



# City of Belmont

## ORDINARY COUNCIL MEETING

### MINUTES

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27 April 2021

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### **ATTACHMENTS INDEX**

- Attachment 1 – Item 12.1 refers**
- Attachment 2 – Item 12.1 refers**
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### **CONFIDENTIAL ATTACHMENTS INDEX**

- Confidential Attachment 1 – Item 12.2 refers**
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- Confidential Attachment 6 – Item 14.1 refers**

**MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON TUESDAY, 27 APRIL 2021 COMMENCING AT 7.10PM.**

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**MINUTES**

**PRESENT**

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

**IN ATTENDANCE**

Mr J Christie	Chief Executive Officer
Ms M Bell	Director Corporate and Governance
Ms J Gillan	Director Development and Communities
Ms M Reid	Director Infrastructure Services
Ms AM Forte	Executive Manager People and Organisational Development
Mr J Olynyk, JP	Manager Governance
Mrs M Lymon	Principal Governance and Compliance Advisor
Ms D Morton	Media and Communications Adviser
Mrs H Mark	Governance Officer

**Note:**

**Due to the Post-Lockdown Restrictions in place due to COVID-19, this meeting has been closed to the public.**

**1. OFFICIAL OPENING**

**7.10pm** 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 Noongar Whadjuk people as the Traditional Owners of this land and pay my respects to Elders past, present and emerging. I further acknowledge their cultural heritage, beliefs, connection and relationship with this land which continues today.*

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

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

**2. APOLOGIES AND LEAVE OF ABSENCE**

Nil.

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

**3.1 FINANCIAL INTERESTS**

Nil.

**3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY**

Nil.

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

##### **4.1 ANNOUNCEMENTS**

The Presiding Member made the following announcement:

*'I am pleased to announce that the City has received high commendation from the 2021 Australian Library Design Awards for the new Ruth Faulkner Library located in Belmont Hub.*

*This accolade commends the design of the library which comprehensively considered the current and future needs of the community, the use of space within the precinct and the many innovative and inclusive spaces within the facility.'*

##### **4.2 DISCLAIMER**

##### **4.12pm 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**

##### **5.1.1 MS L MENHENNETT, 50 TREAVE STREET, CLOVERDALE**

The following question was taken on notice at the 23 March 2021 Ordinary Council Meeting. Ms Menhennett was provided with a response on 13 April 2021. The response from the City is recorded accordingly:

*Note: the question is in regard to issues at the Keane Street/Abernethy Road intersection.*

1. I sent an email putting forward some suggestions earlier today. Is there any opportunity for the Council Members to look at the suggestions put forward for immediate consideration?

*Item 5.1.1 Continued*

**Response**

**The City is currently considering options and looking to finalise plans to enable a traffic study to be undertaken. Your suggestions are acknowledged and have been referred to the City's Design and Assets team for consideration. At this stage undertaking immediate/interim modifications and altering traffic conditions would not be advised, with further studies likely to be required as the design process progresses.**

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

The following questions were taken on notice at the 23 March 2021 Ordinary Council Meeting. Ms Hollands was provided with a response on 9 April 2021. The response from the City is recorded accordingly:

1. With regard to the State Government quota for new homes in the City of Belmont being a minimum of 10,410, the three major areas just being off the Great Eastern Highway are The Springs, the Golden Gateway and the DA6. With the DA6 projected to take between 3,000-4,200 dwellings, the Golden Gateway 3,400 and, according to City of Belmont staff, the Springs about 700, on these areas alone, with a conservative DA6 figure of 3,000, that is going to around the 7,000 mark. Therefore, how many blocks throughout the rest of Belmont have already been subdivided contributing to the target of 10,410?

**Response**

**Between January 2012 and March 2020, a total of 4,182 residential lots were created within the City of Belmont. This includes lots created for single houses, grouped dwellings and multiple dwellings.**

**The Western Australian Planning Commission (WAPC) targets require the City of Belmont to provide a minimum total of 6,100 dwellings by 2031 and a minimum overall total of 10,410 dwellings by 2050. Whilst forecasting indicates that the City is on track to meeting the WAPC's targets, this is largely attributed to future development opportunities within Development Area 6 (DA6) and Golden Gateway. Achieving the targets will ultimately be dependent on the uptake of development opportunities within these precincts and the wider area.**

2. With the other development areas that we have around Belmont, how many figures are we looking at with them? Have we reached the quota?

**Response**

**There are a range of areas across the City of Belmont to provide for future housing needs. These areas were selected based on their close proximity to shopping centres, transport nodes and public open spaces, which is consistent with the planning direction provided by the State Government.**

**Further information on dwelling forecast numbers for the City of Belmont can be viewed on the Forecast id portal through the City's website. These figures are assumptions that are subject to change depending on evolving trends and the ultimate uptake of residential development opportunities.**

*Item 5.1.2 Continued*

3. It would appear that the City of Belmont will make these targets just with the additional changes to zoning in residential areas across the City, without the need to have such high targets in DA6. Why does it appear that the City of Belmont is trying to go above the quotas with so many homes planned for the DA6 and, therefore, impacting unreasonably on the amenity of those that already live here?

**Response**

The Western Australian Planning Commission's Perth and Peel @ 3.5 million strategic planning document identifies the Redcliffe Station precinct as forming part of the wider Perth Airport activity centre. Activity centres are intended as hubs that attract people for a variety of activities and would mainly consist of a concentration of commercial uses with varying other uses such as residential, or in the case of Perth Airport, aviation services. Ultimately, the residential area surrounding the future Redcliffe Station should be planned to accommodate transit-oriented development and made an attractive place to live and work. In light of this, due to its strategic location in close proximity to the future Redcliffe Station, DA6 has been identified as an area that is well-placed to accommodate an increase in residential density.

In terms of amenity, the draft Activity Centre Plan envisages high quality spaces, in addition to consolidated development sites which are able to deliver more extensive areas of open space, landscaping and setbacks which are necessary to maintain a high level of amenity for existing and future residents.

4. Is the City of Belmont planning to address all the rat-running traffic problems we are currently having (Stanton Road in particular) and take care of this prior to any DA6 development being approved?

**Response**

The Transport Impact Assessment prepared for the draft Redcliffe Station Activity Centre Plan proposes measures to minimise through-movements in the precinct including:

- Road and streetscape upgrades to slow traffic and encourage pedestrian movements.
- Traffic speeds being controlled through a posted speed limit of 40 kilometres per hour (subject to Main Roads WA approval).
- Signalising the intersection of Central Avenue/Second Street to manage traffic volumes, discourage through movements and facilitate pedestrian movements to the future Redcliffe Train Station.
- Not connecting Bulong Avenue and Central Avenue with Great Eastern Highway until such a time that: Qantas relocates, Great Eastern Highway is widened with a solid median strip in the middle that restricts access to left-in/left-out movements only and further analysis is undertaken of the road network.

It is anticipated that local road upgrades will be undertaken in stages and in response to traffic demand and development. The timing of these works has not yet been confirmed.

### **5.1.3 Ms L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE**

The following questions were taken on notice at the 23 March 2021 Ordinary Council Meeting. Ms Hollands was provided with responses on 16 April 2021. The response from the City is recorded accordingly:

1. With regard to my previous questions, the figure provided by the City for staff employed between 31 March 2005 until Mr Christie commenced in 2017 was 662. How many of these staff are still employed?

#### **Response**

**143.**

2. The figure provided between 31 Oct 2017 and December 2020 was 107. How many of these staff remain?

#### **Response**

**76.**

3. At the 16 March 2021 Agenda Briefing, I was unable to do a deputation on behalf of BRRAG for the DA6 because I refused to provide names and addresses of our members. I live just off Moreing Street and use Epsom and Stanton amongst other roads to get around. Therefore, Mr Mayor, why do you think people in our area of Redcliffe, that are affected by traffic, are not directly affected by this development and, in the absence of an interpretation in the Standing Orders of "directly affected", how do you determine the affect on others and, as my local East Ward representative, along with Cr Ryan, why did you both vote against hearing from a resident in your Ward?

#### **Response**

**The Chief Executive Officer that evening communicated his decision to you not approving your deputation application. In accordance with *City of Belmont Standing Orders Local Law 2017* section 6.6(2)(b) the Chief Executive Officer referred the request to the Council to decide whether or not to receive the deputation. Based on the merits of BRRAG's application Council voted not to receive this deputation.**

**The *City of Belmont Standing Orders Local Law 2017* includes the term 'directly affected' and though it is undefined, it is at my discretion as the Presiding Member. The consideration of whether individuals or groups are 'directly affected' when requesting to make submissions and deputations is undertaken in relation to the matter on the agenda, and is specific to the nature of the item and the explanation accompanying the application relevant to 'directly affected'.**

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

The following question was taken on notice at the 23 March 2021 Ordinary Council Meeting. Mr Hitt was provided with a response on 15 April 2021. The response from the City is recorded accordingly:

1. What is the current amount of monies owed to the City of Belmont including all rates and charges and outstanding loans by the BSRC?

#### **Response**

**The loan has an outstanding amount of \$31,520. The only other monies owed to the City relate to a minor utility reimbursement.**

#### **5.1.5 MR L ROSOLIN, 355 SYDENHAM STREET, BELMONT**

The following question was taken on notice at the 23 March 2021 Ordinary Council Meeting. Mr Rosolin was provided with a response on 13 April 2021. The response from the City is recorded accordingly:

*Note: the question is in regard to the Redcliffe Station Activity Centre Plan*

1. When something happens in the City, everybody is affected – property values change, traffic changes. With regard to DA6, Stanton Road is a primary road. As soon as you pass the bridge, it becomes an urban road. It serves a lot of people. Even when using a bus service, people leave their cars parked on the street. Do you believe this development, and the traffic and parking issues that may emerge from it, is a good option for the traffic?

#### **Response**

**Stanton Road is a local distributor road, between Epsom Avenue to Central Avenue, and will continue its current road function as part of the development of Development Area 6.**

**The Transport Impact Assessment prepared for the draft Redcliffe Station Activity Centre Plan proposes measures to minimise through-movements in the precinct including:**

- **Road and streetscape upgrades to slow traffic and encourage pedestrian movements.**
- **Traffic speeds being controlled through a posted speed limit of 40 kilometres per hour (subject to Main Roads WA Approval).**
- **Signalising the intersection of Central Avenue/Second Street to manage traffic volumes, discourage through movements and facilitate pedestrian movements to the future Redcliffe Train Station. Not connecting Bulong Avenue and Central Avenue with Great Eastern Highway until such a time that; Qantas relocates, Great Eastern Highway is widened with a solid median strip in the middle that restricts access to left-in/left-out movements only and further analysis is undertaken of the road network.**

**It is anticipated that local road upgrades will be undertaken in stages and in response to traffic demand and development. The timing of these works has not yet been confirmed.**

## 5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.14pm **The Presiding Member advised that he had registered two members of the public who had given prior notice to ask questions.**

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

Ms Hollands submitted three questions on behalf of BRRAG. Question 1 was ruled out of order in accordance with Rules for Council Meeting Public Question Time Rule e), as this is a confidential matter between the relevant parties.

Rule e) being:

*'Questions which are considered inappropriate; offensive or otherwise not in good faith; duplicates or variations of earlier questions; relating to the personal affairs or actions of Council members or employees; legal advice; legal proceedings or other legal processes; or would otherwise impose an unreasonable resource impost on the City; will be refused by the Presiding Member as 'out of order' and will not be recorded in the minutes'.*

2. The new Code of Conduct is on the agenda tonight. Some concerns have been raised by some of our members about ramifications if they make complaints relating to a breach of the Code of Conduct.
  - a) Can the City provide assurances to the residents, that in the event they believe they have a complaint against someone who falls within the Code of Conduct, there will be no such ramifications and the matter will be investigated and an outcome provided?

#### **Response**

**The Presiding Member stated the question is unclear as the City is unsure as to what 'ramifications' are being referred to. However, all complaints relevant to the City of Belmont Code of Conduct for Council Members, Committee Members and Candidates will be dealt with accordingly.**

3. We have previously requested that the City of Belmont provides us where in the Standing Orders it states that all members of a group must provide name and address, as we can't find this. Our recent deputation was refused as we could not provide names and addresses of members concerned. We have been advised by the Mayor that there is no definition of "directly affected".
  - a) Can you please advise where we can find it in the Standing Orders that all members of a group must provide name and address?

#### **Response**

**The Presiding Member stated that the *Standing Orders Local Law 2017* do not specifically require this. However, the Presiding Member is required to determine the application of "Directly Affected", asking questions of this nature that enable determination, is reasonable.**

## **5.2.2 MR P HITT, 14 McLAUGHLIN WAY, BELMONT**

Mr Hitt submitted three questions. Question 3 was ruled out of order in accordance with Rules for Council Meeting Public Questions Time Rule e), as the intent of this question implies a level of distrust and was not in good faith.

Rule e) being:

*'Questions which are considered inappropriate; offensive or otherwise not in good faith; duplicates or variations of earlier questions; relating to the personal affairs or actions of Council members or employees; legal advice; legal proceedings or other legal processes; or would otherwise impose an unreasonable resource impost on the City; will be refused by the Presiding Member as 'out of order' and will not be recorded in the minutes'.*

1. Is the Belmont Trust registered at the Australian Charities not for Profit Commission (ACNC), if not why not?

If the answer is yes and can you explain why it does not come up with a search on the ACNC website?

I have recently been informed that a resident of the City of Belmont has recently requested a copy of the Belmont Trust minutes, Jim Olynyk and the CEO should be aware of this.

### **Response**

**The Presiding Member advised the question will be responded to as normal business correspondence in accordance with section 6.2(6) of the *Standing Orders Local Law 2017*.**

2. Why was this request denied when the Trust Deed states that this land is to be used for recreation for the people of the City of Belmont?

### **Response**

**The Presiding Member advised the question will be responded to as normal business correspondence in accordance with section 6.2(6) of the *Standing Orders Local Law 2017*.**

**7.18pm 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 23 MARCH 2021 (Circulated under separate cover)**

#### **OFFICER RECOMMENDATION**

#### **POWELL MOVED, SEKULLA SECONDED,**

***That the Minutes of the Ordinary Council Meeting held on 23 March 2021 as printed and circulated to all Councillors, be confirmed as a true and accurate record.***

**CARRIED 9 VOTES TO 0**

**6.2 MATRIX FOR THE AGENDA BRIEFING FORUM HELD 20 APRIL 2021  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

**DAVIS MOVED, POWELL SECONDED,**

*That the Matrix for the Agenda Briefing Forum held on 20 April 2021 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**

Nil.

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

Nil.

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

Nil.

**11. REPORTS OF COMMITTEES**

Nil.

## 12. REPORTS OF ADMINISTRATION

### WITHDRAWN ITEMS

Nil.

### DAVIS MOVED, POWELL SECONDED

*That the Officer or Committee Recommendations for Items 12.1, 12.2, 12.3, 12.4, 12.5, 12.6 and 12.7 be adopted en bloc by an Absolute Majority decision.*

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

### 12.1 RETROSPECTIVE DEVELOPMENT APPLICATION FOR CHANGE OF USE FROM 'SINGLE HOUSE' TO 'HOLIDAY HOUSE' – LOT 92 (172) PRESIDENT STREET, KEWDALE

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item 12.1 refers	<a href="#">Property Management Plan</a>
Attachment 2 – Item 12.1 refers	<a href="#">Schedule of Submissions</a>
Attachment 3 – Item 12.1 refers	<a href="#">Development Plans</a>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001 – Development/Subdivision/Strata – Applications and Application Correspondence
Location / Property Index	:	Lot 92 (172) President Street, Kewdale
Application Index	:	492/2020/DA
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	D Chow
Owner	:	As above
Responsible Division	:	Development and Communities Division

#### COUNCIL ROLE

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

*Item 12.1 Continued*

## **PURPOSE OF REPORT**

For Council to consider a retrospective application for a change of use from 'Single House' to 'Holiday House' at Lot 92 (172) President Street, Kewdale.

## **SUMMARY AND KEY ISSUES**

- The subject site is zoned 'Residential R20' under Local Planning Scheme No. 15 (LPS 15). A 'Holiday House' is a 'Use Not Listed' in Table 1 of LPS 15.
- The City received complaints from a neighbouring property regarding the unauthorised operation of a 'Holiday House'. The owner chose to lodge a development application to formalise the land use.
- The applicant has provided a Property Management Plan (refer [Attachment 1](#)) which details tenancy rules and a code of conduct to protect the amenity of neighbouring properties.
- The application was advertised to the surrounding property owners and occupiers for comment. One submission was received, objecting to the application. The objection raised concerns on the potential impacts on property values caused by the 'Holiday House' use, which relates specifically to noise, traffic and the existing character of the locality.
- It is considered that the matters raised in the objection can be addressed by conditions of approval, including:
  - The implementation of Property Management Plan with the following key measures:
    - Noise generating activities on the premises to cease during the specified quiet hours (10.00pm – 7.00am [Monday – Saturday] and 10.00pm – 9.00am on Sundays and public holidays).
    - Parties and events are prohibited.
    - Copy of the Property Management Plan and contact details of the property manager provided to the neighbours in case of emergency or complaints relating to the use.
  - The requirement to maintain a complaint register that outlines measures to address the complaints, which is required to be submitted to the City within six months of the approval. The Property Management Plan is to be updated to address the complaints.
  - The whole property is to be rented under one booking only.
  - No more than six unrelated guests/one family residing at the property at any one time.
  - Guest vehicles to be parked/contained within the property boundary.

*Item 12.1 Continued*

- The implementation of the Property Management Plan and conditions approval is considered to adequately address the objections. As such, the use is consistent with the objectives of the Residential Zone and therefore, it is recommended that the Council approves the application subject to conditions.

## **LOCATION**

The subject site is 809m<sup>2</sup> in area and is located along President Street to the north-east of Jeffrey Street (refer to Figure 1). The site is also located in close proximity to the Tomato Lake Reserve and 160m north-east of the Australian Islamic College.

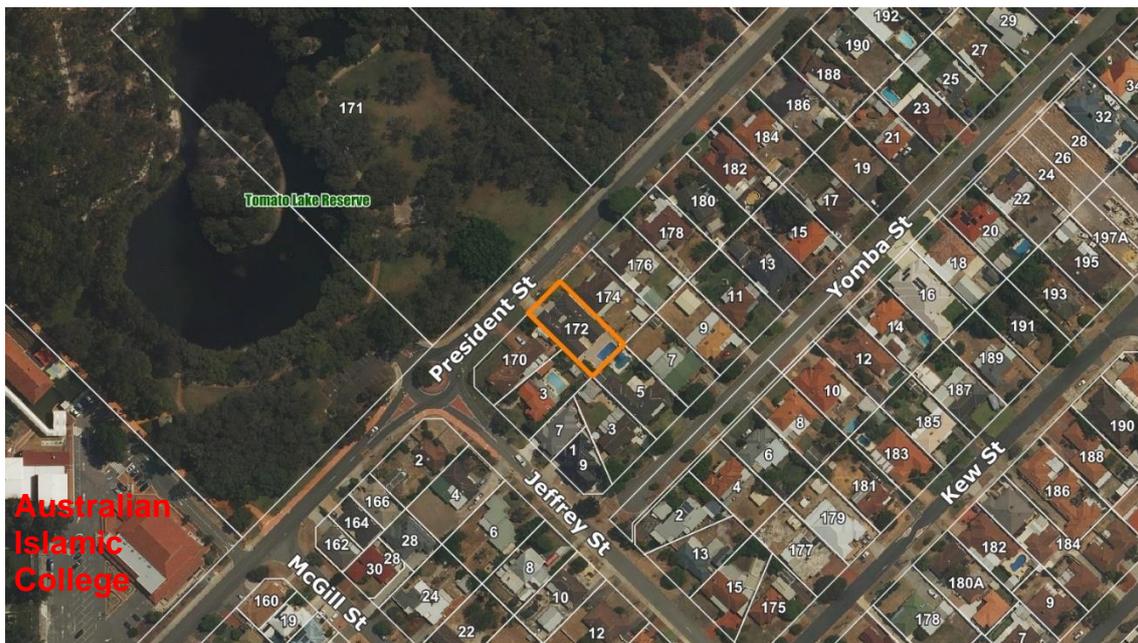


Figure 1 – Aerial of Subject Site

## **CONSULTATION**

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

The land use of 'Holiday House' is a use not listed in Table 1 of LPS 15. As such, the application was required to be advertised in accordance with Clause 64(1) (a) of the *Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 – Deemed Provisions*. The application was advertised to surrounding landowners (Figure 2) from 29 January 2021 to 24 February 2021 inclusive.

Item 12.1 Continued



Figure 2: Referral Area (owners and occupiers – subject site in RED)

At the conclusion of the advertising period, three submissions were received: two supporting and one objecting to the retrospective application.

The issues raised in the objection to the application include:

- The use will negatively affect surrounding property values.
- The owner was operating the 'Holiday House' without planning approval.

A summary of the submissions are provided in [Attachment 2](#). The issues raised are discussed in the Officer Comments section below.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the 2020 – 2040 Strategic Community Plan:

**Goal:** Responsible Belmont

**Strategies:**

- 5.4 Advocate and provide for affordable and diverse housing choices.
- 5.5 Engage and consult the community in decision-making.
- 5.6 Deliver effective, fair and transparent leadership and decision-making, reflective of community needs and aspirations.

*Item 12.1 Continued*

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

Local Planning Scheme No. 15 provides the following definition of Holiday House:

*“**Holiday House** means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.”*

The land use of a ‘Holiday House’ is not listed in Table 1 – Zoning Table of LPS 15.

Under Clause 3.4.2 of LPS 15, if a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:

- “(a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures contained in Clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2; or*
- (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.”*

Local Planning Scheme No. 15 states that the objective of the Residential zone is

*“...to increase the population base of the City of Belmont by permitting a mix of single housing and other housing types to reflect household composition and thereby increase the resident population.”*

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

Schedule 2 Part 9 Clause 67(2) of the Planning Regulations states the matters to be considered by local government in determining a development application. In summary, 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 compatibility of the development with the desired future character of its setting.*
- (n) The amenity of the locality including environmental impacts, the character of the locality and any social impacts of the development.*

*Item 12.1 Continued*

- (s) *The adequacy of –*
- i. The proposed means of access to and egress from the site; and*
  - ii. Arrangements for the loading, unloading, manoeuvring and parking of vehicles.*
- (x) *The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals.*
- (y) *Any submissions received on the application.”*

**Deemed Refusal**

Under Clause 75 of the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, 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 extension between the applicant and the City of Belmont. In this case, there is no written agreement for the statutory time period to be extended.

The deemed refusal date for this application passed on 18 January 2021 and the applicant already has deemed refusal rights. The additional time required to complete the assessment is attributed to the need for a revised Property Management Plan from the applicant.

**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](http://www.sat.justice.wa.gov.au).

**BACKGROUND**

<b>Lodgement Date:</b>	20 October 2020	<b>Use Class:</b>	Use Not Listed – Holiday House
<b>Lot Area:</b>	809m <sup>2</sup>	<b>LPS Zoning:</b>	Residential R20
<b>Estimated Cost of Development:</b>	N/A	<b>MRS:</b>	Urban

*Item 12.1 Continued*

### **Existing Development**

The subject site contains an existing single storey dwelling with a double garage. The dwelling comprises five bedrooms and three bathrooms with a large paved outdoor area and patio at the rear. Plans illustrating the subject site including the configuration of the existing dwelling are contained in [Attachment 3](#).

The applicant was previously operating the 'Holiday House' without having obtained a development approval from the City. The applicant has now ceased operation and submitted the subject application to ensure compliance with the Local Planning Scheme.

### **Land Use**

The key aspects of the 'Holiday House' use are as follow:

- The entire dwelling will be rented out under a single booking to a maximum of six unrelated guests/one family at any one time. Rooms will not be rented out individually.
- The Holiday House will operate in accordance with the Property Management Plan, which includes the following measures:
  - Guests will stay for a period of up to three months.
  - Guests will check in at 2.00pm and check out at 10.00am.
  - Guests vehicles will park in the double garage and if necessary, in the two car parking bays in front of the garage.
  - Noise generating activities on the premises will be required to cease after 10.00pm (quiet hours are between 10.00pm and 7.00am on Monday – Saturday, 10.00pm and 9.00am on Sundays and public holidays).
  - These activities include but are not limited to playing loud music, gatherings in the outdoor living area and/or check in/out of the premises within the specified quiet hours.
  - Parties and events are strictly prohibited.
  - Property maintenance and waste management to be conducted by the property manager.
- Guests will be required to comply with the terms set out in the Property Management Plan (refer [Attachment 1](#)). An initial verbal warning will be issued to guests that do not comply with the terms and if a further breach occurs, then it will result in termination of permission to occupy the property.

*Item 12.1 Continued*

### **OFFICER COMMENT**

The key planning considerations relating to the application are discussed below.

#### **Objectives of the Residential Zone**

Council has previously supported the 'Holiday House' in a Residential Zone on the basis that the use can be appropriately managed through the implementation of a Property Management Plan to satisfy the objectives of the zone.

Although the officers have delegations to determine such development applications, the submission raising objections to the proposal outlines a number of concerns that should be considered by Council in the interest of effective, fair and transparent decision-making, in accordance with the City's Strategic Community Plan.

#### **Submission Comments**

The objection received states the use would 'devalue' the surrounding residential properties.

The Planning Regulations do not identify property values as a relevant consideration when assessing development applications. Instead, valid considerations are the potential impacts on the amenity of surrounding properties, which includes noise, traffic and character of the locality.

#### **Noise Impacts**

As the 'Holiday House' use is in the Residential Zone, it is necessary to ensure that any potential noise impacts can be managed to a level which is consistent with residential amenity. Potential noise issues arising from the use includes large gatherings, parties, guest using outdoor areas or entering/leaving the premises late at night.

The Property Management Plan outlines the following rules to mitigate potential noise impacts:

- Noise generating activities on the premises are prohibited during the following specified quiet hours, in accordance with the *Environmental Protection (Noise) Regulations 1997*:
  - 10.00pm – 7.00am (Monday – Saturday); and
  - 10.00pm – 9.00am on Sundays and public holidays.
- Parties and events are strictly not permitted.
- Guests check in at 2.00pm and check out at 10.00am, which occurs outside of the specified quiet hours above.
- A copy of the Property Management Plan will be provided to the surrounding neighbours, which includes the property manager's contact details in the case of any emergency or should they wish to make a complaint.

*Item 12.1 Continued*

- Ensure that guests will comply with the Code of Conduct. An initial verbal warning will be issued to guests that breach the Code and a further breach will result in termination of permission to occupy the property.

The implementation of the Property Management Plan and Code of Conduct will ensure amenity impacts on surrounding properties are managed to a level consistent with the amenity of the residential zone.

Should Council determine to approve the application, it is recommended that a Condition is imposed to ensure the ongoing requirement to implement the Property Management Plan.

### **Traffic Impact**

In terms of a car parking standard, LPS 15 does not specify a standard for a 'Holiday House' use. In lieu of this, Clause 4.16.4(1) stipulates:

*"The number of spaces to be provided in respect of any particular site shall be determined by the local government, having regard to the nature of the use and the known or likely volume of goods, material or people moving to and from the site..."*

In terms of the existing parking provisions, the dwelling was constructed with two parking bays provided in the garage. The provision of two parking bays accords with State Planning Policy No. 7.3 – Residential Design Codes (R-Codes).

The applicant proposed that two parking bays in the garage and two additional bays within the existing driveway will be available for guest use. Guests will be informed through the booking process and management plan that they must park in these bays. Given that there will be a maximum of six unrelated guests/one family under a single booking at any one time, the provision of four car parking bays for the 'Holiday House' is considered to be sufficient.

### **Character of Locality**

The potential for the use to impact on the character of locality is also a matter that requires assessment. In terms of defining the existing character, while the area is developed as low density residential, it is across the road from the Tomato Lake Reserve and is also in close proximity to the Australian Islamic College. As amenity impacts have been addressed under separate headings of noise and traffic above, the assessment of the impact on character is based on the nature of the use and built form.

In terms of the nature of the use, the Property Management Plan will ensure that the land use is consistent with the existing residential character of the area. The plan ensures that only a maximum of six unrelated guests/one family under a single booking are permitted at any one period, which is consistent with the definition of 'Dwelling' under the R-Codes. On this basis, it is considered that the nature of the land use will not adversely affect the character of the area.

In regard to visual appearance, the built form of the dwelling is not proposed to change and will remain consistent with the residential character of the area.

*Item 12.1 Continued*

### **Temporary Approval and Management Plan Review**

An Inquiry Report for Short Stay accommodation called “Levelling the Playing Field” was considered in Parliament on 26 September 2019. As a result of the Inquiry, the State Government listed key initiatives for the government agencies to formulate measures that guide and manage short-term rental uses.

As the measures are not formalised and given the potential changes to the planning framework to address the use, it is appropriate for the City to grant the approval of ‘Holiday House’ on a temporary basis of 12 months at a time. After the 12 month approval period expires, the applicant/owner will have the opportunity to reapply for another approval. The new application will be assessed against the planning framework in place at that point in time.

### **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.

### **CONCLUSION**

The ‘Holiday House’ is considered to be consistent with the objectives of the Residential Zone. Concerns relating to amenity impacts of the land use are addressed through the imposition of conditions to the approval, as follow:

- The whole property is to be rented under one booking only.
- No more than six unrelated guests/one family residing at the property at any one time.
- Implementation of the Property Management Plan.
- After a period of 12 months from the commencement of the use, the ‘Holiday House’ use is to cease.

The Property Management Plan contains a Code of Conduct, which outlines the obligations of the guests to limit noise generating activities to the specified quiet hours, guest vehicles to park within the property boundary and no functions/parties to occur. Should the guest breach the Code of Conduct, an initial warning will be issued to the guests and termination of the booking will occur if the guests continue the breach.

*Item 12.1 Continued*

As such, the Property Management Plan and conditions limits the potential impacts of the use on the neighbouring properties and therefore, address the concerns raised in the objection.

On this basis, it is considered appropriate to approve the Change of Use application subject to conditions.

**OFFICER RECOMMENDATION**

**A. That Council approve development application 492/2020 as detailed in plans dated 20 October 2020 and 9 March 2021 submitted by D Chow for Change of Use from 'Single House' to 'Holiday House' at Lot 92 (172) President Street, Kewdale, subject to the following conditions:**

- 1. Development/land use shall be in accordance with the attached approved floor plan(s) dated 20 October 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.**
- 2. Prior to commencement of the use, the landowner shall implement the approved Property Management Plan (as well as any subsequently updated and approved versions of the Property Management Plan) to the satisfaction of the City.**
- 3. Prior to commencement of the use, the landowner shall modify the Property Management Plan to include "guest check-in and check-outs are not permitted between the hours of 10.00pm to 07.00am on Monday – Saturday and 10.00pm to 9.00am on Sundays and public holidays."**
- 4. The landowner shall maintain a complaint register and outline the measures taken to address any complaints. This register shall be submitted to the City for review within six months of the date of this approval. The landowner shall update the Property Management Plan to address any issues arising from the review to the satisfaction of the City.**
- 5. There shall be no more than six unrelated short-stay guests or one family residing at the property at any one time.**
- 6. The whole property is to be rented as one booking only. No bedrooms or other areas of the house are to be rented on an individual basis.**
- 7. Guest vehicles shall at all times be parked/contained within the property boundary.**
- 8. This is a temporary approval only, valid for a period of 12 months from the date of this approval. After this period the approval is no longer valid and the 'Holiday House' use shall cease.**

*Item 12.1 Continued*

**B. Write to adjoining landowners and occupiers:**

1. **To advise them that a temporary 12 month planning approval for a Holiday House has been granted subject to conditions including:**
  - (i) **The requirement for the updating and implementation of the Property Management Plan.**
  - (ii) **A maximum of six occupants on site at any one time.**
  - (iii) **The temporary nature of the approval.**
  - (iv) **The landowner maintaining a complaints register to be submitted for review within six months of the commencement of the use.**
2. **To provide a copy of the Property Management Plan.**
3. **Request that adjoining landowners and occupiers report any contraventions from the subject premises relating to noise or any disruption to the amenity of the surrounding areas, and report to the City's Planning Department if they become aware of any breach to the conditions of the planning approval.**

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

## 12.2 TENDER 01/2021 – PROVISION OF YOUTH SERVICES

### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Confidential Attachment 1 – Item 12.2 refers	<a href="#"><u>Evaluation Matrix (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(e))</u></a>
Confidential Attachment 2 – Item 12.2 refers	<a href="#"><u>Price Schedule (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(e))</u></a>
Confidential Attachment 3 – Item 12.2 refers	<a href="#"><u>Summary Assessment of Youth Service Tenders (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(e))</u></a>

Voting Requirement	:	Simple Majority
Subject Index	:	114/2021-01 – 01/2021 – Provision of Youth Services
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Development and Communities Division

### COUNCIL ROLE

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

### PURPOSE OF REPORT

To seek Council approval to award Tender 01/2021 – Provision of Youth Services.

*Item 12.2 Continued*

## **SUMMARY AND KEY ISSUES**

This report outlines the process undertaken to invite and evaluate the tenders received and includes a recommendation to award Tender 01/2021 to YMCA WA in accordance with the requirement of the *Local Government Act 1995*.

The City will partner with the successful tenderer to implement endorsed actions of the City of Belmont's Moving Forward: City of Belmont Youth Strategic Plan 2019 and Beyond. The contract term is three years commencing 1 July 2021 with a two year extension option at the sole discretion of the City.

## **LOCATION**

The services will be provided at the Youth and Family Services Centre, 275 Abernethy Road, Cloverdale.

## **CONSULTATION**

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

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the 2020 – 2040 Strategic Community Plan:

### **Goal 1: Liveable Belmont.**

#### **Strategy:**

1.5 Encourage and educate the community to embrace sustainable and healthy lifestyles.

### **Goal 5: Responsible Belmont.**

#### **Strategies:**

5.1 Support collaboration and partnerships to deliver key outcomes for our City

5.3 Invest in services and facilities for our growing community.

## **POLICY IMPLICATIONS**

BEXB7.1–Purchasing.

## **STATUTORY ENVIRONMENT**

The *Local Government Act 1995*, in particular Section 3.57 states that “a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services”.

*Item 12.2 Continued*

## **BACKGROUND**

An invitation to tender for the provision of youth services was advertised in the West Australian on Wednesday, 27 January 2021, closing on Tuesday, 23 February 2021 at 2.00pm. Four responses were received from:

- MercyCare
- Rise Network Inc
- Swan City Youth Services Inc
- YMCA WA.

## **OFFICER COMMENT**

The Evaluation Panel consisted of the Manager Economic and Community Development, Coordinator Community Projects, Coordinator Community Safety and Coordinator Procurement. Each panel member has signed a Declaration of Confidentiality and Impartiality Form confirming that they have no known conflict of interest to disclose.

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

	<b>CRITERIA</b>	<b>WEIGHTING</b>
1	Company Profile and Capacity	20%
2	Experience	25%
3	Methodology	25%
4	Value Adding	10%
5	Safety	10%
6	Price	10%
	<b>TOTAL</b>	<b>100.00%</b>

The Evaluation Matrix (refer [Confidential Attachment 1](#)) identifies YMCA WA as the recommended supplier.

A summary assessment of the Youth Service Tenders is at [Confidential Attachment 3](#).

The appointment of YMCA WA will result in continued improved opportunities and outcomes for the City's young people. YMCA's tender application aligns closely with the City's current 'Youth Strategy' and details how they will achieve the six themes outlined in the strategy.

YMCA WA proposed realistic services and staffing ratios that will maximise the City's prospects of delivering great services to its youth community.

*Item 12.2 Continued*

### **FINANCIAL IMPLICATIONS**

The Contract is a lump sum fixed for the first year of the Contract Term. The tendered prices are set out in [Confidential Attachment 2](#) – Price Schedule.

On each anniversary of the Contract Commencement Date, the Contractor may request an increase in the contract price in accordance with:

- (a) The annual Consumer Price Index (CPI) (All Groups Perth) to the March quarter preceding the contract anniversary date; and
- (b) The percentage increase from the last anniversary date in the sum of the weekly award rate of pay and conditions of the labour who are primarily engaged in providing the Services granted by the appropriate Commonwealth or State authority Australian Industrial Relations Commission, together with any other legislated or statutory increases in workers' compensation, superannuation and pay-roll tax payments payable with respect to that labour.

The tendered price includes a new fee for the use of the City's facilities at 275 Abernethy Road, being an Annual Occupancy Fee and Annual Contribution to Building Outgoings. This is a new fixed fee of \$54,652. In the past fees paid to the City for building occupancy have totalled an average of \$11,000 as a contribution to costs. The result is an increase in income to the City's Facilities and Property Department of approximately \$43,000. The tender also includes an increase in the scope to support young people in their 'transition' year between primary and high school. Taking this into account the tendered price of \$792,403 is an increase of approximately 4.8% on 2020-2021 costs of \$715,042 (plus \$43,000 cost recovery) to deliver the service.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

The City of Belmont has made the provision of quality youth services a priority. The investment in the City's young people is detailed in the 'City of Belmont Youth Strategy 2019 and Beyond'. The City's youth strategy is consistent with the needs of the City's youth community and appointing a suitably qualified organisation to support the City in implementing the strategy is essential.

With an appropriate organisation appointed, the City commits to ensuring young people have access to services that:

- Promote their health and wellbeing.
- Are given the opportunity to express themselves creatively and participate in art and culture.
- Are provided access to education, training and employment opportunities.
- Have access to vital services and information.

*Item 12.2 Continued*

Through the ongoing provision of the service the City provides a safe space for young people to celebrate their diversity, with opportunities to participate in environmental change and inspires them to reach their full potential.

**OFFICER RECOMMENDATION**

***That Council:***

- 1. Accepts the tender submitted by YMCA WA for Tender 01/2021 – Provision of Youth Services as specified for the lump sum of \$792,403 for the first year as the most advantageous; and***
- 2. Awards the contract to YMCA WA for a period of three years with the option of a two year extension at the sole discretion of the Chief Executive Officer.***

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

## 12.3 DONATION – WESTERN AUSTRALIAN TROPICAL CYCLONE SEROJA APPEAL 2021

### ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	41/003 – Charity Appeals
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	23 February 2021 Ordinary Council Meeting Item 12.4 25 February 2020 Ordinary Council Meeting Item 12.7
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Development and Communities Division

### COUNCIL ROLE

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

### PURPOSE OF REPORT

For Council to consider making a financial donation to the Lord Mayor's Distress Relief Fund for recovery assistance towards the Tropical Cyclone Seroja Appeal 2021.

*Item 12.3 Continued*

### **SUMMARY AND KEY ISSUES**

The Lord Mayor's Distress Relief Fund (LMDRF) is Western Australia's official State emergency fund.

Financial assistance from the Lord Mayor's Distress Relief Fund supplements insurance cover for people requesting relief.

The Lord Mayor's Distress Relief Fund has been activated in response to the severe Tropical Cyclone Seroja that impacted Western Australia's Mid West region on 3 April 2021.

Western Australian communities have expressed a desire to support those affected by devastating flooding and damage suffered by Western Australians in the Mid West.

In accordance with Council Policy SB1.2 Donations and Delegated Authority DA19 Donations – Disaster Relief, Council support is requested for a donation of \$10,000 to the Lord Mayor's Distress Relief Fund for recovery assistance towards the Tropical Cyclone Seroja Appeal 2021.

### **LOCATION**

Tropical Cyclone Seroja had a significant impact on the Western Australia's Mid West region, affecting many towns, including Kalbarri within the Shire of Northampton.

### **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**

Council Policy SB1.2 Donations details the guidelines and process for making disaster relief contributions. Under Delegated Authority DA19 Donations – Disaster Relief, the Chief Executive Officer has delegated authority to make donations up to \$5,000. Any donation above the delegated authority requires Council to determine and approve the amount to be donated.

### **STATUTORY ENVIRONMENT**

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

*Item 12.3 Continued*

### **BACKGROUND**

The LMDRF is Western Australia's official State emergency fund and provides relief for personal hardship and distress arising from natural disasters occurring within Western Australia.

The fund has been activated to raise and coordinate donations to financially support the victims that have been impacted by Tropical Cyclone Seroja. Council support is requested for a donation of \$10,000 to the LMDRF to be used in relation to Tropical Cyclone Seroja.

### **OFFICER COMMENT**

Tropical Cyclone Seroja was a severe tropical cyclone that affected residents in Western Australian's Mid West region, becoming one of the first to do so since Cyclone Elaine in 1999.

The impact of loss of homes and livelihoods will result in an economic and emotional impact on the victims and surrounding communities. The impact of the cyclone on the environment and community will be ongoing for years to come.

Due to the scale of the cyclone and the extent of damage, the City of Belmont has considered it appropriate to donate \$10,000 to the LMDRF.

### **FINANCIAL IMPLICATIONS**

Sufficient funds have been identified within General Donations Budget in the 2020-2021 Annual Budget to allow for a donation of \$10,000.

### **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. Expresses its sympathies to all communities affected by the devastating cyclone in Western Australia's Mid West.***
- 2. Donate an amount of \$10,000 to the Lord Mayor's Distress Relief Fund.***

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

12.4 Q06/2021 – SUPPLY AND INSTALLATION OF IRRIGATION SYSTEM AT FAULKNER PARK

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Confidential Attachment 4– Item 12.4 refers	<a href="#"><u>Evaluation Matrix (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(e))</u></a>
Confidential Attachment 5– Item 12.4 refers	<a href="#"><u>Price Schedule (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(e))</u></a>

Voting Requirement : Simple Majority  
Subject Index : 135/2021-06  
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.*

**PURPOSE OF REPORT**

To seek Council approval to award Quotation Q06/2021 – Supply and Installation of Irrigation System at Faulkner Park.

*Item 12.4 Continued*

## **SUMMARY AND KEY ISSUES**

This report outlines the process undertaken to invite quotations and evaluate the responses received.

The scope of works covers the supply of an irrigation system at Faulkner Park, utilising four bores located on the corner of Abernethy Road/Wright Street, Belmont Forum Shopping Centre on Abernethy Road verge, Robinson Avenue and Elizabeth Street.

A complete system in terms of laterals, valves, multi core or two-wire control and sprinklers is required for the area shown below. As a result of scheduling conflicts that would have impacted the Volcano Playground being open during school holidays, Volcano Playground has been excluded from the Contract at this time and will instead be included in the 2022-2023 capital works programme.

In 2019-2020 a ring main was installed around the perimeter of the park, and the irrigation system for the area adjacent Belmont Hub and Wright Street was upgraded.

## **LOCATION**

Faulkner Park, Progress Way, Cloverdale



*Figure 1. Extent of 2021/2022 Irrigation System renewal*

## **CONSULTATION**

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

*Item 12.4 Continued*

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the 2020 – 2040 Strategic Community Plan:

#### **Goal 3: Natural Belmont.**

##### **Strategies:**

- 3.1 Protect and enhance our natural environment
- 3.4 Provide green spaces for recreation, relaxation and enjoyment

#### **Goal 5: Responsible Belmont**

##### **Strategy:**

- 5.2 Manage the City's assets and financial resources in a responsible manner and provide the best possible services for the community

### **POLICY IMPLICATIONS**

BEXB7.1–Purchasing

The process undertaken in relation to this matter has complied with the requirements of this policy.

### **STATUTORY ENVIRONMENT**

This issue is governed in the main by:

The *Local Government Act 1995*, in particular Section 3.57 which states that:

‘3.57. Tenders for providing goods or services

- (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) *Regulations may make provision about tenders.’*

and

The *Local Government (Functions and General) Regulations 1996* Regulation 11(2)(b) which states:

‘11. When tenders have to be publicly invited

- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
  - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
  - (aa) *the supply of the goods or services is associated with a state of emergency; or*
  - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or ..’*

Item 12.4 Continued

## **BACKGROUND**

Under the *Local Government Act 1995* and *Local Government (Functions and General) Regulations 1996* Regulation 11(2)(b), 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 Parks & Gardens Goods & Services. Three responses were received from the following panel members:

- Elliotts Irrigation Pty Ltd
- NewGround Water Services Pty Ltd
- Think Water Perth.

## **OFFICER COMMENT**

The Evaluation Panel consisted of the Coordinator Parks, Irrigation Supervisor and Coordinator Procurement.

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

	<b>CRITERIA</b>	<b>WEIGHTING</b>
1	Experience	15%
2	Company Capacity	20%
3	Methodology	15%
4	Safety	10%
5	Price	40%
	<b>TOTAL</b>	<b>100.00%</b>

[Confidential Attachment 4](#) – Evaluation Matrix sets out the scores awarded by the Evaluation Panel. One response received did not address any of the selection criteria and could not be assessed.

Originally the Request for Quotation included the Volcano Playground area. The scheduling of the two compliant submissions indicated that works within Volcano Playground would extend into July/August 2021 and require closure of the playground for approximately two to three weeks. The City typically avoids closing this playground during school holidays, and as a result the Contractor would be required to re-mobilise after the July school holidays (5-16 July 2021) at an additional cost.

In addition, the prices for the two compliant submissions (excluding a second mobilisation cost) were above the allocated budget.

Due to the cost implications and impact on playground visitors, it was determined preferable to exclude Volcano Playground from this contract and delay to a future year.

NewGround Water Services have demonstrated that they have the experience and capacity to complete the works in accordance with the City's requirements. Their methodology addressed quality, safety and environmental issues and their timeline indicates that they can complete the works within an acceptable timeframe. NewGround Water Services are therefore the recommended supplier.

*Item 12.4 Continued*

### **FINANCIAL IMPLICATIONS**

[Confidential Attachment 5](#) – Price Schedule shows the lump sum cost quoted by all three respondents.

As the prices for the two compliant submissions were above the allocated budget, both were asked to resubmit a price with the exclusion of Volcano Playground. This has reduced NewGround's price to \$253,730 which is \$2,811 over the available remaining budget, however this will be funded from the existing parks capital budget.

### **ENVIRONMENTAL IMPLICATIONS**

Requirements were included in the Request for Quotation to address potential environmental impacts associated with these works, primarily associated with works within Tree Protection Zones.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

***That Council accepts the response submitted by NewGround Water Services Pty Ltd for Q06/2021 – Supply and Installation of Irrigation System at Faulkner Park as specified for the lump sum of \$253,730 excluding GST.***

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

**12.5 ADOPTION OF CITY OF BELMONT CODE OF CONDUCT FOR COUNCIL MEMBERS,  
COMMITTEE MEMBERS AND CANDIDATES**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 4 – Item 12.5 refers	<a href="#"><u>Code of Conduct for Council Members, Committee Members and Candidates</u></a>

Voting Requirement	:	Absolute Majority
Subject Index	:	32/015 – Council Policy Manuals / Code of Conduct
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**

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

**PURPOSE OF REPORT**

To seek Council endorsement of the Code of Conduct for Council Members, Committee Members and Candidates ([Attachment 4](#)) in accordance with s.5.104 of the *Local Government Act 1995* (the Act).

*Item 12.5 Continued*

## **SUMMARY AND KEY ISSUES**

On Tuesday, 2 February 2021 the following regulations were gazetted and came into effect on 3 February 2021:

- *Local Government (Model Code of Conduct) Regulations 2021* (Model Code of Conduct);
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*; and
- *Local Government (Administration) Amendment Regulations 2021*.

In accordance with section 5.104 of the Act it is necessary for a Code of Conduct to be adopted within three months of the Model Code of Conduct coming into operation (by 3 May 2021). The purpose of this report is to seek Council adoption of the City of Belmont Code of Conduct for Council Members, Committee Members and Candidates (Code of Conduct) ([Attachment 4](#)).

The Code of Conduct has been developed, based on the Model Code of Conduct with the addition of parts from the previously drafted Code of Conduct for Elected Members and Committee Members.

## **LOCATION**

Not applicable.

## **CONSULTATION**

No public consultation has been undertaken in respect to this matter. The WA Local Government Association (WALGA) has been consulted with and provided an Info Page for local governments on the new and amended regulations including advice on the actions required for implementation of the requirements.

The Department of Local Government, Sport and Cultural Industries published Guidelines on the Model Code of Conduct for Council Members, Committee Members and Candidates.

The City's Executive Leadership Team has been consulted regarding the proposed Code of Conduct.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the 2020 – 2040 Strategic Community Plan:

### **Goal 5: Responsible Belmont.**

#### **Strategy**

- 5.6 Deliver effective, fair and transparent leadership and decision-making, reflective of community needs and aspirations.

*Item 12.5 Continued*

## **POLICY IMPLICATIONS**

The Code of Conduct is referenced throughout the City of Belmont Policy Manual. Updates to referencing and links will be required following adoption of the Code of Conduct.

A Complaint Management Policy and relevant procedures will be developed to clarify the process for dealing with any complaints about Council Members, Committee Members and Candidates in line with the Code of Conduct.

## **STATUTORY ENVIRONMENT**

### ***Local Government Act 1995***

Section 5.104 of the Act requires that local governments adopt the Model Code Regulations as their Code of Conduct within three months of the *Local Government (Model Code of Conduct) Regulations 2021* coming into operation (by 3 May 2021).

*5.104. Adoption of model code of conduct*

- (1) Within 3 months after the day on which regulations prescribing the model code come into operation, a local government must prepare and adopt\* a code of conduct to be observed by council members, committee members and candidates that incorporates the model code.*  
*\* Absolute majority required.*
- (2) Within 3 months after the day on which regulations amending the model code come into operation, the local government must amend\* the adopted code of conduct to incorporate the amendments made to the model code.*  
*\* Absolute majority required.*
- (3) A local government may include in the adopted code of conduct requirements in addition to the requirements referred to in section 5.103(2)(b), but any additional requirements —*
  - (a) can only be expressed to apply to council members or committee members; and*
  - (b) are of no effect to the extent that they are inconsistent with the model code.*
- (4) A local government cannot include in the adopted code of conduct provisions in addition to the principles referred to in section 5.103(2)(a) or the rules of conduct.*
- (5) The model code is taken to be a local government's adopted code of conduct until the local government adopts a code of conduct.*
- (6) An alleged breach of a local government's adopted code of conduct by a candidate cannot be dealt with under this Division or the adopted code of conduct unless the candidate has been elected as a council member.*
- (7) The CEO must publish an up-to-date version of a local government's adopted code of conduct on the local government's official website.'*

*Item 12.5 Continued*

## **BACKGROUND**

Section 5.103 of the Act previously required local governments to adopt a code of conduct to be observed by elected members, committee members and employees. The current City of Belmont Code of Conduct (Code) was adopted by Council at its Ordinary Council Meeting on 27 May 2014.

The current Code was under review to separate into two Codes, one applicable for Employees and a separate Code for Council Members and Committee Members. Following drafting and preparation for implementation, notification was received that a mandated Code of Conduct for Council Members was being considered as part of the review of the Act.

As part of that review, the *Local Government Legislation Amendment Act 2019* (Amendment Act) was assented to on 5 July 2019 and on Tuesday, 2 February 2021 the following regulations were gazetted to take effect on Wednesday, 3 February 2021:

- *Local Government (Administration) Amendment Regulations 2021;*
- *Local Government (Model Code of Conduct) Regulations 2021* (Model Code of Conduct); and
- *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021.*

The Model Code of Conduct brings into effect sections 48 - 51 of the Amendment Act by introducing a mandatory Code of Conduct for Council Members, Committee Members and Candidates.

The purpose of the Model Code of Conduct is to guide decisions, actions and behaviours. It recognises that there is a need for a separate Code of Conduct for Council Members, Committee Members and Candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments, in addition to providing for a process to deal with complaints to ensure a consistent approach across the sector.

A separate Code of Conduct for Employees is being prepared by the City to replace the current Code.

Specific actions were required within three weeks of the regulations taking effect (by 24 February 2021) as detailed in the report to Council at its 23 February 2021 Ordinary Council Meeting. These actions were the authorisation of the Director Corporate and Governance as the City's Complaints Officer for the purposes of receiving complaints and withdrawals of complaints, in accordance with cl.11(3) of the Model Code of Conduct, and approval of the City of Belmont 'Complaint - Alleged Breach Form' in accordance with cl.11(2)(a) of the Model Code of Conduct.

## **OFFICER COMMENT**

The Model Code of Conduct includes general principles and behaviours for Council Members, Committee Members and Candidates and repeals and replaces the *Local Government (Rules of Conduct) Regulations 2007*.

*Item 12.5 Continued*

All local governments are required to adopt a Code of Conduct for Council Members, Committee Members and Candidates that incorporates the Model Code of Conduct within three months. In accordance with s.5.104 of the *Local Government Act 1995* it is necessary for the Code of Conduct to be adopted within three months of the regulations being prescribed, that being 3 May 2021.

While local governments may not amend Division 2 (Principles) or Division 4 (Rules of Conduct) of the Model Code of Conduct, additional behaviour requirements can be included in Division 3 (Behaviours) if deemed appropriate by the local government. Any additions must be consistent with the Model Code of Conduct (Regulations and the Act).

The Code of Conduct ([Attachment 4](#)) is based on the Model Code of Conduct with additional behaviours included relating to Personal Integrity. Clause 8(2)(c) requires appropriate dress standards and clause 8(2)(d) relates to equal and respectful treatment of all people within the City.

Additional Information has also been included within Clause 10 to provide detail on the quasi-judicial function and sub clause 10.1 Quasi-judicial role has been included to outline the requirements when acting in a quasi-judicial role.

### **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.

### **OFFICER RECOMMENDATION**

*That Council:*

***Adopt the City of Belmont Code of Conduct for Council Members, Committee Members and Candidates ([Attachment 4](#)) in accordance with s.5.104 of the Local Government Act 1995.***

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

## 12.6 ACCOUNTS FOR PAYMENT – MARCH 2021

### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 5 – Item 12.6 refers	<a href="#">Accounts for Payment – March 2021</a>

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

### COUNCIL ROLE

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

### PURPOSE OF REPORT

Confirmation of accounts paid and authority to pay unpaid accounts.

### SUMMARY AND KEY ISSUES

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

*Item 12.6 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.

### **OFFICER COMMENT**

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

Municipal Fund Cheques	788621 to 788652	\$57,202.22
Municipal Fund EFTs	EF072162 to EF072608	\$3,948,565.43
Municipal Fund Payroll	March 2021	\$2,130,726.35
Trust Fund EFTs	EF072230 to EF072231	\$10,645.03
Total Payments for March 2021		<b>\$6,147,139.03</b>

A copy of the Authorised Payment Listing is included as [Attachment 5](#) to this report.

*Item 12.6 Continued*

**FINANCIAL IMPLICATIONS**

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

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

*That the Authorised Payment Listing for March 2021 as provided under [Attachment 5](#) be received.*

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

## 12.7 MONTHLY ACTIVITY STATEMENT AS AT 31 MARCH 2021

### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 6 – Item 12.7 refers	<a href="#"><u>Monthly Activity Statement as at 31 March 2021</u></a>

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

### COUNCIL ROLE

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

### PURPOSE OF REPORT

To provide Council with relevant monthly financial information.

### SUMMARY AND KEY ISSUES

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

### LOCATION

Not applicable.

*Item 12.7 Continued*

### **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 10% 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.

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.

*Item 12.7 Continued*

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%.

In order to provide more details regarding significant variations as included in [Attachment 6](#), the following summary is provided.

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
<b>Expenditure - Capital</b>			
Environment	207,693	109,773	A number of foreshore design projects are behind budget.
Belmont Oasis	122,813	54,517	Relates to the purchase of gym and pool equipment with some items below the capitalisation threshold and transferred to operating.
Grounds Operations	1,038,536	840,745	Variance relates to a number of projects with Brearley Ave and Faulkner Park irrigation and Peachey Park and Volcano Playground renewals being the more significant.
Road Works	3,440,021	3,190,682	A number of projects are behind budget although still planned to be completed this financial year.
Footpath Works	477,583	331,646	A number of projects are behind budget although still planned to be completed this financial year.
<b>Expenditure – Operating</b>			
Marketing & Communications	1,567,795	1,413,050	Variance mainly relates to employee and advertising costs.
Executive Services	1,028,977	977,957	Employee costs are below budget.
Chief Executive Officer	574,152	518,845	Variance relates to employee and training costs that are below the budget projection.
Human Resources	1,004,474	938,798	Variance mainly relates to employee and consulting costs.
Governance	2,614,381	2,329,644	Activity Based Costing (ABC) allocations are the primary reason for the variance.
City Facilities & Property	738,823	651,496	Variance mainly relates to employee costs.
Rangers	726,643	668,300	Relates to a number of items that have minor cost variances.
Economic & Community Development	1,229,773	1,050,023	Variance mainly relates to employee costs.
Town Planning	2,276,041	2,140,492	Variance mainly relates to employee costs.

Item 12.7 Continued

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
Sanitation Charges	4,111,820	4,233,925	Invoices are processed one month in arrears and cost increases have been less than expected.
Ruth Faulkner Library	2,467,974	2,231,557	Relates to operational costs associated with the final fit-out as well as other minor cost variances.
Community Place Making	136,750	75,169	Variance largely relates to public art projects.
Grounds Operations	4,162,843	4,059,203	Employee and contractor costs are below budget with invoices outstanding.
Grounds - Active Reserves	1,080,082	989,187	Plant and other maintenance costs currently below budget.
Road Works	832,254	884,572	Slightly ahead of budget but expected to be within budget at the end of the financial year.
Streetscapes	1,273,837	1,376,467	Budget variance largely due to verge maintenance issues along Orrong Rd that have been funded by MRWA.
Footpath Works	197,614	127,094	Expenditure on footpath maintenance is on an as reported or observed basis and currently all requests have been completed.
Operations Centre	569,361	652,109	Relates to a number of items that have minor cost variances.
Building Operations	907,877	823,394	Employee, consulting and general maintenance costs are below budget.
Plant Operating Costs	701,682	630,941	Employee related and fuel costs are below budget.
Technical Services	2,009,502	1,869,125	Variance mainly relates to employee costs.
<b>Revenue - Capital</b>			
Environment	(119,801)	(15,579)	Timing issue regarding receipt of grant funds.
Grounds Operations	(72,750)	Nil	Budget relates Brearley Ave. irrigation works that are also under budget.
Operations Centre	(245,413)	(59,364)	Budget timing issue regarding plant replacement.
<b>Revenue - Operating</b>			
Finance Department	(1,636,474)	(1,578,103)	ABC recoveries are below budget.
Human Resources	(999,632)	(938,798)	ABC recoveries are below budget.
Accommodation Costs	(403,303)	(352,183)	ABC recoveries are below budget.
Rates	(50,339,068)	(50,551,897)	Interim rates have been better than expected.
Financing Activities	(687,670)	(423,391)	Monthly variances are expected due to the timing of term deposits maturing.
Belmont HACC Services	(37,901)	31,760	Relates to an outstanding transaction that will be processed in April.
Town Planning	(971,963)	(870,565)	ABC recoveries are below budget.
Public Facilities Operations	(127,302)	(190,178)	Income from facility hire is better than expected.

Item 12.7 Continued

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
Streetscapes	(48,657)	(160,326)	Variance relates to reimbursement from MRWA for verge maintenance issues along Orrong Rd.
Public Works Overheads	(1,024,919)	(931,325)	Overhead recoveries are slightly under budget.
Plant Operating Costs	(1,129,171)	(742,815)	Overhead recoveries are 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.

<b>Reconciliation of Nett Current Assets to Statement of Financial Activity</b>		
<b>Current Assets as at 31 March 2021</b>	<b>\$</b>	<b>Comment</b>
Cash and investments	74,408,353	Includes municipal and reserves
- less non rate setting cash	(48,359,205)	Reserves
Receivables	4,075,870	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(581,555)	ESL Receivable
Stock on hand	219,314	
<b>Total Current Assets</b>	<b>29,762,777</b>	
<b>Current Liabilities</b>		
Creditors and provisions	(10,817,040)	Includes ESL and deposits
- less non rate setting creditors & provisions	3,903,426	Cash Backed LSL, current loans & ESL
<b>Total Current Liabilities</b>	<b>(6,913,614)</b>	
<b>Nett Current Assets 31 March 2021</b>	<b>22,849,163</b>	
<b>Nett Current Assets as Per Financial Activity Report</b>		
Nett Current Assets as Per Financial Activity Report	22,849,163	
Less Committed Assets	<b>(22,349,163)</b>	All other budgeted expenditure
<b>Estimated Closing Balance</b>	<b>500,000</b>	

*Item 12.7 Continued*

**FINANCIAL IMPLICATIONS**

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

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

***That the Monthly Financial Reports as at 31 March 2021 as included in [Attachment 6](#) 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

##### 13.2.1 NOTICE OF MOTION (COUNCILLOR SEKULLA) – SUPPORT FOR THE ASCOT KILNS STATUE

#### ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	35/002 – Notices of Motion
Location/Property Index	:	80 Grandstand Road, Ascot
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	Department of Planning, Lands and Heritage
Responsible Division	:	Development and Communities Division

#### COUNCIL ROLE

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

#### PURPOSE OF REPORT

To consider the Notice of Motion received from Councillor (Cr) Sekulla for Council to support the statue at the Ascot Kilns site remaining in place as it is representative of the historical significance of the site.

*Item 13.2.1 Continued*

**SUMMARY AND KEY ISSUES**

A Notice of Motion has been received from Cr Sekulla for Council to consider requesting the Chief Executive Officer write to the Minister for Planning and the Director General of the Department of Planning, Lands and Heritage (DPLH) supporting the retention of a statue at the Ascot Kilns site.

The City was first alerted to presence of the statue on 23 December 2020. The brick statue is 2.5m in height and is thought to be of Western Australian industrialist Sir Lancelot Brisbane. The statue was installed sometime in late December 2020. The City does not know who installed or created the statue.

The following are included as Cr Sekulla's reasons to support the retention of the statue:

- Residents and ratepayers from the Ascot Waters Estate have passionately expressed a desire for the statue to remain at the Ascot Kilns site through social media posts and in a Southern Gazette Newspaper article.
- The statue has contributed to highlighting the significance of the site to the history of the City of Belmont.
- The statue raises the profile of the Ascot Kilns site in a measured way.

The statue is consistent with the heritage of the site. However no statutory approvals were sought or approved prior to its installation. Key details regarding the creator of the statue and their professional artistic background have not been disclosed to the City. Without knowing this information the assessment of whether the statue can be classified as public art, how it would be managed and maintained in the future and what costs could be involved is problematic.



*Item 13.2.1 Continued*

**LOCATION**

The Ascot Kilns are located at 80 Grandstand Road, Ascot as shown in the aerial image below.



**CONSULTATION**

On 5 January 2021 the Manager Planning Services emailed the DPLH seeking clarification on how they intended to deal with the statue.

On 18 March 2021 the Acting Manager Community Placemaking called the DPLH seeking further detail about the creator and how the statue was made. The Chief Property Officer of the DPLH's Heritage and Property Services Section informed the Acting Manager of Community Placemaking that the DPLH could not provide these details as the creator had requested to remain anonymous. The Chief Property Officer confirmed that the DPLH intended to remove the statue offsite to protect it from damage during proposed onsite conservation works. They intended for the statue to be returned to the site after the works were completed but were also open to it being relocated to another site such as Adachi Park.

No formal written response has to date been provided to the City on this matter.

**STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the 2020 – 2040 Strategic Community Plan:

**Goal 1: Liveable Belmont.**

**Strategy:**

1.1. Respect, protect and celebrate our shared living histories and embrace our heritage.

*Item 13.2.1 Continued*

#### **Goal 4: Creative Belmont**

##### **Strategy:**

4.1. Promote the growth of arts and culture.

#### **POLICY IMPLICATIONS**

The City's Public Art Directions Masterplan aims to improve the City's management of public art in public and private sector developments and establish clear definitions on what public art is, who can create it and how it can be managed.

#### **STATUTORY ENVIRONMENT**

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

Schedule 2, Part 3 of the *Planning and Development (Local Planning Schemes Regulations 2015* outlines the provisions for heritage protection.

##### ***Building Act 2011***

Under the *Building Act 2011* this sculpture would require an application for building approval or a building approval certificate to be submitted to and approved by the City's Building Services team.

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

Under Local Planning Scheme No. 15 this sculpture would require an application for development approval to be submitted to and approved by the City's Development Services team.

##### **City of Belmont (Heritage) Inventory 2016**

The site is listed on the City of Belmont (Heritage) Inventory 2016 and has an 'A' – Exceptional Significance classification. This means that any new development or structures erected on the site should be sympathetic to the heritage values of the place and in accordance with a Conservation Plan (if one exists for the place).

#### **BACKGROUND**

The subject site has remained unused since the closure of the Bristle Kilns factory in 1982. The land was purchased by the Western Australian Planning Commission (WAPC) in 1985.

The precise date as to when the statue was installed is unknown to the City. The City first became aware of the statue on 23 December 2020. The creator of the statue and the installer are unknown to the City but are known to the DPLH.

*Item 13.2.1 Continued*

The consent of the landowner (DPLH) was not obtained prior to installation. The statue would normally require Development and Building approvals, however these were not obtained and the circumstances surrounding the statue's installation has been rather unusual. The DPLH however has the authority to remove the statue for any reason and to deal with the statue thereafter in any way they deem fit. No formal correspondence from the DPLH has been provided to the City regarding what is proposed for the statue.

On Monday, 15 March 2021 social media correspondence was obtained by the City containing a letter from the Director General of the DPLH to Cassie Rowe MLA Member for Belmont, confirming that the DPLH proposed to remove the statue to protect it from damage during conservation works which are set to take place in 2021-2022.

On 18 March 2021, the DPLH stated in a Southern Gazette article that they would preserve the statue by removing and storing it offsite and were open to relocating the statue to nearby areas such as Adachi Park, Ascot. This was also confirmed during a telephone discussion between the Acting Manager of Community Placemaking and their Chief Property Officer on the same day. No prior consultation between the DPLH and the City had occurred in regards to the potential relocation of the statue to Adachi Park.

*Cr Sekulla has proposed a motion:*

*That Council directs the Chief Executive Officer write to the Minister for Planning and the Director General of the Department of Planning, Lands and Heritage to support the statue being returned to the Ascot Kilns site once upgrade works have been completed and subject to the necessary statutory approvals required for the statue to be obtained, as it is representative of the historical significance of this site.*

*Reason:*

*The statue situated on the Ascot Kilns site, owned by the State Government, is a part of the district of the City of Belmont. As there is community interest in this subject, I believe the subject should be considered as an item of good government of the district based upon:*

- 1. Residents and ratepayers from the Ascot Waters Estate have passionately expressed a desire for the statue to remain at the Ascot Kilns site.*
- 2. The statue has contributed to highlighting the significance of the site to the history of the City of Belmont.*
- 3. The statue raises the profile of the Ascot Kilns site in a measured way.*
- 4. If removed and placed in storage, the statue will be forgotten and no longer a significant talking point for residents and visitors.*
- 5. The statue has not been the target of vandalism.*

*Item 13.2.1 Continued*

### **OFFICER COMMENT**

The statue has been erected on the former Bristile Kilns site which is registered on the Heritage Council of Western Australia's State Register of Heritage Places. This means that development approval must be obtained prior to making any alterations to the site – including the addition or erection of structures on the site.

There have been news reports and social media posts suggesting that the statue is an artwork representation of Sir Lancelot Brisbane – who was the Chairman of the prominent Bristile building company that operated the Bristile Kilns.

Statues and artwork may be an appropriate means of interpreting and/or expressing the history and significance of a place. The City's Public Art Directions and Masterplan outlines criteria to determine eligibility for works to be classified as public art, specifically:

- The artistic expression of a contemporary art practitioner presented within the public arena.
- Only professional artists will be eligible to carry out public art commissions and for the purposes of the Masterplan a professional visual can be defined as a person who fits into at least two of the following categories:
  - A person who has a university degree or minimum three year full-time TAFE Diploma in visual arts, or when the brief calls for it, other art forms such as multimedia.
  - A person who has a track record of exhibiting their artwork at reputable art galleries that sell the work of professional artists.
  - A person who has had work purchased by major public collections, including (but not limited to) the Art Gallery of Western Australia, any of the university collections or Artbank.
  - A person who earns more than 50% of their income from arts related activities, such as teaching, artist in residence, selling artwork or undertaking public art commissions.

Having regard for the above, the City has very limited information about the identity(s) of the creator and installer, their professional artistic background and qualifications and how the statue was designed and installed.

Notwithstanding whether the statue can be classified as a public artwork, no statutory Planning or Building approvals were sought or provided for the statue. Without the necessary statutory approvals the statue is in breach of legislation. Structures installed without the necessary statutory approvals potentially pose financial, safety, legal and reputational risks and implications to the landowner.

### **FINANCIAL IMPLICATIONS**

There are no financial implications for the City of Belmont at this time.

*Item 13.2.1 Continued*

Keeping the statue onsite during future conservation works may lead to damage and have financial and safety implications for the DPLH. Not understanding the details of the creator or design of the statue may impact on the management and maintenance of the statue in the future.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

The site is considered to be of exceptional significance and essential to the heritage of the locality. Maintaining the statue in some form would enhance a sense of community and the historical image of Belmont. In view of the community support for the statue there may be a reputational risk to the City if it did not support the return of the statue to the site once conservation works have been completed.

**COUNCILLOR MOTION**

**MOVED SEKULLA, SECONDED DAVIS**

That Council:

Directs the Chief Executive Officer write to the Minister for Planning and the Director General of the Department of Planning, Lands and Heritage to support the statue being returned to the Ascot Kilns site once upgrade works have been completed and subject to the necessary statutory approvals required for the statue to be obtained, as it is representative of the historical significance of this site.

**Reason:**

The statue situated on the Ascot Kilns site, owned by the State Government, is a part of the district of the City of Belmont. As there is community interest in this subject I believe the subject should be considered as an item of good government of the district based upon:

1. Residents and ratepayers from the Ascot Waters Estate have passionately expressed a desire for the statue to remain at the Ascot Kilns site.
2. The statue has contributed to highlighting the significance of the site to the history of the City of Belmont.
3. The statue raises the profile of the Ascot Kilns site in a measured way.
4. If removed and placed in storage, the statue will be forgotten and no longer a significant talking point for residents and visitors.
5. The statue has not been the target of vandalism.

*Item 13.2.1 Continued*

**Note:**

**Cr Powell put forward the following Procedural Motion after Cr Sekulla had moved the motion, seconded by Cr Davis and during the opening remarks.**

**PROCEDURAL MOTION**

**POWELL MOVED, CAYOUN SECONDED**

***That in accordance with Section 11.8 of the City of Belmont Standing Orders Local Law 2017, the question be now put.***

**CARRIED 5 VOTES TO 4**

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

**COUNCILLOR MOTION**

**MOVED SEKULLA, SECONDED DAVIS**

That Council:

Directs the Chief Executive Officer write to the Minister for Planning and the Director General of the Department of Planning, Lands and Heritage to support the statue being returned to the Ascot Kilns site once upgrade works have been completed and subject to the necessary statutory approvals required for the statue to be obtained, as it is representative of the historical significance of this site.

**Reason:**

The statue situated on the Ascot Kilns site, owned by the State Government, is a part of the district of the City of Belmont. As there is community interest in this subject I believe the subject should be considered as an item of good government of the district based upon:

1. Residents and ratepayers from the Ascot Waters Estate have passionately expressed a desire for the statue to remain at the Ascot Kilns site.
2. The statue has contributed to highlighting the significance of the site to the history of the City of Belmont.
3. The statue raises the profile of the Ascot Kilns site in a measured way.
4. If removed and placed in storage, the statue will be forgotten and no longer a significant talking point for residents and visitors.
5. The statue has not been the target of vandalism.

**LOST 3 VOTES TO 6**

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

*Item 13.2.1 Continued*

**Note:**

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

**FORESHADOWED COUNCILLOR MOTION**

**POWELL MOVED, ROSSI SECONDED**

***That Council:***

***Direct the Chief Executive Officer to write to the Minister for Planning and the Director of the Department of Planning, Lands and Heritage (DPLH) to –***

- 1. Acknowledge that an illegal structure (statue) has been erected on the Ascot Kilns site.***
- 2. The Council takes no responsibility for the removal, re-erection or ongoing maintenance of the structure.***
- 3. For the structure to remain at the site, it must have all statutory approvals required to be obtained and a Development Application be presented to the City of Belmont.***
- 4. Acknowledge that the DPLH will retain the structure at the Western Australian Planning Commission (WAPC) Kiln site if ownership is transferred to the WAPC. The structure to be used in the interpretation of the site.***

***Reason:***

- 1. Some residents have expressed the desire for the structure to remain at the site.***
- 2. It is possible that the structure has some Historic/Heritage significance in relation to the history of the site.***

**CARRIED 7 VOTES TO 2**

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

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

Note:

The Presiding Member advised that in accordance with Section 5.23(2)(c)(d) of the *Local Government Act 1995*, in order to discuss Confidential Item 14.1 Council will need to go behind closed doors.

8.11pm **ROSSI MOVED, POWELL SECONDED** that in accordance with Section 5.23(2)(c)(d) of the *Local Government Act 1995*, the meeting proceed behind closed doors to discuss Confidential Item 14.1 – Seeking Further Instructions Regarding Legal Matter (FID855369).

**CARRIED 9 VOTES TO 0**

14.1 SEEKING FURTHER INSTRUCTIONS REGARDING LEGAL MATTER (FID855369)  
(CONFIDENTIAL MATTER IN ACCORDANCE WITH *LOCAL GOVERNMENT ACT 1995*  
SECTION 5.23(2)(C)(D))

#### ATTACHMENT DETAILS

<u>Attachment No.</u>	<u>Details</u>
Confidential Attachment 6 - Item 14.1 refers	<a href="#"><u>Report Item – Seeking Further Instructions Regarding Legal Matter (FID855369) (Confidential Matter in Accordance with Local Government Act 1995 Section 5.23(2)(c)(d))</u></a>

#### OFFICER RECOMMENDATION

**ROSSI MOVED, POWELL SECONDED**

*That Council directs the Chief Executive Officer to undertake the actions recommended, outlined within the Confidential Report regarding Legal Matter FID855639.*

**CARRIED 9 VOTES TO 0**

8.25pm **POWELL MOVED, WOLFF SECONDED** that the meeting again be open to the public.

**CARRIED 9 VOTES TO 0**

#### 15. CLOSURE

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 8.26pm.

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**MINUTES CONFIRMATION CERTIFICATION**

The undersigned certifies that these Minutes of the Ordinary Council Meeting held on 27 April 2021 were confirmed as a true and accurate record at the Ordinary Council Meeting held 25 May 2021:

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



PRINT name of the Person Presiding:

**PHILIP MARKS**

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