schedule No. 14 of LPS 15 establishes a type of Special Control Area, referred to as a 'Development Area', which requires any subdivision and development to be undertaken in accordance with an approved structure plan.

The subject site is located in DA9, which is one of 11 Development Area precincts identified in Schedule No. 14 of LPS 15 and is subject to the following provisions:

- “1. An approved structure plan together with all approved amendments shall apply to land in order to guide subdivision and development.*
- 2. To provide for residential development.”*

An LSP, to guide future subdivision and development within DA9, was endorsed by the WAPC on 4 April 2013 ([Attachment 7](#)). Further information in relation to the LSP is provided in the following section of the report.

*Item 12.3 Continued*

**Development Area 9**

The WAPC approved an LSP for the DA9 precinct in April 2013 to guide future subdivision and development of the precinct. The key elements of the LSP include:

- The extension of Hay Road to connect between Fauntleroy Avenue and Ivy Street.
- Applying an 'R20/60' density coding to lots within the south-western portion of DA9, comprising land bound by Hay Road, Fauntleroy Avenue, land reserved for 'Parks and Recreation' under the MRS and properties zoned 'Mixed Use' under LPS 15, fronting GEH.
- Identifying lots within the north-eastern portion of DA9, comprising Lots 185-196 Hay Road, that are currently reserved for 'Parks and Recreation' under the MRS as requiring further investigation and planning. This is on the basis of needing to resolve their ultimate reservation under the MRS and the Swan River Trust Development Control Area designation.
- The requirement for the preparation of a Local Planning Policy to guide future development and to facilitate a desirable built form outcome within the precinct.

It should be noted that Hay Road has since been extended as per the first point above. In terms of the third point above, the reservation on the north-eastern portion of DA9 remains unresolved and is still reserved for 'Parks and Recreation' under the MRS and is located within the Swan River Trust Development Control Area.

**OFFICER COMMENT**

The subject amendment is seeking to recode existing lots coded R20 within the DA9 precinct to R60 and introduce provisions to guide future subdivision and development within the area. In considering whether to initiate Amendment No. 14 to LPS 15, Council should have regard to the appropriateness of the proposed R60 density in this location, having regard to the adopted LSP, the surrounding context and the desired urban form, along with other technical considerations. This is discussed further below.

**Proposed Residential Density**

In considering the proposed R60 density the following points are relevant:

- The proposed R60 coding would provide for infill development within an area that is located in close proximity to high amenity recreational areas such as the Swan River Foreshore and Garvey Park, existing regional pedestrian and cyclist routes, and GEH which is identified in Perth and Peel @ 3.5 million as a high frequency public transit corridor.
- The R60 density coding is a maximum only, and that future development within the precinct could still be undertaken in line with a lower coding, depending on landowner aspirations.

*Item 12.3 Continued*

- The site is separated from adjacent residential areas by roads including Hay Road and Fauntleroy Avenue and located adjacent to properties fronting GEH which are zoned Mixed Use under LPS 15. It is therefore considered that recoding this land could provide a transition between the commercial/light industrial land uses fronting GEH and the lower intensity R20 density coding.
- An R60 density coding in this location would further facilitate the City in achieving the minimum infill housing targets set by the WAPC.
- The proposed R60 density coding is consistent with a number of objectives of the City's Local Housing Strategy including:
  - To promote the long term sustainability of the City, by encouraging an increase in the City's population through the provision of residential land and housing.
  - To identify and encourage the location of appropriate densities and housing types (for families, singles, aged and couples), which support community and education facilities, commercial centres and transport routes within the City.
  - To identify and encourage the development of sites which are suitable for new housing development, redevelopment and infill.
  - To achieve the highest standard of residential development and subdivision outcomes for the City based on sound planning principles and design criteria.

In light of the above, it is considered that an R60 density in this location is appropriate.

**Urban Form**

In considering the impact that the proposed density change might have on the urban form of an area, regard should be given to the surrounding streetscape characteristics, surrounding density and potential urban form. The following table summarises the main streetscape differences of built form for the R20 and R60 coding's as per the Residential Design Codes (R-Codes):

<b>R-Code Provision</b>	<b>R20</b>	<b>R60</b>
<b>Lot Size</b>		
Single House and Grouped Dwelling Average	450m <sup>2</sup>	150m <sup>2</sup>
Single House and Grouped Dwelling Minimum	350m <sup>2</sup>	120m <sup>2</sup>
Multiple Dwelling	450m <sup>2</sup>	0.8 plot ratio
Minimum Lot Width	10m	-
<b>Primary Street Setback</b>		
Single House and Grouped Dwelling Average	6m	2m
Single House and Grouped Dwelling Minimum	3m	1m

Item 12.3 Continued

R-Code Provision	R20	R60
Multiple Dwelling Average	6m	-
Multiple Dwelling Minimum	3m	2m
<b>Maximum Building Height</b>		
Single House and Grouped Dwelling	2 storeys	2 storeys
Multiple Dwelling	2 storeys	3 storeys

Whilst the proposed R60 urban form varies from the R20 urban form of existing development to the north and west of the precinct, it is important to note that:

- The built form associated with an R60 coding can provide an appropriate transition from the higher intensity development associated with the adjacent Mixed Use zoning and the level of development that is typically associated with a lower intensity R20 density coding.
- Fauntleroy Avenue and Hay Road provide a logical boundary between the proposed R60 density coding and R20 coded land to the north and west of the precinct.
- The same two-storey maximum building height for single houses and grouped dwellings apply at both the R20 and R60 density codes, with provision for only one additional storey for Multiple Dwelling developments proposed at the R60 density coding. It is not considered that an additional storey will impact on the existing urban fabric of the area.
- There is no obligation for landowners to develop and/or subdivide to the maximum density of R60. It is accepted that the urban form of the street block will present a variety of housing types until all the landowners choose to redevelop to the maximum density.

In addition to the above, it should be noted that the subject Scheme amendment proposes to modify the Schedule No. 14 provisions of LPS 15 relating to DA9, to include additional development requirements for grouped dwelling developments on lots less than 350m<sup>2</sup> in area. The proposed development requirements and their justification are outlined in the table below.

No.	Proposed Provision	Justification
1.	Development comprising of two or more dwellings in a front to rear arrangement achieves a minimum side setback of 6 metres between the side wall of the first dwelling fronting the public street and the side boundary of the parent lot.	This provision is applied to flexible coded lots across the City to ensure that view corridors, to facilitate passive surveillance, are maintained from rear dwellings to the public street. Lots within the DA9 precinct have a depth of approximately 75 metres and it is therefore considered critical for this precinct to ensure that view corridors are maintained.
2.	Rear dwellings are designed so that significant sections of the front elevations have an outlook to and are visible from the public street.	This provision provides for dwellings to be designed to facilitate passive surveillance to the public street.
3.	A minimum of 50% of the total number of	It is considered that two-storey development on

*Item 12.3 Continued*

<b>No.</b>	<b>Proposed Provision</b>	<b>Justification</b>
	dwellings in the development are two-storey where the lot size proposed is 260m <sup>2</sup> or less.	lots that are 260m <sup>2</sup> or less is necessary for the following reasons: <ul style="list-style-type: none"><li>• It creates greater open space on the ground, with increased amenity between units.</li><li>• It ensures living areas commensurate for family needs and encourages better internal facilities.</li><li>• It enhances informal surveillance to the street.</li><li>• It provides for variation in streetscape through changes in height and design.</li><li>• It facilitates a higher standard of development.</li></ul> It is not considered necessary for two-storey development to be required on larger lots (greater than 260m <sup>2</sup> ) as such sites are large enough to accommodate open space and internal living areas on the ground floor.
4.	Solid external or internal fencing is not permitted where, in the opinion of the City, views from dwellings to the public street will be limited.	This provision is considered necessary to facilitate passive surveillance and to achieve a higher quality development outcome.
5.	Solar design principles are incorporated in the design and orientation of each dwelling.	It is important for solar design principles to be incorporated into developments within the precinct for the following reasons: <ul style="list-style-type: none"><li>• Smaller lot sizes can result in limited opportunities for solar access and ventilation; and</li><li>• To facilitate a high standard of living and dwelling amenity.</li></ul>
6.	Carports and garages visible from the street are incorporated into the dwelling design so that they are not the dominant feature of the appearance of the dwelling and the streetscape.	This provision ensures that garages and carports are not a dominant feature of streetscapes and do not impact upon amenity.

It should be noted that the relevant provisions from Clause 5.7.3 of LPS 15 currently apply to development above the base coding in flexible coded areas. The proposed development requirements facilitate a high quality development outcome. The proposed development provisions will only relate to grouped dwelling developments on lots less than 350m<sup>2</sup> (above a density of R20) as:

- The provisions outlined in Clause 5.7.3 apply only to development above the R20 density. It would be unreasonable to impose additional development provisions on R20 sized (350m<sup>2</sup>) lots.
- Larger lots (greater than 350m<sup>2</sup>) are less constrained and therefore have additional room for solar design principles and carports or garages to be incorporated into the design of dwellings.

*Item 12.3 Continued*

- Volume 2 of the R-Codes, which relates to multiple dwelling developments proposed at an R40 density and above, contains stringent development requirements that multiple dwelling proposals are required to meet. This is a higher requirement than the standards proposed in Schedule No. 14 and is considered adequate for multiple dwelling development.

In addition to the above, Schedule No. 14 of LPS 15 will also require an LDP to be submitted and approved for any subdivision that contemplates the creation of vacant lots. This is to ensure that bushfire management, flood management, transport noise mitigation, waste collection, access, crossover minimisation and interface are cohesively addressed.

Whilst the endorsed LSP for the DA9 precinct outlined that a local planning policy would be prepared to ensure that a desirable built form outcome is achieved, it is considered that the abovementioned development provisions, in addition to the requirements of the R-Codes, will be suitable in facilitating high quality development outcomes within the precinct.

To demonstrate how lots within the precinct could be developed in line with an R60 density coding, the applicant has submitted a development concept plan ([Attachment 8](#)). The concept plan shows the development of 18 grouped dwellings across two lots (nine on each lot) that are serviced by a common property driveway running through the centre of the site. The concept is purely indicative and the landowners are not obliged to adhere to this concept. It is acknowledged however that the concept requires further examination in light of the proposed LPS 15 provision, particularly in relation to crossover minimisation and its interface to the adjacent Mixed Use land. These matters will be considered further as part of any future development and/or subdivision application, along with other technical planning matters.

### **Traffic**

A Transport Impact Statement (TIS) has been submitted as part of the proposed amendment ([Attachment 9](#)). The TIS outlines that if development of the subject sites occurred in line with an R60 density coding, that this could generate a potential 550 vehicles per day, 64 vehicles per hour and 38 vehicles per hour in the AM and PM peak hours respectively.

The WAPC Transport Impact Assessment Guidelines (2016) stipulate that:

*“As a general guide, an increase in traffic of less than 10 percent of capacity would not normally be likely to have a material impact on any particular section of road. For ease of assessment, an increase of 100 vehicles per hour for any lane can be considered as equating to around 10 percent of capacity.”*

The TIS outlines that the proposed density coding of R60 will not increase traffic flows on any roads adjacent to the site by more than 100 vehicles per hour. The impact on the surrounding road network is therefore considered to be minor and will not result in an increase in the number of vehicle movements beyond what could reasonably be expected in a residential area.

Item 12.3 Continued

## Site Constraints

### **Bushfire Hazard**

Land within the precinct is identified as being bushfire prone due to vegetation contained within the adjacent Parks and Recreation reserve and grassland on Lots 1 and 180 Hay Road and Lot 177 Fauntleroy Avenue (Figure 3).

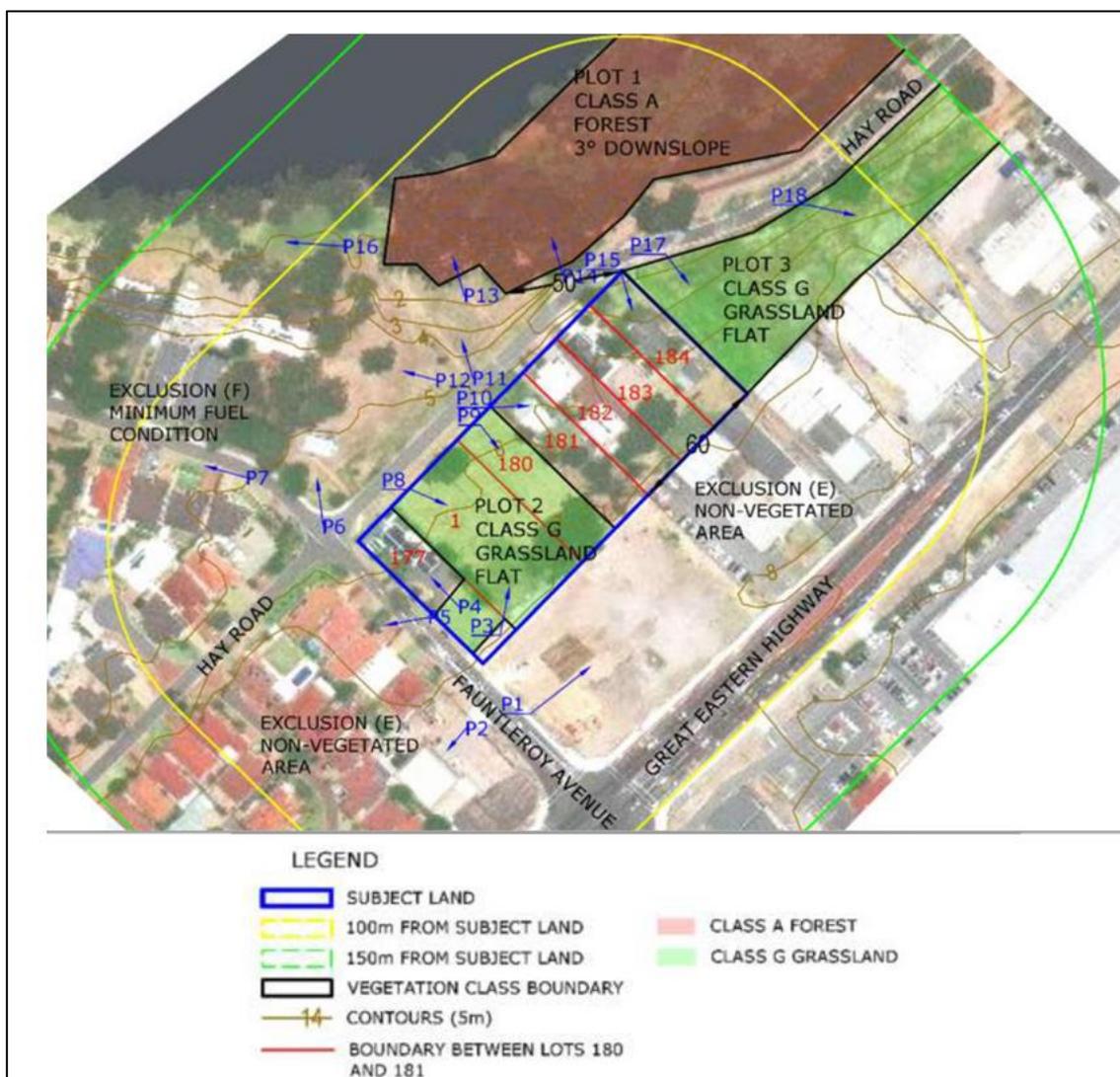


Figure 3: Bushfire prone vegetation

The provisions of State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) apply to all planning proposals in designated bushfire prone areas. SPP 3.7 stipulates that any strategic planning proposal, such as an amendment to the local planning scheme, that contains land designated as ‘bushfire prone’ is required to be accompanied by:

1. A Bushfire Attack Level (BAL) assessment and/or contour map that provides a detailed assessment of the risk and assigns a BAL rating to land based on its risk from bushfires.

*Item 12.3 Continued*

2. A Bushfire Management Plan (BMP) which identifies any bushfire hazard issues and provides a clear demonstration that compliance with the WAPC's Guidelines for Planning in Bushfire Prone Areas (the Guidelines) can be achieved.

In accordance with the above requirements, both a BMP and a BAL contour map have been prepared for the site ([Attachment 10](#)). The BAL contour map indicates that the site will be subject to BAL ratings up to BAL-FZ. In accordance with SPP 3.7, any strategic planning proposal which will result in the introduction of development that will be subject to the BAL-40 and BAL-FZ rating should not be supported. To address this, and ensure that no future development occurs within the portion of the site subject to the BAL-40 and BAL-FZ ratings, the BMP submitted as part of the proposed amendment stipulates that:

- All habitable and associated structures on Lot 183 Hay Road will need to be setback 8 metres from the north-west boundary of the lot with Hay Road.
- All habitable and associated structures on Lot 184 will need to be setback 8 metres from the north-west boundary of the lot with Hay Road and 8 metres from the north-east boundary.

It should be noted that any future development contained within areas designated between BAL-29 and BAL-12.5 will be required to construct to a higher standard in accordance with AS3959.

The BMP submitted as part of the proposed amendment demonstrates that future development of the subject land can comply with the WAPC's Guidelines for Planning in Bushfire Prone Areas in relation to siting and design of future development, vehicular access and water supply.

### **Transport Noise**

All properties within the precinct are potentially impacted, or may be impacted in the future by adverse traffic noise from GEH, and therefore State Planning Policy 5.4 – Road and Rail Noise (SPP 5.4) applies. State Planning Policy 5.4 aims to protect major transport corridors from incompatible urban encroachment and protect people from unreasonable levels of transport noise by establishing a standardised set of criteria to be used in the assessment of proposals. Any future development within the precinct will be required to be assessed in accordance with the requirements of SPP 5.4.

### **Soil Type and Drainage**

The adopted LSP for DA9 indicated that the site is low lying and has the potential to contain acid sulfate soils and a high water table, which could have structural and drainage implications for the site. It will therefore be necessary for a geotechnical report and Acid Sulfate Soil Assessment to be prepared prior to any site works on the properties.

Item 12.3 Continued

### Main Roads Western Australia Draft Strategic Access Plan for Great Eastern Highway

Main Roads Western Australia's draft Strategic Access Plan for GEH, between Tonkin Highway to the GEH Bypass, illustrates a range of both short term and long term access easements running along the rear of the subject properties (Figure 4). Whilst this plan has never been adopted, the purpose of the proposed access easements is to provide for a future right-of-way connection between Fauntleroy Avenue and Ivy Street. The draft plan also illustrates a future access easement along the front of the Mixed Use properties adjacent to GEH, between Fauntleroy Avenue and Ivy Street.

In considering this, it should be noted that any subdivision and development within the subject area should have regard to Main Roads Western Australia's draft Strategic Access Plan requirement for a right-of-way to be created along the rear boundaries of the properties within the precinct. Notwithstanding, it is considered questionable whether the right-of-way is required given that alternative access is afforded by Hay Road, which was extended in 2016. Furthermore, access for properties fronting GEH does not rely on the creation of the right-of-way as alternative access will be provided jointly along the GEH frontage of these properties. Whilst this is considered to be a separate matter to the subject amendment, it is considered prudent to seek advice from Main Roads Western Australia (MRWA) should the amendment be initiated and advertised.

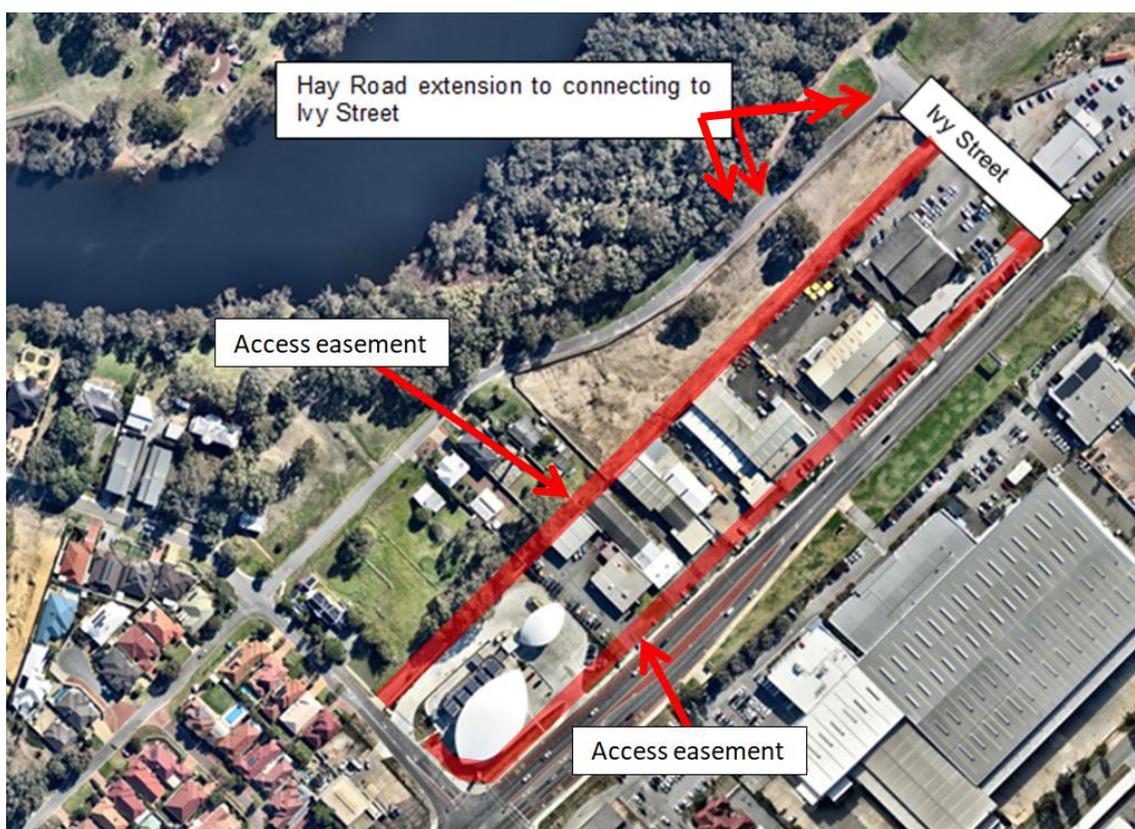


Figure 4: Completed Hay Road extension to connect to Ivy Street (Source: Nearmaps)

### Infrastructure and Servicing

A Servicing and Capacity Constraint Report ([Attachment 11](#)) was prepared as part of the proposed Scheme amendment. The report outlines that future development within the precinct can be serviced by existing infrastructure, subject to minor upgrades including:

*Item 12.3 Continued*

- Extending the sewer mains along Hay Road (Figure 5).
- Upgrading the existing water main network to ensure sufficient supply can be provided to the ultimate development.

It should be noted that Perth Airport has a large DN1500 stormwater drain that runs through Lot 177 Fauntleroy Avenue and Lot 1 Hay Road (Figure 5). Lot 1 Hay Road is Commonwealth land which Perth Airport has a 50 year lease over, with Lot 177 Fauntleroy Avenue in private ownership. The report outlines that due to the size and elevation of the pipe, it would be problematic to realign along Fauntleroy Avenue and Hay Road. Therefore, any future development on the lots will need to protect the existing pipe.

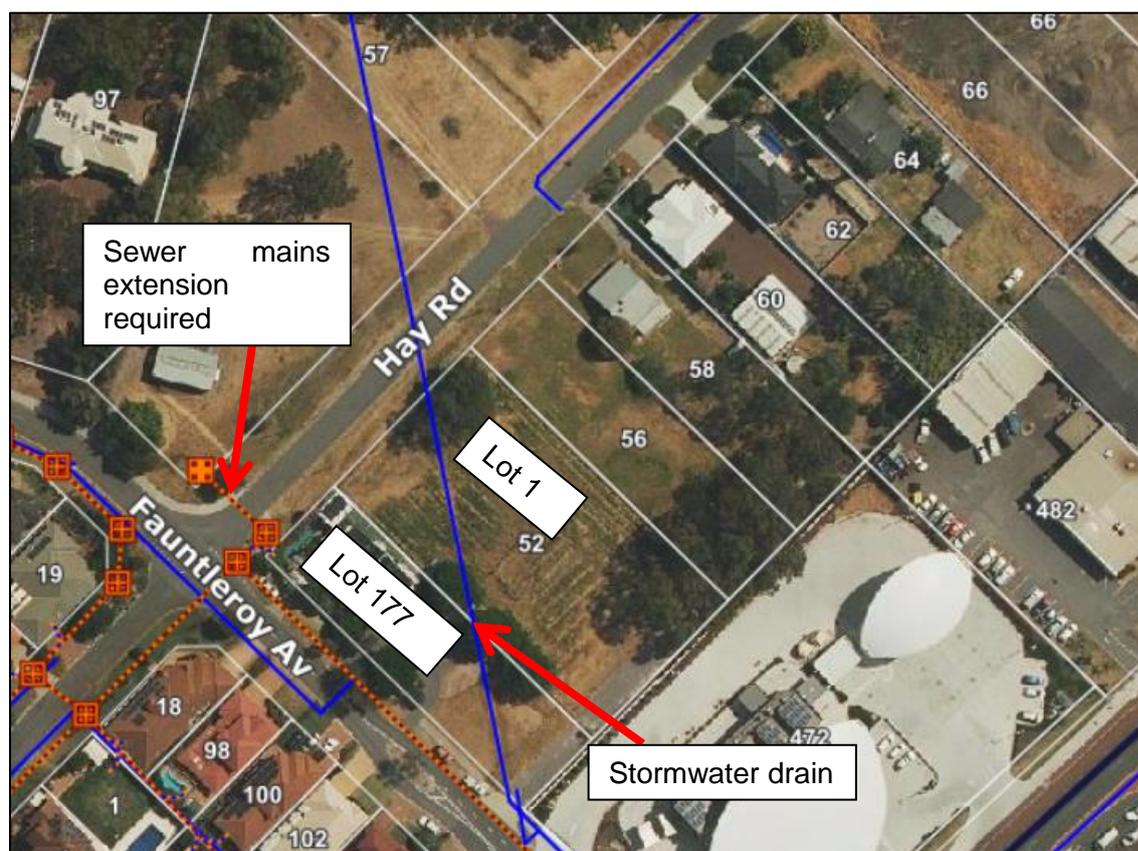


Figure 5: Perth Airport stormwater drain

### **Amendment Type**

The *Regulations* specify three different types of Scheme amendments, being ‘basic’, ‘standard’ and ‘complex’. Clause 35(2) of the *Regulations* requires a resolution of the local government specifying the type of amendment and the reasons for the classification.

A standard amendment is identified by the *Regulations* as meaning:

- “(a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.*
- “(b) An amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission.*

*Item 12.3 Continued*

- (c) *An amendment to the Scheme so that it is consistent with a Region Planning Scheme that applies to the Scheme area, other than an amendment that is a basic amendment.*
- (d) *An amendment to the Scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the Scheme for the land to which the amendment relates if the Scheme does not currently include zones of all the types that are outlined in the plan.*
- (e) *An amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.*
- (f) *An amendment that does not result in any significant environmental, social, economic or governance impacts on land in the Scheme area;*
- (g) *Any other amendment that is not a complex or basic amendment.”*

The proposed amendment is considered to be a ‘standard’ amendment for the following reasons:

- The proposed amendment relates to a ‘Residential’ zone and is consistent with the objectives of that zone under LPS 15.
- The proposed amendment provides for an appropriate transition from the higher intensity development associated with the Mixed Use zoning and the level of development that is typically associated with a lower intensity R20 density coding.
- The proposed amendment is consistent with the MRS zoning that applies to the area.
- The proposed amendment will not negatively impact on any land of the Scheme area.
- The proposed amendment will not result in any significant negative environmental, social or economic impacts on land in the Scheme area.
- The proposed amendment is consistent with the maximum density provided for in the draft LSP for DA9 endorsed by the WAPC on 8 April 2013.
- The proposed amendment will facilitate development and subdivision of this area.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

Any environmental implications associated with subdivision and development within the DA9 precinct, such as bushfire hazard and site conditions, will be addressed through the subsequent stages of planning.

*Item 12.3 Continued*

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

**That Council:**

- A. Pursuant to Section 75 of the *Planning and Development Act 2005*, adopts for the purpose of advertising the following amendment to Local Planning Scheme No. 15:**
- (i) Amending the Scheme Map to reflect an R60 coding over properties bound by Hay Road, Fautleroy Avenue, land reserved for Parks and Recreation and properties zoned Mixed Use fronting Great Eastern Highway.**
  - (ii) Amending Schedule No. 14 of the Scheme Text relating to Development Area 9 to include the following provisions:**
    - 3. A Local Development Plan shall be submitted and approval as a requirement of any subdivision approval involving the creation of vacant lots. The Local Development Plan shall address transport noise management, bushfire management, waste collection, access, crossover minimisation, interface to non-residential development, drainage requirements, site constraints and flood risk mitigation, unless otherwise determined by the local government.**
    - 4. Where a grouped dwelling development application proposes a minimum lot size of less than 350m<sup>2</sup>, the following development standards are applicable:**
      - a. Development comprising two or more dwellings in a front to rear arrangement are to achieve a minimum side setback of 6 metres between the side wall of the first dwelling fronting the public street and the side boundary of the parent lot.**
      - b. Rear dwellings are designed so that significant sections of the front elevations have an outlook to, and are visible from, the public street.**
      - c. A minimum of 50% of the total number of dwellings in the development are to be two-storey where the lot size is 260m<sup>2</sup> or less.**
      - d. Solid external or internal fencing is not permitted where, in the opinion of the City, views from the dwellings to the public street will be limited.**
      - e. Dwellings located adjacent to public open space, right of ways, pedestrian access ways and other public spaces are orientated and designed to provide views and surveillance of those public areas.**

*Item 12.3 Continued*

- f. **Solar design principles are incorporated in the design and orientation of each dwelling.**
  - g. **Carports and garages visible from the street are incorporated into the dwelling design so that they are not the dominant feature of the appearance of the dwelling and the streetscape.**
- B. Pursuant to Clause 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that Amendment No.14 to Local Planning Scheme No. 15 is a ‘standard’ amendment, for the following reasons:**
  - (i) **The proposed amendment relates to a ‘Residential’ zone and is consistent with the objectives of that zone under Local Planning Scheme No. 15.**
  - (ii) **The proposed amendment is consistent with the Metropolitan Region Scheme zoning that applies to the area.**
  - (iii) **The proposed amendment will not negatively impact on any land of the Scheme area.**
  - (iv) **The proposed amendment will not result in any significant negative environmental, social or economic impacts on land in the Scheme area.**
  - (v) **The proposed amendment is consistent with the maximum density provided for in the draft Local Structure Plan for Development Area 9, endorsed by the Western Australian Planning Commission on 4 April 2013.**
  - (vi) **The proposed amendment will facilitate development and subdivision of this area.**
- C. Forwards Amendment No.14 to Local Planning Scheme No.15 to the Environmental Protection Authority for comment, pursuant to Section 81 of the *Planning and Development Act 2005*, and subject to no objection being received from the Environmental Protection Authority, advertise the amendment for public comment for a period of 42 days in accordance with Clause 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**OFFICER RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12**

**12.4 WILSON PARK NETBALL FACILITY – COMMUNITY SPORT AND RECREATION FACILITIES  
FUND (CSRFF) GRANT**

**SOCIAL BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 12 – Item 12.4 refers	<a href="#"><u>Draft Design – Wilson Park Netball Courts &amp; Sports Lighting</u></a>

Voting Requirement	:	Simple Majority
Subject Index	:	57/003–Community Sporting and Recreation Grants
Location/Property Index	:	Property Address
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	Item 13.3 Ordinary Council Meeting 23 June 2020
Applicant	:	N/A
Owner	:	Crown vested in the City of Belmont
Responsible Division	:	Infrastructure Services

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

**PURPOSE OF REPORT**

To provide Council with background on the proposed Wilson Park Netball Facility upgrade and to seek Council's approval to proceed with a Community Sport and Recreation Facilities Fund grant application to the Department of Local Government, Sport and Cultural Industries (DLGSC) for funding in the 2021-2022 financial year.

*Item 12.4 Continued*

## **SUMMARY AND KEY ISSUES**

The Wilson Park Netball Facility (netball courts and sports lighting) is approximately 40 years old and has reached the end of its useful life. The current condition of the courts and lighting presents a number of potential safety issues for users and no longer meets the needs of the Belmont Netball Association (BNA).

A condition assessment of the netball court surface was undertaken by an independent consultant. The assessment indicated the need for extensive renewal work to be undertaken within the next two years.

As part of the Wilson Park Precinct Masterplan, a concept to upgrade the courts was developed in consultation with the BNA and was officially endorsed by the Association in September 2019.

The DLGSC Community Sporting and Recreation Facilities Fund (CSRFF) Forward Planning Grants for the 2021/2022–2023/2024 triennium are available for projects where the total project cost exceeds \$500,000, and where the project may require an implementation period between one and three years. DLGSC require grant applications to be assessed and prioritised by local governments prior to submission.

This report proposes that a grant application for the upgrade of the Wilson Park Netball Facility be supported and submitted to DLGSC for funding in the 2021/2022 financial year.

## **LOCATION**

The netball courts are located within the Wilson Park Precinct at the corner of Surrey Road and Campbell Street, as shown in the aerial image below.



*Item 12.4 Continued*

**CONSULTATION**

The City of Belmont has been consulting with the BNA in regards to the condition of the Wilson Park Netball Courts since 2014. The City has held numerous stakeholder meetings with the BNA Committee and Netball WA (NWA) to work through the current court surface issues and the commencement of planning for the future upgrade of the courts.

In 2016, remedial works were undertaken by the City to address court surface issues on a number of the worst affected courts. These works extended the life of the courts, while the Wilson Park Masterplan was developed and suitable grant funding for the netball facility upgrade was sourced.

As of 2017, significant community consultation was undertaken by the City for the redevelopment of Wilson Park and immediate surrounds. The BNA, together with the wider community, were involved in the development of the following key plans:

- Wilson Park Vision Plan (March 2017)
- Wilson Park Masterplan (2019)

The netball courts were identified as an integral part of the Wilson Park Masterplan, and from June 2018, the BNA committee actively contributed towards the overall concept design of the netball courts to meet their current and future needs.

A formal needs analysis has been undertaken to ensure the BNA's requirements have been considered in the design process. The following feedback has been addressed in the concept design:

- Netball courts to comply with Netball Australia facility guidelines
- BNA require a minimum of 12 courts
- All courts must be lit to competition standard (of 200 lux) to support future growth
- No objection to multi-purpose use of the netball courts, provided it is a use that would not damage the surface
- Kerbing/edging around the court perimeter
- Low level landscaping is helpful to minimise balls running onto the road
- Request for 3-4 courts to have Net Set Go adjustable poles
- No issue with configuration of courts in a NE/SW direction
- A need to keep an open area in front of the clubrooms.

Accordingly, in September 2019 the BNA committee endorsed the draft concept design for the Wilson Park Netball Courts (coinciding with the Wilson Park Masterplan).

Item 12.4 Continued

**STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Social Belmont.

**Objective:** Develop community capacity and self-reliance.

**Strategy:** Assist clubs and community groups to be viable and active.

**Corporate Key Action:** Assist new and existing local sporting clubs to be sustainable.

**POLICY IMPLICATIONS**

There are no significant policy implications with this report. The report is consistent with Policy SB1.1 – Council Authority to Apply for Grants and Policy SB 1.4 Applications for Council Assistance.

**STATUTORY ENVIRONMENT**

There are no specific statutory requirements in respect to this matter.

**BACKGROUND**

The DLGSC CSRFF Forward Planning Grants for the 2021/2022–2023/2024 triennium are available for projects where the total project cost exceeds \$500,000 and where the project may be implemented over three years. The applicant can nominate a preferred implementation timeframe.

Under the CSRFF guidelines, the DLGSC may contribute funding up to one third of the project costs with submissions closing on 11 September 2020.

The DLGSC require all grant applications to be assessed and prioritised by local governments prior to submission. Local governments are to base assessments on the need for a planned approach, which takes into account justified needs, existing facilities and the social and financial impact of investing in new facilities.

Each submission is to be assessed against the following criteria:

<b>RATE</b>	<b>DESCRIPTION</b>
A	Well planned and needed by the municipality
B	Well planned and needed by the applicant
C	Needed by the municipality, more planning required
D	Needed by the applicant, more planning required
E	Idea has merit, more preliminary work needed
F	Not recommended

Grant applications will be considered by the DLGSC CSRFF Advisory Committee and recommendations to be announced in November/December 2020.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City

*Item 12.4 Continued*

The City has prepared one (1) grant application for assessment as follows:

- City of Belmont – Wilson Park Netball Facility Upgrade

**OFFICER COMMENT**

The Wilson Park Netball Facility was constructed approximately 40 years ago and has been home to the BNA since its inception.

Originally nine courts with lighting were installed. Since opening, additional improvements and upgrades have been made as outlined below:

- Additional 7 courts and lighting installed between 1981-1985
- Resurfacing of asphalt between 1995-2000
- Re-lining of courts in 2008
- Courts resurfaced with acrylic sports surface in 2011.

Due to the age of the courts and sports lighting, the netball facility is considered no longer fit for purpose and presents a number of issues for users as follows:

- Inconsistencies in surface texture and significant surface cracking
- Peeling of the acrylic playing surface on the courts and run off areas
- Water pooling due to poor drainage
- Inadequate boundary and court run off areas (does not meet court design standards)
- Sloped areas and conflicting grated drain covers
- Lights are uneconomical and expensive to operate (metal halide globes)
- Lights do not meet the Australian Standards for outdoor netball
- Location of the existing lighting towers is a collision hazard.

A number of minor surface issues have appeared over the past six years. In this time, the City has undertaken annual inspections and carried out repairs where necessary to extend the life of the courts.

However, this has resulted in surface inconsistencies in certain areas, which now requires a more permanent solution with replacement in the near future.

Rather than addressing the future of the netball courts in isolation, in late 2016 the City commenced work on developing a Place Vision for the Wilson Park precinct to gain an understanding on the Rivervale community's needs and aspirations for the area.

The Place Vision guided the development of a masterplan for the Wilson Park Precinct in 2018.

As part of the master planning process, extensive consultation was undertaken resulting in the development of a three-stage masterplan proposal. Through this process, the BNA has been involved in ongoing discussions and have provided input into the requirements for the netball courts and associated sports lighting with the BNA formally supporting the proposed concept design in September 2019.

*Item 12.4 Continued*

Since the BNA's approval of the proposed concept design, City Officers have undertaken ongoing site inspections and sought specialist advice regarding the condition of the courts. Based on the advice received, an extensive upgrade of the facility is required within the next two to three years. As an interim arrangement, minor remedial works will be undertaken which will ensure that the courts can continue to be used.

The BNA have the second highest participation rate for organised sporting activities in the City. To allow for further growth, the BNA requests that the project commences as soon as possible.

The BNA currently has 465 playing members and is projected to grow to over 600 members due to:

- Increase in the number of teams in senior competition who train in the evenings.
- Additional senior and junior players transferring from other Associations because of BNA development opportunities, including participation in the new Netball WA Metro League Competition.
- Interest from Lathlain Primary School to become an affiliated club for the 2021 season.
- Redcliffe Netball Club to run a separate Net Set Go program during the week in 2021 which will attract new members.
- Belmont Umpire Development Officer to run an umpire program in conjunction with the Perth Netball Association in 2021 which will attract new umpires.

In order to accommodate for membership growth, the committee has placed an emphasis on delivering appropriate levels of training, accreditation and education to support its volunteer base. The BNA maintains a strong working relationship with Netball WA and has collaborated with the City of Belmont in developing a suitable facility plan to meet the future needs of the association.

To support the BNA in achieving their objectives and future growth, the Wilson Park Netball Facility requires extensive renewal which will comprise of:

- The demolition and removal existing courts surface and materials
- The removal of the sports lighting towers and footings
- Reconstruction of the court sub-base
- Primerseal
- Asphalt overlay
- Non-slip playing surface application for 12 courts including a multi-purpose court and half court.
- New goals (including options for NetSetGo)
- Nine 20m lighting towers with LED lighting fixtures to light all 12 courts.

The draft design for the netball courts and sports lighting can be found in [Attachment 12](#).

## **FINANCIAL IMPLICATIONS**

The CSRFF application for the Wilson Park Netball Facility upgrade has a total estimated project cost of \$1,539,000 (ex GST). The cost estimate was prepared by Ralph and Beattie Bosworth Pty Ltd which includes approximately \$186,065 of contingency and cost escalations.

*Item 12.4 Continued*

The various aspects of the estimate provided by the quantity surveyor are as follows:

Project costs	QS Cost
Courts upgrade	\$ 687,922
Sport Lighting	\$ 433,800
General Preliminaries 7.5% <i>(The cost of administering the project e.g. insurances, general plant equipment, site based facilities and services).</i>	\$ 84,000
Design and construction contingency (5 – 7.5%)	\$ 150,000
Building Act Compliance 0.50%	\$ 7,000
Professional fees and disbursements including Aboriginal monitoring allowance (11%)	\$ 140,000
<b>Total</b>	<b>\$ 1,502,722</b>
Cost escalation (2.4% based on projected CPI increases).	\$ 36,065
	<b>\$ 1,538,787</b>
<b>TOTAL FINANCIAL IMPLICATIONS</b>	<b>\$ 1,539,000</b> (Rounded to nearest '000)

The City has an allocation of \$150,000 in the 2020/2021 budget for matters relating to the Wilson Park Master Plan. A portion of these funds will be used towards the development of design specifications and tender documentation for the netball facility upgrade project, in preparation of going to tender for construction in the 2021/2022 financial year if the grant application is successful.

A one third funding contribution towards the project cost is requested from DLGSC in the CSRFF grant application (\$513,000).

Council policy encourages community/sporting groups to contribute to projects on a one-third basis. However, if a project is of significant size/value and involves the development/upgrade of a Council facility, Council has previously contributed a greater amount due to local clubs being unable to fund all of the remaining one-third contribution. Such is the case in this circumstance whereby the BNA is able to contribute a maximum of \$100,000 to the project.

The BNA's financial commitment has been provided in writing, together with evidence of their ability to finance their contribution by their financial institution.

Should the City's CSRFF application be successful, the City will be required to fund the remaining estimated project cost of \$926,000. It is proposed that these funds are considered as part of the 2021/2022 capital works budget. However, if the project can be undertaken for less than the estimated amount, this will result in savings for the City.

*Item 12.4 Continued*

The funding breakdown is summarised in the table below:

<b>Contribution Towards Project</b>	<b>Cost (ex GST)</b>
City of Belmont	\$926,000
Belmont Netball Association	\$100,000
CSRFF	\$513,000
<b>Total project cost</b>	<b>\$1,539,000</b>

In the event that the City's grant application is unsuccessful or the grant amount is less than applied for, or the BNA withdraw their funding support, a report will be presented to Council for further consideration.

Notwithstanding, the City will also consider this project for appropriate funding opportunities that may arise through the State or Federal Government.

Council should also be cognisant of potential impacts that may arise from the continued COVID-19 pandemic and the City's ability to maintain or even reduce revenue in the coming years. This may require Council to reconsider its decision based upon the facts at that time.

### **ENVIRONMENTAL IMPLICATIONS**

A geotechnical investigation is currently in progress and is estimated to be completed by the end of July 2020. Based on the preliminary desktop analysis and historical works previously undertaken, it is believed that it is unlikely that there will be any major environmental implications.

Notwithstanding, the Quantity Surveyor has considered this a potential cost with a geotechnical contingency allocated in the overall estimate of the project.

The City will also investigate opportunities to recycle existing court materials where possible to reduce landfill.

An upgrade of the lighting to LED will improve energy efficiency and reduce the City's carbon footprint and energy costs.

### **SOCIAL IMPLICATIONS**

The proposed renewal and upgrade of the Wilson Park Netball facility will:

- Ensure that the community has access to the services and facilities it needs.
- Assist in developing community capacity through the provision of improved infrastructure for current and new users that may impact on membership and participation.
- Support the Belmont Netball Associations objectives.
- Enhance a sense of community and the image of Belmont, in particular Rivervale.
- Contribute to an environment where residents are safe and feel safe by activating a community facility.

*Item 12.4 Continued*

**OFFICER RECOMMENDATION**

That Council:

1. Approve the submission of the Community Sport and Recreation Facilities Fund (CSRFF) grant application for the upgrade of the Wilson Park Netball Facility.
2. Receive a future report to consider acceptance of the funding offered by the Department of Local Government Sport and Cultural Industries if the grant application is successful.
3. Consider the allocation of approximately \$926,000 (expenditure) in the 2021-2022 Council budget process for the Wilson Park Netball Facility upgrade should Council accept the grant funds.
4. Notes the Belmont Netball Association will be advised in writing that the application is being made subject to their financial commitment to contribute a minimum amount \$100,000 to the cost of the project.

**Note:**

**Cr Wolff put forward the following Alternative Councillor Motion.**

**ALTERNATIVE COUNCILLOR MOTION**

**WOLFF MOVED, POWELL SECONDED**

That Council:

1. Approve the submission of the Community Sport and Recreation Facilities Fund (CSRFF) grant application for the upgrade of the Wilson Park Netball Facility.
2. Receive a future report to consider acceptance of the funding offered by the Department of Local Government Sport and Cultural Industries if the grant application is successful.
3. Consider the allocation of approximately \$926,000 (expenditure) in the 2021- 2022 Council budget process for the Wilson Park Netball Facility upgrade should Council accept the grant funds.
4. Refer the financial contribution of the Belmont Netball Association back to an Information Forum for discussion.
5. Recommend that a policy be developed concerning financial contributions by associations/clubs to City of Belmont projects, with consideration of exclusive access to facilities.

*Item 12.4 Continued*

Reason:

Council should look at developing a policy taking in to account whether the facility is to be “exclusively” accessed by the association/club, or whether it can be “freely” accessed by the general public.

**LOST 3 VOTES TO 6**

*For: Marks, Powell, Wolff*

*Against: Bass, Cayoun, Davis, Rossi, Ryan, Sekulla*

**Note:**

**Cr Cayoun foreshadowed the Officer Recommendation.**

**FORESHADOWED MOTION**

***CAYOUN MOVED, DAVIS SECONDED***

**That Council:**

- 1. Approve the submission of the Community Sport and Recreation Facilities Fund (CSRFF) grant application for the upgrade of the Wilson Park Netball Facility.**
- 2. Receive a future report to consider acceptance of the funding offered by the Department of Local Government Sport and Cultural Industries if the grant application is successful.**
- 3. Consider the allocation of approximately \$926,000 (expenditure) in the 2021-2022 Council budget process for the Wilson Park Netball Facility upgrade should Council accept the grant funds.**
- 4. Notes the Belmont Netball Association will be advised in writing that the application is being made subject to their financial commitment to contribute a minimum amount \$100,000 to the cost of the project.**

**CARRIED 7 VOTES TO 2**

*For: Bass, Cayoun, Davis, Powell, Rossi, Ryan, Sekulla*

*Against: Marks, Wolff*

**12.5 REVIEW OF WARDS AND REPRESENTATION - 2020**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 13 – Item 12.5 refers	<a href="#"><u>Discussion Paper – Wards and Representation Review 2020</u></a>

Voting Requirement : Simple Majority  
Subject Index : 162/002 Ward Boundaries  
Location/Property Index : N/A  
Application Index : N/A  
Disclosure of any Interest : Nil  
Previous Items : N/A  
Applicant : N/A  
Owner : N/A  
Responsible Division : Corporate and Governance

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

**PURPOSE OF REPORT**

To consider undertaking a review of ward boundaries and representation (Elected Member numbers).

*Item 12.5 Continued*

## **SUMMARY AND KEY ISSUES**

A local government that has a ward system is required to carry out reviews of its ward boundaries and the number of offices of Councillor for each ward so that not more than eight years elapse between successive reviews.

The last review of wards and representation for the City of Belmont was completed in 2013 requiring a review prior to the 2021 local government elections.

## **LOCATION**

City of Belmont.

## **CONSULTATION**

Before conducting a review, the City is to give local public notice that a review is to be conducted. A 42 day submission period must be made available to the public.

The purpose of the public notice is to inform the community that the Council intends to conduct a review; it is not to try to 'sell' a preferred option.

A public Discussion Paper ([Attachment 13](#)) has been prepared for public consultation to explain the five factors against which options will be assessed and provide some examples.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Business Excellence Belmont.

**Objective:** Achieve excellence in the management and operation of the local government.

**Strategy:** Ensure community requirements drive internal policies and processes.

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City.

*Item 12.5 Continued*

## **STATUTORY ENVIRONMENT**

### **Local Government Act 1995**

Schedule 2.2 – Provisions about names, wards and representation

#### **‘6. Local government with wards to review periodically**

- (1) *A local government the district of which is divided into wards is to carry out reviews of —*
- (a) *its ward boundaries; and*
  - (b) *the number of offices of councillor for each ward,*
- from time to time so that not more than 8 years elapse between successive reviews.*
- (2) *A local government the district of which is not divided into wards may carry out reviews as to —*
- (a) *whether or not the district should be divided into wards; and*
  - (b) *if so —*
    - (i) *what the ward boundaries should be; and*
    - (ii) *the number of offices of councillor there should be for each ward,*
- from time to time so that not more than 8 years elapse between successive reviews.*
- (3) *A local government is to carry out a review described in subclause (1) or (2) at any time if the Advisory Board requires the local government in writing to do so.*
- [Clause 6 amended: No. 49 of 2004 s. 68(5) and (6).]*

#### **7. Reviews**

- (1) *Before carrying out a review a local government has to give local public notice advising —*
- (a) *that the review is to be carried out; and*
  - (b) *that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.*
- (2) *In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.’*

## **BACKGROUND**

The City’s last ward and representation review was endorsed by Council at its 26 February 2013 Ordinary Council Meeting. In accordance with Schedule 2.2 of the *Local Government Act 1995*, the City is required to carry out a review so that no more than eight years elapse between successive reviews.

The previous review also included consideration of the announcement by the Minister for Local Government at the time encouraging each local government within Western Australia to embrace the opportunity for voluntary amalgamations and advocating for each Council to have an Elected Member group of between six and nine.

*Item 12.5 Continued*

### **OFFICER COMMENT**

The purpose of a wards and representation review is to evaluate the current arrangements and consider options to find the system of representation that best reflects the characteristics of the district and its people. Examples are provided in the Discussion Paper - Ward and Representation Review 2020 ([Attachment 13](#)).

The review process involves a number of steps:

- Council resolves to undertake the review
- Public submission period opens
- Information is provided to the community for discussion
- Public submission period closes
- Council considers all submissions and relevant factors and makes a decision
- Council submits a report to the Local Government Advisory Board (LGAB) for its consideration; and
- (If a change is proposed) The LGAB submits a recommendation to the Minister for Local Government (the Minister).

The Public Discussion Paper ([Attachment 13](#)) has been prepared to inform the public of the process, explain the five factors against which options will be assessed and provide some examples.

The examples provided in the Discussion Paper are provided for discussion purposes only and are not intended to be all encompassing or to indicate which options would be supported by the City. Through the consultation members of the community are invited to provide any options for change to the City for consideration as part of the ward and representation review process.

The first step of the review is for Council to resolve to undertake the review which is the subject of this report.

### **FINANCIAL IMPLICATIONS**

Advertising fees giving public notice that a review is to be carried out will be a necessary expense.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

*Item 12.5 Continued*

**OFFICER RECOMMENDATION**

**That Council:**

- 1. In accordance with the provisions of the *Local Government Act 1995*, resolves to undertake a review of its ward and representation system;**
- 2. Give local public notice of its intent to carry out a review of wards and representation and invite submissions as required under Clause 7(1) of Schedule 2.2 of the *Local Government Act 1995*; and**
- 3. Endorse the content within the Public Discussion Paper – City of Belmont Review of Wards and Representation – 2020 ([Attachment 13](#)) for the purpose of public consultation seeking public submissions.**

***OFFICER RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12***

**12.6 DEED OF VARIATION – LOCAL GOVERNMENT HOUSE TRUST**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 14 – Item 12.6 refers	<a href="#"><u>Draft Deed of Variation – Local Government House Trust</u></a>
Confidential Attachment 1 – Item 12.6 refers	<a href="#"><u>Deed of Trust – Local Government House Trust</u></a>
Confidential Attachment 2 – Item 12.6 refers	<a href="#"><u>Local Government House Trust Question and Answer Sheet</u></a>

Voting Requirement : Simple Majority  
 Subject Index : 119/005 – WALGA Policy and Directives  
 Location/Property Index : N/A  
 Application Index : N/A  
 Disclosure of any Interest : Nil  
 Previous Items : N/A  
 Applicant : N/A  
 Owner : N/A  
 Responsible Division : Corporate and Governance

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

*Item 12.6 Continued*

## **PURPOSE OF REPORT**

To seek Council consent to a Deed of Variation ([Attachment 14](#)) for the Local Government House Trust as requested by the Western Australian Local Government Association (WALGA).

## **SUMMARY AND KEY ISSUES**

WALGA has formally written to the City of Belmont seeking consent to a variation to the Trust Deed ([Confidential Attachment 1](#)) for the Local Government House Trust (the Trust). The City holds ten (10) units (shares) in the Trust and is a beneficiary of the Trust Deed.

The proposed Deed of Variation ([Attachment 14](#)) is presented to Council for consideration and it is recommended that the Council consent to the proposed variation as shown in [Attachment 14](#) of this report. These minor variations are intended to strengthen WALGA's position as an income tax exempt Trust by reinforcing its position as a State / Territory Body.

## **LOCATION**

Not applicable.

## **CONSULTATION**

Officers from WALGA have provided advice as outlined in the Officer Comment section of this report in relation to the proposed variation to the Trust Deed.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There are no Strategic Community Plan implications evident at this time.

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

## **STATUTORY ENVIRONMENT**

There are no specific statutory requirements in respect to this matter.

## **BACKGROUND**

The Local Government House Trust (the Trust) is a unit trust created for the purpose of providing building accommodation for WALGA.

The Trust's Board of Management is seeking a variation to the Trust Deed ([Confidential Attachment 1](#)) in order to assist the Trust's income tax exempt status.

*Item 12.6 Continued*

As stipulated by the Deed, the Trust requires consent of at least 75% of all beneficiaries in order to execute the Deed of Variation ([Attachment 14](#)).

The City is a unit holder and beneficiary to the Trust and as a beneficiary, the City of Belmont is requested to consent to the proposed Deed of Variation by a resolution of Council.

The current Trust Deed commenced in 1993 and was amended in 2002 to reflect the merger of the Local Government Association of Western Australia and the Country Shire Council's Association into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

The Trust is exempt from income tax on the basis of being a State / Territory Body (STB) pursuant to Division 1AB of the *Income Tax Assessment Act 1936*.

### **OFFICER COMMENT**

Officers from WALGA have provided the following advice in relation to the proposed variation to the Trust Deed.

*"Trust Deed amendments set out in the Deed of Variation are based on legal advice and are intended to assist the Trust's income tax exempt status by strengthening the position that the Trust is a State / Territory Body (STB).*

*Legal advice identified that the Trustee's ability to retire and appoint a new Trustee might affect the Trust's classification as a State or Territory Body (STB). This view, while based upon highly technical grounds, is a risk nonetheless.*

*Subsequently the Deed of Variation aims to strengthen the position that the Trust is a STB through the following amendments:*

- 1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)*
- 2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and*
- 3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)*

*The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):*

- 1. Variation 2.1 amends clause 22.1 to point to additional clause:  
22.1 Any Trustee of the Trust may retire as Trustee of the Trust. The Subject to clause 22.3, the right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.*

*Item 12.6 Continued*

2. *Variation 2.2 inserts two new clauses:*

22.3 *The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.*

22.4 *The Beneficiaries may at any time by Special Resolution:*

*(a) remove a Trustee from the office as Trustee of the Trust; and*

*(b) appoint such new or additional Trustee.*

3. *Variation 2.3 insert a new clause 13A:*

**13A Delegation to the Board of Management**

*Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.*

*The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.*

*The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.*

*These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.”*

Additional information in relation to the Trust is provided in the Local Government House Trust – Questions and Answer sheet ([Confidential Attachment 2](#)) provided by WALGA.

Officers have considered the proposed amendments to the Trust Deed and do not believe the variation will have any impact or pose any risk to the City and therefore have recommended that Council consent to the proposed Deed of Variation as shown in [Attachment 14](#).

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

*Item 12.6 Continued*

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

**That Council:**

- 1. Consent to the proposed amendments to the Local Government House Trust as outlined in the Draft Deed of Variation – Local Government House Trust ([Attachment 14](#)); and**
- 2. Authorise the Mayor and Chief Executive Officer to execute relevant documentation notifying the Western Australian Local Government Association (WALGA) of Council’s decision on this matter.**

***OFFICER RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12***

**12.7 NEW POLICY – SB4.1 – CCTV VIDEO ANALYTICS POLICY**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 15 – Item 12.7 refers	<a href="#"><u>Policy SB4.1 – Closed Circuit Television (CCTV) Video Analytics Policy</u></a>

Voting Requirement	:	Simple Majority
Subject Index	:	32/015 – Council Policy Manuals/Code of Conduct
Location/Property Index	:	Belmont Hub and Faulkner Park Precinct, bounded by Abernethy Road, Wright Street, Robinson Avenue and Alexander Road, Cloverdale
Application Index	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Development and Communities Division

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

**PURPOSE OF REPORT**

For Council to consider and endorse a new policy – SB4.1 – Closed Circuit Television (CCTV) Video Analytics Policy (refer [Attachment 15](#)).

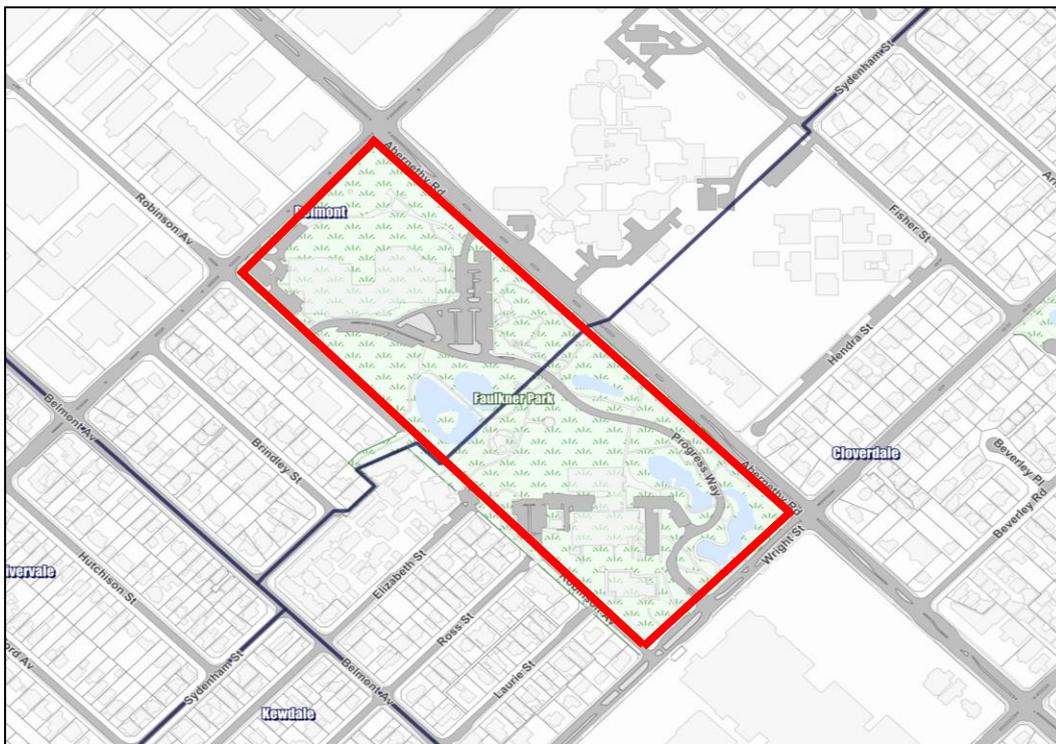
Item 12.7 Continued

## **SUMMARY AND KEY ISSUES**

Policy – SB4.1 – Closed Circuit Television (CCTV) Video Analytics Policy is a new policy that has been developed to define and govern the use of the City’s CCTV analytics software and access to recorded footage and data to ensure that the City complies with legislative requirements.

## **LOCATION**

The video analytics software will be used in CCTV systems located at the Belmont Hub and throughout the Faulkner Park Precinct.



## **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter.

*Item 12.7 Continued*

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Social Belmont

**Objective:** Create a city that leads to feeling of wellbeing, security and safety.

**Strategy:** The City will continue to design and implement programs which enhance safety, security and wellbeing in the community.

**Corporate Key Action:** Implement Community Safety and Crime Prevention Plan 2018-2021.

## **POLICY IMPLICATIONS**

The Policy details parameters governing the use of the City's CCTV analytics software and access to recorded footage and data. This will ensure the City's use of the CCTV analytics software and access to recorded footage and data will comply with legislative requirements.

If Council endorses the recommendation, the new Policy will be included in the City of Belmont Council Policy Manual.

## **STATUTORY ENVIRONMENT**

Section 2.7 of the *Local Government Act 1995* states:

### ***'2.7. Role of Council***

- (1) The council –*
  - (a) governs the local government's affairs; and*
  - (b) is responsible for the performance of the local government's functions.*
- (2) Without limiting subsection (1), the council is to –*
  - (a) oversee the allocation of the local government's finances and resources; and*
  - (b) determine the local government's policies.'*

## **BACKGROUND**

Closed Circuit Television (CCTV), colloquially termed "video surveillance", involves the use of cameras and hard drive systems in the capture and storage of footage and images in a designated area.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City

*Item 12.7 Continued*

The City of Belmont has an extensive CCTV network supported by video analytics software in the Belmont Hub and Faulkner Park Precinct. The City's CCTV cameras and video analytics ensure public safety and support Western Australia (WA) Police, other law enforcement and Government agencies in the investigation and prosecution of criminal offences.

In 2019, the City received a Federal grant of \$540,000 for the installation of CCTV video analytics in the Faulkner Park Precinct and a digital concierge system in the Belmont Hub.

The City will be installing the Briefcam CCTV Video Analytics software solution. The software will be an effective tool in reducing risk and keeping customers, employees and assets safe. The software can be used to monitor live CCTV footage and send alerts in relation to unusual or "out of the ordinary" activities such as abandoned objects and loitering in an area. Users can also quickly and efficiently search pre-recorded footage for a specific event.

The analytics software also provides demographic information on how a building or area is used. The software utilises the extracted video metadata to identify measurable factors of interest such as men, women, children, vehicles, size, colour, speed, path, direction, and dwell time. This metadata will enable the City to analyse the captured footage to assist with operational decision making. This would include improving customer and staff safety and the usability of the building and surrounding area.

Metadata is a set of data that describes and gives information about other data but does not include personal information. An example of personal information is video footage showing faces or anything else that can identify a person.

The use of CCTV video analytics and facial recognition technology in particular is often accompanied by concerns over how it may be used and that it may breach a person's right to privacy. Although the software has facial recognition capabilities, this module will not be activated or used by the City.

## **OFFICER COMMENT**

The City has one of the benchmark CCTV systems in Australia. The addition of the video analytics enhances the CCTV system but also brings a higher level of responsibility and expectation on the City to ensure it uses and stores collected data appropriately.

The CCTV Analytics Policy has been developed to assure the community that:

- The CCTV system and video analytics software will only be accessed by City of Belmont Community Safety & Crime Prevention Officers.
- The system can be accessed and any footage or data obtained can be provided to the relevant law enforcement or government agency for investigative, law enforcement or community safety purposes.
- The City of Belmont may also use the footage for the investigation of breaches of its Local Laws or other legislation or when public safety concerns are raised.
- Metadata from analytics software will be used to provide demographic information to assist in the efficient use and management of the City's facilities.

*Item 12.7 Continued*

- The City will not use or activate the facial recognition capability of analytics software.

The City believes that the endorsement and implementation of this policy will address potential concerns within the community in relation to the use of video analytics.

**FINANCIAL IMPLICATIONS**

In 2019, the City received a Federal grant of \$540,000 for the installation of CCTV video analytics in the Faulkner Park Precinct and a digital concierge system in the Belmont Hub.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

The community may have privacy concerns regarding the use of CCTV video analytics. The new policy has been developed to provide clarity and assurance to the community that their rights will not be impacted upon.

**OFFICER RECOMMENDATION**

**CAYOUN MOVED, ROSSI SECONDED**

That Council endorse SB4.1 – Closed Circuit Television (CCTV) and Video Analytics Policy ([Attachment 15](#)).

**CARRIED 9 VOTES TO 0**

## 12.8 INTERIM FINANCIAL AUDIT REPORT

### BUSINESS EXCELLENCE BELMONT

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Confidential Attachment 3 – Item 12.8 refers	<a href="#">Interim Audit Results Report</a>

Voting Requirement	:	Simple Majority
Subject Index	:	19/001
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Corporate and Governance

#### COUNCIL ROLE

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

#### PURPOSE OF REPORT

This report provides Council feedback from the City's auditors as a result of their Interim Audit conducted in June 2020.

#### SUMMARY AND KEY ISSUES

The interim audit is a key factor in the audit of the Annual Financial Report as explained in the Audit Planning Summary Report that was presented during the February meeting.

Results of the interim audit can be found in [Confidential Attachment 3](#).

*Item 12.8 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Plan Key Result Area: Business Excellence Belmont.

**Objective:** Achieve excellence in the management and operation of the local government.

**Strategy:** Ensure Council is engaged at a strategic level to enable effective decision making.

### **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

### **STATUTORY ENVIRONMENT**

Section 7.2 of the *Local Government Act 1995* requires that “the accounts and Annual Financial Report of a local government for each financial year are audited by an auditor appointed by the local government.”

Section 7.3 of the *Local Government Act 1995* only allows for the appointment of an auditor by the local government if the appointment occurs by the commencement date being the day on which the *Local Government Amendment (Auditing) Act 2018* section 10 came into operation.

As the City had not appointed an auditor by the commencement date the Office of the Auditor General (OAG) is the City’s auditor.

### **BACKGROUND**

During April and May 2020, OAG undertook an interim audit for the purposes of assessing the internal controls and compliance aspects of the City’s operations. This provides the auditors with an indication of the extent to which they can rely on the City’s systems and controls in determining the accuracy of the City’s Annual Financial Report as at 30 June of the year in question.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City

*Item 12.8 Continued*

**OFFICER COMMENT**

The Interim Audit Management Letter from the OAG ([Confidential Attachment 3](#) refers) details two items found during the audit including a Management response to each item.

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.

**COMMITTEE RECOMMENDATION**

**That Council note the results of the 2019-2020 Interim Audit Report as detailed in [Confidential Attachment 3](#).**

***COMMITTEE RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12***

**12.9 ACCOUNTS FOR PAYMENT – JULY 2020**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 16 – Item 12.9 refers</b>	<b><a href="#">Accounts for Payment – July 2020</a></b>

Voting Requirement	:	Simple Majority
Subject Index	:	54/007-Creditors-Payment Authorisations
Location / Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Corporate and Governance Division

**COUNCIL ROLE**

- |                                     |                       |  |
|-------------------------------------|-----------------------|--|
| <input type="checkbox"/>            | <b>Advocacy</b>       | <i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>  |
| <input checked="" type="checkbox"/> | <b>Executive</b>      | <i>The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>  |
| <input type="checkbox"/>            | <b>Legislative</b>    | <i>Includes adopting local laws, local planning schemes and policies.</i>  |
| <input type="checkbox"/>            | <b>Review</b>         | <i>When Council reviews decisions made by Officers.</i>  |
| <input type="checkbox"/>            | <b>Quasi-Judicial</b> | <i>When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/ licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

**PURPOSE OF REPORT**

Confirmation of accounts paid and authority to pay unpaid accounts.

**SUMMARY AND KEY ISSUES**

A list of payments is presented to the Council each month for confirmation and endorsement in accordance with the *Local Government (Financial Management) Regulations 1996*.

*Item 12.9 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There are no Strategic Community Plan implications evident at this time.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996* states:

*“If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared:*

- (a) the payee's name;*
- (b) the amount of the payment;*
- (c) the date of the payment; and*
- (d) sufficient information to identify the transaction.”*

### **BACKGROUND**

Checking and certification of Accounts for Payment required in accordance with *Local Government (Financial Management) Regulations 1996*, Clause 12.

### **OFFICER COMMENT**

The following payments as detailed in the Authorised Payment Listing are recommended for confirmation and endorsement.

Municipal Fund Cheques	788501 to 788521	\$122,948.08
Municipal Fund EFTs	EF068585 to EF069142	\$7,001,618.88
Municipal Fund Payroll	July 2020	\$2,035,334.19
Trust Fund EFTs	EF068630 to EF068631	<u>\$55,815.76</u>
Total Payments for July 2020		<b>\$9,215,716.91</b>

A copy of the Authorised Payment Listing is included as [Attachment 16](#) to this report.

*Item 12.9 Continued*

**FINANCIAL IMPLICATIONS**

Provides for the effective and timely payment of Council's contractors and other creditors.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report. .

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

**That the Authorised Payment Listing for July 2020 as provided under [Attachment 16](#) be received.**

***OFFICER RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12***

**12.10 MONTHLY ACTIVITY STATEMENT AS AT 31 JULY 2020**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 17 – Item 12.10 refers	<a href="#"><u>Monthly Activity Statement as at 31 July 2020</u></a>

Voting Requirement : Simple Majority  
Subject Index : 32/009-Financial Operating Statements  
Location/Property Index : N/A  
Application Index : N/A  
Disclosure of any Interest : Nil  
Previous Items : N/A  
Applicant : N/A  
Owner : N/A  
Responsible Division : Corporate and Governance

**COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

**PURPOSE OF REPORT**

To provide Council with relevant monthly financial information.

**SUMMARY AND KEY ISSUES**

The following report includes a concise list of material variances and a Reconciliation of Net Current Assets at the end of the reporting month.

*Item 12.10 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There are no Strategic Community Plan implications evident at this time.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

Section 6.4 of the *Local Government Act 1995* in conjunction with Regulations 34 (1) of the *Local Government (Financial Management) Regulations 1996* requires monthly financial reports to be presented to Council.

Regulation 34(1) requires a monthly Statement of Financial Activity reporting on revenue and expenditure.

Regulation 34(5) determines the mechanism required to ascertain the definition of material variances which are required to be reported to Council as a part of the monthly report. It also requires Council to adopt a “percentage or value” for what it will consider to be material variances on an annual basis. Further clarification is provided in the Officer Comments section.

### **BACKGROUND**

The *Local Government (Financial Management) Regulations 1996* requires that financial statements are presented on a monthly basis to Council. Council has adopted ten percent of the budgeted closing balance as the materiality threshold.

### **OFFICER COMMENT**

The Statutory Monthly Financial Report is to consist of a Statement of Financial Activity reporting on revenue and expenditure as set out in the Annual Budget. It is required to include:

- Annual budget estimates
- Budget estimates to the end of the reporting month
- Actual amounts to the end of the reporting month

*Item 12.10 Continued*

- Material variances between comparable amounts
- Net current assets as at the end of the reporting month.

Previous amendments to the Regulations fundamentally changed the reporting structure which requires reporting of information consistent with the “cash” component of Council’s budget rather than being “accrual” based.

The monthly financial report is to be accompanied by:

- An explanation of the composition of the net current assets, less committed\* and restricted\*\* assets
- An explanation of material variances\*\*\*
- Such other information as is considered relevant by the local government.

*\*Revenue unspent but set aside under the annual budget for a specific purpose.*

*\*\*Assets which are restricted by way of externally imposed conditions of use e.g. tied grants.*

*\*\*\*Based on a materiality threshold of 10 percent.*

Council is required to adopt a percentage or value to determine material variances in accordance with the requirements of Australian Accounting Standards.

AASB108 discusses the principles to be applied in determining if a variance is material. AASB108 states that:

Information is material if its omission, misstatement or non-disclosure has the potential, individually or collectively, to influence the economic decisions of users taken on the basis of the financial statements or affect the discharge of accountability by the management or governing body of the entity. In deciding whether an item or an aggregate of items is material, the size and nature of the omission or misstatement of the items usually need to be evaluated together.

In the case of Council’s Annual Budget (and related monthly Statement of Financial Activity), it is felt that the potential impact on the estimated closing balance should determine if an item is material or not. For this reason, Council has previously adopted 10 per cent of the budgeted closing balance as the materiality threshold.

In order to provide more details regarding significant variations as included in [Attachment 17](#) the following summary is provided.

Report Section	Budget YTD	Actual YTD	Comment
<b>Expenditure - Capital</b>			
Computing	137,375	27,455	Timing issue regarding the payment of business applications and equipment.
Belmont Oasis	Nil	89,913	Relates to gym equipment that is a carryover from 2019-2020.
Ruth Faulkner Library	482,584	15,664	Timing issue regarding the receipt of furniture and equipment at the

Item 12.10 Continued

Report Section	Budget YTD	Actual YTD	Comment
			Belmont Hub.
Road Works	34,748	191,372	Relates to carryover projects.
Building Operations	417,733	19,964	Mainly relates to the final payment regarding the Belmont Hub.
<b>Expenditure – Operating</b>			
Computing	245,140	538,292	Business applications are largely paid in July but have been budgeted over the year.
Reimbursements	19,333	88,272	Relates to an outstanding wages allocation journal.
Insurance	413,527	343,801	Relates to the timing of insurance premium payments that are also expected to be slightly less than budgeted.
Governance	352,660	299,507	Budget spread issue regarding Elected Member payments.
Belmont HACC Services	16,436	477,972	The variance will be reduced once year-end accruals are reversed.
Youth Services General	63,035	374	Invoices are processed one month in arrears.
Town Planning	292,645	225,641	Variance mainly relates to employee costs.
Sanitation Charges	398,845	118,338	Invoices are processed one month in arrears.
Ruth Faulkner Library	297,057	244,898	Consulting costs for the new library and museum are below budget.
<b>Revenue - Capital</b>			
<b>Revenue - Operating</b>			
Computing	(225,732)	(527,737)	Consistent with operating costs the Activity Based Costing recovery is also well above budget.
Rates	(38,564,416)	(38,483,633)	The initial levy is slightly less than that budgeted.
Property & Economic Development	(4,831)	(87,481)	Budget spread issue regarding rent / lease income from Council buildings.
Crime Prevention & Community Safety	(17,792)	(84,000)	Earlier than expected receipt of grant income.
Sanitation Charges	(6,030,250)	(6,138,103)	Number of services slightly more than anticipated.
Streetscapes	Nil	(76,401)	Prepaid road / verge maintenance income.

*Item 12.10 Continued*

In accordance with *Local Government (Financial Management) Regulations 1996*, Regulation 34 (2)(a) the following table explains the composition of the net current assets amount which appears at the end of the attached report.

<b>Reconciliation of Nett Current Assets to Statement of Financial Activity</b>		
<b>Current Assets as at 31 July 2020</b>	<b>\$</b>	<b>Comment</b>
Cash and investments	57,949,469	Includes municipal and reserves
- less non rate setting cash	(47,193,809)	Reserves
Receivables	44,339,755	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(8,478,216)	ESL Receivable
Stock on hand	200,711	
<b>Total Current Assets</b>	<b>46,817,909</b>	
<b>Current Liabilities</b>		
Creditors and provisions	(13,349,304)	Includes ESL and deposits
- less non rate setting creditors & provisions	11,649,405	Cash Backed LSL, current loans & ESL
<b>Total Current Liabilities</b>	<b>(1,699,900)</b>	
<b>Nett Current Assets 31 July 2020</b>	<b>45,118,010</b>	
<b>Nett Current Assets as Per Financial Activity Report</b>		
Nett Current Assets as Per Financial Activity Report	45,118,010	
Less Restricted Assets	0	Unspent grants held for specific purposes
Less Committed Assets	<b>(44,618,010)</b>	All other budgeted expenditure
<b>Estimated Closing Balance</b>	<b>500,000</b>	

**FINANCIAL IMPLICATIONS**

The presentation of these reports to Council ensures compliance with the *Local Government Act 1995* and associated Regulations, and also ensures that Council is regularly informed as to the status of its financial position.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

*Item 12.10 Continued*

**OFFICER RECOMMENDATION**

1. That Council adopt ten percent of the estimated closing balance as the base amount for determining materiality of variations in accordance with *Regulation 34(5) of the Local Government (Financial Management) Regulations 1996*.
2. That the Monthly Financial Reports as at 31 July 2020 as included in [Attachment 17](#) be received.

***OFFICER RECOMMENDATION ADOPTED EN BLOC BY ABSOLUTE MAJORITY –  
REFER TO RESOLUTION APPEARING AT ITEM 12***

**13. REPORTS BY THE CHIEF EXECUTIVE OFFICER**

**13.1 REQUESTS FOR LEAVE OF ABSENCE**

Nil.

**13.2 NOTICE OF MOTION (COUNCILLOR SEKULLA) - SUPPORT FOR THE BELMONT NETBALL ASSOCIATION TO UPGRADE THE NETBALL COURTS AT WILSON PARK**

**SOCIAL BELMONT**

**ATTACHMENT DETAILS**

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	35/002 – Notices of Motion
Location/Property Index	:	100 Gerring Court & 128 Kooyong Road, Rivervale
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	Crown vested in the City of Belmont
Responsible Division	:	Infrastructure Services

**COUNCIL ROLE**

- |                                     |                       |   |
|-------------------------------------|-----------------------|---|
| <input checked="" type="checkbox"/> | <b>Advocacy</b>       | <i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>   |
| <input type="checkbox"/>            | <b>Executive</b>      | <i>The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>  |
| <input type="checkbox"/>            | <b>Legislative</b>    | <i>Includes adopting local laws, local planning schemes and policies.</i>   |
| <input type="checkbox"/>            | <b>Review</b>         | <i>When Council reviews decisions made by Officers.</i>   |
| <input type="checkbox"/>            | <b>Quasi-Judicial</b> | <i>When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

**PURPOSE OF REPORT**

To consider the Notice of Motion received from Councillor (Cr) Sekulla for Council to request that the City of Belmont support the Belmont Netball Association in its endeavours to upgrade the netball courts at Wilson Park in Rivervale.

*Item 13.2 Continued*

### **SUMMARY AND KEY ISSUES**

A request has been received from Cr Sekulla for Council to consider providing support to the Belmont Netball Association to have the netball courts at Wilson Park upgraded.

A summary of elements considered as part of this report are outlined below:

- The City has prepared a masterplan for the Wilson Park Precinct which, due to the cost to implement the overall masterplan, has identified the potential for the project to be implemented in three stages.
- The renewal of the netball courts and upgrade of existing lighting to the netball courts has been identified for stage two of the masterplan.
- An opportunity to seek funding for the works associated with upgrading the netball courts has been identified for an upcoming grant round for the Community Sporting and Recreation Facilities Fund (CSRFF) and a condition assessment of the courts has indicated the need for renewal. On this basis the staging of the overall project may be reviewed.
- City officers have prepared an application for CSRFF funding to support the progression of netball courts and lighting upgrade as a distinct project in relation to this matter. The CSRFF Application is the subject of a report to be considered at the 25 August 2020 Ordinary Council Meeting.

### **LOCATION**

The netball courts are located within the Wilson Park Precinct at the corner of Surrey Road and Campbell Street, as shown in the aerial image below.



*Item 13.2 Continued*

## **CONSULTATION**

While there has been no consultation with the community in relation to this specific matter, the City has been engaging with the Belmont Netball Association (the Club) in relation to the submission of a grant application for an upcoming round of the CSRFF. The City has also engaged the Club and the wider community as part of the development of the Wilson Park Precinct masterplan. Further details in relation to the grant application are provided under Background and Officer Comments within this report.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS<sup>1</sup>**

In accordance with the Strategic Community Plan Key Result Area: Social Belmont.

**Objective:** Develop community capacity and self-reliance.

**Strategy:** Assist clubs and community groups to be viable and active.

**Corporate Key Action:** Assist new and existing local sporting clubs to be sustainable.

## **POLICY IMPLICATIONS**

There are no direct policy implications associated with this report, however Policy SB1.1 Council Authority to Apply for Grants is associated with the officer comment provided within this report and the work currently underway aligns with this policy.

## **STATUTORY ENVIRONMENT**

There are no specific statutory requirements in respect to this matter.

## **BACKGROUND**

The City commenced work on developing a masterplan for the Wilson Park Precinct in 2018. Since that time, extensive consultation has been undertaken, resulting in the development of a three-stage masterplan proposal. Through this process, the Club has been involved in ongoing discussions and have provided input into the requirements for the netball courts.

The masterplan consisted of four key components, the creation of a 'community heart' and playground; renewal and upgrade of the netball court area; enhancements associated with the community garden and Rivervale Community Centre; and upgrade to the Kooyong Road Activity Centre streetscape.

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<sup>1</sup> Note: The Strategic Community Plan Implications outlined are reflective of the City of Belmont Strategic Community Plan 2016 – 2036. Council recently endorsed the City of Belmont 2020 – 2040 Strategic Community Plan which, as a result of COVID-19 administrative implications, is yet to be implemented across the City

*Item 13.2 Continued*

In 2016 minor remedial works were undertaken to the netball court surface to resolve issues relating to condition for some courts and this has extended the life of the court surface. During consultation, the Club has raised concerns in relation to the condition of the existing court surfaces and the need to improve lighting. Based on this feedback and a site inspection undertaken, City officers identified the need for further investigation in relation to the condition of the courts as a specialised sports surface.

Based on initial feedback from the consultant engaged to undertake a condition assessment, the current condition of the courts indicates the need for renewal work to be undertaken in the next two to three years.

While the final report is pending from the consultant, based on the initial advice received an extensive renewal of the netball courts will be required and it would not be possible to enhance lighting without impacting the existing surface. While the City has further site investigations planned for the 2020-2021 financial year to assist with finalising the Business Case for the Wilson Park Precinct masterplan, it is expected the condition of the courts will likely trigger the need to review the phasing of the implementation of the masterplan. The likely outcome will be that a recommendation will be made to prioritise the netball courts, thus moving this element from stage two to stage one.

The CSRFF opened an “annual and forward planning” grant funding round for the 2021-2022 financial year on 25 May 2020 and the deadline for submissions is 11 September 2020. City officers have prepared a grant application for the renewal of the netball court surface and lighting upgrade. The City has engaged with the Club to discuss the grant funding opportunity and has utilised the extensive engagement previously undertaken with the Club during the development of the masterplan to refine the scope of work to assist with preparing the grant funding application. A report is included in the 25 August 2020 Ordinary Council Meeting agenda seeking Council support for the City to submit a CSRFF grant funding application for the Wilson Park Precinct netball courts.

This Notice of Motion was initially presented to Council at its Ordinary Council Meeting on the 23 June 2020 and the following was resolved:

*‘COUNCILLOR RECOMMENDATION*

*SEKULLA MOVED, ROSSI SECONDED,*

*That Council requests that the City of Belmont support the Belmont Netball Association in its endeavours to upgrade the netball courts at Wilson Park in Rivervale.*

*Reason*

- 1. Netball has a long history at Wilson Park in Rivervale and has been an integral part of the local sporting community.*
- 2. Netball is played by six teams in competition at the courts in Wilson Park.*
- 3. The courts at Wilson Park are well patronised and in need of an upgrade.*

*Item 13.2 Continued*

*Note:*

*Cr Powell put forward the following Procedural Motion.*

**PROCEDURAL MOTION**

**POWELL MOVED, CAYOUN SECONDED,**

*That the item be referred back to an Information Forum for further discussion.*

**CARRIED 7 VOTES TO 0'**

An item was presented to the 14 July 2020 Information Forum where officers provided an update on the proposed Wilson Park Netball Courts project, the Community Sporting and Recreation Facilities Fund (CSRFF) application and provided an opportunity for further discussion.

**OFFICER COMMENT**

The City is currently providing support to the Club through the development of the City's CSRFF grant funding application for the renewal of the netball court surface and lighting upgrade. The funding application will be submitted to the CSRFF if supported by Council. Therefore the proposed Councillor recommendation in this motion reinforces work currently underway between the City and Club at this time.

**FINANCIAL IMPLICATIONS**

There are no direct financial implications associated with this report, however costs are associated with work currently underway which is aligned with the intent of this Councillor Motion.

**ENVIRONMENTAL IMPLICATIONS**

There are no direct environmental implications associated with this report, however impacts are associated with work currently underway which is aligned with the intent of this Councillor Motion.

**SOCIAL IMPLICATIONS**

There are no direct social implications associated with this report, however impacts are associated with work currently underway which is aligned with the intent of this Councillor Motion.

*Item 13.2 Continued*

**COUNCILLOR RECOMMENDATION**

That Council requests that the City of Belmont support the Belmont Netball Association in its endeavours to upgrade the netball courts at Wilson Park in Rivervale.

**Reason**

1. Netball has a long history at Wilson Park in Rivervale and has been an integral part of the local sporting community.
2. Netball is played by six teams in competition at the courts in Wilson Park.
3. The courts at Wilson Park are well patronised and in need of an upgrade.

**Note:**

**Cr Wolff put forward the following Procedural Motion, in accordance with section 11.5 of the *Standing Orders Local Law 2017*.**

**PROCEDURAL MOTION**

**WOLFF MOVED, POWELL SECONDED**

**That the meeting proceed to the next item of business.**

**CARRIED 7 VOTES TO 2**

*For: Bass, Cayoun, Marks, Powell, Rossi, Ryan, Wolff  
Against: Davis, Sekulla*

- 9.26pm Having declared an Impartiality Interest in Item 13.3, Cr Cayoun departed the meeting.
- 9.27pm The Director Infrastructure Services departed the meeting.
- 9.28pm The Director Infrastructure Services returned to the meeting.

**13.3 NOTICE OF MOTION (COUNCILLOR SEKULLA) – REQUEST TO SUPPORT THE GOVERNMENT OF WESTERN AUSTRALIA TO RETAIN A HARD BORDER DURING THE SPREAD OF COVID-19**

## **SOCIAL BELMONT**

### **ATTACHMENT DETAILS**

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	35/002–Notices of Motions
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Development and Communities Division

### **COUNCIL ROLE**

- Advocacy** *When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
- Executive** *The substantial direction setting and oversight role of the Council eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
- Legislative** *Includes adopting local laws, local planning schemes and policies.*
- Review** *When Council reviews decisions made by Officers.*
- Quasi-Judicial** *When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*

*Item 13.3 Continued*

### **PURPOSE OF REPORT**

To consider the Notice of Motion received from Councillor (Cr) Sekulla requesting that the City of Belmont supports the initiative of the Government of Western Australia in its endeavours to retain a hard border during the spread of the COVID-19 Pandemic in Australia.

### **SUMMARY AND KEY ISSUES**

A request has been received from Cr Sekulla for Council to support the initiative of the Government of Western Australia in its endeavours to retain a hard border during the spread of the COVID-19 pandemic in Australia.

### **LOCATION**

City of Belmont.

### **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There are no Strategic Community Plan implications evident at this time.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

There are no specific statutory requirements in respect to this matter.

### **BACKGROUND**

This Notice of Motion was presented to Council at its Ordinary Council Meeting on the 28 July 2020; the following was resolved:

*'SEKULLA MOVED, DAVIS SECONDED*

### **COUNCILLOR RECOMMENDATION**

*That Council:*

1. *Supports the initiative of the Government of Western Australia in its endeavours to retain a hard border during the spread of the COVID-19 pandemic in Australia.*

*Item 13.3 Continued*

2. *Directs the Chief Executive Officer to write to the Premier of Western Australia notifying him of Point 1 above, and to thank him and the State Government for their decisive leadership during the COVID-19 Pandemic.*

Reasons:

1. *The premature removal of the hard border restrictions will have a significant impact on the local economy in the City of Belmont with businesses closing for a period of time and an increase in unemployment.*
2. *The increase in local unemployment will contribute to an increase in anti-social behaviour and law and order issues within the City of Belmont.*
3. *The premature removal of the hard border restrictions will have a significant social impact (such as increased health and emotional issues) in the City of Belmont with the spread of the coronavirus in the local community.*
4. *The Premier of Western Australia and the State Government has done an excellent job in responding to the COVID-19 Pandemic and should be commended on their action to date in keeping Western Australians safe and limiting the spread of the virus during these unprecedented times.*

*Note:*

*Cr Wolff put forward the following Procedural Motion in accordance with section 11.11 of the Standing Orders Local Law 2017.*

PROCEDURAL MOTION

WOLFF MOVED, POWELL SECONDED

*That the item be referred back to an Information Forum for further discussion.'*

An item was included at the 11 August 2020 Information Forum providing an opportunity for Councillors to discuss the matter.

OFFICER COMMENT

The Minister for Emergency Services and the State Government declared a State of Emergency under the Emergency Management Act and a Public Health Emergency under the Public Health Act in response to COVID-19.

The decisions are made by the State Government with the aim to protect the community and minimise potential impacts of COVID-19. The phasing of the WA COVID-19 roadmap to see the remaining restrictions removed is a decision of the State Government based on the latest health advice and in consultation with the Federal Government.

The Notice of Motion is now for Council consideration.

*Item 13.3 Continued*

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

#### **Note:**

**Cr Rossi declared an interest that may affect impartiality as he has given assistance to a local resident regarding hard borders.**

#### **Note:**

**Cr Cayoun declared an interest that may affect impartiality as she works in office of Premier Mark McGowan MLA and did not participate in the discussion or vote on this item.**

### **COUNCILLOR RECOMMENDATION**

#### **SEKULLA MOVED, DAVIS SECONDED**

That Council:

1. Supports the initiative of the Government of Western Australia in its endeavours to retain a hard border during the spread of the COVID-19 pandemic in Australia.
2. Directs the Chief Executive Officer to write to the Premier of Western Australia notifying him of Point 1 above, and to thank him and the State Government for their decisive leadership during the COVID-19 Pandemic.

#### **Reasons:**

1. The premature removal of the hard border restrictions will have a significant impact on the local economy in the City of Belmont with businesses closing for a period of time and an increase in unemployment.
2. The increase in local unemployment will contribute to an increase in anti-social behaviour and law and order issues within the City of Belmont.
3. The premature removal of the hard border restrictions will have a significant social impact (such as increased health and emotional issues) in the City of Belmont with the spread of the coronavirus in the local community.

*Item 13.3 Continued*

4. The Premier of Western Australia and the State Government has done an excellent job in responding to the COVID-19 Pandemic and should be commended on their action to date in keeping Western Australians safe and limiting the spread of the virus during these unprecedented times.

**LOST 3 VOTES TO 5**

*For: Bass, Davis, Sekulla  
Against: Marks, Powell, Rossi, Ryan, Wolff*

**Note:**

**Cr Wolff put forward the following Foreshadowed Motion.**

**FORESHADOWED MOTION**

**WOLFF MOVED, POWELL SECONDED**

**That Council:**

1. **Supports the initiative of the Government of Western Australia in its endeavours to retain a hard border during the spread of the COVID-19 pandemic in Australia.**
2. **Directs the Chief Executive Officer to write to the Premier of Western Australia notifying him of Point 1 above, and to thank him and the State Government for their decisive leadership during the COVID-19 Pandemic.**
3. **Supports the initiative of the Government of Australia in its endeavours to control its borders with quarantine measures, and to alleviate the economic effects through measures like Job Keeper, during the spread of the COVID-19 pandemic in Australia.**
4. **Directs the Chief Executive Officer to write to the Prime Minister of Australia notifying him of Point 3 above, and to thank him and the Federal Government for their decisive leadership during the COVID-19 Pandemic.**

**Reason:**

In order that the City of Belmont is not perceived as having any political bias and to maintain political equity.

**CARRIED 8 VOTES TO 0**

9.46pm Cr Cayoun returned to the meeting.

**14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil.

**15. CLOSURE**

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 9.46pm.

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**MINUTES CONFIRMATION CERTIFICATION**

The undersigned certifies that these Minutes of the Ordinary Council Meeting held on 25 August 2020 were confirmed as a true and accurate record at the Ordinary Council Meeting held 22 September 2020:

Signed by the Person Presiding: \_\_\_\_\_



PRINT name of the Person Presiding: \_\_\_\_\_

**PHILIP MARKS**

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