



City of Belmont

ORDINARY COUNCIL MEETING

MINUTES

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26 May 2020

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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 M Reid	Director Infrastructure Services
Mr J Olynyk, JP	Manager Governance
Mr W Loh	Manager Planning Services
Mrs M Lymon	Principal Governance and Compliance Advisor
Ms K Spalding	Coordinator Marketing and Communications
Ms D Morton	Media and Communications Adviser
Ms H Mark	Governance Officer

Note:

Due to the State of Emergency declared in Western Australia on 15 March 2020 and the subsequent government directives with regard to public gatherings, this meeting was held by electronic means. The public were unable to attend this meeting. For the meeting to be considered open to the public, these minutes and an audio recording of the meeting will be available on the City's website as soon as practicable after the meeting to meet the requirements of Regulation 14E(3)(b)(i) of the *Local Government (Administration) Regulations 1996*.

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON TUESDAY, 26 MAY 2020 COMMENCING AT 7.08PM.

MINUTES

1. OFFICIAL OPENING

7.08pm The Presiding Member welcomed all those in attendance and declared the meeting open.

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

Ms J Gillan

Director Development and Communities

3. DECLARATIONS OF INTEREST THAT MIGHT CAUSE A CONFLICT

3.1 FINANCIAL INTERESTS

Nil.

3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY

Nil.

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

4.1 ANNOUNCEMENTS

Nil.

4.2 DISCLAIMER

7.11pm The Presiding Member drew 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

Nil.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.12pm The Presiding Member drew 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 six members of the public who had submitted questions.

5.2.1 MS S HOLT, 24 THE BOARDWALK, ASCOT

1. Has a representative from the City of Belmont viewed the artwork and considered the safety aspects? The artwork protrudes out from the corner of the building. There would be limited space to manoeuvre around the corner past the artwork if a number of pedestrians and/or cyclists were passing the artwork at the same time. The jutting edge would be modified to align with the wall edge.
2. Has the safety aspects of the artwork been considered if a number of pedestrians and cyclists pass the artwork at the same time? There is a risk to pedestrians that they may walk into the artwork and injure themselves or they may end up falling in the water due to lack of walking space. There is no fencing on the water's edge, only bollards. The risk to the City of Belmont as far as liability is high.

Item 5.2.1 Continued

Response to Questions 1 and 2

The Manager Planning Services advised that the City's officers have viewed the artwork and considered the safety aspects of the granting of an easement for encroaching public artwork. The width of the boardwalk at the locations where the artwork would protrude is wide enough to accommodate safe pedestrian access. The impacts to safe pedestrian access are considered to be minimal considering:

- The standard pathway in the City of Belmont starts at a width of 1.5 metres and a principal shared use pathway that accommodates both bicycles and pedestrians is approximately 3.5 metres in width.
- The southern section of the boardwalk where the public artwork would be located is 3.25 metres wide from the easement to the bollard and light pole.
- North Western section of the wall from the easement to the bollard and light pole is 3.0 metres wide.

The design and nature of the materials used to create the artwork – chrome balls, stainless steel and corten steel pieces have been put together and designed without any sharp, jagged or leading edges. The artwork is safe to touch should inquisitive pedestrians wish to grab hold or feel any sections.

5.2.2 MR R REAKES, 203 KEYMER STREET, BELMONT

1. How much a year does it cost us to have councillors? Please include the wages, clothing allowances or other allowances, vehicles, meals before meetings, mayoral lounge, study and travel allowances, dinners they attend such as the volunteer functions and pioneers luncheon (all of those type of events), phones and computers and any money that they are paid by the City for being on other committees such as JDAP.

Response

The Chief Executive Officer advised full details of the allowances paid to Councillors as approved by the Salaries and Allowances Tribunal is available in the City's Annual Budget 2019-2020 (page 45) and the City's Annual Report 2018-2019 (page 85). The total budgeted expenditure for the 2019-2020 financial year is \$440,537.

Additional direct costs incurred vary in any given year due to legislative, governance, strategic and operational requirements however these costs equate to approximately \$65,000 per year in total resulting in a total annual cost to the City of approximately \$505,000.

Item 5.2.2 Continued

2. Who does the City of Belmont Customer Service Charter apply to? Is it staff, contractors and councillors? Can it be enforced by any gazetted policy or legislation?

Response

The Chief Executive Officer advised that the City of Belmont's Customer Service Charter sets out the City's commitment and expectations for its staff when dealing with customers. A separate Charter has been devised for contractors, which aligns with that applying to staff. There is a tacit understanding that the Charter applies to Councillors as well through the application of the Code of Conduct and the Customer Service Complaints Policy and Procedures. The charter also included a component that applies to customers through a reference to 'Mutual Respect'.

It is not enforceable by any gazetted policy or legislation.

3. Four trees have been removed in streets near Tomato Lake. These were healthy and mature that not only provided much needed shade, but made it feel cooler when you walk near there. Two were removed from Harmony Way, one at 16 Oats Street and one at 79 Cohn Street. The owner of 79 Cohn St was told by staff it was being removed as it didn't fit in with the streetscape. The same type of tree is right next door. Why are mature healthy trees being removed? How many others like this are being removed around Belmont? What is the cost of removal and replanting if this occurs?

Response

The Director Infrastructure Services advised that in liaison with the adjoining resident, two large shrubs were removed adjacent to 1 Harmony Way due to security concerns and incidents relating to fires being lit behind the shrubs. The verge trees adjacent 16 Oats Street and 79 Cohn Street were removed as a result of a recent Street Tree Audit which identified trees that were dead or dying.

Replacement planting is scheduled to take place during the 2020 Winter Planting Program. The current cost to remove and replace a mature tree is approximately \$1,050; including establishment costs over the first two years.

Declining health has recently been an issue with a specific species of tree reaching the end of their lifespan, as a result the City has removed a higher than normal volume of trees this year, however we expect this to return to normal in upcoming years. Verge tree health can decline for various reasons including age, disease, verge use and damage.

5.2.3 Ms S CARTER, 3/10 MARINA DRIVE, ASCOT

1. Drain Easement

Why is requirement for a drain pipe easement onto public space at Lot 262 Tidewater Way not significant, when in reality the physical drain has been installed, removed and installed again? The drain is for the balcony above it. During wet weather the drain leaks onto the pavement and will pool water when not connected, potentially impacting the pavement use during and after rain. Is an easement not essential?

Response

The Manager Planning Services advised that the developer has elected to relocate or re-route the drainage and drain pipe and connect it directly to the basement as opposed to the previous design which was to have it extend over the balcony, therefore requiring an easement to be granted.

The developer will cover over this current space which was provided for the drainpipe and also cover over any additional gaps as a result of this intended design. Furthermore the installation of the artwork will cover this space. It is not intended that any water will leak directly onto the pavement from a pipe or any other space provided for drainpipes, as the developer is providing an alternate measure to meet their drainage requirements.

2. Artwork easement

Why has City of Belmont not reported the correct dimensions of the encroaching public artwork to Council? The easement is for 15 metres length on the western side of the Boardwalk and 8 metres length on the southern corner plus a further 12 metres in length on the eastern wall? Why has this significant detail been omitted when detail has otherwise been given to Councillors on the height and clearance of the balcony over the easement?

Response

The Manager Planning Services advised it is noted that the precise length of the easement has not been provided in either Ordinary Council Meeting report. However officers have detailed the width of the easement and provided plans illustrating the easements in the attachments in both the 25 February 2020 Ordinary Council Meeting item and this 26 May 2020 Ordinary Council Meeting item.

3. Safety aspect public art location, Lot 262 Tidewater Way, Ascot Boardwalk

On page 49, OCM 25 February 2020 in depth detail of the height clearance of the proposed artwork is given but not about the varying WIDTHS of the multi-use shared pathway, ie at least not until after public submissions opposing the easement on safety grounds were received. The City has briefed Councillors that no safety hazard exists, yet the consultant's report makes recommendations with regard to safety. The consultant's report made recommendations to the City in regards. Why has the City briefed Councillors that there is no safety hazard?

Item 5.2.3 Continued

Response

The Manager Planning Services advised that the City has briefed Councillors that the granting of an easement for the public artwork does not pose any significant hazards or impacts to pedestrian accessibility based on the following:

- **The available pedestrian width of the boardwalk at the locations where the easement would be granted (where the artwork would protrude) is considered to contain sufficient width to accommodate safe pedestrian access. It should be noted that a standard pathway in the City of Belmont starts at a width of 1.5 metres and a principal shared use pathway that accommodates both bicycles and pedestrians is approximately 3.5 metres in width. With this in mind, the areas of concern are considered to be within an appropriate range for pedestrian access:**
 - **The southern section of the wall (where the public artwork would be located) from the easement to the bollard and light pole is a distance of 3.25 metres.**
 - **North Western section of the wall from the easement to the bollard and light pole is a distance of 3.0 metres.**

Furthermore rubbish bins located in the boardwalk can also be relocated if required to improve pedestrian access.

- **The access consultant's report has determined the potential impacts can be mitigated through various measures which the developer will undertake as part of the conditions for granting the easements.**
- **The design and nature of the materials used to create the artwork – chrome balls, stainless steel and corten steel pieces have been put together and designed without any sharp, jagged or leading edges or surfaces large enough to climb.**
- **There are some elements of the artwork which are 3D such as the chrome balls which aim to provide a greater representation of bubbles and a shimmering waterscape. The artwork is safe to touch should inquisitive pedestrians wish to grab hold or feel any sections. The artist does acknowledge that if a person was determined to climb portions of the artwork they could, however given the height of the artwork and the balcony above, they would not be able to climb to any great height.**

Item 5.2.3 Continued

4. Location of Public artwork infrastructure

On page 52 OCM 25 February 2020, the City states 'the developer has confirmed that they will provide adequate architectural treatment measures to conceal the drainage pipe from public view, to the satisfaction of the City. This will be achieved by either re-positioning the artwork piece to do so or providing another measure to the satisfaction of the City.' Why has there been no mention of the artwork being re-positioned for safety purposes? Why is it necessary to have another bollard that is going to cause further obstruction on the Boardwalk?

Response

The Manager Planning Services advised that the concept of the artwork is to provide various 3D components to represent a shimmering waterscape, to celebrate the corners of the development and evoke strong feelings in passing pedestrians, rather than simply installing a mural or a 2D artwork. The original design intent is to celebrate the corners of the building, including these southern and north western areas, which directly abut the boardwalk and require easements to be drawn up. Repositioning the artwork, to remove the portions of artwork from the southern and north western corners, will detract from the original intent and detract from the aims of the artist's concept.

Given the above points discussed about the minimal impacts of the artwork and sufficient width available on the boardwalk for safe pedestrian access it is not considered necessary to re-position the artwork.

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

1. We have gone to Ascot Waters and taken a look at the surrounding area of Item 12.4 on the Agenda. It is noted that there is going to be a restaurant presumably catering for the public at the subject premises. There is no signage on the building carpark indicating restaurant parking is underneath the building. Where is the public carpark for the restaurant located? If there is no specific restaurant parking within the building, why has parking not been provided for this commercial entity as would be expected with any other mixed use or commercial development, or is this another one of those discretionary decisions the City can make?

Response

The Manager Planning Services advised there are four Café Visitors Bays within the building car park in accordance with the Development Assessment Panel Approval. The public car park across the marina provides additional parking for the development. This is consistent with the original 2007 and subsequently updated 2016 Car Parking Strategy for Ascot Waters. The Development Assessment Panel has therefore approved the development with this car parking arrangement.

Item 5.2.4 Continued

2. Given we are told our planning departments are experts, why was this development allowed to be built to the boundary line in the first place and why was it not picked up well before now that the approved plans had not catered for the artwork, which means an additional 0.5 metre is now required for this easement?

Response

The Manager Planning Services advised that the City's Planners supported the proposal and the Development Assessment Panel approved the development being built to the boundary as the proposal satisfied the planning requirements. The public art concept had not been finalised at that stage, and it was therefore not possible to identify the need for an easement.

A condition of the development approval required the developer to provide public art. The Artist subsequently designed the artwork as three-dimensional piece to accentuate the representation of bubbles and a shimmering waterscape for public enjoyment. While the concept was supported, a final cadastral survey of the constructed development found the need for an easement.

3. Who is legally responsible for maintaining and insuring this area that is granted the easement? In the officers recommendation, the five points make no mention of insurance liability. In the event someone was injured within this area and an insurance claim was made, would it be the strata insurance or the City of Belmont insurance who covered any claim? If both insurance companies did not accept liability and it became a court matter, how much would it likely cost the City of Belmont?

Response

The Manager Planning Services advised that a Deed of Easement is a legal document associated with a grant of easement. Such a document is developed in consultation with the City Lawyers. A Deed of Easement would detail the responsibility and maintenance of the public artwork; insurance requirements; liability and indemnity resting with the grantee.

4. A number of modifications appear to have been made to accommodate this development. Modification include changes to the street lighting on Marina Blvd, additional bollards on Marina Dr, new signs in the City of Belmont carparks indicating Ascot Café, paving modifications on piazza, construction of a bench at the entrance of the development and signage on the Boardwalk asking cyclists to dismount to name a few. Has the City of Belmont paid for any of these modifications and if so, how much did it cost and when is it can we expect the Developer will be reimbursing the ratepayer?

Response

The Manager Planning Services advised that the modifications to the car park and path lighting, bollards, directional signs within the public car parks, paving modifications etc. have been provided to satisfy the conditions of the Development Assessment Panel Approval. All elements have been provided solely by the developer. The City has not paid for any of these improvements.

Item 5.2.4 Continued

5. How many easements have been granted in the last three years, when it has been discovered Developers have had to make use of council land to complete their Development?

Response

The Manager Planning Services advised that no such easements have been granted. Easements are not simply granted on the basis that developers need to make use of Council land to complete their development. The grant of easement for Lot 262 (16A) Tidewater Way is being contemplated on the basis that the artwork enhances the amenity of the boardwalk and provides benefit to the wider community.

5.2.5 MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE

1. At a Council Meeting last year, there was a gentleman in the gallery introduced to us as the new Director of Infrastructure Services. His name was Alan and I discovered he was a former CEO and had worked for WALGA. How long did he remain with the City of Belmont and who's decision was it for him to leave?

Response

The Chief Executive Officer advised that Mr Alan Sheridan was employed as Director of Infrastructure Services for six months and chose to retire.

2. At the March Council Meeting under Standing Order 9, Councillor Cayoun tried to make a motion regarding the freezing of rates. If she had the chance to do so, it would have either been supported or not supported by the other councillors. Mr Mayor why did you refuse to allow her to do this, as Councillor Cayoun represents the residents equally as much as you do?

Response

The Presiding Member advised after having considered Cr Cayoun's matter and with feedback from other Councillors, I determined in accordance with Standing Orders Local Law Section 5.4, that this was not a matter of urgent business, primarily as other Councillors had stressed the importance of proposing the motion in a well-structured manner including input from an operational perspective, and would be dealt with adequately at the next Council Meeting.

3. On the 13 May BRRAG wrote to Councillors asking that they request the CEO to provide them details of staffing numbers during COVID-19 and advised that other local government such as Town of Cambridge had asked their CEO to provide a 20% wages cut across the board. We have received no response. Did any of the councillors request that the CEO provide these details and if not why not when costs across the board should be scrutinised?

Item 5.2.5 Continued

Response

The Presiding Member advised that the Chief Executive Officer has been providing Councillors with regular updates on what is taking place within the City to manage COVID-19 pandemic since the state of emergency was declared. This has encompassed relevant actions associated with the management of staff including information on the introduction of new initiatives to accommodate changing needs within the community and operationally. The City's actions to date have been consistent with the directions of the State and Federal Governments.

5.2.6 MR P HITT, 14 MCLACHLAN WAY, BELMONT

1. What has the staff turnover been for the twelve months prior to the employment of Mr J Christie and eighteen months after his commencement as CEO.

These figures to be broken down into two categories. Administration and maintenance staff.

Response

The Chief Executive Officer advised the average turnover figures for the time periods specified are as follows:

12 MONTHS ENDING OCTOBER 2017 (prior to start)	Turnover Rate 14.60%
18 MONTHS ENDING APRIL 2019 (18 months post start)	Turnover Rate 15.06%

The City does not collect separate turnover data for the various employment categories of staff employed at the City. However based on the proportion of staff numbers, the turnover rate is approximately the same for each category.

2. I visited Cracknel Park recently and was unable to get a parking bay. I observed that nearly all the cars parked were there for a number of hours and no people were in situ in the park. What safeguards are in place to stop the springs residents using the cart park at Cracknel Park as a de-facto parking lot by nearby residents.

Response

The Director Infrastructure Services advised that Cracknell Park does have a three hour time limit on all of the parking bays.

Item 5.2.6 Continued

3. Is the Ranger policing the Council's Parking Policy effectively in this location?

Response

The Chief Executive Officer advised that the Rangers do carry out proactive patrols of Cracknell Park and the surrounding area when other jobs permit.

7.42pm 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 APRIL 2020
(Circulated under separate cover)**

OFFICER RECOMMENDATION

SEKULLA MOVED, BASS SECONDED

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

CARRIED 9 VOTES TO 0

7.44 pm Cr Davis departed the meeting.

7.50pm **POWELL MOVED, SEKULLA SECONDED**, that the meeting be adjourned to allow time for internet issues to be resolved.

CARRIED 8 VOTES TO 0

7.54pm Cr Davis returned to the meeting.

7.54pm **POWELL MOVED, ROSSI SECONDED**, that the meeting be reconvened.

CARRIED 9 VOTES TO 0

**6.2 MATRIX FOR THE AGENDA BRIEFING FORUM HELD 19 MAY 2020
(Circulated under separate cover)**

OFFICER RECOMMENDATION

WOLFF MOVED, POWELL SECONDED

That the Matrix for the Agenda Briefing Forum held on 19 May 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 DISCUSSION)**

Nil.

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

8.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

Nil.

8.2 QUESTIONS BY MEMBERS WITHOUT NOTICE

8.2.1 Cr Ryan asked if this meeting was being recorded.

Response

The Presiding Member confirmed this meeting was being audio recorded.

8.2.2 Cr Ryan asked if the Presiding Member had given Mr Reakes address during Public Question Time.

Response

The Presiding Member confirmed he had given Mr Reakes address as being 203 Keymer Street.

**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

Nil.

12. REPORTS OF ADMINISTRATION

WITHDRAWN ITEMS

Item 12.1 was withdrawn at the request of Cr Davis
Item 12.4 was withdrawn at the request of Cr Cayoun
Item 12.7 was withdrawn at the request of Cr Rossi
Item 12.8 was withdrawn at the request of Cr Powell

BASS MOVED, SEKULLA SECONDED

That with the exception of Items 12.1, 12.4, 12.7 and 12.8, which are to be considered separately, the Officer or Committee Recommendations for Items 12.2, 12.3, 12.5, 12.6, 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

Attachment No	Details
Attachment 1 – Item 12.1 refers	Schedule of Submissions
Attachment 2 – Item 12.1 refers	Traffic and Parking Impact Assessment and Visual Report
Attachment 3 – Item 12.1 refers	Waste Management Plan
Attachment 4 – Item 12.1 refers	Development Plans
Attachment 5 – Item 12.1 refers	Parking Management Plan

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 : N/A
Applicant : Aquila Architects Pty Ltd
Owner : D Gerace ATF The Gerace Family Trust
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 12.1 Continued

PURPOSE OF REPORT

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

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 granted planning approval.
- 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 application was referred to surrounding property owners and occupiers for comment in order to determine the impact that the proposed use of on-street parking bays may have on their activities and operations.
- The application was advertised for 15 days between 10 February 2020 to 24 February 2020 (inclusive). During the advertising period, 12 submissions were received, 10 objecting and two in support of the proposal. The objections relate to concerns with the adequacy of car parking and the impact the use of the on-street bays will have on businesses within the Mixed Business zone.
- In considering such an intensive use of the on-street car parking bays and the concerns raised in the submissions received, it is appropriate to refuse the application on the basis that it does not meet the car parking requirements of LPS 15 and the proposal will have a detrimental impact on surrounding properties and the precinct.

LOCATION

The subject Strata Lot (Lot 2) is 571m² 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 as depicted in Figure 2 below.

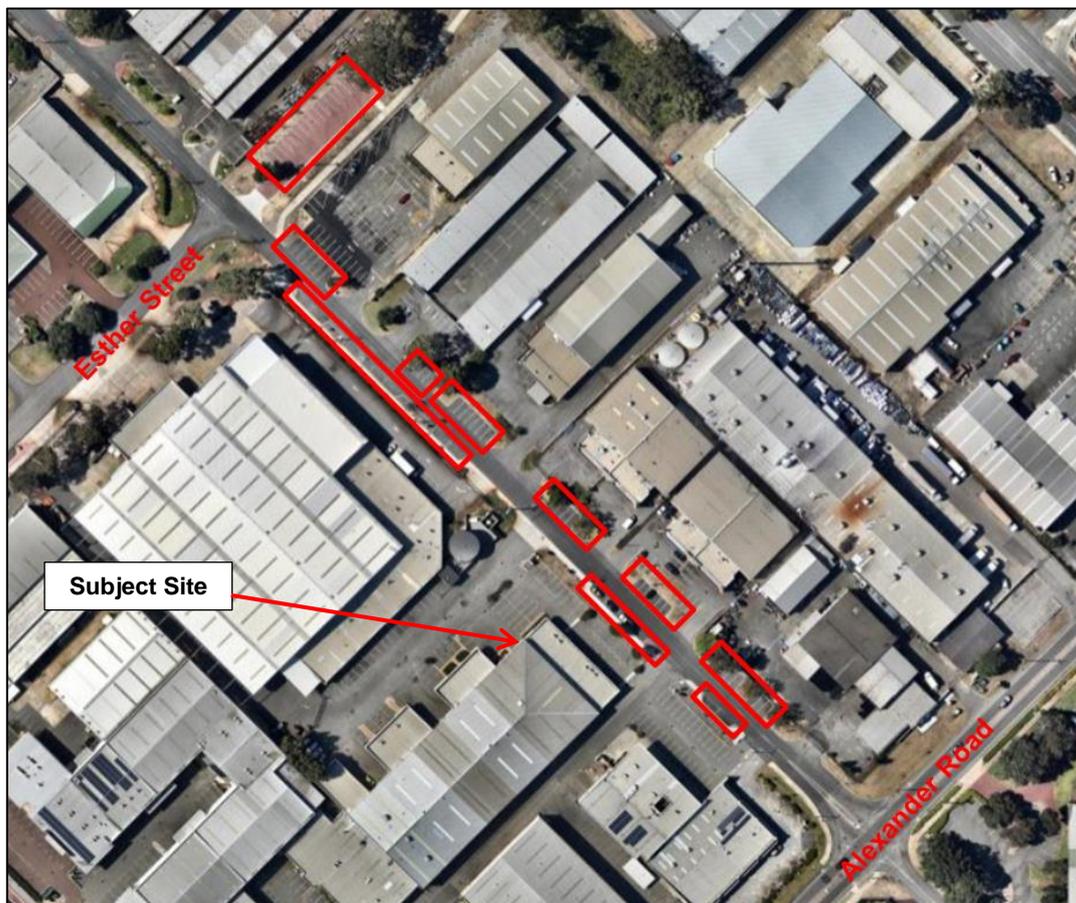


Figure 2: On-Street Car Parking Allocation (bordered red)

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.

While advertising of a Place of Worship in the Mixed Business zone is not mandatory, the application was advertised to provide opportunity for neighbouring owners and occupiers to comment on the proposed car parking arrangements.

The application was advertised for 15 days from 10 February 2020 to 24 February 2020 (inclusive). Figure 3 below depicts the advertising area of the subject application.



Figure 3: Referral Area (owners and occupiers)

At the conclusion of the advertising period, 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:

- One car bay per four persons being an insufficient parking standard for weekday activities (9:00am to 5:00pm) as the eight bays provided on-site cannot cater for a maximum of 32 persons.
- 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.

Item 12.1 Continued

- The use of the on-street bays by the proposed Place of Worship will prejudice future applicants within the area that may also require the use of these bays.

A schedule of submissions and associated officer comments is attached (refer [Attachment 1](#)). The relevant planning issues are further discussed in the 'Officer Comment' section below.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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.

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.

Item 12.1 Continued

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...*
- (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;*
 - (ii) public utility 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;*

Item 12.1 Continued

- (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 a further time between the applicant and the City of Belmont. In this case the applicant has provided written agreement for further time to consider the application. A considerable delay has occurred as a result of the time needed by the applicant to clarify car parking requirements and arrangements for the Place of Worship.

Right of Review

Is there a right of review? Yes No

The applicant/owner may make application for review of a planning 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.

BACKGROUND

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

Mixed Business Zone On-Street Parking

The Mixed Business zone has undergone a transition from manufacturing and industrial uses to office and showroom based activities within the locality.

Under previous industrial land uses, car parking was supplied at a lower rate. For example, for an ‘Industry’ land use classification, one car parking space is to be provided for every 50m² of gross floor area; compared with an Office land use that is required to provide one car parking space for every 30m² of net lettable area. This has meant that the car parking provided for each site is not sufficient in most cases.

Item 12.1 Continued

To address this issue within the Mixed Business zone, the City constructed public parking within the street verge to cater for the transition in land uses. To identify the best locations for the construction of public parking, the Belmont Mixed Business Zone Parking Strategy was prepared in December 2011. As a result of the Strategy, funding was allocated for the construction of approximately 350 on-street parking bays within the Mixed Business zone.

Within the Robinson Avenue street block between Alexander Road and Esther Street, a total of 64 bays have been constructed as depicted in Figure 2 above.

The Mixed Business Zone Parking Strategy establishes that the use of the on-street bays is to supplement the parking shortfall for businesses and to cater for the transition in land uses within the zone. The on-street parking is not intended to cater for future businesses that intend on supplying most of their car parking off-site. On this basis, the proposed use of the on-street bays by the proponent for the Place of Worship is discussed further in the 'Officer Comment' section below.

Proposal

The application proposes the following:

- A foyer/entry area, storage areas and three classrooms totalling 194m².
- A 200m² hall/seating area and a 52m² 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 Traffic and Parking Impact Assessment and Visual Report (refer [Attachment 2](#)).
- A Waste Management Plan (refer [Attachment 3](#)).

A copy of the development plans depicting the proposed layout is contained as [Attachment 4](#).

Parking Management Plan

The applicant is seeking approval for a proposed Change of Use from Warehouse and Office to Place of Worship which results in a 35 car bay shortfall. The car parking shortfall is further discussed in the 'Officer Comment' section of this report.

The applicant has prepared a Parking Management Plan (PMP) to address how the use of the on-street bays will be managed and to ensure that parking does not occur on neighbouring private property parcels. 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.

Item 12.1 Continued

- 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.
- Church patrons will be informed of permitted parking arrangements via the monthly newsletter and during church service announcements.

A copy of the PMP is contained as [Attachment 5](#).

OFFICER COMMENT

Land Use

In accordance with Table 1 of LPS 15, a Place of Worship is designated as a 'D' use, which means that the land use can be considered in the precinct if Council is satisfied that it will not adversely impact on other land uses in the precinct.

In this instance, it is considered that activities associated with a Place of Worship are unlikely to conflict with activities of the surrounding office, warehousing and showroom uses. Notwithstanding this, it is necessary to ensure that the Place of Worship land use complies with all other development standards under the Scheme – in particular, the adequate provision of car parking.

Car Parking

There are eight car bays allocated for use by the subject tenancy. For a Place of Worship, LPS 15 Table 2 – Car Parking Requirements requires 1 space for every 4 persons for whom the building is designed to accommodate. The applicant has indicated that the Place of Worship will accommodate a maximum of 172 patrons at any one time. Based on the LPS 15 car parking requirements, the proposal requires a total of 43 car bays. This represents a shortfall of 35 on-site car parking bays.

Several submissions raised concerns that the existing car parking allocation on the site is insufficient to cater for a maximum of 32 patrons during standard business hours on weekdays. Given the Scheme standard of 1 car parking space per 4 persons, the eight car parking spaces on the site is considered appropriate to accommodate a maximum of 32 persons during business hours on weekdays.

However, the dominant activity of a Place of Worship is the congregation of attendees during weekends and possibly during weekday evenings. The evening and weekend-related activities generate the increased demand in car parking, with the shortfall of 35 bays representing approximately 80% of the proponent's car parking requirement located off-site.

As previously discussed, there are 64 on-street bays available in the street block between Esther Street and Alexander Road. The proposed use of the 35 bays during evening and weekend activities by the Place of Worship represents approximately 55% of the available on-street bays within the street block.

Item 12.1 Continued

There is no established standard within LPS 15 in determining the extent to which publically available car parking bays within the Mixed Business zone can be used. In considering the applicant's proposal, it is reasonable to expect the bays should be shared in an equitable manner amongst businesses and visitors within the zone.

For example, there are 24 tenancies that front onto the street block between Esther Street and Alexander Road. On this basis, if each tenancy were equally allocated a portion of the 64 available bays, each tenancy could potentially use 2-3 on-street bays.

Given the nature of uses permitted within the zone, it is also reasonable to expect that some tenancies within the street block will operate during evenings and weekends. On this basis, it can be assumed that each business operating with extended trading hours would have access to double the amount of bays, totalling between 5-6 bays each.

In line with the above example, the proposed use of 35 on-street bays by the Place of Worship represents approximately 5-6 times what would be considered reasonable. On this basis, the proposed use of 35 on-street bays to cater for the shortfall associated with the proposed Place of Worship is considered inappropriate.

Objectives of the Mixed Business Zone

A number of submissions raised concerns that the proposed use of the on-street bays will have a negative impact on the surrounding businesses and their operations. In particular, these submissions raised concerns that although their businesses operate during regular business hours (i.e. Monday to Friday, 9:00am to 5:00pm) some employees work after-hours and during weekends. Notwithstanding, several businesses also raised concern with the proposed use of the on-street bays, as they have extended operating hours. It is acknowledged that the applicant has demonstrated that there is currently limited use of the on-street bays during evenings and weekends in the Traffic and Parking Impact Assessment and Visual Report ([Attachment 2](#)). However, it is necessary to consider that the Mixed Business zone is currently undergoing transition from manufacturing and industrial uses to office and showroom based activities.

Additionally, LPS 15 identifies that the objective of the zone is to cater for a mix of varied but compatible uses such as offices, showrooms, amusement centres, eating establishments and appropriate, low-impact industrial activities. It is reasonable to expect that a mix of these varied uses will occur in the future, particularly in light of the transition that is taking place within the zone.

There are two existing Places of Worship that have been granted approval and are currently operating along Robinson Avenue. In both cases the approvals granted ensure limits on the maximum number of patrons and car parking is provided wholly on-site. There has been a consistent approach in ensuring the car parking for Place of Worship land uses do not cause undue impacts on the publicly available car parking and businesses within the zone.

Granting approval for a proposed Place of Worship with a shortfall of 35 on-street bays would impact on the surrounding street blocks within the Mixed Business zone. The capacity for these on-street bays to cater for a variety of future uses will become constrained, particularly during the evening and weekend periods.

Item 12.1 Continued

Clause 67 (a) of the *Regulations* states that in considering an application for development approval, the decision-maker is to have regard for the aims of the relevant Scheme. It is considered that the proposed Place of Worship does not align with the objectives of the Mixed Business zone on the basis the proposal will prejudice existing and future business within the precinct by impacting on their ability to have equitable access to publicly available parking. Given this, it is considered that the application should be refused.

On-street Car Parking as a Wider Benefit to the Community

Several submissions acknowledged the positive impact the construction of on-street parking within the Mixed Business zone has had in enabling business to accommodate their operations and activities as well as visitors to their premises. On this basis, these submissions also expressed concern that in allowing such a proposal, it would create car parking problems within the zone.

As the on-street car parking within the Mixed Business zone has been constructed to cater for the transition in land uses with the zone, it is reasonable to expect that existing business may wish to expand their operations or other businesses may wish to relocate to the area to accommodate their activities.

As discussed above, the use of the 35 on-street bays is not considered to be aligned with the objectives of the Mixed Business zone as the use of these bays will hinder the adequacy for a mixed of varied land uses to occur within the precinct.

In determining the impact on the wider community, it is also necessary to consider how approving such a significant shortfall in car parking would provide for other applicants to seek a similar approval. The approval of this application would set an undesirable precedent which could impact the overall amenity of the zone.

For example, if there were multiple applications that proposed a similar intensive use of the on-street parking to cater for their activities and operations, over time the availability and the benefit of public parking to all business and visitors to the precinct would be eroded. This would contradict the ultimate purpose of the construction of the on-street parking to supplement the needs of the community.

Clause 67 (v) of the *Regulations* requires that decision-makers have regard for the potential loss of any community benefit resulting from a proposed development. It is considered that the publicly available on-street car parking in the Mixed Business zone is of benefit to the business community within this area and on this basis, the proposed Place of Worship should be refused.

Alternative Option

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

As discussed above, the requirement for a maximum of 172 patrons on-site during evening and weekend activities generates the greatest demand for the on-street bays within the street block.

Item 12.1 Continued

Notwithstanding, in managing the impact on the amenity of surrounding businesses, the applicant has prepared a PMP to address how the use of the on-street bays will be managed. It is considered that the measures and controls identified in the PMP could be acceptable if there were not as many people attending the site. A limit on the number of people would ensure the impact on the publicly available car parking bays would be reduced.

As discussed previously in the 'Officer Comment – Car Parking' section of this report, an allocation of six on-street bays for the proposed Place of Worship is considered acceptable.

The six on-street bays with the eight bays provided on the subject premises equates to a total of 14 bays. In accordance with 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.

On this basis, the application could be approved with the following conditions:

- 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 could be provided.

Holding multiple services with a limit on the number of people would allow for smaller gatherings at different times. This would ensure the proposed Place of Worship would be able to comply with the condition limiting the maximum number of people whilst allowing their congregation to attend services without impacting on the surrounding properties.

It is considered these conditions are sufficient in managing the impact on the on-street parking and the wider business community in the Mixed Business Zone. Notwithstanding the ability to approve a smaller congregation of 56 patrons, the applicant has stated the intention is for a Place of Worship with a maximum congregation size of 172 patrons. Therefore the imposition of a condition limiting the number of patrons would not be appropriate in this instance.

Conclusion

The proposed Change of Use for a Place of Worship raises the following concerns:

- The proposed use of 35 on-street bays to support the car parking demand for the evening and weekend operations is considered inappropriate.
- The use of 35 on-street bays would have a negative impact on the objectives of the Mixed Business zone to provide for a mix of varied uses.
- The on-street bays are considered to be of business community benefit and the use of such a large number of on-street car parking bays during specific times would have an impact on existing and future business within the zone.

Item 12.1 Continued

- Should approval for a Place of Worship with the use of 35 on-street bays be granted, it will set an undesirable precedent by allowing other applicants to pursue a similar parking concession. This would prejudice existing and future businesses within the zone.

Given the above, it is considered the proposed Change of Use should be refused.

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 planning application 100/2019 as detailed in plans dated 15 April 2019 and 30 January 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 on the basis that:
1. The development proposes eight car parking bays in-lieu of 43 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 use of publicly available car parking bays for the Place of Worship will have a detrimental impact on the amenity of surrounding properties and does not meet the objectives of the Mixed Business zone in cater for a varied mix of compatible business land uses as outlined in Clause 4.2 of Local Planning Scheme No. 15, contrary to the requirements of Clause 67 (a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 3. The proposed use of the on-street bays to provide for the shortfall in car parking is a potential loss of a community benefit within the Mixed Business zone, contrary to the requirements of Clause 67 (v) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B Advise those who made a submission of Council's decision.

Item 12.1 Continued

Note:

Cr Davis put forward the following Alternative Councillor Motion.

ALTERNATIVE COUNCILLOR MOTION

DAVIS MOVED, SEKULLA SECONDED

That Council:

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.

CARRIED 9 VOTES TO 0

**12.2 DEVELOPMENT APPLICATION FOR A 'WAREHOUSE/OFFICE' – LOT 800
(20) VALENTINE STREET, KEWDALE**

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 6 – Item 12.2 refers	<u>Development Plans</u>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001–Development/Subdivision/Strata– Applications and Application Correspondence
Location / Property Index	:	Lot 800 (20) Valentine Street, Kewdale
Application Index	:	444/2019
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	Parallax WA
Owner	:	Grass Valley Nominees Pty Ltd, AUSTER (WA) Pty Ltd, PXC Pty Ltd and Eccrine Efforts Pty Ltd.
Responsible Division	:	Development and Communities

COUNCIL ROLE

- | | | |
|-------------------------------------|-----------------------|---|
| <input type="checkbox"/> | Advocacy | <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"/> | Executive | <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"/> | Legislative | <i>Includes adopting local laws, local planning schemes and policies.</i> |
| <input type="checkbox"/> | Review | <i>When Council reviews decisions made by Officers.</i> |
| <input checked="" type="checkbox"/> | Quasi-Judicial | <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 consider an application for a 'Warehouse/Office' on an 'Industrial' zoned site at Lot 800 (20) Valentine Street, Kewdale (refer [Attachment 6](#)).

Item 12.2 Continued

SUMMARY AND KEY ISSUES

- The application proposes a 'Warehouse/Office' building and associated signage at the subject site.
- A few minor variations are proposed to Local Planning Scheme No. 15 (LPS 15) and the *Planning and Development (Local Planning Schemes) Regulations 2015*. It is considered that these variations are minor and can be approved subject to the appropriate conditions.
- The application includes a signage strategy for the new development, which proposes a number of variations to Local Planning Policy No. 12 - Advertisement Signs (LPP 12). These variations justified the objectives of LPP 12 and the signage is considered appropriate in the context of the subject site and proposed development.
- Notwithstanding the minor variations, the application is to be determined by Council as the estimated cost of the development exceeds the prescribed delegation limits, and the City's officers do not have authority to deal with the application.
- It is recommended that Council approve the development proposal subject to appropriate conditions.

LOCATION

The subject site is 1.87 hectares (18,680m²) in area and is bound by Valentine Street, Chilver Street and Bradford Street.

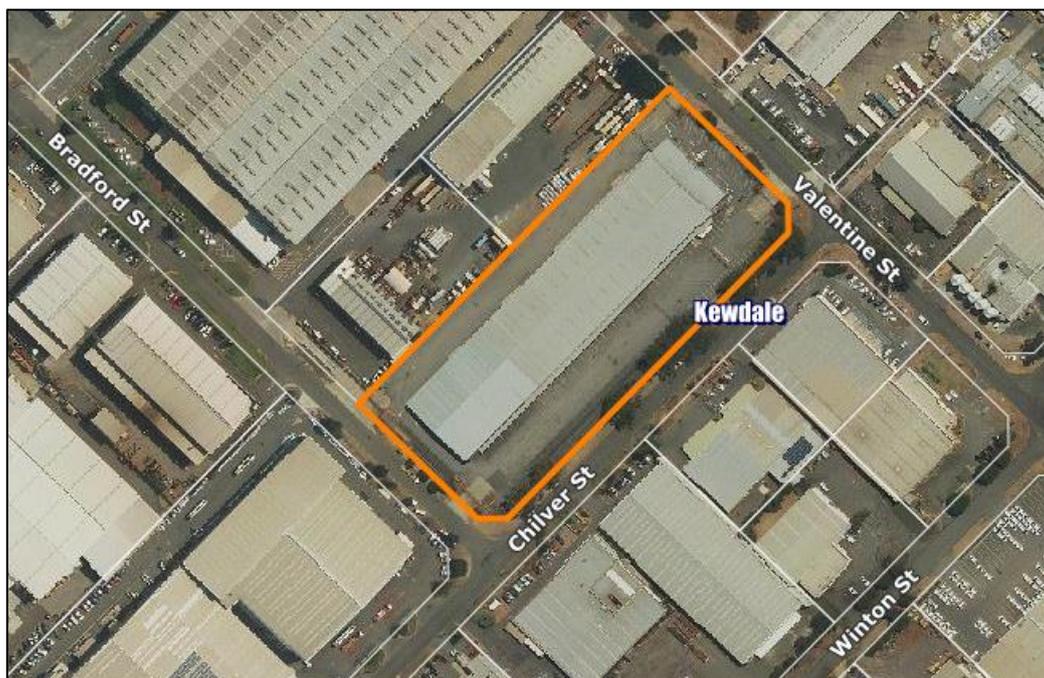


Figure 1 – Location Plan (Source: Intramaps)

Item 12.2 Continued

CONSULTATION

Category C applications are those that need external referrals from third parties such as the Environmental Protection Authority, Western Australian Planning Commission, Swan River Trust, Heritage Council etc. Category C applications may also require statutory advertising, referral to neighbours or consideration by Council. The application was referred to the following external agencies:

- 1. Perth Airport:** The subject site falls within an Australian Noise Exposure Forecast (ANEF) 25-30 aircraft noise contour as well as an area of the 'Perth Airport Pty Ltd Structures Height Control Contours Map', which requires referral of the application to Perth Airport Pty Ltd. Perth Airport has recommended the installation of noise insulation in accordance with Clause 5.4.5 of State Planning Policy 5.1 – *Land Use Planning in the Vicinity of Perth Airport*.
- 2. Public Transport Authority:** The application proposes a crossover onto Chilver Street which may impact an existing bus stop. The Public Transport Authority has advised that the two bus stops would not be impacted by the proposed development.

The proposed land uses (i.e. 'Warehouse' and 'Office') are discretionary ('D') under LPS 15, which means that a use is not permitted unless the City has exercised its discretion by granting planning approval. It was determined that the application did not require advertising to neighbouring properties because the proposed variations to LPS 15 do not have a direct impact on any adjoining property.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Local Planning Policy No. 12 – Advertisement Signs (LPP 12) sets out the development requirements for all signage applications within the City. The provisions for wall signs and pylon signs are relevant to this application.

Item 12.2 Continued

STATUTORY ENVIRONMENT

Local Planning Scheme No. 15

The subject site is zoned 'Industrial' under LPS 15.



Figure 2 – Extract LPS 15 Scheme Map

The purpose and intent of the 'Industrial' zone is to:

"...provide for the industrial development of the Kewdale Industrial Estate and the Redcliffe Industrial Estate. The significance of the Kewdale Industrial Estate as a transport and logistics hub as part of the Kewdale-Hazelmere Integrated Masterplan is acknowledged. The City may approve a wide range of industrial activities within this zone subject to conditions designed to achieve a high standard of industrial environment."

Clause 5.13 of LPS 15 sets out development standards that apply specifically to the 'Industrial' zone. It includes standards relating to the design and siting of development such as building height, site cover, setbacks, parking, landscaping and fencing, amongst other requirements.

Clause 5.5.1 of LPS 15 stipulates 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 such conditions as it thinks fit.

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* Schedule 2 Deemed Provisions outlines the matters to be considered by the local government in determining an application for development approval.

Item 12.2 Continued

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 60 day period. The only exception is where there is a written agreement for further time between the applicant and the City of Belmont.

The applicant has provided written agreement to extend the determination timeframe until 31 May 2020. The additional time was due to initial concerns regarding the number of additional proposed crossovers to the subject site. The City's officers have worked with the applicant to amend the design and rationalise the additional crossovers.

Right of Review

Is there a right of review? Yes No

The applicant/owner may make an application for review of a planning 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.

BACKGROUND

Lodgement Date:	18 November 2019	Use Class:	Warehouse – 'D' use Office – 'D' use
Lot Area:	18,680m ²	LPS Zoning:	'Industrial' Zone
Estimated Cost of Development:	\$6.5million	MRS:	'Industrial' Zone

The subject site is located within the Kewdale Industrial zone and is 18,680m² in area. The site features an old 'Warehouse/Office' building which was built in the 1970s. The applicant intends that this building is demolished and replaced with the proposed development. The site is serviced by four crossovers (two from Valentine Street and two from Bradford Street).

Item 12.2 Continued



Figure 3 – Existing Site (Source: Nearmaps)

Proposal

The application proposes the following:

- A new 'Warehouse/Office' building (including internal partitioning to create three separate 'Warehouse/Office' tenancies A, B and C).
- A new pump house in the Chilver Street setback area.
- Addition of three 11 metre wide crossovers to Chilver Street.
- A signage strategy for the site, comprising 16 wall signs and 3 pylon signs.

OFFICER COMMENT

The proposal complies with Clause 5.13.1 (Site and Development Requirements in the Industrial Zone) of LPS 15, with minor variations to the Building Setback Area, Fencing, and Signage Policy requirements.

Building Setback Area

Clause 5.13.1(e) of LPS 15 stipulates that only planting, parking, pedestrian and vehicular circulation is permitted within the building setback areas. The proposed pump house within the Chilver Street setback area is appropriate, as it encloses essential utilities (i.e. pumps and control panels) which are required for the 'Warehouse/Office'. The pump house is clad in the same material and finishes as the proposed 'Warehouse/Office' building, is not a dominant feature of the streetscape, and does not detract from the overall streetscape. The proposed pump house is therefore appropriate within the street setback area.

Item 12.2 Continued

Fencing and Walls (Clause 5.13.5)

The application proposes to retain the existing chainmesh fencing (which also features a barbed wire fence along the top) along the front boundary. These types of fencing are prohibited in the 'Industrial Zone' under Clause 5.13.5(4). It is noted that the fencing is rusted and in poor condition. The maintenance standard of the existing fence is not commensurate with that of a new development, and the fence should be removed or replaced with a fence type compliant with the standards of the Local Planning Scheme. It is recommended that a condition be imposed requiring the applicant/owner to remove the existing chainmesh and barbed wire fencing and replace it with an appropriate style of fencing.

Signage

The proposed pylon signs vary Parts (c) and (e) of the 'deemed-to-comply' provisions for pylon signs as the signs are 4.05 metres wide (at the widest point) in-lieu of 2.5 metres and 8.75 metres tall, in-lieu of 6 metres (refer to Figure 5).

The variation to the height and width of the pylon signs can be supported for the following reasons:

- The site has a frontage to three roads and therefore requires signs to be clearly visible to vehicles accessing the site from all three streets.
- The height of the pylon signs are of an appropriate scale to the overall development. This is based on the wide 191 metre frontage to Chilver Street, three proposed tenancies and overall height of the proposed Warehouse/Office (i.e. 13.209 metres).

Given the above, it is considered that the proposed signage strategy is appropriate for the proposed development.

Other Conditions of Development Approval

A number of other conditions should be applied to the development approval to ensure compliance with the Local Planning Scheme. These are discussed below.

Vehicular Access and Loading

Based on an assessment of truck turning circles, the crossover to 'Warehouse/Office' Tenancy C from Chilver Street can accommodate a rigid 9 metre truck only. It is recommended that a condition be imposed restricting access to the site via the middle crossover to vehicles no larger than a 9 metre long rigid truck.

Replacement of Street Tree

The removal and replacement of one street tree is necessary to provide vehicular access to Tenancy C. The tree shall be replaced with three suitable replacement trees. It is recommended that a condition be imposed regarding the removal of the existing street tree and the procedure for its replacement in accordance with the City's Urban Forest Policy.

Item 12.2 Continued

Car and Bicycle Parking Requirements

Table 2 (Car Parking Requirements) of LPS 15 requires 111 car bays for the proposed development. A total of 140 car bays have been provided on site, resulting in a surplus of 29 car bays. The number of car parking bays is fully compliant with LPS 15.

In the absence of specific employee numbers, it is considered that eight bicycle bays each for 'Warehouse/Office' Tenancies A and B are satisfactory to address Clause 5.17 (Bicycle Parking) of LPS 15 for the following reasons:

- It has been assessed that two bays are required for the 'Office' component of each tenancy under Table 2 of LPS 15.
- A maximum of 40 staff could be suitably accommodated within the 'Warehouse' component of each tenancy, based on an occupancy rate of one employee per 50m². It is appropriate to consider that a minimum provision of cycle facilities for 10% of employees is appropriate. Anything less than this would equate to providing no bicycle parking at all. The 10% requirement equates to four bicycle bays in this instance.
- It is not anticipated that many visitors will travel to the site by bicycle. Therefore the two additional bicycle bays indicated on the development plans is considered to appropriately provide for visitors.

Based on the above, eight bicycle bays each for 'Warehouse/Office' A and B are acceptable.

Based on the relative Net Lettable Area (NLA) of 'Office' C being less than half of A and B, it is considered that half the number of bicycle bays is appropriate for Tenancy C 'Office' (i.e. one bay for the office). The additional four bays provide for the 'Warehouse' component, based on a rate of one employee per 50m². It is recommended that a condition be imposed requiring five bicycle bays be provided for 'Warehouse/Office C'.

Clause 5.17.3 requires one male and one female shower in separate change rooms be provided per 10 bicycle bays and one ventilated equipment locker per bicycle bay. The following facilities have not been included on the development plans:

- *Tenancy A and B:* One male shower.
- *Tenancy C:* One male and one female shower in separate change rooms and five ventilated equipment lockers.

It is considered that the floor plan of the proposed development provides sufficient flexibility for the proposal to be amended to accommodate the end-of-trip facilities. It is recommended that a condition be imposed requiring the provision of end-of-trip facilities.

Item 12.2 Continued

Wastewater Management

The plans indicate two sets of leach drains in the landscaping strips adjacent to Bradford Street and Valentine Street. These leach drains are based on a previous design for two Warehouse/Office' tenancies and do not satisfactorily address effluent disposal requirements for a third 'Warehouse/Office' tenancy.

There is space available within the front setback area which is not currently required for vehicle manoeuvring and which may be used to locate future leach drains. The applicant has advised that they will provide a Plumber's report and apply for additional leach drains prior to applying for their building permit. It is recommended that a condition be imposed.

Conclusion

The proposal is consistent with the intent of the 'Industrial' zone and complies with the provisions of LPS 15. Where there are variations proposed to LPS 15 it is recommended that appropriate conditions be imposed to ensure compliance. The proposed signage strategy is consistent with the objectives of LPP 12 and the variations to the 'deemed to comply' provisions are considered acceptable for this reason.

It is recommended that Council approve the application subject to the recommended conditions.

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.

Item 12.2 Continued

OFFICER RECOMMENDATION

That Council approve planning application 444/2019/DA as detailed in plans dated 21 April 2020 submitted by Parallax WA on behalf of the owner Grass Valley Nominees Pty Ltd, AUSTER (WA) Pty Ltd, PXC Pty Ltd and Eccrine Efforts Pty Ltd, for a 'Warehouse/Office' at Lot 800 (20) Valentine Street, Kewdale subject to the following conditions/reasons:

1. Development shall be in accordance with the attached approved plan(s) dated 21 April 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. Prior to occupation or use of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, drained, line marked and kerbed in accordance with:
 - (a) The approved plan;
 - (b) Schedule 11 of City of Belmont Local Planning Scheme No. 15; and
 - (c) Council's engineering requirements and design guidelines.

The areas must be sealed in bitumen or concrete in accordance with the City of Belmont specifications, unless otherwise approved by the City. All parking bays must be clearly line marked.

3. Prior to occupation of the development or commencement of the use, a minimum of:
 - Six bicycle bays, six ventilated equipment lockers, one male and one female shower (or one unisex shower) to be provided for each of 'Warehouse/Office' Tenancy A and B; and
 - Five bicycle bays, five ventilated equipment lockers, one male and one female shower (or one unisex shower) to be provided for 'Warehouse/Office' Tenancy C.

These end-of-trip facilities shall thereafter be maintained for the course of the development/use to the specifications outlined within AS2890.3:2015, to the satisfaction of the City.

4. Vehicles larger than 9 metre rigid trucks are not permitted to access the site via the crossover to 'Warehouse/Office' Tenancy C from Chilver Street as annotated on the plans in **RED**.
5. The loading and/or unloading of vehicles is to occur on site and in a manner that does not interfere with the parking of vehicles in the car park. 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.
6. Provision to be made so that all commercial vehicles and trucks can ingress and egress the site in forward gear. No reversing of vehicles and trucks to or from the site via a public road is permitted.
7. No vehicle washing is to occur on-site.

Item 12.2 Continued

8. **A wastewater apparatus (i.e. leach drains) shall be provided and maintained in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* to the satisfaction of the City.**
9. **All stormwater from roofed and paved areas shall be collected and disposed of via piped connection to the existing system on the site in accordance with the City of Belmont's engineering requirements and design guidelines. All new and existing drains, drainage pits and soak wells shall be maintained in a clean and clear condition free of obstruction.**
10. **Prior to occupation or use of the development, the street tree identified for removal to accommodate the crossover to 'Warehouse/Office' Tenancy C from Chilver Street shall be removed and replaced by the City with three suitable replacement trees with a 100 litre pot size at the applicant's expense in accordance with the City's Urban Forest Policy. The owner shall maintain the street trees for a period of 12 months to the satisfaction of the City. In the event that a replacement tree cannot be suitably replaced in the verge of the subject property, the City shall request a financial contribution for the replacement trees to be planted elsewhere in the City of Belmont.**
11. **All storage associated with the site shall occur within the building or beneath an approved roofed enclosure. The open air storage of equipment, materials and stock in yard areas is not permitted unless otherwise approved by the City.**
12. **The signs shall only advertise the businesses operating on the subject lot.**
13. **The signs shall be located wholly within the boundaries of the subject property at all times.**
14. **Prior to occupation or use of the development, the existing chainmesh fencing and barbed wire fencing is to be removed. The material and construction of any replacement fencing must comply with the requirements of Clause 5.13.5 of Local Planning Scheme No. 15**
15. **A landscaping and irrigation plan for the subject development site and street verge is to be prepared and submitted to the City for approval prior to lodgement of a Building Permit application.**
16. **Prior to occupation or use of the development, landscaping, plants, verge treatment and/or irrigation are to be installed and thereafter maintained in accordance with the approved landscaping and irrigation plan to the satisfaction of the City.**

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

12.3 AMENDMENT NO. 11 TO LOCAL PLANNING SCHEME NO. 15 – OMNIBUS AMENDMENT

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 7 – Item 12.3 refers	<u>Adjusted Local Government Boundaries – Deposited Plan 412423</u>
Attachment 8 – Item 12.3 refers	<u>Proposed Scheme Map Amendments</u>
Attachment 9 – Item 12.3 refers	<u>Schedule of Submissions</u>
Attachment 10 – Item 12.3 refers	<u>Amended Local Planning Scheme No. 15 Scheme Text</u>

Voting Requirement	:	Simple Majority
Subject Index	:	LPS15/011–Scheme Amendment 11–Clause 5.7.7– Superseded Provisions/Tech and Admin Changes/Mapping Errors
Location / Property Index	:	Various
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	26 February 2019 Ordinary Council Meeting Item 12.4
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 12.3 Continued

PURPOSE OF REPORT

For Council to consider final adoption of Amendment No. 11 to the City of Belmont Local Planning Scheme No. 15 (LPS15).

SUMMARY AND KEY ISSUES

- Amendment No. 11 was prepared following a review of LPS 15 and proposes various modifications to Scheme Text and Map, including:
 - Deleting and/or amending Scheme Text provisions that are inconsistent with the Deemed Provisions contained as Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)*.
 - Reformatting the Scheme Text and its provisions to provide consistency with the Model Provisions contained within Schedule 1 of the *Regulations*.
 - Amending the Scheme Text to provide clarity on requirements for the subdivision of land within flexible coded areas and rectify a land use permissibility error for the 'Bed and Breakfast' land use in the 'Special Development Precinct' zone.
 - Amending the Scheme Map to encompass an area of land that has been transferred from the City of Swan to the City of Belmont through a boundary realignment and zoning that land accordingly.
 - Amending the Scheme Map to correct various minor errors and anomalies.
- Council at its meeting of 26 February 2019 resolved to adopt Amendment No. 11 to LPS 15 as a 'basic' amendment that did not require advertising pursuant to the *Regulations*.
- The Western Australian Planning Commission (WAPC) subsequently reviewed Amendment No. 11 to LPS 15 and determined that it was a 'standard' amendment that required advertising. The scheme amendment was subsequently advertised from 20 February 2020 to 3 April 2020, during which 10 submissions were received.
- Upon reviewing the scheme amendment, additional minor changes and modifications have been identified. These include deletion of certain terminology and expressions, minor wording adjustments and two additional Scheme Map amendments. While these are minor changes and modifications, the *Regulations* do not provide for Council to support the amendment with these modifications as the changes are not resultant from issues raised by submissions. However, Council can recommend that the WAPC and Minister for Planning require these modifications to be included into the subject amendment.
- It is recommended that Council adopts Amendment No. 11 to LPS 15 and recommend to the Minister for Planning that it be approved.

Item 12.3 Continued

LOCATION

Amendment No. 11 to LPS 15 proposes to amend the Scheme Map to:

1. Incorporate land transferred from the City of Swan into the City of Belmont municipality.
2. Fix several zoning errors/anomalies throughout the Scheme area.

In terms of point 1 above, the boundary realignment relates to five lots formerly in the City of Swan municipality, being Lots 55 and 310 Great Eastern Highway (GEH), South Guilford, Lot 2 (5) Apac Way, South Guildford, Lot 3 (555) GEH, Redcliffe; and Lot 301 (510) GEH, Ascot. The adjusted local government boundaries are reflected on Deposited Plan 412423 ([Attachment 7](#)).

In terms of point 2 above, the proposed amendment also relates to multiple areas where LPS 15 mapping errors and anomalies has been identified. A list of the properties and land affected by the LPS 15 amendments is provided as ([Attachment 8](#)).

CONSULTATION

In accordance with the *Regulations*, Amendment No. 11 was advertised for a period of 43 days (from 20 February 2020 to 3 April 2020), by way of:

- Letters being sent to landowners and occupiers affected by the proposed mapping amendments.
- Letters to relevant government agencies.
- An advertisement placed in the 20 February 2020 edition of the Southern Gazette newspaper.
- A notice on the City's website.
- A public display at the City's Civic Centre.

The City received 10 submissions during the advertising period, with two being received from landowners and eight from government agencies. It should be noted that no objections or issues were raised by landowner/occupier submissions. Two of the submissions received from agencies however objected to two mapping amendments that proposed to zone land that require easements to protect existing service infrastructure.

Pursuant to Clause 18 of the *Regulations*, Council is required to make a recommendation in respect of each submission. A summary of the submissions received and comments thereon are included in the Schedule of Submissions contained as [Attachment 9](#).

Item 12.3 Continued

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

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*.

Planning and Development (Local Planning Schemes) Regulations 2015

The *Regulations* govern the way in which local planning schemes are prepared, consolidated and amended. The *Regulations* provide for, amongst other aspects, the following:

- A common set of general and land use definitions.
- Provisions for local planning schemes provided as:
 - **Schedule 1 – Model Provisions:** The manner and format in which local planning schemes are required to be prepared.
 - **Schedule 2 – Deemed Provisions:** Mandatory provisions that automatically apply to all local planning schemes.

Local planning schemes are not required to be amended to align with the Model Provisions until such time that a comprehensive Scheme review is undertaken, and/or a new local planning scheme is prepared. The WAPC has however encouraged local governments to amend their local planning schemes to reflect the Model Provisions and remove provisions which are inconsistent with, or overridden by, the Deemed Provisions, where practical.

In terms of amending local planning schemes, 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. Notwithstanding, the WAPC may direct a 'basic' amendment to be treated as a 'complex' or 'standard', which will require the responsible authority to advertise the amendment.

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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 the responsible authority has received notification that no environmental assessment is required, the amendment should be advertised or in the case of a 'basic' amendment, forwarded to the WAPC for determination.

Where advertising is undertaken, Council is required to consider and make a recommendation in respect of any submissions received during the consultation period. Council is also required to 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

Amendment No. 11 to LPS 15 proposes to:

- Delete and amend Scheme Text provisions that have been superseded by, or are inconsistent with, the Deemed Provisions of the *Regulations*.
- Reformat the Scheme Text and its provisions to provide consistency with the Model Provisions of the *Regulations*.
- Amend Clause 5.7.7 of the Scheme Text to provide clarity on requirements for subdivision of land within the flexible coded areas.
- Amend the zoning table of the Scheme Text to rectify the permissibility of the land use 'Bed and Breakfast' in the 'Special Development Precinct' zone, from an 'X' use to an 'A' use.
- Amend the Scheme Map to rectify various minor errors, update the boundaries of the local government area and zoning the incorporated land accordingly.

Council at its meeting of 26 February 2019 resolved to adopt Amendment No. 11 to LPS 15 as a 'basic' amendment that did not require advertising. Council also resolved to request that the WAPC review several mapping errors and anomalies in the Metropolitan Region Scheme (MRS). Amendment No. 11 and the recommended MRS map amendments were subsequently forwarded to the WAPC for consideration in April 2019.

In June 2019, the Department of Planning, Lands and Heritage (DPLH) advised that there were aspects of Amendment No. 11 that would change its classification from a 'basic' to the 'standard' category, and therefore require advertising. The DPLH also recommended several modifications to the amendment, which are discussed in greater detail in the Officer Comment section of the report. The DPLH offered three options to progress Amendment No. 11:

Item 12.3 Continued

1. Advertise the amendment, in its entirety, as a 'standard' amendment; or
2. Modify the amendment to delete the elements which were considered to be 'standard' in nature and progress the remaining as a 'basic' amendment; or
3. The WAPC would refuse the amendment.

Following this, there were a series of discussions with DPLH with discussion over:

- Which aspects of the proposed amendment would constitute a 'standard' amendment.
- Whether the lack of support for the proposed changes to Clause 5.7.7 of LPS 15 is likely to cause an inadvertent delay to the amendment.
- Concern that further modifying the amendment post-advertising to include the DPLH's recommended modifications to the amendment would warrant re-advertising, thereby delaying the progression of the amendment.

Notwithstanding, in September 2019 notification was received from the WAPC that a decision had been made to proceed with Option 1 and progress the amendment as a 'standard' amendment. This was on the basis that the WAPC had made a decision that the amendment be dealt with as a 'standard' amendment, and that there was no discretion for this decision to be varied.

Amendment No. 11 to LPS 15 was subsequently advertised between February and April 2020.

OFFICER COMMENT

The subject amendment represents a review of LPS 15 aimed at fixing minor errors and addressing compliance and/or consistency with the *Regulations*, State Planning Policies and the MRS. In doing so, the amendment is also intended to improve legibility and efficiency of the City of Belmont's planning framework through providing greater clarity on Scheme provisions and removing obsolete and unnecessary standards. Since Council's initiation of Amendment No. 11 to LPS 15, there have also been changes and additional amendments identified which are recommended to be included as part of the subject amendment.

A list of all proposed Scheme Map amendments is provided as [Attachment 8](#). A modified version of LPS 15 showing the proposed Scheme Text changes is provided as [Attachment 10](#). Recommended modifications to delete or add text are shown in 'strikethrough' or 'bold and underlined' text respectively. Discussion on the outcomes following advertising of the amendment is provided below.

Further Deletion of Definitions

Since Council's initiation of Amendment No. 11, the DPLH advised that there are other definitions that should be considered for deletion. These suggestions made apparent an issue with the City's version of LPS 15 being inconsistent with the gazetted version of LPS 15, as controlled by the WAPC. The City has since rectified this issue and reviewed the correct LPS 15 text to identify the following additional definitions for deletion (refer to Table 1 below).

Item 12.3 Continued

Additional Expressions Recommended for Deletion	Justification
Advertisement	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Amenity	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Building Code of Australia	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Conservation	This term is superseded by the term 'Built Heritage Conservation' in Schedule 2, Clause 1 of the Deemed Provisions.
Cultural Heritage Significance	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Curtilage	The Scheme defines this expression but does not include any reference in the Scheme Text.
Gazettal Date	Expression duplicates the existing expression 'Commencement Day' which is a Model Provision expression and included in LPS 15.
Height	Expression duplicates the expression 'Building Height' which is a Model Provision expression and included in LPS 15.
Owner	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Premises	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
R-Codes	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Substantially Commenced	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.
Zone	Expression defined in the Schedule 2, Clause 1 of the Deemed Provisions.

Table 1 – Additional Terminology Recommended for Deletion

Modifications to Proposed Amendment

The DPLH have recommended several modifications to the subject amendment, as outlined by Table 2 below.

Recommended Modifications	Comment
<p>Delete modification (g) which proposed to update the following clauses/text in LPS 15:</p> <ul style="list-style-type: none"> Clause 6.3.12.2 – Update “Schedule [x]” with “Schedule 10”. Delete the second paragraph on the introduction page which references Part 2 – Local Planning Framework. 	<p>In terms of Clause 6.3.12.2, it became apparent that this was simply an error in an internal version of the LPS 15 text and is not reflected in the actual gazetted version of LPS 15.</p> <p>In terms the introduction page, it does not form part of the gazetted version of LPS 15 and therefore can be changed without requiring a formal amendment.</p>
<p>Alter modification (e), which proposes to delete various Scheme Text terms and replace them with corresponding terms throughout the Scheme Text, as follows:</p> <ul style="list-style-type: none"> For the term ‘Council’ which is proposed to be modified to ‘Local Government’ throughout the Scheme Text, this modification should not be applied to Clause 5.3.4(3) and Schedule 2(2)(v) of LPS 15 and should instead be replaced with the term “Local Planning” as they refer to policies. 	<p>Clause 5.3.4(3) and Schedule 2(2) of LPS 15 reference ‘Council Policies’ rather than ‘Local Planning Policies’. Changing the term ‘Council’ to ‘Local Government’ would therefore be illogical in this context. This change is reflected in the modified version of LPS 15 in Attachment 10 and shown in bold and underlined text (refer to pages 14 and 67).</p>
<p>For modifications (k) which renames Schedule No. 16 from ‘Development Contribution Plan’ to ‘Special Control Areas – Development Contribution Areas’, should instead be renamed to ‘Special Control Areas – Development Contribution Plans’. This change will also require modification (i) to be adjusted to reflect the correct title.</p>	<p>The terminology ‘Development Contribution Plan’ is correct as per State Planning Policy 3.6 – Development Contributions for Infrastructure and should therefore be applied accordingly. This change is reflected in the modified version of LPS 15 in Attachment 10 and shown in bold and underlined text (refer to page 89).</p>

Item 12.3 Continued

Recommended Modifications	Comment
For modification (l), which includes all the proposed Scheme Map amendments, where land is changing from a reserve to a zone or vice versa, the terminology used to describe the change should be 'reclassifying' rather than 'rezoning'.	This was an oversight and should be addressed through modifications to the amendment document.

Table 2 – Proposed Modifications to Proposed Amendment

As outlined above, the above recommended modifications to the subject amendment are supported.

Scheme Map Amendments

The subject amendment involves the following two components in relation to changes to the Scheme Map:

1. Amending the Scheme Map to encompass an area of land that have transferred from the City of Swan to the City of Belmont through boundary realignment and zoning those lots accordingly.
2. Amending the Scheme Map to correct minor errors and anomalies.

The above changes are discussed below, along with the proposed additional modifications to the Scheme Map and the concerns raised by agencies.

Local Government Change of Boundaries (City of Swan to City of Belmont) and Zoning of Transferred Land

The land transferred from the City of Swan to the City of Belmont needs to be included in the Scheme area and three of the transferred lots, being Lot 2 (5) Apac Way and Lots 3 and 301 (555 and 510) GEH, need to be zoned accordingly under LPS 15.

Lots 2 and 3 are currently zoned 'General Industrial' under the City of Swan's Local Planning Scheme No. 17 (LPS 17), which is not a zone included in LPS 15. Notwithstanding, portions of these lots are already zoned 'Industrial' under LPS 15 and given that both of these lots are used for industrial purposes, it is considered logical to apply the 'Industrial' zoning of LPS 15 to the remainder of the sites. It should be noted that the 'Industrial' zone under LPS 15 does not significantly differ from the 'General Industrial' zoning under the City of Swan's LPS 17.

For the eastern portion of Lot 301, it is proposed to apply the same zoning as the western portion of the lot, being the 'Mixed Use' zone under LPS 15. This is considered to represent a logical extension of the zoning that ensures planning controls are consistent across the entirety of Lot 301. It should be noted that the extension of this zoning does not change the requirement for any proposed development or use of the land to obtain development approval.

The above changes are reflected in Maps 1 – 3 contained as [Attachment 8](#).

Item 12.3 Continued

As the above modifications arise from the local government boundary realignment, the subject amendment was referred to the City of Swan for comment. In response, an 'interim submission' has been provided on the basis that the City of Swan require its Council's endorsement of a submission. Following discussions with City of Swan staff, it is understood that they will be seeking to initiate an amendment to their LPS 17 to similarly address the boundary realignment. This is expected to occur at an Ordinary Council Meeting on 6 May 2020 however, it is considered that the outcome will likely be inconsequential to Amendment No. 11 as there is still a need to incorporate the transferred land into LPS 15. In addition, the City of Belmont is obliged to progress the subject amendment within the statutory timeframes stipulated by the *Regulations*.

Additional Modifications to Scheme Map

Since Council's initiation of Amendment No. 11 to LPS 15, there has been additional Scheme Map modifications identified which are considered to be minor in nature. The progression of Amendment No. 11 presents an opportunity to request for these modifications to be included in the subject amendment. The proposed additional modifications are discussed below.

Metropolitan Region Scheme Amendment 1355/57

The WAPC recently approved Amendment 1355/57 to the MRS which reclassified land adjacent to Stanton Road and Tonkin Highway in Redcliffe from 'Primary Regional Roads' to 'Urban' under the MRS. This land was previously set aside for expansion works to Tonkin Highway, but was no longer required for those purposes and has been on-sold to the Department of Communities. The reclassification of this land has resulted in the need to also amend LPS 15 to apply zoning or reservation that is consistent with the objectives of the 'Urban' zoning under the MRS.

In light of the above, it is considered logical to apply the same zoning/reservation to the reclassified land as that of immediately adjacent land, as follows:

- Reserving Lot 2 on Plan 412099, located on the northern side of Tonkin Highway and adjacent to Redcliffe Primary School, 'Public Purpose – Primary School' under LPS 15.
- Zoning Lot 152 on Plan 412099, located on the northern side of Tonkin Highway and adjacent to existing housing and Perth Airport, 'Residential' with an 'R20' density code under LPS 15.
- Zoning Lot 31 on Plan 415034, Lot 32 on Plan 415035, Lot 67 on Plan 15195 and portions of Lots 425, 464, 471, 472, 506 and 5886 on Plan 5047, Lot 3 on Plan 25125 and Lot 33 on Plan 415035, located on the southern side of Tonkin Highway and adjacent to existing housing, 'Residential' with an 'R20' density code under LPS 15.
- Realigning the boundaries of 'Development Area' notation for both Development Areas 4 and 6 so as to extend to the Primary Regional Roads reservation, encompassing most of the abovementioned land parcels.

The above changes are shown in Map 22 contained in [Attachment 8](#).

Item 12.3 Continued

Perth Airport Aircraft Noise Exposure Forecast Contours

State Planning Policy 5.1 – Land Use Planning in the Vicinity of Perth Airport (SPP 5.1) includes planning and development requirements that seek to protect Perth Airport from unreasonable encroachment by incompatible (noise sensitive) development. The requirements are premised on the Perth Airport Aircraft Noise Exposure Forecast (ANEF) contours, which are reviewed on a five-yearly basis by Perth Airport Pty Ltd, in consultation with Airservices Australia. State Planning Policy 5.1 specifically references the ANEF, and therefore any revisions to the contours are incorporated automatically and concurrently into the Policy.

The LPS 15 Scheme Map currently illustrates the Perth Airport ANEF contours and it recently became apparent that these contours are premised on the 2009 contours and are therefore outdated. There have since been two reviews of the ANEF contours, including in 2014 and 2019, however the Scheme Map was never updated to reflect these reviews, leading to confusion. It should be noted that the operation of SPP 5.1 does not rely on the contours being incorporated into a Scheme Map to be effective, nor is it a requirement under the *Regulations* for the contours to be shown on a Scheme Map. For these reasons, it is considered logical to remove the ANEF contour notation from the LPS 15 Scheme Map altogether. This proposed additional modification is reflected in Map 23 contained in [Attachment 8](#).

Zoning of Land Requiring Easements

Submissions were received from the Department of Biodiversity, Conservation and Attractions (DBCA) and ATCO Gas Australia objecting to the proposed zoning of land on the basis that easements are required to protect existing service infrastructure. The identified properties of concern were:

- Lot 301 Great Eastern Highway (refer to Map 3): A portion of Lot 301 is proposed to be zoned 'Mixed Use' following its transfer from the City of Swan to the City of Belmont through the local government boundary realignment. The requirement for the easement occurs because a drain pipe traverses the north-western (rear) portion of the lot, adjacent to the Parks and Recreation reserve. The pipe carries stormwater from GEH to Ivy Street via the subject site.
- Lot 22 McDowell Street and Lot 302 Abernethy Road (refer to Map 12): Portions of Lot 22 and 302, representing former Daddow Road alignment that was closed as part of Tonkin Highway upgrades, are proposed to be zoned 'Industrial' under LPS 15. This land contains an existing high pressure gas pipeline and drainage pipe that traverses the lots parallel to Tonkin Highway.

Easements are created over land to allow or restrict use to a particular extent. As an example, an easement on private property over a drainage pipe would typically afford access to a service authority, but limit any use or development over the easement area. There are several ways that easements can be created, including through a land transfer, on a plan of subdivision, or by deed of agreement. A condition of development approval could also be used as a mechanism to require an easement to be provided, however such a condition would need to fairly and reasonably relate to the application and justified by the nature of the development and the effect on its surrounds.

Item 12.3 Continued

In terms of Lot 301, on 30 September 2009 the City issued an approval for a 'retaining wall, fill and car park' on site with a condition requiring a drainage management plan to be prepared to address (amongst other matters) the diversion of an existing open drain on the site. Based on aerial photography of Lot 301, it appears works that included the stockpiling of fill, the development of hardstand and the conversion of the open drain into a piped drain, commenced in early 2011 and concluded in 2012. As part of the 2009 approval, it should be noted that there was no condition imposed requiring an easement to be created to protect the drain - this appears to have been an oversight. Nonetheless, a condition requiring the grant of easement has been applied to subsequent development approvals over the property; however the landowner has never acted on those approvals which have since lapsed. While there has been no other means of formalising the easement to date, it is expected that the easement will be formalised as a condition of any future development approval on the property.

In the case of Lot 22 and 302, the previous closure and disposal of Daddow Road did not provide for the relocation of the gas pipeline nor was it protected by way of an easement. This appears to have been an oversight by either the WAPC in the issuing of subdivision approval without appropriate conditions, or ATCO in providing a referral response to the WAPC that did not recommend an appropriate condition.

In considering the concerns of the DBCA and ATCO and whether it is appropriate to proceed with the amendment in the absence of easements being established over the abovementioned properties, the following points are relevant:

- Amendments to local planning schemes do not serve as a mechanism to require the establishment of easements.
- The proposed zoning of the abovementioned properties does not alter the need for any development or use of the land to obtain approval under LPS 15.
- In considering any application for subdivision or development approval, the City would need to have due regard to any existing or proposed public utility service, and in the case of gas pipelines, any possible risk to human safety.
- The development or use of land could occur irrespective of being zoned or reserved under a local planning scheme.
- In the case of Lots 22 and 302, ATCO are responsible for the management of high-pressure gas pipelines and would be responsible for arranging the establishment of an easement when required.

In light of the above, it is considered that the issues raised by the DBCA and ATCO are irrelevant to the subject amendment and should be addressed as a separate matter. On this basis, it is considered appropriate to proceed with Amendment No. 11 to LPS 15.

Item 12.3 Continued

Statutory Process

In accordance with Clause 50(1) and (3) of the *Regulations*, the local government must, within 60 days after the end of the submission period, pass a resolution:

- (a) To support the amendment without modification; or
- (b) To support the amendment with proposed modifications to address issues raised in the submissions; or
- (c) Not to support the amendment.

Following the passing of a resolution, the amendment is to be forwarded to the WAPC for review and to provide a recommendation to the Minister for Planning for consideration and final determination. In considering the amendment, the Minister may require, pursuant to Section 87 of the *Planning and Development Act 2005*, the local government to modify and resubmit the amendment for approval.

As discussed in this report, several minor changes and additional modifications have been identified since Council's initiation of the amendment. In accordance with point (b) above, a resolution can only be made to address issues raised in the submissions. In this case, the proposed changes and additional modifications are not in response to any issues raised in the submissions, and therefore cannot be addressed through a resolution under point (b).

Notwithstanding, Council may still however resolve to recommend that the WAPC and the Minister, in its consideration of the amendment, require the City to modify the amendment to include suggested minor changes and additional modifications. It will therefore be recommended that Council proceed with this approach by resolving to make this recommendation to the WAPC and the Minister.

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.

Item 12.3 Continued

OFFICER RECOMMENDATION

That Council:

- 1. Pursuant to Regulation 50(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* note the submissions received in respect of Amendment No. 11 to Local Planning Scheme No. 15 and endorse the responses to those submissions in Attachment 3 – Schedule of Submissions.**
- 2. Pursuant to Regulation 50(3)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015* support Amendment No. 11 to Local Planning Scheme No. 15 with a recommendation that the amendment be approved by the Minister for Planning.**
- 3. Requests that the Western Australian Planning Commission and Minister for Planning, in its consideration, recommendation and determination of Amendment No. 11 to Local Planning Scheme No. 15 (as applicable), direct the City of Belmont to modify the amendment, without undertaking further advertising, as follows:**
 - (a) Insert the following expressions for deletion from the Scheme Text into point (c) of the amendment:**
 - **Advertisement**
 - **Amenity**
 - **Building Code of Australia**
 - **Conservation**
 - **Cultural Heritage Significance**
 - **Curtilage**
 - **Gazettal Date**
 - **Height**
 - **Owner**
 - **Premises**
 - **R-Codes**
 - **Substantially Commenced**
 - **Zone**

on the basis that the above expressions have either been superseded by the definitions in the Deemed Provisions set out in the *Planning and Development (Local Planning Schemes) Regulations 2015* – Schedule 2, or are defined by other frameworks, or are not referenced in the Scheme Text.

Item 12.3 Continued

(b) Modify point (e) of the amendment, which deletes various terms in the Scheme Text and replace them with a corresponding term, as follows:

- **The deletion of the term “Council” and replacement with the term “Local Government” will apply to the entirety of the Scheme Text, except for Clause 3.5.4(3) and Schedule 2(2) where the replacement term shall be “Local Planning”.**

This modification is required to correctly change the term “Council Policy” to “Local Planning Policy”.

(c) Delete point (g) of the amendment, which proposed to update Clause 6.3.12.2 and modify the introduction page of the Scheme Text, from the amendment, as they were incorrectly identified for modifications.

(d) Modify points (i) and (k) to rename Schedule 16 (proposed to be Schedule 11) from ‘Special Control Areas – Development Contribution Areas’ to ‘Special Control Areas – Development Contribution Plans’ to reflect the correct terminology outlined by State Planning Policy 3.6 – Development Contributions for Infrastructure.

(e) Modify point (l) of the amendment, which modifies the Scheme Map, as follows:

- **Insert a new point xv to amend the Scheme Map as follows:**
 - **Reserving Lot 2 on Plan 412099 ‘Public Purpose – Primary School’.**
 - **Zoning Lot 152 on Plan 412099, ‘Residential’ with an ‘R20’ density code.**
 - **Zoning Lot 31 on Plan 415034, Lot 32 on Plan 415035, Lot 67 on Plan 15195 and portions of Lots 425, 464, 471, 472, 506 and 5886 on Plan 5047, Lot 3 on Plan 25125 and Lot 33 on Plan 415035, ‘Residential’ with an ‘R20’ density code.**
 - **Realigning the ‘Special Control Area – DA4’ boundary to include Lot 32 on Plan 415035, Lot 67 on Plan 15195 and portions of Lots 425, 464, 471, 472, 5886 on Plan 5047, Lot 3 on Plan 25125 and Lot 33 on Plan 415035, within the Development Area 4 Special Control Area.**
 - **Realigning the ‘Special Control Area – DA6’ boundary to include Lot 2 on Plan 412099 and Lot 152 on Plan 412099 within the boundaries of the Development Area 6 Special Control Area.**

Item 12.3 Continued

- **Insert a new point xvi to delete the ‘Australian Noise Exposure Forecast (ANEF) Contours’ notation from the Scheme Map.**
 - **Modify points iv, v, vi, vii, ix, x, xi and xii to change the term “rezoning” to “reclassifying”.**
- 4. Advise those who made a submission on Amendment No. 11 to Local Planning Scheme No. 15 of Council’s decision and the Minister for Planning’s final decision.**

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

12.4 DISPOSAL OF INTEREST IN LAND – PROPOSED GRANT OF EASEMENT FOR ENCROACHMENT OF PUBLIC ART – LOT 262 ON PLAN 26711 (16A) TIDEWATER WAY, ASCOT

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 11 – Item 12.4 refers	<u>Schedule of Submissions</u>
Attachment 12 – Item 12.4 refers	<u>Public Art Concept</u>
Attachment 13 – Item 12.4 refers	<u>Draft Deposit Plan – Public Art and Easement Locations</u>
Attachment 14 – Item 12.4 refers	<u>Access Consultant Recommendation</u>

Voting Requirement	:	Simple Majority
Subject Index	:	17/007–Public Art Advisory Panel 17/008–Public Art Projects–Private Developers
Location / Property Index	:	Lot 262 on Plan 26711 (16A) Tidewater Way, Ascot
Application Index	:	633/2015, 633/2015/A, 633/2015/B
Disclosure of any Interest	:	Nil
Previous Items	:	25 February 2020 Ordinary Council Meeting Item 12.3
Applicant	:	Blackburne Property Group Pty Ltd
Owner	:	City of Belmont and 16 Marina Drv Pty Ltd
Responsible Division	:	Development and Communities Division

COUNCIL ROLE

- | | | |
|-------------------------------------|-----------------------|---|
| <input type="checkbox"/> | Advocacy | <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"/> | Executive | <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"/> | Legislative | <i>Includes adopting local laws, local planning schemes and policies.</i> |
| <input type="checkbox"/> | Review | <i>When Council reviews decisions made by Officers.</i> |
| <input type="checkbox"/> | Quasi-Judicial | <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> |

Item 12.4 Continued

PURPOSE OF REPORT

For Council to consider the submissions raised during public advertising concerning the proposed grant of an encroachment easement for the intrusion of public art from the development at Lot 345 (16) Marina Drive, Ascot into land owned by the City of Belmont at Lot 262 (16A) Tidewater Way, Ascot.

SUMMARY AND KEY ISSUES

- Development approval for 90 multiple dwellings, a restaurant and office at 16 Marina Drive, Ascot was granted in April 2016. Subsequent to the development approval, the City of Belmont's Public Art Advisory Panel (PAAP) supported the artwork for the development in June 2016.
- The proposed grant of easement for public art at Lot 345 (16) Marina Drive, Ascot was previously considered by Council at the 25 February 2020 Ordinary Council Meeting (OCM) (Item 12.3). Council considered that the grant of easement could be supported, subject to assessment of the encroaching artwork by a suitably qualified Access Consultant and consideration for any submissions received during public advertising.
- Given Council's resolution, the proponent engaged O'Brien Harrop a suitably qualified Access Consultant. The Consultant's report identified that the encroachment is acceptable on the basis that tactile ground surface indicators (TGSIs) and additional safety bollards be installed at the corner locations of the artwork.
- Advertising occurred on two separate occasions in March 2020 with two submissions received from owners/occupiers within the locality opposing the grant of easement.
- As submissions were received during the advertising period, Council is required to consider the nature of these submissions as per the requirements of the *Local Government Act 1995* (the Act).
- It is considered appropriate to approve the grant of easement on the basis that the artwork has been supported by the PAAP, is a condition of development approval and the applicant has undertaken an assessment by an Access Consultant and agreed to implement recommendations undertaken to ensure the safety of passing pedestrians.
- It is recommended that Council approve the grant of easement.

Item 12.4 Continued

LOCATION

The public art is proposed to be installed at Lot 345 Marina Drive, Ascot. A portion of the artwork encroaches into the City's property at Lot 262 Tidewater Way, Ascot.

Lot 262 is owned in freehold by the City of Belmont and contains the public boardwalk which abuts the development at Lot 345 (16) Marina Drive, Ascot (refer Figure 1 below).

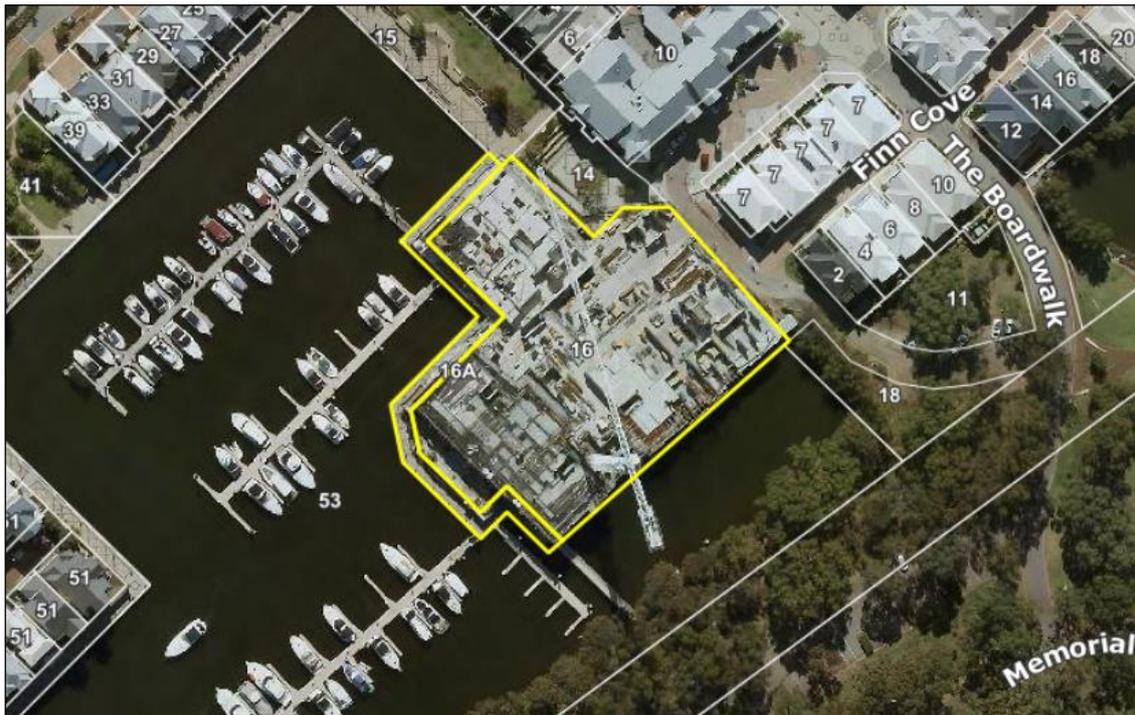


Figure 1: 16A Tidewater Way, Ascot (owned by the City) and 16 Marina Drive, Ascot (owned by applicant)

Lot 262 accommodates the public access boardwalk which adjoins the western boundary of Lot 345. The boardwalk provides for pedestrian connectivity from the Ascot Waters estate, through the marina and to the public parkland located south of the properties.

CONSULTATION

The *Act* requires disposals at a market value greater than \$5,000 to first be advertised in accordance with the provisions of Section 3.58 of the *Act*. Therefore this proposal was advertised for public comment on two separate occasions:

- 5 March 2020 to 19 March 2020; and
- 26 March 2020 to 10 April 2020.

Item 12.4 Continued

During the advertising period, two submissions were received, both objecting to the proposal. The nature of the objections are:

- Pedestrian safety and restriction of movement due to the proposed encroachment of the artwork into the public boardwalk area.
- The ongoing maintenance of the artwork and how this will be addressed.

The schedule of submissions and associated officer's comments is contained as [Attachment 11](#).

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

POLICY IMPLICATIONS

Local Planning Policy No. 11 – Public Art Contribution Policy

Local Planning Policy No. 11 (LPP 11) requires the provision of public art for developments with a value in excess of \$4.5 million in certain zones. As the proposed development has a value in excess of \$4.5 million and is located within the Precinct 8 area of LPP 11, a contribution of 1% was imposed as a condition of development approval for the building.

STATUTORY ENVIRONMENT

The proposed disposition of any property owned in freehold by a Local Government, which includes an interest in property, must be made in accordance with Section 3.58 of the *Act* unless an exemption applies. Granting an easement would constitute a disposal of property for the purposes of Section 3.58 of the *Act*, as it is the disposition of an interest in property.

As this disposition has been triggered by the development occurring on the adjacent property, it is not appropriate to put the disposition to auction or tender therefore Section 3.58(3) of the *Act* applies, which requires advertising the disposition through a public notification process. There are provisions for exemption under Section 3.58(5) of the *Act* and consideration was given to the relevance of 3.58(5) (d) which relates to exclusions covered by regulations. Regulation 30(2)(a) of the *Local Government (Functions and General) Regulations 1996* allows for exemptions when disposing of land to an adjoining owner, however this provision only applies when the market value of the land is less than \$5,000.

A valuation prepared by Pember Wilson and Eftos dated 24 January 2020 determined the value of the artwork easement as being between \$5,000 and \$10,000. In accordance with Section 3.58(3) of the *Act*, the proposal is required to be advertised.

Item 12.4 Continued

BACKGROUND

Development approval for a mixed use building comprising 91 multiple dwellings, a restaurant and office at 16 Marina Drive, Ascot was approved by the Metro Central Joint Development Assessment Panel (JDAP) on 27 April 2016. Subsequent amendments were also approved on 14 November 2016 and 22 August 2018.

Conditions 20 and 21 of the development approval require:

20. *Prior to the submission for a building permit, the owner/applicant shall seek approval from the City of Belmont for an artist to provide public art on the development site to a minimum value of \$330,000 to the satisfaction of the City.*
21. *Where public art will be provided on the development site in accordance with Condition 20, the approved concept/strategy shall be thereafter implemented and the artwork constructed and maintained for the life of the development to the satisfaction of the City.*

The City of Belmont's PAAP supported the public art concept on 30 June 2016. A copy of the conceptual drawings of the approved artwork is attached (refer [Attachment 12](#)).

The approved concept depicts the artwork protruding up to 500 millimetres from the walls of the development at 16 Marina Drive along the boundary of the adjoining Lot 262 Tidewater Way (refer Figure 2 below).



Figure 2: Location of artwork along boardwalk which is proposed to intrude into Lot 262 Tidewater Way, Ascot

The ultimate intent of the artist is to wrap the artwork around the façade of the building at key corner locations. Several portions of the artwork are to remain inside Lot 345 whilst other portions protrude into Lot 262.

Item 12.4 Continued

As part of the development of 16 Marina Drive, the vertical boundaries of the airspace over the boardwalk have been realigned to reflect the overhang of the balconies over the public boardwalk area (Lot 262). This adjusted lot boundary will result in Lot 262 having a vertical height clearance of 2.95 metres. Figure 3 below depicts the extent of the adjusted lot boundary.

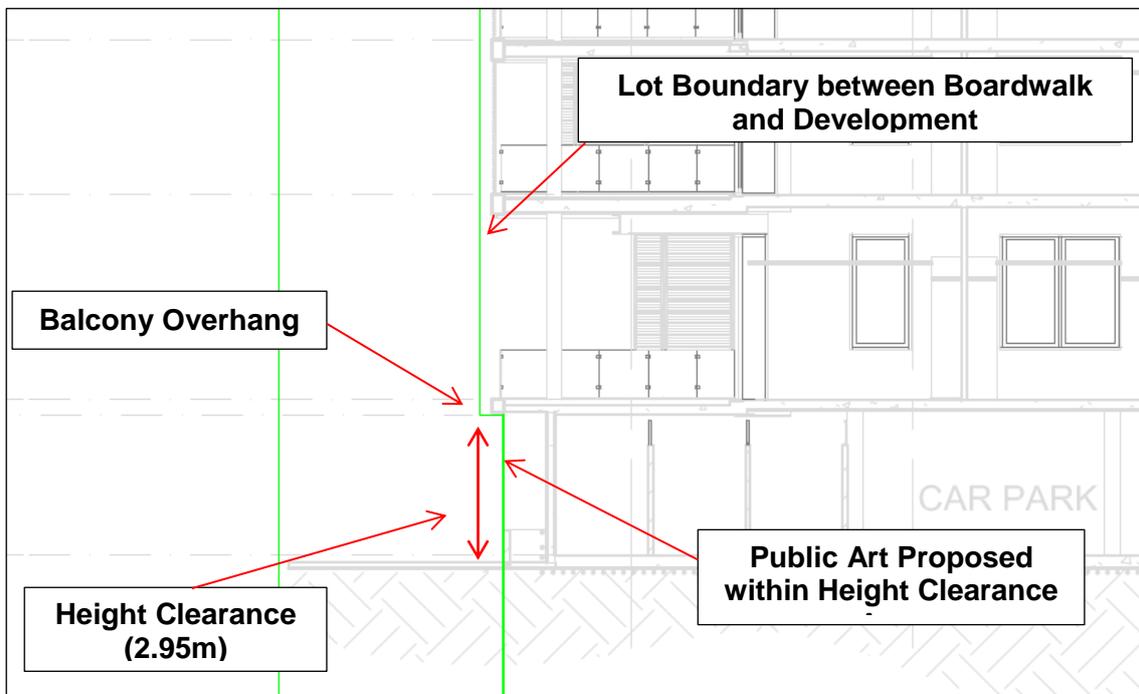


Figure 3 Plan depicting adjusted lot boundary

During the construction of the building, the developer identified that a grant of easement is required to formally allow for the installation of the public art which intrudes into the airspace over the boardwalk, within the 2.95 metre high space under the balcony overhang as depicted in Figure 3 above.

In addition to the easement for the public artwork, the developer initially installed a minor drainage pipe on the southern wall of the development. This drainage pipe has since been removed by the developer and an easement is no longer required. A copy of the updated Deposited Plan is contained as [Attachment 13](#).



Figure 4: Removal of minor drainage pipe encroachment

Item 12.4 Continued

Council resolved to require the proponents of the development to engage a suitably qualified Access Consultant to assess the encroachment into the public boardwalk and implement the recommendations ([Attachment 14](#)).

The key findings and recommendations of the report are:

- The encroaching artwork has been identified as a potential hazard due to the protruding elements, located adjacent to the boardwalk. However, installing warning tactile ground service indicators around the artwork to improve accessibility offers a compliant solution.
- In combination with the TGSI options, installing additional 1.2 metre high safety bollards at the exposed ends and corners of the artwork, to provide additional safety measures should be implemented.
- These safety bollards could be designed in a similar manner to the existing bollards used in the precinct (Figure 5 below depicts the intended locations for the safety bollards).
- The Access Consultant has also acknowledged comments provided by a Qualified Building Surveyor (engaged by the developer in January 2020 to assess the impacts on access) that note the installation of the public art will comply with the National Construction Code.

OFFICER COMMENT

Accessibility Report

Two submissions raised concerns with the fact the encroaching artwork and easement would be an obstruction hazard and impact on pedestrian accessibility.

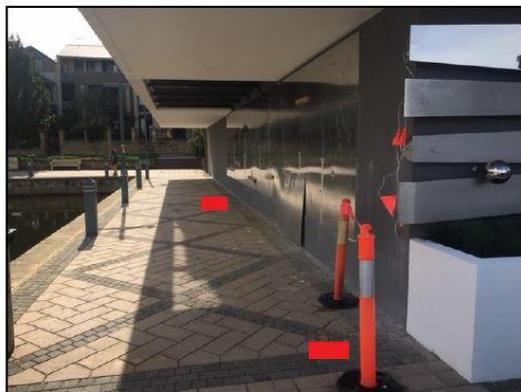
The consultant's recommendations are considered acceptable as the implementation of these measures will ensure that disabled access/partially sighted persons can access and traverse the boardwalk area safely. In addition, the implementation of TGSI measures and matching safety bollards will ensure the artwork fits in with existing development.

It is noted that the Access Consultant has also acknowledged comments provided by a Qualified Building Surveyor (engaged by the developer in January 2020 to assess the impacts on access) that note the installation of the public art will comply with the National Construction Code.

Item 12.4 Continued



The red squares indicatively represent the proposed location for the bollards.



The bollards will match existing bollards used throughout the landscaped precinct.

Figure 5: Intended locations for safety bollards

Width of the Boardwalk

Two submissions raised concerns that the proposed encroachment would limit the width of pedestrian space between the artwork and the edge of the boardwalk area.

It is considered there is sufficient room for pedestrians to access and traverse the various sections of the boardwalk, which would be impacted by the encroaching artwork. These sections of the boardwalk currently have varying widths, from 4 metres to 4.5 metres in different sections as depicted in Figure 6 below. With the addition of the artwork, a width of 0.5 metres would be taken up by the artwork and the easement. This would leave a width of approximately 3.5 metres at the narrowest section of the boardwalk for pedestrians. Given that a standard pathway in the City of Belmont starts at a width of 1.5 metres and a principal shared used pathway is approximately 3.5 metres in width, the encroachment of the artwork is not considered to impact significantly on the width of the boardwalk.

Item 12.4 Continued



Figure 6: Remaining width of pedestrian area once artwork has been installed

Developer Art Contributions

A submission raised concern regarding the cost and responsibility associated with the maintenance of the artwork. Specifically, the submission raised that the ongoing cost of maintenance should be the responsibility of the City of Belmont and not the Council of Owners given the artwork faces the public realm.

As the proposed development has a value in excess of \$4.5 million and is located within Precinct 8 area of LPP 11, a developer contribution equivalent to 1% of the estimated cost of development was required as a condition of development approval.

Additionally, the condition of the development approval also states that the public artwork must be maintained for the life of the artwork to the satisfaction of the City.

As the artwork is a result of a developer-lead contribution in accordance with LPP 11, the developer and any successors in title (i.e. the Council of Owners) is required to maintain the artwork.

Item 12.4 Continued

On this basis, a draft Deed of Easement has been prepared to address how the public art will be maintained in the future. The Deed requires that the Grantee, in this case the proponent and any successors in Title, be responsible for ongoing maintenance and repair of the artwork.

Based on the above, it is considered that the proposed Grant of Easement is acceptable.

Conclusion

The proposed grant of easement can be supported for the following reasons:

- The proponent has a valid development approval and the City's PAAP provided support to develop the public artwork.
- The proposed public art concept and location is desirable as it provides for the artwork to be fully appreciated within the public realm by the wider community. The concept and location will engage the passing public and encourage the public to reflect upon the unique location of Ascot Waters.
- The proponent has engaged a suitably qualified and registered Access Consultant to further assess the impact the public art will have on the public realm. As a result, the proponent has agreed to implement the recommendations of the report which include the installation of TGIS and additional safety bollards.
- The encroachment of the artwork at the two proposed locations will not result in any significant impacts on the safe and efficient use of the boardwalk by members of the public, or any future maintenance requirements for the boardwalk.
- The proposed grant of easement will be sufficient to allow the owners of 16 Marina Drive to undertake ongoing maintenance and take on the liability associated with the artwork over the boardwalk.

On this basis, it is considered appropriate to support the proposed grant of easement.

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.

Item 12.4 Continued

OFFICER RECOMMENDATION

CAYOUN MOVED, BASS SECONDED

That Council:

- 1. Require the proponent of the development at Lot 345 (16) Marina Drive to implement the recommendations, through the Deed of Easement, of the Access Consultant provided in [Attachment 14](#), as part of the installation of the remaining portions of the artwork.**
- 2. Advise Submitter 1 of Council's decision and address their concern of public art being located in public land.**
- 3. Advise Submitter 2 of Council's decision and how the Accessibility Report has addressed their accessibility and maintenance concerns.**
- 4. Support the grant of an easement over land at Lot 262 (16A) Tidewater Way, Ascot, for the approved public artwork to the benefit of Lot 345 (16) Marina Drive, Ascot in accordance with the provisions of Section 3.58 of the *Local Government Act 1995*.**
- 5. Authorise the Chief Executive Officer to execute the relevant documentation relevant to granting the encroachment easement over land at Lot 262 (16A) Tidewater Way, Ascot.**

CARRIED 5 VOTES TO 4

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

12.5 INFRASTRUCTURE SERVICES CONTRACT EXTENSIONS

BUILT BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Confidential Attachment 1 – Item 12.5 refers	<u>Contract evaluation for Q10/2016 – Supply and Delivery of Asphalt</u>
Confidential Attachment 2 – Item 12.5 refers	<u>Contract evaluation for Tender 01/2017 – Education, Cleaning and CCTV Inspections of Stormwater Drainage Structures</u>
Confidential Attachment 3 – Item 12.5 refers	<u>Contract evaluation for Q06/2017 – Supply and Delivery of Bitumen Emulsion</u>
Confidential Attachment 4 – Item 12.5 refers	<u>Contract evaluation for Q12/2017 – Supply and Delivery of Concrete Drainage Pipes and Manhole Well Liners</u>
Confidential Attachment 5 – Item 12.5 refers	<u>Contract evaluation for Tender 14/2016 – Supply and Installation of Turf</u>
Confidential Attachment 6 – Item 12.5 refers	<u>Contract evaluation for Tender 16/2016 – Electrical Repair and Maintenance Services for Council Facilities</u>

Voting Requirement : Simple Majority
 Subject Index : 135/2016-10, 114/2017-01, 135/2017-06, 135/2017-12, 114/2016-14, 114/2016-16
 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 : 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.*

Item 12.5 Continued

PURPOSE OF REPORT

To seek Council approval to extend the contracts for:

1. Quotation Q10/2016 – Supply and Delivery of Asphalt
2. Tender 01/2017 – Eduction, Cleaning and CCTV Inspections of Stormwater Drainage Structures
3. Quotation Q06/2017 - Supply and Delivery of Bitumen Emulsion
4. Quotation Q12/2017 - Supply and Delivery of Concrete Drainage Pipes and Manhole Well Liners
5. Tender 14/2016 - Supply and Installation of Turf
6. Tender 16/2016 – Provision of Electrical Repair and Maintenance Services for Council Facilities.

SUMMARY AND KEY ISSUES

The State Government has made some amendments to the *Local Government (Functions and General) Regulations 1996* in response to the COVID-19 Public Health Emergency. These amendments include the discretion to renew or extend an existing contract that expires when a state of emergency is in force. Limitations include a requirement that the original contract must have less than three months remaining and the renewal or extension cannot be for more than twelve months.

LOCATION

Not applicable.

CONSULTATION

The incumbent contractors have confirmed their willingness to extend the existing contract for a further 12 months, subject to a price adjustment based on the annual CPI (All Groups Perth) to the March 2020 quarter.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Objective: Maintain Public Infrastructure in accordance with sound Asset Management practices.

Strategy: Manage the City's infrastructure and other assets to ensure that an appropriate level of service is provided to the community.

Corporate Key Action: Maintain Assets in accordance with associated Asset Management Plans.

Item 12.5 Continued

POLICY IMPLICATIONS

BEXB7.1–Purchasing

POLICY OBJECTIVE

This policy aims to deliver a high level of accountability whilst providing a flexible, efficient and effective procurement framework.

STATUTORY ENVIRONMENT

This issue is governed in the main by the *Local Government Act 1995*, in particular *Local Government (Functions and General) Regulations 1996*, Regulation 11(2)-(ja) which states that “*Tenders do not have to be publicly invited according to the requirements of this Division if - the contract is a renewal or extension of the term of a contract (the original contract) where –*

- (i) *the original contract is to expire within 3 months; and*
- (ii) *the renewal or extension is for a term of not more than 12 months from the expiry of the original contract; and*
- (iii) *the contract for renewal or extension is entered into at a time when there is in force a state of emergency declaration applying to the district, or part of the district, of the local government”.*

Delegation DA04 provides that the Chief Executive Officer can only authorise purchases that are exempt from tendering regulations where the purchase value is no more than \$250,000 per annum. Although some of the contracts have a value that is under \$250,000, it is considered appropriate to include them all in the one report for Council approval as the Chief Executive Officer’s delegation does not extend to these circumstances.

BACKGROUND

The following contracts expire 30 June 2020:

Contractor	Tender	Commencement Date	Contract value for 12 months
Fulton Hogan Industries Pty Ltd	Q10/2016 – Supply & Delivery of Asphalt	1 July 2016	\$420,000
Cleanflow Environmental Solutions	Tender 01/2017 – Eduction, Cleaning and CCTV Inspections of Stormwater Drainage Structures	1 July 2017	\$164,000
Fulton Hogan Industries Pty Ltd	Q06/2017 - Supply and Delivery of Bitumen Emulsion	1 July 2017	\$42,000
Humes	Q12/2017 - Supply and Delivery of Concrete Drainage Pipes and Manhole Well Liners	1 July 2017	\$48,000
West Coast Turf	Tender 14/2016 – Supply and Installation of Turf	1 July 2016	\$29,000
Datatel Electrical & Communications	Tender 16/2016 – Electrical Repair and Maintenance Services for Council Facilities	1 July 2016	\$335,000

Item 12.5 Continued

OFFICER COMMENT

The current COVID-19 situation is putting pressure on many contractors to continue working within the social distancing requirements and Government Directives. Many businesses have closed and contractors face financial uncertainty during this time. While some contractors have adapted to restrictions, with staff working remotely, this has the potential to impact the contractor's ability to effectively respond to requests for tenders or quotes. Based on the current circumstances, with the future being so unpredictable, there is also the potential that contractors could be hesitant to commit to a long term contract or some respondents could be tempted to submit low rates to secure contracts, which may not be sustainable over the term of the contract.

The State Government has recognised the practical difficulties for businesses to respond to a formal tender process under the current circumstances and an amendment has been made to the *Local Government (Functions and General) Regulations 1996* allowing local governments to extend existing contracts that would otherwise expire within three months for a period of not more than 12 months at a time when there is in force a state of emergency declaration.

Contract evaluations (refer Confidential Attachments (CA) - [CA1](#), [CA2](#), [CA3](#), [CA4](#), [CA5](#), [CA6](#)) indicate that all the contractors have been performing well and that the business units would consider engaging these contractors again if they submitted a compliant and competitive tender had the state of emergency not arisen and the normal process was followed. Any issues that have arisen during the term of the contract have been minor and, when raised, the contractor has responded and remedied the matter in a timely manner.

FINANCIAL IMPLICATIONS

Contractors will have the option to adjust their rates based on the annual CPI (All Groups Perth) to the March 2020 quarter.

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. Extends the contract with Fulton Hogan Industries Pty Ltd for Quotation Q10/2016 – Supply and Delivery of Asphalt to 30 June 2021;**
- 2. Extends the contract with Cleanflow Environmental Solutions for Tender 01/2017 – Eduction, Cleaning and CCTV Inspections of Stormwater Drainage Structures to 30 June 2021;**
- 3. Extends the contract with Fulton Hogan Industries Pty Ltd for Quotation Q06/2017 - Supply and Delivery of Bitumen Emulsion to 30 June 2021;**
- 4. Extends the contract with Humes for Quotation Q12/2017 - Supply and Delivery of Concrete Drainage Pipes and Manhole Well Liners to 30 June 2021;**
- 5. Extends the contract with West Coast Turf for Tender 14/2016 – Supply and Installation of Turf to 30 June 2021;**
- 6. Extends the contract with Datatel Electrical & Communications for Tender 16/2016 – Electrical Repair and Maintenance Services for Council Facilities to 30 June 2021; and**
- 7. Authorises the Coordinator Procurement to advise the Contractors by letter of the decision to extend the current arrangements under the same terms and conditions with the option to adjust their rates in accordance with the March 2020 CPI.**

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

12.6 Q09/2020 – SUPPLY OF TRAFFIC CONTROL SERVICES

BUILT BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Confidential Attachment 7 – Item 12.6 refers	<u>Price Schedule</u>
Confidential Attachment 8 – Item 12.6 refers	<u>Cost Comparison</u>
Confidential Attachment 9 – Item 12.6 refers	<u>Evaluation Matrix</u>

Voting Requirement : Simple Majority
Subject Index : 135/2020-09
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 : 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.*

Item 12.6 Continued

PURPOSE OF REPORT

To seek Council approval to award Q09/2020 – Supply of Traffic Control Services.

SUMMARY AND KEY ISSUES

This report outlines the process undertaken to invite and evaluate the quotations received and includes a recommendation to award Q09/2020 to WARP Traffic Management in accordance with the requirements of the *Local Government Act 1995*.

The scope of work includes the design, construction, maintenance and removal of temporary traffic control devices, controllers, signposting and barriers as required.

The contract is for three years commencing 1 July 2020.

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

BEXB7.1–Purchasing

POLICY OBJECTIVE

This policy aims to deliver a high level of accountability whilst providing a flexible, efficient and effective procurement framework.

STATUTORY ENVIRONMENT

This issue is governed in the main by the *Local Government (Functions and General) Regulations 1996*, in particular Regulation 11(2) (b) which states that “*Tenders do not have to be publicly invited according to the requirements of this Division if - the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program*”.

Item 12.6 Continued

BACKGROUND

Under the *Local Government Act 1995*, tenders are not required to be publicly invited if the supply of the services is to be obtained through the West Australian Local Government Association (WALGA) Preferred Supplier Program. WALGA has established a panel for Road Building Contractors, Materials and related Services – Traffic Management Services. Six members of this panel were invited to submit a quotation with five responses being received from the following:

- Advanced Traffic Management (WA) Pty Ltd
- Contraflow Pty Ltd
- Evolution Traffic Control Pty Ltd
- Carrington's Traffic Services
- WARP Traffic Management.

OFFICER COMMENT

The Evaluation Panel consisted of Coordinator Works, Supervisor Construction, Traffic Management Supervisor and Coordinator Procurement. Each panel member has signed a Declaration of Confidentiality & Interest Form confirming that they have no known conflict of interest to disclose.

The responses received were assessed on the same selection criteria included with the invitation to quote, being:

	CRITERIA	WEIGHTING
1	Company Profile	15%
2	Experience	15%
3	Company Capacity	20%
4	Safety	20%
5	Price	30%
	TOTAL	100%

WARP is the current contractor and has provided traffic control services since 2009. During this time, WARP provided a high level of service.

The rates quoted by the respondents are detailed in [Confidential Attachment 7](#) – Price Schedule. [Confidential Attachment 8](#) – Cost Comparison shows that the rates quoted by WARP, being lower than the current rates, represent a 9% cost saving to the City based on estimated requirements for the 2020 / 2021 financial year.

[Confidential Attachment 9](#) – Evaluation Matrix outlines the scores awarded by the Evaluation Panel and identifies WARP as the recommended supplier.

FINANCIAL IMPLICATIONS

Expenditure on Traffic Management services is allowed for in rates that are used to allocate a budget amount in Capital Works projects to be undertaken in the appropriate year. Budget amounts for routine maintenance also allow for the provision of traffic management services. The average annual expenditure on Traffic Management Services across the organisation over the past five years is \$1,256,376.

Item 12.6 Continued

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:

- 1. Accepts the response submitted by WARP Traffic Management for Q09/2020 – Supply of Traffic Control Services as specified in accordance with the schedule of rates; and**
- 2. Award the contract to WARP Traffic Management for a period of three years commencing 1 July 2020.**

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

12.7 BEXB7.7 FINANCIAL HARDSHIP POLICY (COVID-19)

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 15 – Item 12.7 refers	Financial Hardship Policy (COVID-19)
Attachment 16 – Item 12.7 refers	Local Government (COVID-19 Response) Order 2020

Voting Requirement : Simple Majority
Subject Index : 176/004 – COVID-19 External Communications
Location/Property Index : N/A
Application Index : N/A
Disclosure of any Interest : Nil
Previous Items : OCM 28 April 2020: 12.2 COVID-19 Community Response And Recovery Proposed Actions
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 the Adoption of a Council Policy – BEXB7.7 Financial Hardship Policy (COVID-19).

Item 12.7 Continued

SUMMARY AND KEY ISSUES

At Item 12.2 - COVID-19 Community Response and Recovery Proposed Actions of the 28 April 2020 Ordinary Council Meeting, Council considered its initial response to support its community through the recovery from the COVID-19 pandemic crisis. Council resolved to establish a Financial Hardship Policy. This report considers the impact of, and recommends adopting a Financial Hardship Policy.

LOCATION

City of Belmont.

CONSULTATION

There has been no specific consultation undertaken in respect to this matter; however the State Government has provided briefings on its actions and expectations on local government to support the response and recovery. Feedback has also been provided to the State on changes that are required to enable local government to achieve the States intent.

Over recent weeks, Officers have been in contact with known, or suspected, at risk clients and other senior members of the community to gather feedback on their needs.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

There is no specific strategy associated with the implementation of the proposed policy. However it is important to have regard to ***Strategy 5.2: Manage the City's assets and financial resources in a responsible manner and provide the best possible services for the community.***

Any policy introduced which has the potential to impact the City's financial capability to achieve its infrastructure and service requirements for the community should be considered in the context of its ultimate impact.

POLICY IMPLICATIONS

Policy BEXB7.4 Collection of Rates, BEXB7.5 Pensioner's Outstanding Refuse Charges, and BEXB7.6 Pensioner / Senior Rates Arrears are established policies which provide guidance on the Council's expectations of action required to ensure that rates are collected in a timely, appropriate and considered manner. The proposed Policy extends the flexibility available to the City for its management of specific COVID-19 pandemic related hardship responses.

Item 12.7 Continued

STATUTORY ENVIRONMENT

Section 6.12 of the *Local Government Act 1995* states:

“6.12. Power to defer, grant discounts, waive or write off debts

(1) Subject to subsection (2) and any other written law, a local government may —

- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or
- (b) waive or grant concessions in relation to any amount of money; or
- (c) write off any amount of money,

which is owed to the local government.

* Absolute majority required.

(2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

(3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.

(4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.”

Sections 6.46 to 6.48 of the *Local Government Act 1995* relate specifically to Rates as follows:

“6.46. Discounts

Subject to the *Rates and Charges (Rebates and Deferments) Act 1992*, a local government may, when imposing a rate or service charge, resolve* to grant a discount or other incentive for the early payment of any rate or service charge.

* Absolute majority required.

6.47. Concessions

Subject to the *Rates and Charges (Rebates and Deferments) Act 1992*, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge.

* Absolute majority required.

6.48. Regulation of grant of discounts and concessions

Regulations may prescribe circumstances in which a local government is not to exercise a power under section 6.46 or 6.47 or regulate the exercise of the power.”

Regulation 69A of the *Local Government (Financial Management) Regulations 1996* places limitations on the circumstances where S6.47 can be applied:

69A. When concession under Act s. 6.47 can not be granted

A local government is not to exercise a power to grant a concession in relation to a rate or service charge under section 6.47 of the Act in circumstances where the concession is based on whether or not, or the extent to which, the land in respect of which the rate or service charge is imposed is occupied by a person who owns the land.”

Local Government (COVID-19 Response) Order 2020 - SL 2020/57 was Gazetted on 8 May 2020. This order modifies a number of legislative clauses relating to rating obligations for the balance of 2019-2020 and 2020-2021 financial years.

Item 12.7 Continued

This order defines an “excluded person” as “a person who –

- (a) is a residential ratepayer or small business ratepayer of a local government; and*
- (b) is considered by the local government to be suffering financial hardship as a consequence of the COVID-19 pandemic;”*

Relevant clauses are provided below.

“10. Section 6.34 modified (limit on revenue or income from general rates)

(1) Section 6.34(b) is modified as set out in this clause in relation to the 2020/21 annual budget of a local government.

(2) The reference to 90% is replaced with a reference to 80%.”

Clause 10 enables a local government to determine that rates raised to cover the budget shortfall between expenditure and other income can be as low as 80%, rather than the currently specified 90%.

“13. Section 6.45 modified (options for payment of rates or service charges)

(1) In this clause —

financial hardship policy, in relation to a local government, means a policy addressing the manner in which the local government will deal with financial hardship that may be suffered by ratepayers and other persons who are required to make payments to the local government.

(2) Section 6.45 is modified as set out in this clause in relation to payment by instalments of a rate or service charge imposed by a local government in the 2020/21 financial year.

(3) The local government cannot impose an additional charge (including an amount by way of interest) under section 6.45(3) in respect of payment by instalments made by an excluded person.

(4) If the local government has not adopted a financial hardship policy, the maximum rate of interest that may be imposed by the local government under section 6.45(3) is 3%.

(5) Subclause (4) applies despite the Local Government (Financial Management) Regulations 1996 regulation 68.”

Clause 10 stipulates that no instalment charges can be applied to any rate payer who fits the definition of an “excluded person” (see above). If the local government has adopted a financial hardship policy, then normal charges can apply to rate payers who do not meet the criteria. If a local government does not have a hardship policy, then a new instalment interest rate cap of 3% applies across the board.

“14. Section 6.51 modified (accrual of interest on overdue rates or service charges)

(1) Section 6.51 is modified as set out in this clause in relation to a resolution made under section 6.51(1) by a local government at the time of imposing a rate or service charge for the 2020/21 financial year.

(2) The resolution —

(a) cannot impose interest in respect of a rate or service charge payable by an excluded person; and

(b) is to specify that the imposition of interest does not apply in respect of a rate or service charge payable by an excluded person.

(3) The rate of interest that may be set by the local government under section 6.51 is not to exceed 8%.

Item 12.7 Continued

(4) Subclause (3) applies despite the Local Government (Financial Management) Regulations 1996 regulation 70.”

Clause 14 determines that no penalty interest charge can apply to any rate payer who fits the definition of an “excluded person” (see above), and that any resolution by Council in relation to penalty interest must stipulate accordingly. Also, clause 14 reduces any applicable charge for any rate payer to a maximum of 8%.

The definition incorporated into the attached policy document is consistent with the gazetted definition, however it provides for the application of the policy to a broader scope of affected entities.

A full copy of the Gazettal Notice is attached as [Attachment 16](#) for reference by Councillors.

Council Delegation of Authority

DA09 – Waiver or Concessions – Granting

Authorises the Chief Executive Officer to waive or grant concessions in relation to money owed to the City (excluding rates), write off money owed to the City, and determine the conditions to be applied to waive, grant a concession or write off money owed to the City to a maximum value of \$5,000 per individual sundry debtor per financial year.

DA11 – Recovery of Unpaid Rates

Provides for the Chief Executive Officer to recover unpaid rates.

BACKGROUND

In consideration of Item 12.2 - COVID-19 Community Response and Recovery Proposed Actions at the 28 April Ordinary Council Meeting, an Alternative Councillor Recommendation was considered and carried as follows:

“ALTERNATIVE COUNCILLOR MOTION

ROSSI MOVED, CAYOUN SECONDED

That Council,

23. Create a Hardship Relief Policy where the Chief Executive Officer can respond to those negatively impacted by the State of Emergency whether they are residents, businesses or community groups.

CARRIED 8 VOTES TO 0”

In accordance with this resolution, [Attachment 15](#) is presented for consideration by Council.

Item 12.7 Continued

OFFICER COMMENT

In preparing this Policy, Officers have considered the potential financial impacts on the City, endeavouring to ensure that the City remains in a position to ultimately receive full payment for rates due, while ensuring that an appropriate level of assistance can be provided to any rate payer able to evidence that they are suffering financial hardship as a result of the impacts of the COVID-19 pandemic crisis.

Rate income represents approximately 80% of the City's total income received to provide the level of service expected by the community. Any reduction in income generated will have a negative effect on service provision capability either immediately, or in the future. Consequently it is in the interests of both the City and its community for significant reductions in available funds to be managed responsibly.

Should funding for significant concessions be obtained by way of loan borrowings, there is an inherent interest cost which must be repaid by the City (and its community) in addition to the initial capital.

The City currently has significant borrowings in relation to the new Community Centre which impacts on our ability for new borrowings. Funding through reserves lessens the interest impact (investment rates are generally lower than borrowing rates), however this too removes future capacity, and funds must be either reinstated, or foregone resulting in a direct impact on future capability.

It should also be noted that the direct impact on the City's finances from COVID-19, including potential cash flow issues, are uncertain and unlikely to be known before the end of September.

The proposed policy ([Attachment 15](#)) is considered to be a financially responsible approach to ensuring that rate payers who have been directly and significantly impacted by the COVID-19 pandemic can receive an appropriate, considered, level of support from the City, while ensuring that the City can continue to provide effective services that the community need now and into the future.

The policy does not provide for the write off or waiver of rates, but does provide the ability for payment of rates to be deferred for a period to enable the rate payer to re-establish and recover from the immediate effects of their hardship circumstances.

FINANCIAL IMPLICATIONS

The Covid-19 Hardship Rates Relief Policy ([Attachment 15](#)) provides guidance to the Chief Executive Officer in relation to the extension of time to pay and waiver of rates related fees and charges and is intended to minimise the rate impact on rate payers specifically affected by the COVID-19 pandemic crisis.

Item 12.7 Continued

The actual cost of the implementation of this policy is difficult to determine, however based on a recent survey of the City of Belmont community, the following table of potential financial impact has been compiled recognising that up to 15% of the community may have been directly affected with financial hardship.

Estimated Rate Payers in Hardship %		15%	
Charge	Budget Estimate	Estimated Loss of Income 2020-2021	Notes
Rates simple interest income discounted by 3 months (\$50,722,000 x 1.8% / 12 * 9 =)	684,747	102,712	Loss of interest income*
Instalment Fee	120,000	18,000	Waived fee
Instalment Interest	145,000	21,750	Waived fee
Alternative Arrangement Fee	10,000	1,500	Waived fee
Penalty Interest	110,000	16,500	Waived fee
Other Debts	300,000	45,000	Possible waivers (DA09)
Total		205,462	

* Should 15% of rate payers not pay until 30 June 2021 or beyond, the City will have a cash flow shortfall of approximately \$7,615,800 for its 2020-2021 operations.

In addition to the financial assistance items adopted by Council during the 28 April 2020 Ordinary Council Meeting this would make Council's total support package to the community to address COVID-19 implications approaching \$2M.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

The social implications of the proposed actions are significant in that they will support both the fiscal and therefore social wellbeing of the community in a particularly challenging and financially distressing period. The length of time that the community will be impacted by the current crisis is unclear however it is possible that it may continue well into the next few years.

OFFICER RECOMMENDATION

ROSSI MOVED, SEKULLA SECONDED

That Council:

Endorse ([Attachment 15](#)) Policy BEXB7.7 Financial Hardship Policy (COVID-19) applicable to 30 June 2021 and subject to further review if considered appropriate.

CARRIED 9 VOTES TO 0

12.8 CITY OF BELMONT/TOWN OF VICTORIA PARK LOCAL EMERGENCY MANAGEMENT ARRANGEMENTS (2020)

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 17 – Item 12.8 refers	<u>Draft Local Emergency Management Arrangements (City of Belmont/Town of Victoria Park)</u>

Voting Requirement	:	Simple Majority
Subject Index	:	108/004 – LEMA – Local Emergency Arrangements and Plans
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	25 July 2017 Ordinary Council Meeting Item 12.6
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

That Council endorse the City of Belmont/Town of Victoria Park Local Emergency Management Arrangements (2020) (refer [Attachment 17](#)).

Item 12.8 Continued

SUMMARY AND KEY ISSUES

The City of Belmont and Town of Victoria Park's joint Local Emergency Management Arrangements (LEMA) have been prepared in accordance with State Emergency Management requirements.

These arrangements have been tabled with the City of Belmont/Town of Victoria Park Local Emergency Management Committee (LEMC) and once adopted by Council, will be tabled with the District Emergency Management Committee (DEMC) and the State Emergency Management Committee (SEMC).

The purpose of the LEMA is to structure how the City coordinates and operates during the response and recovery phases of an emergency.

The arrangements are designed to ensure that appropriate strategies are in place to minimise adverse effects on the community and to restore normality as quickly as possible following an emergency event.

LOCATION

Not applicable.

CONSULTATION

Internal

Drafts of the LEMA and Recovery Plan were used in the following exercises and training activities, with feedback being collated from each:

21 November 2017	Town of Victoria Park – Evacuation Centre Training/Exercise
5 December 2017	Evacuation Centre Training/Exercise
14 – 16 August 2018	Manage Recovery Activities for Local Government Training
5 November 2018	Heatwave Exercise
3 December 2018	Manage Recovery Activities for Local Government Training
17 July 2019	Evacuation Centre Training / Exercise
22 August 2019	Local Recovery Coordinator Training
22 August 2019	Severe Weather Exercise
28 November 2019	State Emergency Management Exercise
9 December 2019	Draft LEMA presented to LEMC
9 January 2020	Draft LEMA presented to ELT

Item 12.8 Continued

External

The LEMC is comprised of members from:

- Belmont State Emergency Service
- Boronia Pre-Release Centre
- City of Belmont
- Crown Perth
- Curtin University
- Department of Communities
- Department of Fire and Emergency Services
- Optus Stadium
- Perth Airport
- Perth Racing
- Town of Victoria Park
- Western Australian Police (WAPOL)
- Western Power.

The LEMA was distributed to the LEMC membership for comment. Feedback was also sought from the following industry specialists. They are both highly respected in Australia's emergency management community, have significant knowledge and experience and have also provided support and training to a number of City of Belmont and Town of Victoria Park staff:

- Sharna Sumpton:
 - Academic Marker at Charles Sturt University for the Bachelor of Emergency Management (2017-present)
 - Emergency Management Consultant, Western Australian Local Government Association (WALGA) (2016-present)
 - Emergency Management Advisor (2010-present)
 - Emergency Management Project Officer, WAPOL (2017-2018)
 - Senior Manager Emergency Services, Red Cross (2007-2009).
- Lewis Winter:
 - Emergency Management Consultant, WALGA (2016-present)
 - Emergency Management Advisor (2013-present)
 - Lecturer, Charles Sturt University – Bachelor of Emergency Management (2010-present)
 - Incident Controller, Department of Fire and Emergency Services (DFES).

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Objective: Maximise organisational effectiveness and reputation as an organisation, employer and a community.

Item 12.8 Continued

Strategy: Ensure that the organisation's capacity and capability meets strategic, customer and operational needs.

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

Objective: Create a city that leads to feelings 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: Increase emergency management awareness in the community.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

The *Emergency Management Act 2005* (the *Act*) came into effect on 24 December 2005 to provide for the prompt and coordinated management of emergencies within the State. The *Act* identifies a formal State, District and Local level emergency management structure and specifies a number of responsibilities which have been allocated to local government.

Among other requirements, each Local Government must establish an active LEMC and formulate and maintain effective emergency management and recovery arrangements. Local Government is also responsible for the management of recovery activities following an emergency which has affected the community within the Local Government's respective district.

The relevant sections are detailed below.

Emergency Management Act 2005

Section 41 - Emergency Management Arrangements in Local Government Districts

- (1) A Local Government is to ensure that local emergency management arrangements for emergency management in the Local Government's district are prepared.

Section 42 - Reviewing and Renewing Local Emergency Management Arrangements

- (1) A Local Government is to ensure that its local emergency management arrangements are reviewed in accordance with the procedures established by the SEMC.
- (2) Local emergency management arrangements may be amended or replaced whenever the Local Government considers it appropriate.

Item 12.8 Continued

BACKGROUND

City of Belmont and Town of Victoria Park's Combined Local Emergency Management Committee and Local Emergency Management Arrangements

Combined LEMC's and LEMA's are common across the Perth metropolitan area, especially in small and mid-size Local Government areas.

Historically the City of Belmont and Town of Victoria Park have shared responsibility for the State Emergency Service (SES) unit with both communities exposed to similar urban related risks. As such the SEMC recommended that the City of Belmont and Town of Victoria Park share a combined LEMC and LEMA.

As a result of this recommendation at an Ordinary Council Meeting on 28 November 2006 (Item 12.5.5), Council endorsed the consolidation of the City of Belmont Emergency Management Arrangements with the Town of Victoria Park Emergency Management Arrangements and authorised the Director Technical Services to review and amend the Arrangements as required.

Local Emergency Management Arrangements Review

A major review of the LEMA must be done every five years. The last major review was completed in 2016, as required by the new State Guidelines.

At an Ordinary Council Meeting on 25 July 2017 (Item 12.6) the updated LEMA was endorsed by Council. The next major review is not due until 2022.

The State Emergency Management Policy does however require minor reviews of the LEMA to be undertaken following any exercises or tests of the LEMA. During 2018 and 2019, a number of exercises, training sessions and consultations were held necessitating the Arrangements be again formally adopted by Council.

The Town of Victoria Park are also in the process of formally adopting this updated version of the LEMA.

OFFICER COMMENT

The City of Belmont and Town of Victoria Park's joint LEMA is a seven part document prepared in accordance with the *Act* and SEMC Guidelines.

The purpose of the LEMA is not to coordinate the first respondents or Hazard Management Authorities (HMAs) at an emergency, or to strategise against the possibility of an emergency. Its purpose is to provide structure as to how the City coordinates and operates during the response and recovery phases of an emergency. The Arrangements are designed to ensure that appropriate strategies are in place to minimise the adverse effects on the community post a natural disaster, emergency or major incident.

The Arrangements also outline the mechanisms and strategies for the City to effectively recover from the aftermath of a disaster or emergency, with the objective of having minimal impact on the community and to restore normality as quickly as possible.

Item 12.8 Continued

The content of the Arrangements can be summarised as follows:

- Specific details of the local area in an emergency management context (evacuation constraints (rivers, highways and rail lines), major facilities, community events).
- Related documents, policies, agreements, understandings and commitments.
- Identification of special needs groups within the community.
- Register of available resources and contacts.
- Financial arrangements for funding emergency and recovery related activities.
- Local roles and responsibilities during and following an emergency.
- Identification of major hazards and the HMAs responsible for those hazards.
- Communications Plan.
- Identification of facilities suitable for use during and following an emergency (evacuation/welfare centres, meeting rooms).
- Identification of Local Recovery Coordinators.
- Exercise, review and reporting requirements for the LEMA.
- An operational Recovery Plan.
- Activation of Recovery Plan, operational check-lists and managed withdrawal of services.
- Local management structure and identification of functions and membership of the Local Recovery Coordinating Group and its Sub-Committees.
- Department of Communities – Local Emergency Welfare Plan.

From time to time minor amendments to the Arrangements may be required, with changes noted in the Amendment record. Minor changes do not require endorsement by Council.

However, the amendments made to the LEMA following exercises, training and consultation held in 2018, 2019 and 2020 have been substantial enough to necessitate the Arrangements be formally adopted again by Council. Following each exercise and training session, feedback from both internal and external stakeholders was incorporated into the LEMA. The final version of the draft was sent to the LEMC for comment following a meeting held on 9 September 2019. Modifications were made as a result of the feedback from the LEMC.

It is essential that the LEMA be regularly updated to reflect changing needs and requirements. The proposed LEMA will ensure the City is fully compliant with requirements and be in a position to act cooperatively with its partners and in the best interests of the community.

Pandemic is a recognised emergency that the community has not had to deal with in modern times. Once the current COVID-19 crisis has been brought under control, there will be many lessons learned from this event which will be fully assessed. Following that, improved strategies and actions will be incorporated into future versions of the LEMA.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

Item 12.8 Continued

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

Alignment of Local, State and Federal Emergency Management Arrangements to ensure the smooth management of emergency situations and the Local Government Association's recovery from emergencies.

OFFICER RECOMMENDATION

POWELL MOVED, ROSSI SECONDED

That Council endorse the City of Belmont/Town of Victoria Park Local Emergency Management Arrangements (2020), as detailed in [Attachment 17](#).

CARRIED 9 VOTES TO 0

12.9 ACCOUNTS FOR PAYMENT – APRIL 2020

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 18 – Item 12.9 refers	Accounts for Payment – April 2020

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"/> | Advocacy | <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"/> | Executive | <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"/> | Legislative | <i>Includes adopting local laws, local planning schemes and policies.</i> |
| <input type="checkbox"/> | Review | <i>When Council reviews decisions made by Officers.</i> |
| <input type="checkbox"/> | Quasi-Judicial | <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*, Regulation 12.

Item 12.9 Continued

OFFICER COMMENT

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

Municipal Fund Cheques	788450 to 788468	\$76,995.42
Municipal Fund EFTs	EF067173 to EF067738	\$6,964,212.47
Municipal Fund Payroll	April 2020	\$2,169,144.88
Trust Fund EFT	EF067185, EF067186 and EF067404	<u>\$14,224.13</u>
Total Payments for April 2020		\$9,224,576.90

A copy of the Authorised Payment Listing is included as [Attachment 18](#) to this report.

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 April 2020 as provided under [Attachment 18](#) be received.

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

12.10 MONTHLY ACTIVITY STATEMENT AS AT 30 APRIL 2020

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 19 – Item 12.10 refers	<u>Monthly Activity Statement as at 30 April 2020</u>

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

Item 12.10 Continued

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.*

In order to provide more details regarding significant variations as included in [Attachment 19](#) the following summary is provided.

Report Section	Budget YTD	Actual YTD	Comment
Expenditure - Capital			
Computing	1,026,889	410,290	Relates to the purchase of IT equipment for the New Community Centre that is currently on order.
Property and Economic Development	Nil	198,162	Compensation payment for private Right of Way budgeted in June.
Crime Prevention and Community Safety	730,903	132,482	Relates to fleet replacement and CCTV for the New Community Centre which has been ordered.
Belmont HACC Services	286,767	137,720	Vehicles including buses are currently on order.
Ruth Faulkner Library	2,060,629	246,043	Equipment and furniture purchases for the new library are currently on order with some items to be re-budgeted in 2020-2021.
Grounds Operations	1,815,366	978,458	Variance mainly relates to Brearley Avenue Public Open Space Irrigation project being delayed.
Road Works	7,436,906	5,593,759	There are a number of large projects underway and the full year budget is expected to be utilised.
Footpath Works	728,236	502,821	Budget spread issue with many projects expected to be completed over the remainder of the year including the Faulkner Park Bridge Rehabilitation.
Drainage Works	211,833	110,726	Design works are progressing and some projects may be carried forward.
Operations Centre	107,504	40,586	Plant purchases for the Operations centre are currently on order.

Item 12.10 Continued

Report Section	Budget YTD	Actual YTD	Comment
Building Operations	16,871,927	15,950,693	New Community Centre invoices are variable but budgeted evenly over the year. Fluctuations against monthly budgets are the main reason for this variance although the budget has been increased as part of the March review.
Expenditure – Operating			
Finance Department	1,818,067	1,765,004	Merchant (bank) fees and Activity Based Costing allocations (ABC's) are below budget.
Computing	2,447,015	2,016,638	Variance mainly relates to employee and business application costs and costs associated with the New Community Centre.
Marketing and Communications	1,740,663	1,509,009	Variance relates to various items including sponsorship of events, New Community Centre, community surveys and the implementation of the new website.
Reimbursements	227,155	404,906	Significant amount of unbudgeted Paid Parental Leave (offset in revenue) and unallocated wages.
Executive Services	1,257,823	1,174,970	Employee costs and ABC's are below budget.
Chief Executive Officer	719,781	576,818	Variance mainly relates to employee and consulting costs.
Occupational Safety and Health	186,475	125,519	Variance relates to employee costs.
Organisational Development	428,703	364,417	Variance mainly relates to employee and consulting costs.
Governance	2,952,368	2,635,546	Activity Based Costing allocations (ABC's) are below budget.
Belmont Trust	135,000	15,283	Variance relates to consulting and legal costs.
Property and Economic Development	912,797	802,290	Relates to a range of items mainly in relation to land transactions.
Rangers	812,775	748,212	Although there are a number of cost items slightly below budget the most significant variance relates to employee related costs.
Health	1,241,539	1,080,463	Variance mainly relates to employee costs.
Community Services	975,364	862,309	Variance mainly relates to employee costs.
Belmont HACC Services	2,396,567	2,091,511	Variance mainly relates to employee costs and In Home services.
Town Planning	2,520,590	2,289,939	Variance mainly relates to employee and consulting costs.
Sanitation Charges	4,823,372	4,440,221	Some outstanding invoices have yet to be processed and the number of bin services is less than expected.
Marketing and Communications	791,453	641,622	Variance mainly relates to cancelled Autumn River Festival.

Item 12.10 Continued

Report Section	Budget YTD	Actual YTD	Comment
Ruth Faulkner Library	2,282,069	1,937,358	Variance mainly relates to employee costs and the New Community Centre.
Community Place Making	252,868	153,744	Variance mainly relates to public art in relation to the New Community Centre.
Building - Active Reserves	617,240	530,242	Building maintenance costs will be impacted by the reduction in use of Council facilities.
Grounds Operations	4,759,747	4,500,353	Employee costs, ABC's and Peachey Park remediation costs are currently below budget.
Grounds Overheads	1,320,227	1,246,382	ABC's are below budget.
Road Works	939,861	817,350	Current underspend is due to a good standard of road condition with the crack sealing program delayed and limited street lighting relocations and issues.
Streetscapes	1,211,230	1,370,250	Costs are above budget partly due to recent storms but the annual budget is expected to be sufficient.
Drainage Works	277,706	165,502	Staff priorities to date have been capital projects although it is anticipated the full budget will be utilised this financial year.
Building Control Customer Service	501,247	433,241	Variance mainly relates to employee costs.
Building Operations	973,407	843,275	Building maintenance costs will be impacted by the reduction in use of Council facilities.
Public Works Overheads	1,367,466	1,232,187	Employee and related costs and ABC's are below budget.
Technical Services	2,086,694	1,988,441	Employee and consulting costs and ABC's are below budget.
Other Public Works	667,225	602,867	Variance relates to Street Lighting invoices not yet being received.
Revenue - Capital			
Crime Prevention and Community Safety	(637,000)	(88,531)	Grant Funding not yet received for the CCTV - New Community Centre.
Belmont HACC Services	(319,267)	(16,364)	Sale of Plant / Fleet and reserve transfers are behind budget due to fleet / bus purchases still on order.
Grounds Operations	(97,000)	(13,000)	Timing issue regarding receipt of grant income.
Road Works	(2,715,446)	(2,530,429)	Timing issue regarding receipt of grant income.
Building Operations	(5,500,000)	(4,351,620)	Timing issue regarding receipt of grant income.
Revenue - Operating			
Computing	(2,127,689)	(2,016,638)	ABC recovers currently below budget.
Reimbursements	(227,155)	(314,144)	Relates to the reimbursement of paid parental leave and Workers Compensation.
Insurance	(752,045)	(830,076)	Relates to a surplus distribution from our insurer.
Human Resources	(1,419,420)	(971,632)	ABC recovers currently below budget.

Item 12.10 Continued

Report Section	Budget YTD	Actual YTD	Comment
Financing Activities	(1,475,217)	(875,046)	Monthly variances are expected due to the timing of term deposits maturing.
Faulkner Park Retirement Village	(150,000)	(202,707)	Income from unit sales is higher than expected.
Town Planning	(1,017,300)	(911,747)	ABC recoveries currently below budget.
Public Facilities Operations	(253,909)	(202,770)	Facility hire fees are expected to be below budget.
Public Works Overheads	(1,426,431)	(731,036)	Overheads currently under recovered and will be reviewed as part of the year-end process.
Plant Operating Costs	(1,407,980)	(1,042,240)	The variance is expected to diminish over the remainder of the year in sync with the progress of works jobs.
Technical Services	(399,938)	(316,530)	ABC recoveries currently below budget.

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.

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 30 April 2020	\$	Comment
Cash and investments	65,687,528	Includes municipal and reserves
- less non rate setting cash	(58,574,632)	Reserves
Receivables	4,547,380	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(373,377)	ESL Receivable
Stock on hand	217,519	
Total Current Assets	11,504,418	
Current Liabilities		
Creditors and provisions	(7,911,321)	Includes ESL and deposits
- less non rate setting creditors & provisions	2,926,354	Cash Backed LSL, current loans & ESL
Total Current Liabilities	(4,984,967)	
Nett Current Assets 30 April 2020	6,519,451	
Nett Current Assets as Per Financial Activity Report		
Nett Current Assets as Per Financial Activity Report	6,519,451	
Less Restricted Assets	(405,344)	Unspent grants held for specific purposes
Less Committed Assets	(5,614,107)	All other budgeted expenditure
Estimated Closing Balance	500,000	

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.

Item 12.10 Continued

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 Monthly Financial Reports as at 30 April 2020 as included in [Attachment 19](#) 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 (CR SEKULLA) – REQUEST FOR REINSTATEMENT OF MEDICARE OFFICE WITHIN THE CITY OF BELMONT

SOCIAL BELMONT

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	35/002 – Notices of Motion
Location/Property Index	:	N/A
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

- | | | |
|-------------------------------------|-----------------------|---|
| <input checked="" type="checkbox"/> | Advocacy | <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"/> | Executive | <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"/> | Legislative | <i>Includes adopting local laws, local planning schemes and policies.</i> |
| <input type="checkbox"/> | Review | <i>When Council reviews decisions made by Officers.</i> |
| <input type="checkbox"/> | Quasi-Judicial | <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 requesting that the Chief Executive Officer (CEO) write to relevant Federal Ministers, State Ministers, Commonwealth Government and the State Government Agencies to re-open a Medicare Office within the City of Belmont.

Item 13.2 Continued

SUMMARY AND KEY ISSUES

A request has been received from Cr Sekulla for Council to consider that the CEO write to relevant Federal Ministers, State Ministers, Commonwealth Government and the State Government Agencies to re-open a Medicare Office within the City of Belmont.

LOCATION

City of Belmont.

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Objective: The City will take a key leadership role to ensure access to services and facilities and developing collaborative partnerships that enable greater accessibility for a changing community.

Strategy: Identify and assist those in need by connecting them with appropriate internal or external service providers.

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

A Notice of Motion by Cr Sekulla reads as follows:

That Council requests the Chief Executive Officer to correspond with relevant Federal Ministers, State Ministers, Commonwealth Government and the State Government Agencies to re-open a Medicare Office within the City of Belmont.

Reason:

- 1. Previous Medicare Office in the Belmont Forum Shopping Centre was well patronised by residents.*
- 2. This was of great benefit to those in the community, particularly the elderly and those with mobility issues who unfortunately have limited access to transport options.*
- 3. A convenient service provided to an increasing population in the City of Belmont.*

Item 13.2 Continued

OFFICER COMMENT

Medicare operated a shop front in the Belmont Forum Shopping Centre from 2009 up until 2017 when it then operated as a kiosk. The kiosk service closed in Belmont Forum on 1 September 2018.

It is relevant to note the next closest Medicare offices are in Victoria Park or Cannington.

With a growing local population and a significant increase in visitors to Belmont Forum since its redevelopment as well as the expected interest to access services in the new Belmont Hub, public demand for a Medicare Office to be located within the City of Belmont is anticipated and warranted.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

The City has a role in advocating for the community in need by connecting them with appropriate external service providers.

COUNCILLOR RECOMMENDATION

That Council requests the Chief Executive Officer to correspond with relevant Federal Ministers, State Ministers, Commonwealth Government and the State Government Agencies to re-open a Medicare Office within the City of Belmont.

Reason:

1. Previous Medicare Office in the Belmont Forum Shopping Centre was well patronised by residents.
2. This was of great benefit to those in the community, particularly the elderly and those with mobility issues who unfortunately have limited access to transport options.
3. A convenient service provided to an increasing population in the City of Belmont.

Item 13.2 Continued

Note:

Cr Powell suggested an amendment to include 'and Centrelink' in the recommendation, which was agreed to by the mover and seconder of the motion, Cr Sekulla and Cr Rossi.

AMENDED COUNCILLOR RECOMMENDATION

SEKULLA MOVED, ROSSI SECONDED,

That Council requests the Chief Executive Officer to correspond with relevant Federal Ministers, State Ministers, Commonwealth Government and the State Government Agencies to re-open a Medicare and Centrelink Office within the City of Belmont.

Reason:

To advocate for a Centrelink Office as well as a Medicare Office.

CARRIED 9 VOTES TO 0

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 8.42pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these Minutes of the Ordinary Council Meeting held on 26 May 2020 were confirmed as a true and accurate record at the Ordinary Council Meeting held 23 June 2020:

Signed by the Person Presiding: _____



PRINT name of the Person Presiding: _____

PHILIP MARKS
