



# City of Belmont

## ORDINARY COUNCIL MEETING

### MINUTES

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27 August 2019

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**CONFIDENTIAL ATTACHMENTS INDEX**

Confidential Attachment 1 – Item 12.5 refers  
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Note: Confidential Attachment 2 became Attachment 17 as the document is now public.

## MINUTES

### **PRESENT**

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr R Rossi, 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 G Sekulla, JP	West Ward

### **IN ATTENDANCE**

Mr J Christie	Chief Executive Officer
Mr R Garrett	Director Corporate and Governance
Ms J Gillan	Director Development and Communities
Mr S Morrison	A/Director Infrastructure Services
Mr J Olynyk, JP	Manager Governance
Mrs M Lymon	Principal Governance and Compliance Advisor
Ms D Morton ( <i>dep 9.11pm</i> )	A/Coordinator Marketing and Communications
Ms S D'Agnone	Governance Officer

### **MEMBERS OF THE GALLERY**

There were 68 members of the public in the gallery and no press representative.

## 1. OFFICIAL OPENING

7.04pm The Presiding Member welcomed all those in attendance and declared the meeting open.

The Presiding Member read the Acknowledgement of Country.

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

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

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

## 2. APOLOGIES AND LEAVE OF ABSENCE

Nil.

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

### 3.1 FINANCIAL INTERESTS

Nil.

### 3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY

Name	Item No and Title
Cr S Wolff	<b>Item 13.2 Notice of Motion (Cr Wolff) Request for Contribution</b> Cr Wolff is Treasurer of the Belmont Park Tennis Club.
Cr J Davis	<b>Item 13.2 Notice of Motion (Cr Wolff) Request for Contribution</b> Cr Davis is the Secretary of the Belmont Sports and Recreation Club.

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

**4.1 ANNOUNCEMENTS**

The Presiding Member made the following announcement:

*'Good Evening. At the Agenda Briefing Forum last week, a question was raised regarding the necessity for Item 12.6 Response – Parliamentary Inquiry into Local Government to be confidential and it was stated that following receipt of an email on 20 August 2019, the Select Committee were now recommending that the response be a public document.*

*I subsequently spoke with the Hon Simon O'Brien MLC on Friday, and following this received an email which extended his apologies for any misunderstanding about whether a Local Government must draft a submission behind closed doors or publicly.'*

**4.2 DISCLAIMER**

**7.06pm      The Presiding Member drew the public gallery's attention to the Disclaimer.**

The Presiding Member advised the following:

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

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

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

Nil.

## **5. PUBLIC QUESTION TIME**

### **5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE**

#### **5.1.1 Ms J GEE, 97 GABRIEL STREET, CLOVERDALE**

The following questions were taken on notice at the 23 July 2019 Ordinary Council Meeting. Ms Gee was provided with a response on 13 August 2019. The response from the City is recorded accordingly:

1. I bring to Council's attention a second letter which states the cost of pruning a tree in Oakland Avenue cost the ratepayers \$160+. This is the second letter saying that the tree has been pruned. Is Council aware that they have been charged for work that has not been done?

**The dead hanging branch was removed by the City's contractor on 29 May 2019. The job was invoiced in accordance with the tendered rate for a dead wood tree up to 8 metres in height which is \$161.70.**

2. How does Council plan to monitor this going forward, and will a refund be sought for the job as it was not done?

**The tree was inspected by the area Supervisor (Parks) who was satisfied that the work was completed to a satisfactory standard and approved the invoice for payment.**

3. Hardey Road Planning – can I please have in writing what the planning process is, from what documents are submitted to planning to what needs to be submitted, for a building licence process and any differences between a big build and normal house development?

**Clause 62(1), Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 outlines that:**

**An application for development approval must be -**

- (a) **Made in the form of the 'Application for Development Approval' set out in clause 86(1),**
- (b) **Signed by the owner of the land on which the proposed development is to be located,**
- (c) **Accompanied by any fee for an application of that type set out in the Planning and Development Regulations 2009 or prescribed under the *Local Government Act 1995*,**
- (d) **Accompanied by the plans and information specified in clause 63.**

**Clause 63(1) details that:**

**An application for development approval must be accompanied by -**

- (a) **A plan or plans in a form approved by the Local Government showing the following —**
  - (i) **the location of the site including street names, lot numbers, north point and the dimensions of the site,**
  - (ii) **the existing and proposed ground levels over the whole of the land the subject of the application,**
  - (iii) **the location, height and type of all existing structures and environmental features, including watercourses, wetlands and native vegetation on the site,**

*Item 5.1.1 Continued*

- (iv) the structures and environmental features that are proposed to be removed,
- (v) the existing and proposed use of the site, including proposed hours of operation, and buildings and structures to be erected on the site,
- (vi) the existing and proposed means of access for pedestrians and vehicles to and from the site,
- (vii) the location, number, dimensions and layout of all car parking spaces intended to be provided,
- (viii) the location and dimensions of any area proposed to be provided for the loading and unloading of vehicles carrying goods or commodities to and from the site and the means of access to and from those areas,
- (ix) the location, dimensions and design of any open storage or trade display area and particulars of the manner in which it is proposed to develop the open storage or trade display area,
- (x) the nature and extent of any open space and landscaping proposed for the site,

and

- (b) Plans, elevations and sections of any building proposed to be erected or altered and of any building that is intended to be retained,
- (c) A report on any specialist studies in respect of the development that the Local Government requires the applicant to undertake such as site surveys or traffic, heritage, environmental, engineering or urban design studies,
- (d) Any other plan or information that the Local Government reasonably requires.

These requirements are the same for large developments and a normal house, except that it is less likely for a normal house to require specialist reports/studies.

There are a number of processes associated with building legislation depending on whether the application relates to a certified or uncertified application, and whether an occupancy permit is required. Detailed information on the processes is available on the Building Commission's website: <https://www.commerce.wa.gov.au/building-and-energy/guide-building-approvals-process-wa>

**5.1.2 MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE, ON BEHALF OF BELMONT RESIDENTS AND RATEPAYERS ACTION GROUP**

The following questions were taken on notice at the 23 July 2019 Ordinary Council Meeting. Ms Hollands was provided with a response on 13 August 2019. The response from the City is recorded accordingly:

11. Section 67 requires the Councillors to take consideration of the adequacy of waste disposal when making their decision. The application said the waste vehicle paths were assessed. Is there a report on this as I couldn't find it and if so has it been given to Councillors? The turning circle of a large waste removal truck is going to be more than that of a passenger vehicle and it is already tight for that.

**Response:**

The applicant's Waste Management Plan (Attachment 7, 25 June 2019 Ordinary Council Meeting Agenda) outlines the swept path of the waste collection truck. This was assessed by the City's engineers and deemed acceptable as reported on page 28 of the 25 June 2019 Ordinary Council Meeting Agenda. The report also outlines that waste collection will need to occur between 7am and 8am (prior to the centre's opening hours) to ensure that there is no potential conflict with parked vehicles.



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

The Presiding Member advised that Public Question Time during Council meetings is audio recorded for minute verification purposes and requested that the Governance Officer commence recording.

**7.07pm** The Presiding Member drew the public gallery's attention to the rules of Public Question Time as written in the Agenda. In accordance with rule (I), the Mayor advised that he had registered eight members of the public who had given prior notice to ask questions.

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

### **5.2.1 MR A PHILLIP, 225 DALY STREET, BELMONT**

1. Does the Council understand that having a neighbour that screams throughout the day and has loud aggressive swearing episodes several times a week, causing the heightened anxiety levels experienced by my wife, as is the case with 227 Daly Street, is having a detrimental effect on the quality of our life, and that we are paying the price for someone else's profit?

#### **Response:**

The Director Development and Communities advised that the purpose of the proposed Management Plan condition is to ensure that activities do not cause a nuisance or impact the amenity of the locality. This condition also requires the provider to manage nuisances, maintain a complaints register and provide their contact details to the surrounding owners and occupiers.

2. Does the Council seriously think that keeping a complaints book will make any difference since complaints can only be made after an event, but can make no difference to future events or they would not have happened in the first place?

#### **Response**

The Director Development and Communities advised that the benefit of having a formal development approval in place for a Community Home, allows for neighbours to make complaints during an event and ensures it is dealt with promptly by Uniting Care West. It also provides for a greater level of control to manage the activities at the site.

The purpose of the complaints register is to ensure that Uniting Care West record and address any complaints received such as tenant behaviour. The applicant is also required to review their Management Plan within 12 months of approval. This will allow the Management Plan to be modified.

3. Does the Council think it is acceptable that we as older people with older values have to apologise to our friends and their children for the bad language coming over from our neighbour's property when they are enjoying an afternoon in our garden for whatever reason?

*Item 5.2.1 Continued*

**Response**

The Director Development and Communities advised that in a typical residential setting where swearing or abusive behaviour might be experienced between neighbours, the matter would ordinarily be dealt with between neighbours or ultimately by the Police. Similarly, a Community Home within a residential area is no different as it effectively operates like a private rental would.

However, in this instance, the development approval for the Community Home with a Management Plan in place allows for a greater level of control than would normally be exercised within a typical residential setting.

4. The properties either side of 227 Daly Street are both occupied by older ratepayers who are likely to move on one way or the other in the not too distant future. The properties, that can't be subdivided, have good size gardens that would best suit young families. Does the Council think that it's all right or even appropriate for young families to be exposed to the previously mentioned level of disruption should they, or anyone else for that matter, buy our properties.

**Response**

The Director Development and Communities advised that the recommended development approval recognises that the amenity of neighbours needs to be protected. The formalisation of a Management Plan to monitor the behavioural/social issues and make necessary changes to management procedures will ensure the level of disruption to neighbours is minimised.

**5.2.2 MR W HOSNELL, 304 GREAT EASTERN HIGHWAY, ASCOT, ON BEHALF OF CENTRAL APARTMENT GROUP**

1. If the Council determines to the Change of Use from serviced apartments to multiple dwellings at 150 Great Eastern Highway, Ascot, are the owners who do not wish to have their apartments leased long term, permitted to have their apartment remain as serviced apartments?

**Response**

The Director Development and Communities advised that, with the exception of:

- Lot 42, which is to remain as 'Serviced Apartment'
- Lots 70 and 71, which are already approved as 'Multiple Dwelling'
- Lot 73, which is the Restaurant and Function Centre,

all the other strata lots are proposed to change from 'Serviced Apartments' to 'Multiple Dwellings'. Should the owners of these strata lots wish to pursue the change of use approval, they must implement the approval as a whole and not in a lot by lot piecemeal manner.

**5.2.3 MR J NERNEY, 3 VAUCLUSE CIRCUIT, BELMONT**

1. Is Council aware that my alternative action to seeking approval for Change of Use from a Single House and Ancillary Dwelling to a Community Home was to enact individual Tenancy Agreements with each person residing at 227 Daly Street, Belmont, which would have taken control away from Council and placed management of amenity under the Residential Tenancies Act. Whilst working with and assisting Council Officers with this application it enables Council to place conditions on the property to mitigate any negative impacts and to protect the amenity of surrounding residents?

**Response**

**The Director Development and Communities advised that a change of use would not be required should you wish to rent the premises as a private rental and the tenants engage their own carer. However a Change of Use to Community Home will provide a better outcome for all concerned.**

2. Is Council aware that on receipt of the original parking complaint the tenant implemented a Parking Management Plan to rectify the issues raised in the complaint and that in the previous fourteen (14) months neither I or my Property Manager have received any complaints with reference to noise or disturbance from my leased property at 227 Daly Street?

**Response**

**The Director Development and Communities advised it is noted that the original complaint received was with respect to cars associated with the premises. While no complaints have been received since, three submissions received during the advertising period of the application raised concerns regarding noise. If the change of use application is approved, a condition of the approval requires measures to be implemented to manage noise and parking.**

**5.2.4 MR B CHILDS, 122 SYDENHAM STREET, KEWDALE**

1. Are you Mr Mayor, fellow Councillors, Chief Executive Officer and Council Officers taking note of the Public Inquiry into the City of Perth Council?

**Response**

**The Presiding Member advised yes.**

2. Are you contemplating changes to our Council that will ensure we don't have similar shortcomings?

**Response**

**The Chief Executive Officer advised that the City monitors inquiries and audit findings which emanate from the Department of Local Government, Sporting and Cultural Industries, the Office of the Auditor General, the Corruption and Crime Commission and the Public Sector Commission. Comparative analysis is undertaken in relation to the City's processes and practices and reported as required to the Audit and Risk Committee and Council. The City does take notice of all types of audits and inquiries and at the conclusion of the public inquiry into the City of Perth, City of Belmont Officers will review the findings and carry out any actions that may be required to provide the kind of leadership Mr Childs is referring to.**

**5.2.5 Ms B SCHARFENSTEIN, 140 COOLGARDIE AVENUE, REDCLIFFE**

The DA6 Vision Plan was published in 2013 and the Revised DA6 Vision Plan issued in 2015. Recently the Planning Department informed me the Draft Structure Plan will be released later in 2019.

1. The DA6 Draft Structure Plan is now approximately 12 months overdue, if released by the end of 2019. What, precisely, has delayed its completion and release, and please advise which agencies have contributed to this delay?
2. Has this imposed any additional costs on the process of DA6? Please advise the initial estimated budget (either total for all years to current date or by annual YTD from 2011) for preparation and completion of the DA6 Vision Plan, Draft Structure Plan and Draft Implementation Strategy, and the total cost to date of all components of the DA6 Vision Plan and Draft Structure Plan and Implementation Strategy. ie: have costs exceeded budget and by how much in each financial year.
3. Why has the City failed to engage with one of its key stakeholders, the existing Redcliffe community, in regard to the DA6 Draft Structure Plan and when will it finally initiate the community engagement with this key stakeholder?
4. Will the City address this oversight in future by holding regular meaningful engagement with its key stakeholder and when will this start?

**Response**

**The Presiding Member advised that the questions would be taken on notice.**

**5.2.6 MR R FOSTER, 140 COOLGARDIE AVENUE, REDCLIFFE**

1. It is general knowledge now that the Department of Communities is going to do a development on the corner of Kanowna and First Street next to the Redcliffe Primary School and Ryans Court. The City of Belmont now knows of the traffic issues around Stanton/First and Kanowna and of the issues across Belmont of on-road or overflow parking with these types of developments. Will the City of Belmont address these parking issues with their long awaited Redcliffe DA6 Structural Plan or will they wait for the mess to happen and then attempt to amend their Local Planning Scheme?
2. Below is a breakdown of turning movements off and onto Great Eastern Highway (GEH) between Tonkin and the GEH bypass in 2024/25, with impacts on the City of Belmont's Highway Strategy and the Redcliffe DA6 Structure Plan. In a 755 metre section of GEH from Ben Street to the Brearley cover up, there is the opportunity for vehicles to make 29 right hand and left hand turning movements off GEH. This is a total of (approx.) 87 possible turning movements off and onto GEH in 755 metres of GEH. Why hasn't the City of Belmont protested more strongly to the Minister for Planning, Minister of Transport and the MRWA stating that this is unacceptable?

**Response**

**The Presiding Member advised that the questions would be taken on notice.**

*Item 5.2.6 Continued*

3. I noted in the Southern Gazette last week of the amendments to the Local Planning Scheme regarding service stations along Great Eastern Highway (GEH) that were knocked back by the then Minister for Planning. If my memory is correct, at the OCM when this amendment was presented to Council, there was a bevy of lawyers and business suits in the public gallery putting their case for this service station development to be approved. Weren't these amendments to the LPS presented to the Minister, made after the development applications were submitted to Council and what was written in the paper was incorrect?

**Response**

**The Presiding Member advised he believes the statement in the Southern Gazette was correct. The City attempted to change its Town Planning Scheme to prevent the continuation of service stations along Great Eastern Highway. The Minister at the time rejected our attempts to change the Scheme. Consequently we now have the service stations.**

**5.2.7 MR B ROWE, 23 NORTH BANFF ROAD, FLOREAT PARK, ON BEHALF OF THE BELMONT SPORTS AND RECREATION CLUB INC.**

I am here as President of the Belmont Sports and Recreation Club (BSRC), as are a number of members from BSRC along with members of the Belmont Park Tennis Club and the Ascot Kayak Club in strength tonight to indicate our concern and opposition to the proposal or new policy of levying rates on these not for profit clubs that exist on Crown land.

1. Where did it arise, is it a decision of Council, Officers, the Executive? I got a letter from the City dated 9 April 2019. It does not explain why it has been done. There is no genuine attempt to explain the reason, just a statement of fact.

**Response**

**The Presiding Member advised that this matter has not previously been before Council and is not a decision of Council.**

**The Director Corporate and Governance advised that as a result of ongoing discussions in relation to the BSRC lease in particular, the question was raised as to whether the BSRC did or should be paying rates. That resulted in some investigation which identified that the BSRC and two other clubs had not been paying rates when they should be under the *Local Government Act 1995* (the Act), and consequently that needed to be addressed.**

**There is no provision in the Act, in fact there is a specific exclusion, preventing Council from waiving or granting a concession on rates on the basis of who owns a property and BSRC and the two other clubs are deemed to be the owners under the Act because they have an exclusive right under the lease to occupy the Crown land.**

**This left the City in a position where it was required to address the issue and the City consequently advised the Clubs that rates were required to be applied. The correspondence recognised this may cause a financial impost on the Clubs and invited them all to make contact with the City to consider what options were available. It took a great deal of time for any of the Clubs to contact the City, and one Club still has not formally made contact. The item on the agenda tonight is considering one of those options.**

*Item 5.2.7 Continued*

2. There is a debate as to the legalities, and we would like to see the legal opinion, if the City has one. If the case is that these not for profit organisations should have been paying rates, we have been there for 33 years. We have never paid rates, we have had a peppercorn rental and suddenly we are invited to find \$16,000 and \$60,000 for rent. It raises the question, why hasn't this been an issue for the last 33 years?

**Response**

**The Director Corporate and Governance advised that the Act, with a very few exclusions, determines that a person is deemed to be an owner of Crown land if they have an exclusive right or occupy it under that right.**

**The Presiding Member advised that Cr Wolff, who has put forward a motion tonight, consulted with Officers to formulate a motion that will provide a good resolution to the matter. The motion allows for the City to pay a grant to the Clubs that will be equivalent to their rates. That is the position Council are at tonight. Let me assure all members of the community, because it is in the Act, the City has no discretion and must apply the rates.**

**Councillors were surprised to discover that these Clubs were required to pay rates. It is not clear what arrangements were made many years ago, however the issue must be addressed and hopefully it will be addressed tonight.**

3. I would like to see the full legal argument for the imposition of rates where it involves Crown land and I draw your attention to your own report from the Audit and Risk Committee of 22 July 2019. It's not in the minutes tonight so I had to go back to the actual report of the 22 July 2019, even though it is there for adoption tonight. It looks at the top 10 risks to the City of Belmont and number one raises the issue of rates in relation to Perth Airport and this is the consultant reporting to you. The City does not have the authority to tax Crown Land.

**Response**

**The Director Corporate and Governance advised that is a significantly different circumstance. Perth Airport is on Commonwealth land. The State or Local Government does not have any right to place any tax on Commonwealth land under the constitution. The land we are talking about is state land and State legislation stipulates quite clearly in section 6.26 and section 1.4 of the Act. It defines who is deemed to be the owner where Crown Land is occupied, and also, in section 6.26, it stipulates where exemptions are allowable. Not for profit organisations per se, do not attract any exemption from rates. An ownership of this nature falls under the catchall of section 6.26 which is that all land in a district is rateable land.**

4. Some community members are suggesting that this is a bit of a money grab that may be to do with a budget situation in respect to the current development of Faulkner Park. I note from a cursory examination that two years ago the figure was \$28M for that redevelopment, and in a report dated 22 November 2017, the cost has gone to \$40M, a 42% increase. People are asking is it associated with that. I think the view around the community is that this is quite inappropriate and it is to do with other issues such as that. I think we would like an assurance.

*Item 5.2.7 Continued*

## **Response**

The Presiding Member advised Mr Rowe that he is wrong. The project has come in under budget and the \$28M originally stated has now been reduced. To suggest that Council are trying to reduce the substantial costs of this building by taking funds off sporting clubs is completely wrong. The building is on target and will be finished in eight months.

Considering the original cost to ratepayers was budgeted at \$28M and that amount has been reduced is a tremendous outcome for the City, and a position that many others would like to be in. The Presiding Member does not know how communication can be so wrong, and may consider putting something out to the community relaying the real facts. If Council intended to rip money off sporting clubs, Cr Wolff would not be putting forward his motion tonight. All Councillors understand and are upset with the current position, and Cr Wolff is trying to fix the situation here tonight.

7.42pm **CAYOUN MOVED, ROSSI SECONDED** that question time be extended.

**CARRIED 9 VOTES TO 0**

7.43pm The Manager Governance departed the meeting.

## **5.2.8 MR R BIRCH, 195 KNUTSFORD AVENUE, KEWDALE**

When handing out crime prevention material, I along with some other volunteers, would ask the people approaching the staff if they were residents of the City of Belmont. If the answer was 'yes', they would be handed material of which some gave out the Belmont Community Watch fridge magnet, which along with other emergency numbers, shows the phone number for the Belmont Community Watch. Also I would give out any relevant items such as car stickers warning of the danger of leaving valuables on show in vehicles, also some handouts for their children, also more recently personal alarms for women and seniors.

On the day of the Avon Descent another volunteer and I were following this format as usual. Evidently someone in authority at the City of Belmont saw this format being carried out by these volunteers, nothing was said to us.

But at the meeting on Wednesday 7 August 2019, two security officers were instructed to read out a memo admonishing the two volunteers for asking people if they were residents of the City of Belmont as per instructions which we were informed had been given to us verbally on the day, but just hand out anything and everything we were offering to City of Belmont residents as we were representing City of Belmont as part of promoting City of Belmont.

1. Are Councillors aware of the changes of procedures and that City of Belmont is buying material for handouts to all and sundry, thus making City of Belmont the state centre for distribution of crime prevention material?
2. Are Councillors aware of the way volunteers are being treated?
3. Are Councillors aware that rule of running events and volunteers being given verbal instructions, then given verbal reprimands - nothing issued in writing?

7.47pm The Manager Governance returned to the meeting.

*Item 5.2.8 Continued*

**Response**

The Chief Executive Officer advised this unfortunate misunderstanding stemmed originally from the Avon Descent event at Garvey Park where he helped man the Neighbourhood Watch stand. There are more handouts than the ones you have mentioned, with other children's gifts like bubbles and frisbees. What was being considered was that when kids approached the stand, should they be asked if they live in the City of Belmont or whether they come from another local authority? It was felt that it would be somewhat inappropriate to give one kid the handouts and another kid not to get them. The intention was not to discriminate, and a case of trying to make sure that we were consistent when distributing the giveaways.

The magnets do have our Belmont Security Patrol contact numbers on them, but also the Crime Stoppers and Police contact numbers. It is assumed that somebody living in Bayswater would know that the Belmont Community Watch is not the same as the Bayswater Community Watch. The intent is to be inclusive and give handouts to all that attend our events in good faith.

I can confirm that I have spoken to the Neighbourhood Watch Chairman, Cr Rossi, and have advised him that I would be pleased to meet with yourself and the other volunteer who has resigned. If things have been handled poorly I apologise and we will try to do it better in the future.

4. I thought this was crime prevention not a marketing exercise? Crime prevention seems to have taken a back position.

**Response**

The Chief Executive Officer advised that some of the marketing material does have all those contact numbers on it. This is a way of engaging and making sure the message gets out in a number of different forms.

**5.2.9 MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE ON BEHALF OF BELMONT RESIDENTS AND RATEPAYERS ACTION GROUP INC. (BRRAG)**

**7.52pm Cr Davis departed the meeting.**

On the 27 July 2019 BRRAG wrote to CEO John Christie regarding copyright of the meeting recordings. We outlined in our letter the *Copyright Act 1968*, section 103b, 1a – Fair Dealing for the purpose of reporting news, which we believe allows us to put the recordings on our website. No response was received from Mr Christie. On the 15 August 2019 we received a response from the Mayor for clarification. It advised that BEXB45 policy had been done in conjunction with legal advisors and its relationship to the *Copyright Act 1968*. Our letter in response to the Mayor pointed out there was no reference to the Copyright Act in the item package received by Councillors to vote on and we advised that the copyrighting of these recordings may well be inconsistent with copyright legislation, so my question is:

1. Are we likely to have a response prior to the Electors' meeting which has been called on the 16 September 2019 on the topic of recording of Council Meetings?

**7.54pm Cr Davis returned to the meeting.**



*Item 5.2.9 Continued*

**Response**

**The Chief Executive Officer advised that with regard to BRRAG's original letter to the Mayor and Councillors, and a very similar letter sent to himself, a letter was drafted on behalf of the Mayor, Councillors and the City and the response to questions asked in BRRAG's letters are contained in that reply dated 15 August 2019. The question relating to copyright will be taken on notice.**

2. The BEXB45 policy states that Councillors have to be supervised by the CEO or staff, with various conditions, if they wish to listen to these recordings. Is there any Councillor or you Mr Mayor who is going to put up a motion to amend this part of the policy so you don't have to be supervised by the person you employ?

**Response**

**The Presiding Member advised that he will not be putting a motion up and stated that if a Councillor wishes to listen to a recording of Public Question Time, plainly an Officer should be in attendance to watch what goes on.**

**The Chief Executive Officer advised that Council policies are reviewed on a regular basis, and if a Councillor wants to make an amendment, they can do so during the review period and when the policy comes back to Council for consideration.**

3. Response to Select Committee in Local Government, Point C – The role of the Department of State administering the *Local Government Act 1995* and related legislation. Why is there no mention in the City's submission of clear penalties which would also mean if they were in force the matter might have been dealt with and lessen the likelihood of the inquiry?

**Response**

**The Chief Executive Officer advised that, as mentioned at the Agenda Briefing Forum, this is a submission from the City and Council, which Council will be voting on tonight. Should BRRAG believe that there are any omissions, they are able and encouraged to lodge their own submission on that particular item by 13 September 2019.**

4. Response to Select Committee in Local Government, Point E - The funding and financial management of Local Governments. Reads 'fees determined by State Government legislation are of particular concern to Local Governments and represent significant revenue leakage. Examples of fees and charges of this nature include dog registration fees, town planning fees and building permits. Since Local Government do not have direct control over the determination of fees set by legislation, this revenue leakage is recovered from rate revenue. This alludes to the fact that Council would like to be able to charge more for these services, is that the case?

**Response**

**The Chief Executive Officer advised that if a fee does not cover administrative costs, then perhaps the City should be able to recover those costs. Further, the Chief Executive Officer reiterated that this is the City's submission and encouraged BRRAG to make a submission themselves by 13 September 2019.**

*Item 5.2.9 Continued*

5. Regarding section 15, *Dog Act 1976*, how realistic is it for the City to put this in their submission when there could be many Acts that will need to be changed when you can't have inconsistencies between Acts?

**Response**

The Presiding Member reiterated that if Ms Hollands or BRRAG consider the City's submission to be incorrect, they are encouraged to make their own submission. The Presiding Member himself has spoken to the Hon Simon O'Brien, Chairman of the Select Committee, who has made it very clear what the Committee expects, and that is that people make their own personal submissions. It is up to Councillors to put in their own submission, and Council as a whole should make a submission. As a community group, BRRAG are encouraged to lodge their own submission. It is not appropriate to critique other's submissions and attempt to change them. It is the Select Committee's role to collate all submissions, not members of the public.

The Chief Executive Officer again reiterated that this is the City's submission and Council will make a decision on whether they support the submission by voting on it later in the meeting and encouraged BRRAG to make their own submission.

The Chief Executive Officer further advised that, during Public Question Time, it is not appropriate for Ms Hollands to be permitted to go through every item in the City's submission and question the City's statements.

The Chief Executive Officer again reiterated that BRRAG or any individual is able to make their own submission which can refute any item from any Local Government or other individual's submission as part of the review. He encouraged Ms Hollands and BRRAG to make their own submission rather than critique the one that is before Council tonight.

6. Don't you think it is relevant that residents should have a say?

**Response**

The Presiding Member advised it has already been pointed out to Ms Hollands that the City is encouraging individuals and groups, including BRRAG, to make their own submissions. The idea of a Select Committee is that everyone gets to have their say and the Select Committee will examine all submissions. It is not appropriate for Ms Hollands to make a critique of the City's submission and advise that it should be changed. Everybody's ideas should be able to be brought together without being influenced by others.

**7.58pm** Cr Bass departed the meeting.

7. How are Councillors going to be able to vote on this item if this is not brought to their attention?

**Response**

The Presiding Member advised that it is hoped that Councillors have read the submission and are capable of making their own decision on the item.

**8.02pm** Cr Bass returned to the meeting.

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

1. According to the Council endorsed rate setting budget, Councillors are going to put the rates up 1.75%, and according to a flyer put out by you Mr Mayor, you said that we were the third lowest in Perth and that we don't raise the rates above CPI. I would like to question this because according to me CPI is not 1.75%.

**Response**

**The Director Corporate and Governance advised that the forecast CPI for the year 2019-2020 at the time of preparing the budget was 1.75%. This percentage was provided by the WA State Treasury.**

2. Why is it costing the ratepayers \$159,570 for a local Domestic Violence Support Officer?

**Response**

**The Director Development and Communities advised that the level of support for the Domestic Violence Officer has increased as a result of an increasing demand for this desperately needed service in the community. Originally starting at three days per week, the position has now increased to five days per week. The support provided has additional value added features which the Director would be pleased to explain to Ms Gee at a future time.**

3. I asked about the amount spent which seems exorbitant if we are only employing one person, \$159,570, what are we paying for?

**Response**

**The Presiding Member advised that Ms Gee speak to the Director Development and Communities after the meeting, who would be able to provide a complete breakdown of expenses.**

4. The Community Centre started at \$28M in October 2017, then went to \$29M. What is the current costing sitting at?
5. What grants did Council eventually get, including the amount? We were all led to believe that we were not going to be paying that much out on the Community Building, that we were getting grants.

**Response**

**The Presiding Member advised it was made very clear from the onset that the building would cost ratepayers \$28M, however current calculations show that figure has reduced. To be able to reduce construction cost in this current market is a mighty performance by City Officers and he congratulated them.**

**The Chief Executive Officer advised the tendered amount for construction of the Community Centre building was approximately \$38M. The City has received grants of approximately \$10M from the Federal Government and approximately \$3M from the State Government, through Lotterywest. The construction cost of \$38M, less the \$13M grants funding received, leaves the final cost to ratepayers at less than the originally estimated \$28M, as the Mayor has pointed out.**

**The Chief Executive Officer advised the building is currently tracking on budget with construction running approximately six weeks behind schedule. Practical completion is currently expected for March 2020. After practical completion, a further three months will be required for the internal fitout of the building.**

*Item 5.2.10 Continued*

6. With rates forecast at 1.75%, can Council tell me why Town of Victoria Park's rates didn't go up this year?
7. If they can do it, why can't Belmont?

**Response**

The Presiding Member advised that where there are zero rate rises, the shortfall must be made up elsewhere. Historically when a Local Government has a zero rate rise it is followed by a doubling up where rates increase significantly over the next few years. It may be palatable for a few years, however residents are not happy when there are rate rises that can be up to 10% in the following years. The City of Belmont runs their budget on a steady basis, within its means, and residents know what the rises will be.

The Chief Executive Officer advised his understanding is that the Town of Victoria Park had budgeted for celebrations of a significant anniversary, however Council resolved to cancel the celebrations to offset a rate increase.

8. When is Council going to look at mixed zones and put them into different categories? At the moment you can have a truck stop next to a park or a house. If you spit it into A, B and C, then you can make it separate categories so when someone comes along with an application for a truck stop in an inappropriate area you can say well that zone is not a mixed use zone for that area. When are you going to look at this? Going forward in the future appropriate planning permission is given in the appropriate area?

**Response**

The Director Development and Communities advised that the actual zoning categories under the scheme have a statement of intent of what is intended for the particular zone to give some guidance. The Local Planning Strategy also gives guidance. The key to it is the zoning table and to a certain extent this is determined by what the WA Planning Commission (WAPC) will allow Local Governments to do. The current scheme is under review and much work is being carried out and zoning classifications and the zoning table will be relooked at.

It is interesting to note that WAPC is now looking at reducing the number of zones across the state and this may further limit what controls Council can impose. To a large extent, Councils may not always be able to achieve their aims because of the State.

**5.2.11 MR R BROINOWSKI, 66 ARMADALE ROAD, RIVERVALE**

1. Is the Council aware that people were trying to put me down for a fictitious report that I was trying to put myself out to be the Belmont Official for Neighbourhood Watch? Neighbourhood Watch rang me and said they had received a complaint. They have since sent me more material. Anybody can hand out material and promote the principals of Neighbourhood Watch.

**Response**

The Presiding Member advised he had no knowledge of this.

The Chief Executive Officer advised that as no Councillors have raised their hands, none of them have any knowledge of the complaint against Mr Broinowski.

*Item 5.2.11 Continued*

2. Will the Council do something about cutting back or removing the ground cover ivy in Copley Park because there have been needles in the area, particularly since this crime wave has been on and kids like to run through the ivy?

**Response**

**The Chief Executive Officer advised he was unsure whether there were needles in the reserve, however he would take the question on notice and have the matter investigated.**

3. Could Council have a serious look at and review the cross road situation on the corner of Francisco Street and Armadale Road? I see mothers with prams struggling to get across with cars coming through very quickly. I would ask that Council look at some signage for the area.
4. I would ask that Council reconsider and have a look at the ibis nesting situation. The Town of Victoria Park are destroying the nesting island opposite the Crown Casino and these birds will start moving towards new nesting areas.

**Response**

**The Chief Executive Officer advised that the questions would be taken on notice. The City is aware of some nesting sites and will investigate any impact as a result of what the Town of Victoria Park are doing.**

**Note:**

**The Presiding Member advised that an application to make a submission has been received from Ms Hollands for Item 13.3 on the agenda this evening. Following consideration, and due to Item 13.3 being published as a late item, the Presiding Member advised he will accept the submission.**

**5.2.12 SUBMISSION – MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE**

Ms Hollands spoke in support of the Councillor Motion for Item 13.3 – Notice of Motion to Revoke or Change a Previous Decision of Council – Item 13.2 – Ordinary Council Meeting Held on 26 February 2019.

**8.24pm As there were no further questions, the Presiding Member declared Public Question Time closed and requested that the Governance Officer cease audio recording.**

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

**6.1 ORDINARY COUNCIL MEETING HELD 23 JULY 2019  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

**SEKULLA MOVED, POWELL SECONDED,**

***That the Minutes of the Ordinary Council Meeting held on 23 July 2019 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 AUGUST 2019  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

**BASS MOVED, DAVIS SECONDED,**

***That the Matrix for the Agenda Briefing Forum held on 20 August 2019 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**

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

Nil.

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

Nil.

## 11. REPORTS OF COMMITTEES

### 11.1 STANDING COMMITTEE (AUDIT AND RISK) HELD 22 JULY 2019 (Circulated under separate cover)

#### OFFICER RECOMMENDATION

#### SEKULLA MOVED, ROSSI SECONDED,

*That the Minutes for the Standing Committee (Audit and Risk) meeting held on 22 July 2019 as previously circulated to all Councillors, be received and noted.*

**CARRIED 9 VOTES TO 0**

Note:

Item 13.2 – Notice of Motion (Cr Wolff) – Request for Contribution. This item was brought forward for discussion immediately after Item 11 at the request of the Presiding Member. Refer to page 110.

8.28pm WOLFF MOVED, POWELL SECONDED, *that for the greater convenience of the gallery, Item 13.2 – Notice of Motion (Cr Wolff) – Request for Contribution be brought forward to be considered immediately after Item 11 of this meeting.*

**CARRIED 9 VOTES TO 0**

9.07pm The Principal Governance and Compliance Advisor departed the meeting.

## 12. REPORTS OF ADMINISTRATION

#### WITHDRAWN ITEMS

Item 12.2 was withdrawn at the request of Cr Rossi  
Item 12.6 was withdrawn at the request of Cr Davis

#### DAVIS MOVED, SEKULLA SECONDED,

*That with the exception of Items 12.2 and 12.6, which are to be considered separately, the Officer or Committee Recommendations for Items 12.1, 12.3, 12.4, 12.5, 12.7, 12.8, 12.9, 12.10 and 12.11 be adopted en bloc by an Absolute Majority decision.*

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

**12.1 CHANGE OF USE – SERVICED APARTMENTS TO MULTIPLE DWELLINGS AND GROUPED DWELLINGS – LOT 800 (150) GREAT EASTERN HIGHWAY, ASCOT**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 1 – Item 12.1 refers	<a href="#"><u>Development Application (Report and Plans) – Lot 800 (150) Great Eastern Highway, Ascot</u></a>
Attachment 2 – Item 12.1 refers	<a href="#"><u>Schedule of Submissions – Lot 800 (150) Great Eastern Highway, Ascot</u></a>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001 Development/Subdivision/Strata Applications and Application Correspondence
Location / Property Index	:	Lot 800 (150) Great Eastern Highway, Ascot
Application Index	:	204/2019
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	Element
Owner	:	Various Owners
Responsible Division	:	Development and Communities Division

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

For Council to determine a development application for a change of use from Serviced Apartments to Multiple and Grouped Dwellings, at Lot 800 (150) Great Eastern Highway, Ascot.



*Item 12.1 Continued*

**SUMMARY AND KEY ISSUES**

- The development comprises a total of 73 Strata Lots of which 70 are approved as Serviced Apartments, two as Multiple Dwellings and one for commercial uses (restaurant and function centre). The applicant seeks approval to change 69 units in the serviced apartment complex to 59 multiple dwellings and 10 grouped dwellings, leaving one remaining as a serviced apartment (refer [Attachment 1](#)).
- The applicant seeks Council approval for the proposal with the key elements of the Residential Design Codes assessment being:
  - Parking – Visitor bays
  - Bicycle bays
  - Balconies – Private Open Space
  - Storerooms.
- The units are considered to satisfy the design objectives of the Residential Design Codes.
- It is recommended that Council approve the application subject to conditions.

**LOCATION**

The subject lot is zoned 'Mixed Use' under the City of Belmont's Local Planning Scheme No. 15 (refer Figure 1). It is located along Great Eastern Highway adjacent to Hardey Park which abuts the Swan River. The surrounding development comprises a mix of residential and office development (refer Figure 2).



Figure 1 – Extract LPS 15 – Zoning Map

*Item 12.1 Continued*



Figure 2 – Location Plan (source: Nearmaps)

## **CONSULTATION**

Category C applications are those that need external referrals from third parties and may also require statutory advertising, referral to neighbours or consideration by Council.

The subject change of use application was referred to the Department of Biodiversity, Conservation and Attractions (DBCA) as the property abuts the Swan River foreshore reserve. The DBCA has advised that they have no objection to the proposed change of use.

The proposal was also referred to Main Roads Western Australia (MRWA) and the Department of Planning, Lands and Heritage (DPLH) for comment as the site abuts Great Eastern Highway which is reserved as a 'Primary Regional Road' under the Metropolitan Region Scheme (MRS). MRWA has advised that they have no objections to the subject change of use. At the time of writing this report no response has been received from DPLH.

The application was also referred to all owners and occupiers of the residential and office development at 152 Great Eastern Highway, Ascot (also known as Kulbardi Loop, Ascot) (refer Figure 3). The proposal was advertised for a total of 16 days, from 26 June 2019 to 11 July 2019 inclusive.

*Item 12.1 Continued*

### **Submissions Received**

At the close the submission period, 34 submissions in support of the proposal were received. The submissions in support were from owners of the strata lots the subject of the change of use (i.e. 150 Great Eastern Highway), who are also the applicants of this change of use proposal. These submissions were unsolicited.

Of the 81 letters sent out, a total of 13 objections were received. The objections related to the potential impact on the amenity of the area together with concerns regarding the design of the development with respect to wall thickness and variations to parking, storage, rubbish collection and use of common areas.

The summary of public submissions is provided in [Attachment 2](#) and the relevant issues are discussed in the 'Officer Comment' section below.

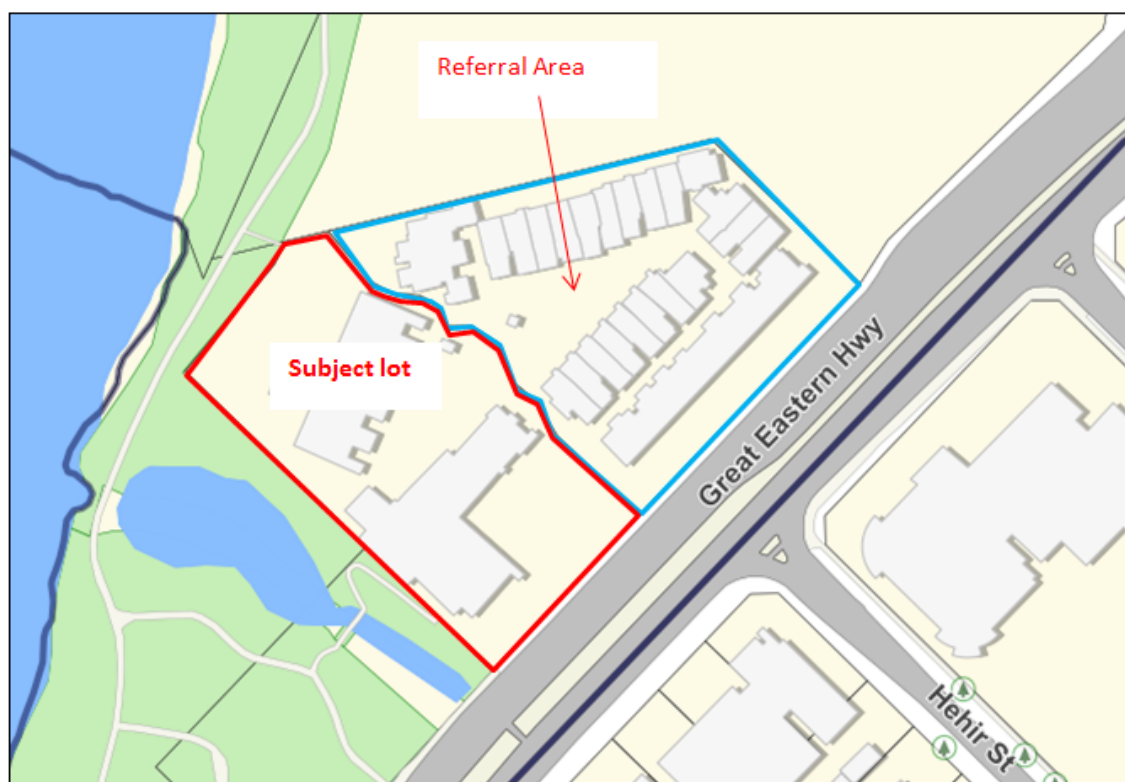


Figure 3 – Referral Area

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

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

*Item 12.1 Continued*

## **POLICY IMPLICATIONS**

### **State Planning Policy 7.3 - (SPP 7.3) – Residential Design Codes Volume 1 and Volume 2**

State Planning Policy 7.3 Residential Design Codes - Volumes 1 and 2 was gazetted on 24 May 2019 and replaced SPP 3.1 Residential Design Codes (2018 R-Codes).

SPP 7.3 Volume 1 provides comprehensive controls for residential development throughout Western Australia for all single houses, all grouped dwellings and for multiple dwellings in areas with a coding of R40 or less. Each application shall be assessed to ensure it satisfies the 'deemed-to-comply' requirements and where variations are proposed, the development shall demonstrate compliance with the relevant 'design principles'.

SPP 7.3 Volume 2 – Apartments provides planning and design standards for residential apartments (multiple dwellings) in areas coded R40 and above, within mixed use development and activity centres. SPP 7.3 Volume 2 is a performance based policy where applications for development approval are required to demonstrate that the design achieves the objectives of each design element. The policy provides 'acceptable outcomes' which an application should address in order to achieve the 'design elements', however proposals may also satisfy the objectives via alternative solutions.

## **STATUTORY ENVIRONMENT**

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

Clause 67 of the Regulations sets out the matters to be considered by the local government when determining an application for development approval. The following matters are considered to be of particular relevance to the subject application:

- “(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) the requirements of orderly and proper planning...;*
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following:*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;*
- (u) the availability and adequacy for the development of the following -*
  - (i) public transport services;*
  - (ii) public utility services;*
  - (iii) storage management and collection of waste;*
  - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
  - (v) access by older people and people with disability;*
  - (y) any submissions received on the application.”*

*Item 12.1 Continued*

**City of Belmont Local Planning Scheme No. 15**

The subject site is zoned 'Mixed Use' under the City of Belmont Local Planning Scheme No. 15 (LPS 15). LPS 15 Clause 5.11 provides site and development standards for the Mixed Use zone. LPS 15 Clause 5.11.6 provides for discretion to vary standards for residential development in the Mixed Use zone, subject to having regard to the criteria set out in Clause 67 of the Regulations.

**Deemed Refusal**

Under Clause 75 of the deemed provisions of the Regulations, an application is 'deemed to be refused' if it is not determined within a 90 day period.

The only exception is where there is a written agreement for a further time between the applicant and the City of Belmont. In this case, there is no written agreement for the statutory time period to be extended.

The deemed refusal date for this application is 11 September 2019. Deemed refusal rights will not arise if the matter is dealt with at the 27 August 2019 Council meeting.

**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>	13 June 2019	<b>Use Class:</b>	Multiple Dwelling and Grouped Dwelling - 'D' discretionary
<b>Lot Area:</b>	8257m <sup>2</sup>	<b>LPS Zoning:</b>	Mixed Use
<b>Estimated Value:</b>	N/A	<b>MRS:</b>	Urban



*Item 12.1 Continued*

**Existing Development**

Planning approval was granted by the Western Australian Planning Commission (WAPC) on 14 November 2000 for a total 154 residential and serviced apartments, a conference facility and a restaurant/café. This approval included development on the adjoining Lot 801 (152) Great Eastern Highway which has since been modified and comprises a mix of residential units (multiple dwellings and two storey grouped dwellings) plus 5 offices.

The subject site contains a total of 72 dwelling units and one commercial unit comprising a restaurant and function centre located on the ground floor (Lot 73). Of the 72 units, 62 are located within the 7 storey tower block with 10 units being a mix of single and two storey dwellings located at the rear of the site. Two of the units within this tower block already have approval for multiple dwelling use (Lots 71 and 72) granted on 19 August 2008 and 6 March 2009.



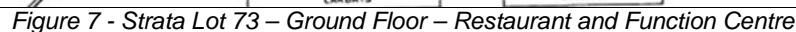
*Figure 4 – Extract Aerial map detailing where units are located on site.*

**Previous Applications**

An application to change Units 17, 18, 33 and 54 to multiple dwellings was refused under delegation by the City on 9 June 2014 (reference no. 505/2013). The reasons for refusal related to:

- The area of the storerooms did not satisfy the requirements of Clause 6.4.6 of State Planning Policy 3.1 - Residential Design Codes.
- The proposal did not provide for adequate bin storage area and rubbish collection arrangements to satisfy Clause 6.4.6 C6.2 of State Planning Policy 3.1 - Residential Design Codes.
- The location of the proposed multiple dwellings was incompatible in the setting of a predominant Serviced Apartment use and is likely to increase conflict between occupants of the different uses, contrary to the objectives of Clause 10.2 (i) and (j) of Local Planning Scheme No. 15; and





- All apartments were built to a standard that allows for permanent habitation.
- The internal layout of all apartments includes kitchens, laundries, bedrooms and suitable living spaces to facilitate permanent residential living.
- The permanent occupation of the apartments has been the long term aspiration of many of the landowners.
- The Strata Company's Council of Owners at its Extraordinary General Meeting held on 29 April 2019 agreed to apply to the City for a change of use to allow for permanent residential occupation of the apartments.



*Item 12.1 Continued*

## **OFFICER COMMENT**

### **Land Use**

The subject lot is zoned 'Mixed Use' under LPS 15, with serviced apartments, multiple dwellings and grouped dwellings being discretionary uses within this zone. The adjacent land uses comprise a mix of residential and office development. On the other side of Great Eastern Highway from the subject site the land is zoned 'Mixed Business' and comprises a mix of office developments up to five stories high.

The property is also located within Precinct 2 of the draft Great Eastern Highway Urban Corridor Strategy which establishes a vision for the Highway (Figure 8). The Strategy addresses matters relating to land use, built form, public realm and access arrangements and provides a series of recommendations for implementing the vision. Great Eastern Highway is an urban transport corridor and the subject site is designated as a landmark site under the draft Strategy. Although the Strategy provides opportunities for future redevelopment, the proposed change of use does not alter the existing built form and the development will remain a highly visible landmark site from both Great Eastern Highway and from the Swan River. The use accords with both the Scheme provisions and the Strategy, and therefore the land use is considered appropriate.

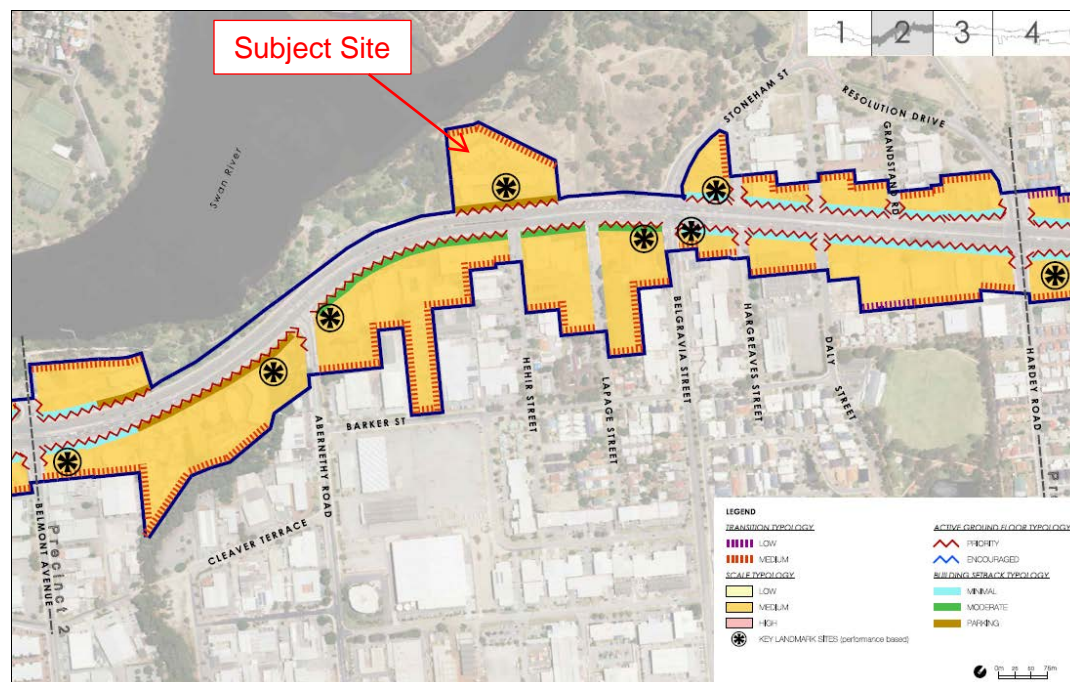


Figure 8 – Extract Great Eastern Highway Urban Corridor Strategy – Precinct 2

### **Tourism Planning Taskforce Report**

In assessing the proposal, the findings of the Tourism Planning Taskforce Report were considered. This report establishes that land use conflict between short stay and permanent residents arises when there is no dominant land use in place. The land use conflicts relate to the territorial nature of permanent residents, with respect to shared facilities, an increased desire for privacy and personalisation of their site/unit.

Accordingly, the Taskforce found that a limited residential component of up to 25% can be included without detriment, provided the overall development remains tourism oriented. Alternatively, up to a 25% short-stay accommodation component can be supported with a 75% residential (multiple dwellings) component being the dominant land use. In this instance the dominant land use will be residential as all but one dwelling is to be residential. As such, it is considered that land use conflict will be unlikely. This accords with the Taskforce recommendations and is therefore supported.

*Item 12.1 Continued*

**Amenity**

The development comprises a range of different apartment sizes with one, two and three bedroom dwellings. This allows for a diverse mix of residents across a wide age range, from singles and couples to families, which provides the opportunity for a diverse but cohesive community. This accords with the objective of the Mixed Use zone, to provide for *“a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads.”*

Concerns were raised in submissions, with respect to the building being designed and constructed for short term tenancy with respect to inadequate kitchen/food preparation areas, laundry facilities, parking, stores, maintenance/repairs and sound proofing. Concerns were also raised with respect to the development providing a lower standard of accommodation. Notwithstanding the comments, it is noted that all the dwellings are provided with a fully equipped kitchen, laundry, bedroom(s), bathroom(s), a lounge/dining area and private open space (balcony). In addition, each dwelling has been allocated car bay and a storeroom which is further addressed under the Residential Design Codes section below. In regard to any social impacts, it is not considered that changing from a transient short term use to a permanent residential one will have any adverse effect. Long term residents are generally more conscious of the expected behavioural norms, and would have an interest in maintaining an amicable relationship with their neighbours.

Concerns were also raised regarding maintenance and that the change of use will degrade the amenity of the complex and surrounding area. Property maintenance of all common areas including the gardens and pool is the responsibility of the Strata Company. There is no reason to believe that maintenance will not be carried out to an appropriate standard.

**Building Classification**

Concerns were raised in submissions regarding the built structure with respect to thickness of the walls between the dwellings and potential noise issues that may result. All activities are required to comply with the *Environmental Protection (Noise) Regulations 1997*. In regard to any structural requirements, the City's Building Services have advised that should Council approve the subject change of use, a change of classification for each of the affected dwellings from a Class 3 to a Class 2 will be required.

A change of classification would require an appointed private Building Surveyor to make an assessment of the existing sound transmission against the requirements of the proposed new Classification as prescribed in either the *NCC Building Code of Australia 2016 Volume One (Amendment One)* or the *NCC Building Code of Australia 2019 Volume One*. Given the above, if approved by Council, the applicant would be advised of the Building Code of Australia requirements and any noise attenuation measures required to ensure compliance with Building Code standards would need to be implemented at that stage.

*Item 12.1 Continued*

**State Planning Policy 7.3 (SPP 7.3) Residential Design Codes Volume 1 and Volume 2.**

***Car and Bicycle Parking***

There are a total of 123 bays provided on site of which 33 bays are allocated to the restaurant and function room, 80 bays are allocated to the individual strata dwellings, plus 10 visitor bays.

The proposal has been assessed in accordance with the Element Objectives of SPP 7.3 Volume 2 Clause 3.9 for Car and Bicycle Parking, which are as follows:

- “3.9.1 Parking and facilities are provided for cyclists and other modes of transport.*
- 3.9.2 Car parking provision is appropriate to the location, with reduced provision possible in areas that are highly walkable and/or have good public transport or cycle networks and/or are close to employment centres.*
- 3.9.3 Car parking is designed to be safe and accessible.*
- 3.9.4 The design and location of car parking minimises negative visual and environmental impacts on amenity and the streetscape.”*

The subject site is designated as ‘Location A’ being within 250 metres of a high-frequency bus route and therefore parking is calculated at 0.75 bays per single bedroom dwelling and 1 bay per two or more bedroom dwellings. This means a total of 64 bays are required to be provided, with a total of 80 bays provided for the residential component. Each dwelling is allocated at least one car parking space with some dwellings having two parking spaces and therefore the development meets the Element Objectives. It should also be noted that in the basement parking area, some car bays are wider and are marked as disabled bays. These bays are allocated to Strata Lots 12, 13, 20 and 32 as these dwellings are designed for people with disabilities. No change to the car parking layout is proposed.

***Visitor Parking***

In regard to visitor parking, SPP 7.3 Table 3.9 provides an ‘Acceptable Outcome’ of 1 bay per four dwellings up to 12 dwellings and 1 bay per eight dwellings for the 13<sup>th</sup> dwelling and above. This means a total of 10.5 visitor bays are required with a total of 10 visitor bays provided on site. Given that some dwellings have two car bays allocated, and parking provided on site exceeds the requirement under SPP 7.3, this is considered to be consistent with the Element Objectives.

Visitor parking is preferably located in an area that is visible from the main driveway and accessible from the primary entry. In this instance, the allocated visitor parking is located behind the main building, central to the development. As a result, it is recommended that a condition be included requiring directional signage to the visitor car parking area to be provided. It is considered that this will allow for differentiation between visitor and resident parking and will assist with wayfinding for visitors to the site.

***Motorcycle Parking***

SPP 7.3 also requires the provision of motorcycle/motor scooter parking for developments above 20 dwellings at 1 motorcycle/scooter bay for every 10 car bays. Given a total of 64 bays are required; a new development would require a total of 6.4 motorcycle/scooter bays to be provided. However SPP 7.3 also states for each five motorcycle/scooter parking bays provided, car parking bays may be reduced by one bay. In this instance, one motorcycle/scooter bay is provided. Given the additional parking bays provided on site, this is considered to meet the Element Objectives with respect to proximity to pedestrian, cycle networks and public transport.

*Item 12.1 Continued*

**Bicycle Parking**

SPP 7.3 Table 3.9 states that 0.5 bicycle spaces per dwelling are required with 1 visitor bicycle space per 10 dwellings. Accordingly, a total of 35.5 bicycle bays for the residents plus 7.1 visitor bicycle bays are required to be provided. The applicant has confirmed that bike hooks are to be provided in each individual storeroom. In addition, two bike hooks are to be provided in each common storage area located on Levels 1 to 5 as well as eight bike racks to be provided within the gym area. The gym is directly accessible from upper levels by the lifts and from the basement car parking level via the lift lobby. Use and management of the racks within the gym shall be the responsibility of the Strata Company.

The City's Travel Smart Officer has advised that a variety of rack styles are required as not all bikes can be suitably hung. For example, electric bikes cannot be lifted easily. In addition, not all owners may require a bike hook in their storeroom. While the number of bike bays is compliant, it is recommended that the bicycle bays are located at the gym and near the entry provide for parking of different types of bicycles (eg: electric bikes) to the satisfaction of the City's Travel Smart Officer.

It is noted that concerns were raised regarding the lack of parking bays being a potential safety hazard. Given the number of car bays provided on site exceeds the minimum standards, there is no basis to consider that a lack of parking will impact on safety.

In summary, the proposal meets the objectives of SPP 7.3 Clause 3.9 with respect to location as well as being safe and accessible. The majority of residential parking is located in the basement area with visitor bays located adjacent to the grouped dwellings and are clearly marked. This parking layout is considered to minimise any negative visual impacts on the amenity of the surrounding development when viewed from both Great Eastern Highway and the foreshore reserve and is therefore supported.

**Storage**

The proposal has been assessed in accordance with the Element Objectives of SPP 7.3 Volume 2 Clause 4.6 which states:

*"4.6.1 Well-designed, functional and conveniently located storage is provided for each dwelling."*

In accordance with SPP 7.3 Table 4.6, the size of the storeroom required depends on the size of the dwelling i.e.

- a one bedroom dwelling requires a 3m<sup>2</sup> storeroom;
- a two bedroom dwelling requires a 4m<sup>2</sup> storeroom and
- a three bedroom dwelling requires a 5m<sup>2</sup> storeroom, each with a minimum dimension of 1.5 metres and a minimum height dimension of 2.1 metres.

Each dwelling is provided with a storeroom, however the majority of storerooms only measure 2m<sup>2</sup> in area which was the required area for serviced apartments at the time of the approval (2000). The storerooms are located adjacent but separate to each dwelling with access from the walkway which provides convenient access and is considered to be a well-integrated design.

Item 12.1 Continued



Figure 9 – Storerooms located adjacent to the walkway on all levels with photos showing internal layout.

There is also an existing storage outbuilding on site located adjacent to the visitor bays. This measures approximately 12m<sup>2</sup> in area, and is to be for common use, managed by the Strata Company, for storage of bulky items on a short term basis. It is envisaged that this could be used for storage of furniture items where owners are replacing/updating furniture and require short term storage until they are disposed of and/or sold.



Figure 10 – Existing communal storeroom.

The applicant has also advised that in terms of disposal of bulky items, there is an area allocated for external waste disposal (Refer Figure 14 showing external bin store below). Any disused items could be stored in this area for disposal and would also be managed by the Strata Company.

In summary, although the floor area of the stores to some of the dwellings is less than the Acceptable Outcomes outlined in SPP 7.3, the internal height of the stores exceeds the minimum requirement and together with shelving is considered to be functional. In addition, a small communal storage area is provided as well as an area to store bulky goods for disposal. Given the above, it is considered that the individual stores satisfy the Element Objective to provide functional storage in close proximity to each dwelling and can therefore be supported.



*Item 12.1 Continued*

**Communal Open Space**

The proposal has been assessed in accordance with the Element Objectives of SPP 7.3 Volume 2 Clause 3.4 which state:

- “3.4.1 Provision of quality communal open space that enhances residential amenity and provides opportunities for landscaping, tree retention and deep soil areas.*
- 3.4.2 Communal open space is safe, universally accessible and provides a high level of amenity for residents.*
- 3.4.3 Communal open space is designed and orientated to minimise impacts on the habitable rooms and private open space within the site and of neighbouring properties.”*

The site includes an existing pool area with landscaped garden areas and access to the Swan River foreshore reserve. Concerns were raised by the adjoining owners regarding the impact that the change of use to a permanent residential use would have in relation to social impact and on-going maintenance.

It is noted that there are multiple easements between 150 and 152 Great Eastern Highway for recreational, footway, access and drainage easements which provide communal access from Great Eastern Highway as well as having dual access to the communal pool area and path to the foreshore reserve. It is considered that the subject change of use would not have any detrimental impact on the use or management of the communal open space located on the subject site. In addition, maintenance of all common areas including the gardens and pool area is the responsibility of the Strata Company who employs a permanent cleaner/maintenance person. It is considered that the proposed change of use would not have a detrimental impact on either property.



Figure 11 – Communal Open Space – pool and garden area with access and views to Swan River foreshore reserve.

*Item 12.1 Continued*

**Private Open Space**

The proposal has been assessed in accordance with the element objectives of SPP 7.3 Volume 2 Clause 4.4 relating to:

- “4.4.1 Dwellings have good access to appropriately sized private open space that enhances residential amenity.*
- 4.4.2 Private open space is sited, orientated and designed to enhance liveability for residents.*
- 4.4.3 Private open space and balconies are integrated into the overall architectural form and detail of the building.”*

In accordance with SPP 7.3 Volume 2 Table 4.4, the minimum size and minimum dimension of private open space depends on the dwelling type i.e.

- a one bedroom dwelling requires 8m<sup>2</sup> with a 2 metre minimum dimension;
- a two bedroom dwelling 10m<sup>2</sup> with a 2.4 metre minimum dimension; and
- a 3 bedroom dwelling 12m<sup>2</sup> with a 3 metre minimum dimension.

A total of 31 balconies/courtyards meet the above requirements of Table 4.4, with the remaining balconies being either slightly smaller in area or width (i.e. by no more than 1m<sup>2</sup> or 2m<sup>2</sup> or measuring 1.8m wide instead of 2m wide). All the proposed multiple dwellings have access to a private balcony. The grouped dwellings are provided with a private fenced courtyard. These private open spaces are considered to be of a useable size which augments the internal living areas. The balconies are integrated into the overall built form and enhances the liveability of the dwellings. Given the above, it is considered that the balconies accord with the Element Objectives.



*Figure 12 – Existing Balconies.*

**Waste Management**

The City is required to provide a waste service for all residential dwellings. Currently, waste is collected by a private contractor, as serviced apartments are a commercial business. The City's waste contractor, Suez, confirmed that a waste collection service for the site can be provided using an 8.5 metre long truck to access bin stores, remove, empty and return the bins.

*Item 12.1 Continued*

In accordance with the City's Policy BEXB24, residential sites are given a 70% reduction in bin service. This means that for the 72 dwellings, 51 full services are required. The Waste Management Plan provides for 9 x 660L bins (being serviced on Monday and Friday) with 5 x 1100L recycle bins (being serviced once a week). By providing a recycling collection once a week, rather than fortnightly, the number of bins stored on site will be reduced. Should Council determine to approve the change of use, a condition has been included requiring the ongoing implementation of the approved Waste Management Plan.

It should also be noted that as part of the management of the complex, there is a waste and a recycle bin provided on each level. These bins are collected at each level by the cleaner/maintenance person employed by the Strata Management who then deposits the waste in the bin store area (refer Figures 13 and 14 below).



Figure 13 - Rubbish bin and recycle bin located on each level for residents use.



Figure 14 – Bin store areas.

Strata Lot 42 is excluded from this change of use application and therefore is to remain as a serviced apartment. Serviced apartments are designated as a commercial use and therefore the City is not required to provide a waste collection service. As the City is required to provide a waste service for all residential dwellings, and as only this one dwelling is to remain as a serviced apartment, it is considered reasonable for the City to include Strata Lot 42 in the waste service provided on site. The City's charges for waste collection services will be consistent among the units within the complex in this case.



*Item 12.1 Continued*

The owner of this lot should however be advised that a single 3m<sup>3</sup> bulk bin service for their bulky waste items would not be provided and they would need to utilise the bi-annual residential bulk bin system. Accordingly, twice a year a bulk waste collection service will be provided by Suez to the subject site. The bulk bin location for this service is shown in Figure 10 above.

While this is considered the most practical arrangement to cater for waste management over multiple dwellings as well as service apartment unit, the owner of Strata Lot 42 may choose to engage a private waste collection contractor to provide a service. If so, the strata owners will need to submit an amended waste management plan that satisfactorily addresses the waste collection needs of the serviced apartment in a manner that does not impact on the multiple dwellings.

### **Conclusion**

The City received a total of 47 submissions, 13 of which were objections to the proposal. The majority of the objections related to negative impacts on amenity, building design with respect to noise, parking and access provision, open space provision (both communal and private) including maintenance, storage and waste collection. Further comments related to the current market and effect on property values both of which are not valid planning considerations. In terms of noise, all activities are required to comply with the *Environmental Protection (Noise) Regulations 1997*. In addition, the requirement for the premises to change from a Class 3 to a Class 2 will result in any building issues arising being addressed to ensure the premises complies with the Building Code of Australia.

In regard to access and parking, it is not considered that changing from serviced apartments to residential (short term to long term accommodation) will have a detrimental impact on the adjoining property at 152 Great Eastern Highway, as the number of dwellings remains unchanged. In addition, any variations have been assessed and are considered to comply with the relevant objectives of SPP 7.3 with respect to parking, storerooms and both communal and private open space.

In conclusion, the existing development has been assessed in accordance with LPS 15 provisions as well as State Planning Policy 7.3 Volumes 1 and 2, which was gazetted on 24 May 2019. It is considered that the subject change of use, accords with all relevant objectives of this relevant legislation and will not have a detrimental impact on the amenity of the area. Accordingly, it is recommended that the application be approved.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

*Item 12.1 Continued*

**OFFICER RECOMMENDATION**

**That Council:**

- A. Approve planning application 204/2019 as detailed in plans dated 24 May 2019 submitted by Element on behalf of the Strata Company of Owners of Strata Lots 1–10, 12-41 and 43–70, known as ‘Ascot Quays’ located at Lot 800 (No 150) Great Eastern Highway, Ascot for a Change of Use from 69 Serviced Apartments to 59 Multiple Dwellings and 10 Grouped Dwellings subject to the following conditions:**
- 1. Development/land use shall be in accordance with the attached approved plan(s) dated 24 May 2019 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’s Manager Planning Services.**
  - 2. A bicycle parking plan confirming the location of a variety of rack styles provided on site (in storerooms, the gym and near the entry) is to be submitted and installed for the course of the development to the specifications contained within the City’s Supplementary Planning Guidelines for End of Trip Facilities, to the satisfaction of the City’s TravelSmart Officer.**
  - 3. The existing storage outbuilding located on site adjacent to the visitor bays shall be fully enclosed. The Strata Company shall maintain and manage the outbuilding and make it available for common use by residents on a short term basis.**
  - 4. Prior to the commencement of the use, the approved Waste Management Plan for the site shall be implemented to the satisfaction of the City’s Manager Works.**
  - 5. Prior to the commencement of the use, directional signage to visitor car parking areas shall be provided, and visitor bays marked ‘visitor parking’ to the satisfaction of the City’s Manager Planning Services.**
- B. Write to the owner of Strata Lot 42 advising that:**
- 1. The City’s charges for a waste collection service as consistent with the multiple dwelling units in the complex will apply to Strata Lot 42.**
  - 2. A single 3m<sup>3</sup> bulk bin service for their bulky waste items would not be provided and they would need to utilise the bi-annual residential bulk bin system.**
  - 3. An amended waste management plan that satisfactorily addresses the waste collection needs of the serviced apartment in a manner that does not impact on the multiple dwellings must be submitted for approval by the City.**

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

**12.2 CHANGE OF USE – SINGLE HOUSE AND ANCILLARY DWELLING TO COMMUNITY HOME AT LOT 34 (227) DALY STREET, BELMONT**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 3 – Item 12.2 refers</b>	<a href="#"><u>Development Application Plans – Lot 34 (227) Daly Street, Belmont</u></a>
<b>Attachment 4 – Item 12.2 refers</b>	<a href="#"><u>Submission Table – Lot 34 (227) Daly Street, Belmont</u></a>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001 Development/Subdivision/Strata Applications and Application Correspondence
Location / Property Index	:	Lot 34 (227) Daly Street, Belmont
Application Index	:	76/2019
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	J E Nerney
Owner	:	J E Nerney
Responsible Division	:	Development and Communities Division

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

For Council to determine a development application for a Change of Use from a 'Single House' and 'Ancillary Dwelling' to a 'Community Home' at Lot 34 (227) Daly Street, Belmont (refer to [Attachment 3](#)).

**SUMMARY AND KEY ISSUES**

- The applicant seeks approval for a change of use from a 'Single House' and 'Ancillary Dwelling' to a 'Community Home' at Lot 34 (227) Daly Street, Belmont, for tenants with disabilities.
- The application was advertised to eleven surrounding properties and three submissions were received objecting to the proposal.
- The proposed 'Community Home' is consistent with the objectives of the Residential zone. It is considered that concerns raised through public advertising can be addressed via measures within the Management Plan.
- It is recommended that Council approve the application subject to conditions.

*Item 12.2 Continued*

**LOCATION**

The subject site is located within an established residential area in Belmont (refer Figure 1). The site is 761m<sup>2</sup> in area and contains a single house with an ancillary dwelling at the rear. The surrounding development comprises a mix of single and grouped dwellings, the majority being single storey (refer Figure 2).

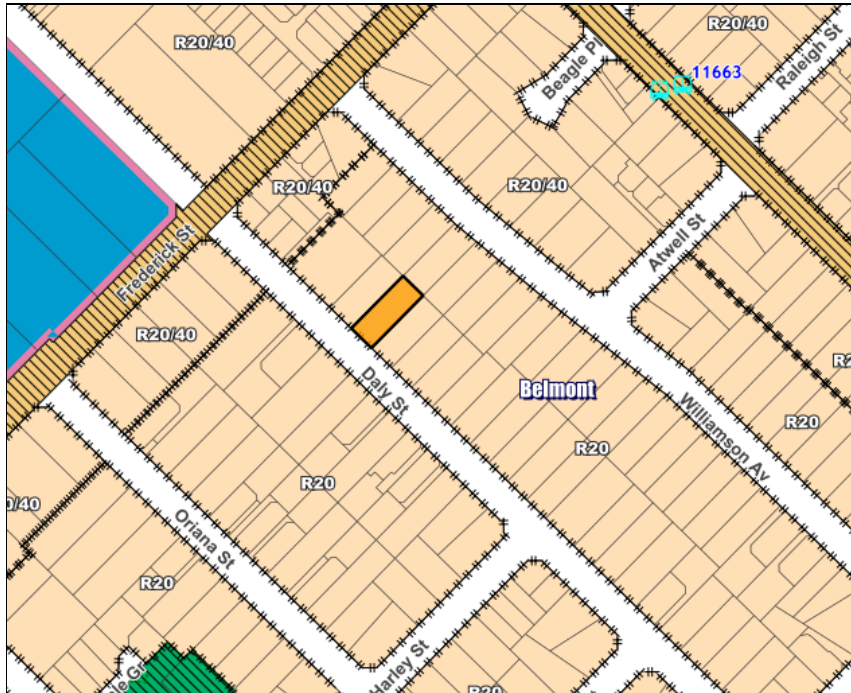


Figure 1 – Extract Local Planning Scheme No. 15 – Zoning Map



Figure 2 – Aerial Photo (source: Nearmaps)



*Item 12.2 Continued*

## **CONSULTATION**

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

To assist in determining the potential impact of the proposed 'Community Home', the proposal was advertised to surrounding properties for 16 days from 3 April 2019 to 18 April 2019 inclusive (refer Figure 3).

Following advertising, further information regarding the operation of the 'Community Home' was requested from the applicant in order to address certain matters raised in the submissions. This has resulted in the delay in the application being referred to Council for determination.



Figure 3 – Referral Area (owner and occupiers)

Letters were sent to owners and occupiers of the surrounding properties (Figure 3). A total of 3 submissions were received, all of which were objections.

The main concerns raised in the submissions are as follows:

- Noise;
- Vehicles associated with the premises;
- Safety; and
- Impact on Amenity.

A table detailing the issues raised and the corresponding Officer comment is included in [Attachment 4](#). The main issues raised are also discussed further in the Officer Comments section below.

*Item 12.2 Continued*

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the Strategic Community Plan Key Result Area:

### **Built Belmont**

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

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

**Corporate Key Action:** Implement LPS 15

### **Social Belmont**

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

**Strategy:** Council to adopt a 'whole of community' inclusive approach emphasising the intrinsic value of committing time and resources to relationships building amongst the City and the community.

**Corporate Key Action:** Continue to develop and enhance ongoing sustainable partnerships with service providers and key local stakeholders to address the needs of the local community.

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

## **STATUTORY ENVIRONMENT**

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

Clause 67 of the *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 relationship of the development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including:*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;*
- (s) the adequacy of:*
  - (i) the proposed means of access to and egress from the site; and*
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles.*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety; and*
- (y) any submissions received on the application.”*

*Item 12.2 Continued*

**City of Belmont Local Planning Scheme No. 15**

The subject lot is zoned 'Residential (R20)' under the City of Belmont Local Planning Scheme No. 15 (LPS 15). Under Table 1 – Zoning Table, a 'Community Home' is designated as a 'D' use which means the use is not permitted unless the local government has granted planning approval.

LPS 15 Clause 1.6 states the aims of the Scheme, which include:

- (b) To ensure there is a sufficient supply of serviced and suitable land for housing, employment, commercial activities, community facilities, recreation and open space;
- (c) To provide for housing choice and variety in neighbourhoods with a community identity and high levels of amenity:

LPS 15 Clause 5.5 allows the City to consider variations to site and development standards and requirements.

**Deemed Refusal**

Schedule 2, Clause 75 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* states that an application is 'deemed to be refused' if it is not determined within a 90 day period. The only exception is where there is a written agreement for a further time between the applicant and the City of Belmont.

The deemed refusal date for this application passed on 6 June 2019 and the applicant already has deemed refusal rights.

**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>	8 March 2019	<b>Use Class:</b>	Community Home - 'D' use
<b>Lot Area:</b>	761m <sup>2</sup>	<b>LPS Zoning:</b>	Residential R20
<b>Estimated Value:</b>	Nil	<b>MRS:</b>	Urban

**History**

Council records show that a building permit was granted in 1959 for the existing dwelling. In January 2014, the City granted approval for an 'Ancillary Dwelling' comprising two bedrooms.

**Land Use**

In November 2018, following complaints received regarding the use of the property, it came to the City's attention that the subject site was being utilised as a 'Community Home', which LPS 15 defines as follows:

*"means a building used primarily for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and by a constituted community based organisation, a recognised voluntary, charitable or religious organisation, a government department or an agency or instrumentality of the State or a local government body"*

As no approval has previously been granted for the 'Community Home' use, the applicant has submitted the subject application to address this matter.

*Item 12.2 Continued*

**Land Use**

In November 2018, following complaints received regarding the use of the property, it came to the City's attention that the subject site was being utilised as a 'Community Home', which LPS 15 defines as follows:

*"means a building used primarily for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care and by a constituted community based organisation, a recognised voluntary, charitable or religious organisation, a government department or an agency or instrumentality of the State or a local government body"*

As no approval has previously been granted for the 'Community Home' use, the applicant has submitted the subject application to address this matter.

**Proposal**

The subject property is operated by Uniting Care West, a community services agency which sublets the property to tenants with disabilities. Uniting Care West carers provide recreational care, meal preparation and cleaning depending on the individual needs of the tenants. The applicant advised that there will be a maximum of four tenants with one carer staying overnight. One tenant will reside in the ancillary dwelling with a maximum of three tenants plus one carer residing in the front dwelling (refer [Attachment 3](#)). The front dwelling comprises three bedrooms (located at the rear of the dwelling) with an office and store, plus kitchen and living areas located at the front of the dwelling. The ancillary dwelling contains two bedrooms however one is used as a dressing room.

**OFFICER COMMENT**

**Amenity**

A total of three submissions raised concerns regarding noise, traffic and parking and the safety and wellbeing of the surrounding residents.

With respect to noise, activities at the premises are required to comply with the provisions of the *Environmental Protection (Noise) Regulations 1997*. Should the application be supported this requirement would be included as a standard advice note.

It is noted that there were past episodes where the behaviour of a previous tenant upset the neighbours. While the care provider has management measures to deal with such situations, that tenant has since been relocated to another home.

The submissions also raised concerns regarding the impact on the character and amenity of the locality. However, it is considered that potential impacts of the use of the premises on the wider community can be controlled via the implementation of a Management Plan.

The preparation and implementation of a Management Plan is intended to mitigate amenity impacts and will be required as a condition in the event of a planning approval, providing details on:

- Management practices to be carried out by the care agency and their employees, to ensure activities do not cause nuisance or impact on the amenity of the locality.
- Complaints management procedures, including a requirement to maintain a complaints register and the measures to be taken to address any complaints. The register will be required to be submitted to officers for inspection upon request; and
- Direct contact details (both phone numbers and email addresses) of key personnel/ carers in order for adjoining neighbours to convey any concerns or complaints.



*Item 12.2 Continued*

Breaches of the measures contained within the Management Plan would constitute a breach of planning approval and compliance action can be taken by the City. Neighbours can contact the City if they have concerns that the property is not being appropriately managed.

**Parking**

Concerns were raised regarding the number of vehicles associated with the 'Community Home' parking on the street and causing damage to adjoining front lawns and crossovers. LPS 15 Table 2 – Car Parking Requirements states that for a 'Community Home' one space per employee or staff member plus one space for every three beds is required. This results in a total of four bays to be provided on site - two bays for the four tenants plus two bays for the carers.

The applicant's parking proposal shows two cars in the carport and one on the front lawn adjacent to the carport (refer Figure 4 below). The use of the front lawn area for formal parking is not supported, as possible damage to the City's existing stormwater infrastructure may result from vehicles accessing and egressing the lawn area.

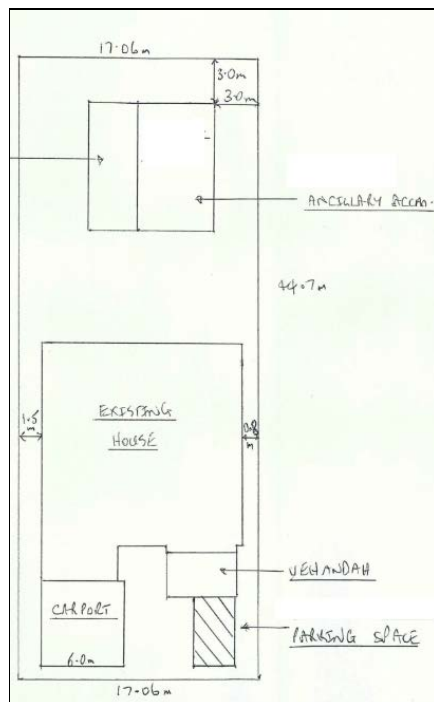


Figure 4 – Site Plan

It is noted that two vehicles can park on site within the carport and two vehicles can park within the driveway. As shown in Figure 5 below, the driveway is located outside the property, within the road reserve. Given that the footpath is located on the opposite side of the road, the use of the driveway for parking will not impact on pedestrian activity.

Vehicle access for the adjoining dwellings is also located away from the subject driveway and therefore sightlines are not impeded. In this instance, the use of the driveway for informal parking is supported as it will not have a detrimental effect on the surrounding properties.

*Item 12.2 Continued*



*Figure 5 – Aerial photography showing room for two vehicles on driveway (Source - Nearmaps)*

### **Conclusion**

The proposed use of the premises is considered to be consistent with the objectives, purpose and intent of the Residential zone use and will provide accommodation for a specific group of people in need. The concerns raised through public advertising are noted, however it is considered that implementation of a Management Plan, detailing management practices to be employed by the care agency, will mitigate any negative impacts and will protect the amenity of surrounding residents. Accordingly it is recommended that conditional approval be granted.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

### **SOCIAL IMPLICATIONS**

Approval of the application will ensure the Community Home continues to operate and provide a community service within the City.

*Item 12.2 Continued*

**OFFICER RECOMMENDATION**

That Council:

- A. Approve planning application 76/2019 as detailed in plans dated 27 February 2019 submitted by the owner J.E. Nerney for a Community Home at Lot 34 (No 227) Daly Street, Belmont subject to the following conditions/reasons:
1. Development/land use shall be in accordance with the attached approved plan(s) dated 27 February 2019 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's Manager Planning Services.
  2. No more than 4 tenants and 2 carers are permitted on the property at any one time.
  3. Within 30 days of this approval, the landowner shall prepare a Management Plan, detailing the following, to the satisfaction of the City's Manager Planning Services:
    - Management practices to be carried out by the care agency and their employees, to ensure activities do not cause nuisance or impact on the amenity of the locality.
    - Complaints management procedures, including the preparation and maintenance of a complaints register and the measures to be taken to address any complaints. The register will be required to be made available for inspection by the City upon request; and
    - Direct contact details (both phone numbers and email addresses) of key personnel / carers in order for adjoining neighbours to convey any concerns or complaints.
  4. The care agency shall implement the approved Management Plan (as well as any subsequently updated and approved versions of the Management Plan) to the satisfaction of the City's Manager Planning Services.
  5. Within 12 months of this approval, the care agency shall review and update the management plan to reasonably address any complaints, to the satisfaction of the City's Manager Planning Services.
- B. Write to adjoining landowners and occupiers:
1. Advising them of Council's decision.
  2. Advise adjoining landowners and occupiers that they may report any concerns from the subject premises relating to any disruption to the amenity of the surrounding area to the City's Planning Department.

*Item 12.2 Continued*

**AMENDED OFFICER RECOMMENDATION**

That Council:

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  2. No more than 4 tenants and 2 carers are permitted on the property at any one time.
  3. Within 30 days of this approval, the landowner shall prepare a Management Plan, detailing the following, to the satisfaction of the City's Manager Planning Services:
    - Management practices to be carried out by the care agency and their employees, to ensure activities do not cause nuisance or impact on the amenity of the locality.
    - Complaints management procedures, including the preparation and maintenance of a complaints register and the measures to be taken to address any complaints. The register will be required to be made available for inspection by the City upon request; and
    - Direct contact details (both phone numbers and email addresses) of key personnel / carers in order for submitters and adjoining neighbours to convey any concerns or complaints.
  4. The care agency shall implement the approved Management Plan (as well as any subsequently updated and approved versions of the Management Plan) to the satisfaction of the City's Manager Planning Services.
  5. Within 12 months of this approval, the care agency shall review and update the management plan to reasonably address any complaints, to the satisfaction of the City's Manager Planning Services.
- B. Write to adjoining landowners and occupiers:
1. Advising them of Council's decision.
  2. Advise submitters, adjoining landowners and occupiers that they may report any concerns from the subject premises relating to any disruption to the amenity of the surrounding area to the City's Planning Department.

**9.09pm The Principal Governance and Compliance Advisor returned to the meeting.**

**9.11pm The A/Coordinator Marketing and Communications departed the meeting and did not return.**

*Item 12.2 Continued*

**Note:**

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

**ALTERNATIVE COUNCILLOR MOTION**

**ROSSI MOVED, POWELL SECONDED,**

**That Council:**

- A. Approve planning application 76/2019 as detailed in plans dated 27 February 2019 submitted by the owner J.E. Nerney for a Community Home at Lot 34 (No 227) Daly Street, Belmont subject to the following conditions/reasons:**
- 1. Development/land use shall be in accordance with the attached approved plan(s) dated 27 February 2019 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's Manager Planning Services.**
  - 2. No more than 4 tenants and 2 carers are permitted on the property at any one time.**
  - 3. Within 30 days of this approval, the landowner shall prepare a Management Plan, detailing the following, to the satisfaction of the City's Manager Planning Services:**
    - Management practices to be carried out by the care agency and their employees, to ensure activities do not cause nuisance or impact on the amenity of the locality.**
    - Complaints management procedures, including the preparation and maintenance of a complaints register and the measures to be taken to address any complaints. The register will be required to be made available for inspection by the City upon request; and**
    - Direct contact details (both phone numbers and email addresses) of key personnel/carers in order for surrounding neighbours (212, 216, 216A, 218, 222, 224, 224A, 226, 221A, 221B, 221C, 225, 229, 231 Daly Street, and 8, 10, 12, 14, 16 Williamson Avenue) to convey any concerns or complaints.**
  - 4. The care agency shall implement the approved Management Plan (as well as any subsequently updated and approved versions of the Management Plan) to the satisfaction of the City's Manager Planning Services.**
  - 5. Within 12 months of this approval, the care agency shall review and update the management plan to reasonably address any complaints, to the satisfaction of the City's Manager Planning Services.**

*Item 12.2 Continued*

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

- 1. Advising them of Council's decision.**
- 2. Advise surrounding landowners and occupiers (212, 216, 216A, 218, 222, 224, 224A, 226, 221A, 221B, 221C, 225, 229, 231 Daly Street, and 8, 10, 12, 14, 16 Williamson Avenue) that they may report any concerns from the subject premises relating to any disruption to the amenity of the surrounding area to the City's Planning Department.**

**CARRIED 9 VOTES TO 0**

**Reason:**

It is noted that two of the submissions received were from properties outside the referral area. It is proposed to increase the notification area to include these properties. The change will ensure that a greater number of properties are provided with direct contact details of the Community Home operator should any concerns arise in the future.

**12.3 MODIFICATIONS TO EXISTING CHILD CARE PREMISES AT LOT 45 (50) PEARL ROAD, CLOVERDALE**

**BUILT BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 5 – Item 12.3 refers	<a href="#">Development Application Plans – Lot 45 (50) Pearl Road, Cloverdale</a>
Attachment 6 – Item 12.3 refers	<a href="#">Parking Management Plan – Lot 45 (50) Pearl Road, Cloverdale</a>
Attachment 7 – Item 12.3 refers	<a href="#">Planning Development Committee Minutes 7/11/1994</a>
Attachment 8 – Item 12.3 refers	<a href="#">Copy of Original Approval Granted 25/11/1994</a>

Voting Requirement	:	Simple Majority
Subject Index	:	115/001 Development/Subdivision/Strata Applications and Application Correspondence
Location / Property Index	:	Lot 45 (50) Pearl Road, Cloverdale
Application Index	:	42/2019/DA
Disclosure of any Interest	:	Nil
Previous Items	:	Item 7.5 OCM 14 November 1994
Applicant	:	F Krishnan
Owner	:	Austro Asia Activities Pty Ltd
Responsible Division	:	Development and Communities Division

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

For Council to determine a retrospective development application for modifications to an existing 'Child Care Premises' at Lot 45 (50) Pearl Road, Cloverdale. The applicant seeks approval to utilise an existing outbuilding as a classroom and to increase the number of children on-site at any one time from 40 to 46.



*Item 12.3 Continued*

**SUMMARY AND KEY ISSUES**

- The applicant seeks approval to increase the number of children cared for at the premises from 40 to 46 and to change the use of an existing approved outbuilding to a classroom use ([Attachment 5](#)).
- The applicant also seeks to modify the on-site parking layout to accord with current standards and for Council to endorse a parking variation on site. In support of this variation the applicant has provided a Parking Management Plan ([Attachment 6](#)).
- The modifications to the existing Child Care Premises are not considered to prejudice the amenity of the locality. The outbuilding has been utilised as a classroom for several years with no complaints raised by surrounding residents relating to traffic or noise.
- It is recommended that Council approve the application, subject to conditions.

**LOCATION**

The subject site is located within an established residential area in Cloverdale (refer Figure 1). The site is 1090m<sup>2</sup> in area and contains the Child Care Premises, the subject outbuilding plus a number of patios and shade structures. The surrounding development comprises a mix of both single and grouped dwellings, all single storey (refer Figure 2).

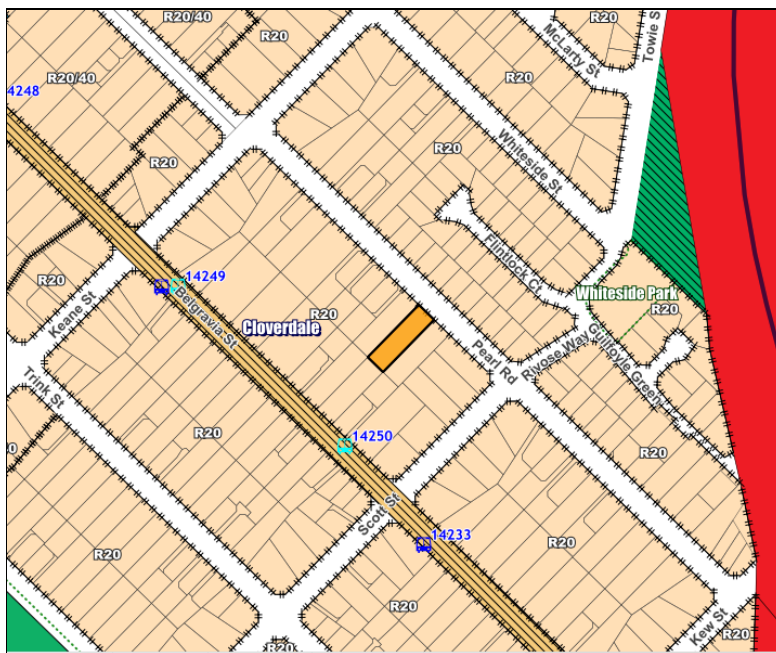


Figure 1 – Extract Local Planning Scheme No. 15 – Zoning Map



*Item 12.3 Continued*

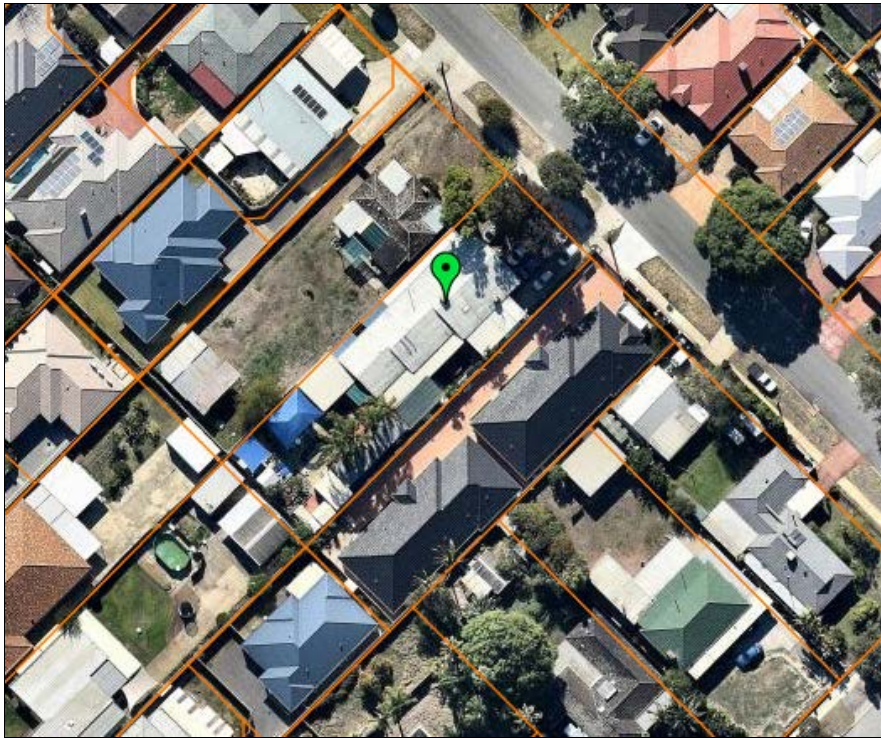


Figure 2 – Aerial Photo (source: Nearmaps)

## **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 proposal was referred to six surrounding properties for comment as a Child Care Premises is designated as an 'A' use in the Residential zone which means that it is required to be advertised prior to a determination being made. The proposal was advertised for 16 days from 6 March 2019 to 21 March 2019 inclusive (refer Figure 3). No comments were received. Additional information regarding parking arrangements was required from the applicant, hence the delay in the application being referred to Council for determination.

*Item 12.3 Continued*



Figure 3 – Referral Area (owners and occupiers)

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

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

### **POLICY IMPLICATIONS**

#### **Local Planning Policy No. 9 – Child Care – Child Care Premises and Child Family Day Care**

Local Planning Policy No. 9 (LPP 9) was adopted when Local Planning Scheme No. 15 was gazetted on 1 December 2011. LPP 9 provides locational criteria and development standards for Child Care Premises.

*Item 12.3 Continued*

## **STATUTORY ENVIRONMENT**

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

The subject lot is zoned 'Residential (R20)' under the City of Belmont Local Planning Scheme No. 15 (LPS 15). Under Table 1 – Zoning Table, a Child Care Premises is designated as an 'A' use which means the use may only be considered after it has been advertised.

LPS 15 Clause 5.5 allows the City to consider variations to site and development standards and requirements.

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

Clause 67 of the *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...;*
- (g) any local planning policy for the Scheme area;*
- (n) the amenity of the locality including:*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality; and*
  - (iii) social impacts of the development.*
- (s) the adequacy of:*
  - (i) the proposed means of access and egress from the site; and*
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles.*
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety; and*
- (y) any submissions received on the application.”*

### **Deemed Refusal**

Schedule 2, Clause 75 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* states that an application is 'deemed to be refused' if it is not determined within a 90 day period. The only exception is where there is a written agreement for a further time between the applicant and the City of Belmont.

The deemed refusal date for this application passed on 1 May 2019 and the applicant already has deemed refusal rights.

In this case, there is no written agreement for the statutory time period to be extended. It is noted that since receiving the subject application, the City has met with the applicant on several occasions to seek further clarification on the current car parking arrangements. The final Parking Management Plan was submitted on 4 July 2019 and a considerable delay has occurred as a result.

*Item 12.3 Continued*

**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>	31 January 2019	<b>Use Class:</b>	Child Care Premises – ‘A’ use
<b>Lot Area:</b>	1090m <sup>2</sup>	<b>LPS Zoning:</b>	Residential R20
<b>Estimated Value:</b>	Nil	<b>MRS:</b>	Urban

**Original Approval**

Council at its meeting of 14 November 1994, granted approval for a ‘Child Care Centre’ catering for 40 children. The ‘Child Care Centre’ approval was granted subject to relevant standard conditions including the provision of 5 car spaces. The approved plan showed 4 tandem staff bays and 1 disabled bay, with two crossovers providing a one way entry and exit.

This arrangement complied with Town Planning Scheme No. 11 and Local Planning Policy No. 13 provisions which required 1 bay per staff, 1 visitor bay and a paved drop-off and pick-up area with access to and from the site to be in forward gear. In addition, the approved plan showed the outbuilding to be used as a staffroom and for storage (not for classroom use).

The City’s records show that a Certificate of Classification for the premises was granted on 19 October 1995, as follows:

Child Care Centre (250m <sup>2</sup> )	Class 9b
Staffroom (46m <sup>2</sup> )	Class 5

A request to amend the Certificate of Classification was received on 24 November 1995 with respect to a portion of the outbuilding being used as a Class 9b. Accordingly, a Certificate of Classification was granted on 24 November 1995 for the following:

Child Care Centre (Main Building) (250m <sup>2</sup> )	Class 9b
Child Care Centre (detached building) (38m <sup>2</sup> )	Class 9b
Staff Room (8m <sup>2</sup> )	Class 5

Contrary to the requirements of the Scheme, no planning application was submitted at that time with respect to changing the utilisation of a portion of the outbuilding for a classroom use.

The above matter was brought to the City’s attention when a prospective purchaser requested to view copies of planning and building approvals. To remedy the situation, the landowner submitted two retrospective planning applications for the site:

- Additions to Child Care Premises (8 x patios, shade sails and outbuilding) which was granted approval on 27 February 2019; and
- Modifications to Existing Child Care Premises (subject application).

*Item 12.3 Continued*

**Proposal**

The development application seeks retrospective approval to utilise an existing outbuilding as a classroom, as part of the Child Care Premises. The outbuilding measures 46m<sup>2</sup> (12.4m x 3.72m) in area. The applicant also seeks approval for the premises to cater for a maximum of 46 children (current approval is for 40 children) and to modify the existing parking layout which would result in a parking shortfall.

In support of the proposal, the applicant has provided the following justification:

- The premises have operated for over 24 years and the applicant has owned the Centre for the past 8 years.
- The premises is licensed to cater for 46 children comprising:
  - Maximum 12 children aged 2 years or younger
  - Maximum of 15 children aged between 2 to 3 years old
  - Maximum 19 children aged from 3 to 5 years old.
- The hours of operation of the premises are from 6:30am to 6:30pm with the premises providing 3 sessional times as follows:
  - 12 hour shift 6:30am to 6:30pm
  - 10 hour shift 7:00am to 5:00pm
  - 9 hour shift 8:30am to 5:50pm.

This results in staggered pick-up and drop-off times.

- The staff work in staggered shifts as follows:
  - 6:30am – 3:00pm
  - 7:00am – 3:30pm
  - 8:00am – 4:30pm
  - 8:30am – 5:00pm
  - 9:00am – 5:30pm
  - 10:00am – 6:30pm.
- The premises are located in a residential street and cater for children who live locally. There are families who have more than one child at the premises as well as families who walk or ride bikes to drop off and pick up children from the premises.
- In support of the parking variation, the applicant has provided a Parking Management Plan which includes a survey of current parking bay use. The introduction of a shuttle bus service is also proposed which will provide a pick-up and drop-off service for a maximum of 10 children living in Cloverdale, Belmont, Rivervale and Kewdale areas. The applicant has advised that use of the shuttle bus service together with the staggered staffing times, would result in spare parking bays on site rather than a deficit during the peak drop off and pick up times (before and after school times). This is further discussed in the Officers Comment section below.

**OFFICER COMMENT**

**Land Use**

Planning approval for a 'Child Care Centre' was granted by Council in November 1994 under Town Planning Scheme No. 11. In accordance with Scheme requirements at that time, the application was referred to surrounding landowners for comment. Submissions relating to that application raised concerns over noise, security, proximity to adjoining residences, increase in traffic and hours of operation within the locality. Council considered each of the matters raised, noted the comments and approved the Centre subject to conditions (refer [Attachment 7](#) and [Attachment 8](#)). The Centre has been operating since that time and a review of the City's records has not identified any complaints with respect to traffic, noise or activities associated with the operation of the Centre.



Item 12.3 Continued

### Use of Outbuilding

The outbuilding has been used as a classroom for many years, with a building Certificate of Classification issued in 1995. No complaints regarding impacts on amenity of neighbouring properties have been received. In addition, the premises is licensed in accordance with the *Child Care Services Act 2007* which contains regulations that address matters such as staffing, equipment, indoor and outdoor space provisions, shade, fencing, and health and safety. On this basis, use of the outbuilding as a classroom is considered appropriate.

### Access

Modifications to the on-site parking layout is proposed to accord with current parking standards. Under Town Planning Scheme No. 11, the original approval required a total of 5 car parking spaces to be provided on site. The approved plan (refer Figure 4 below) showed 4 tandem staff bays, 1 disabled bay, a drop-off/pick-up area with one way entry and exit provided by 2 crossovers. This complied with the parking requirements for Child Care Centres at that time.

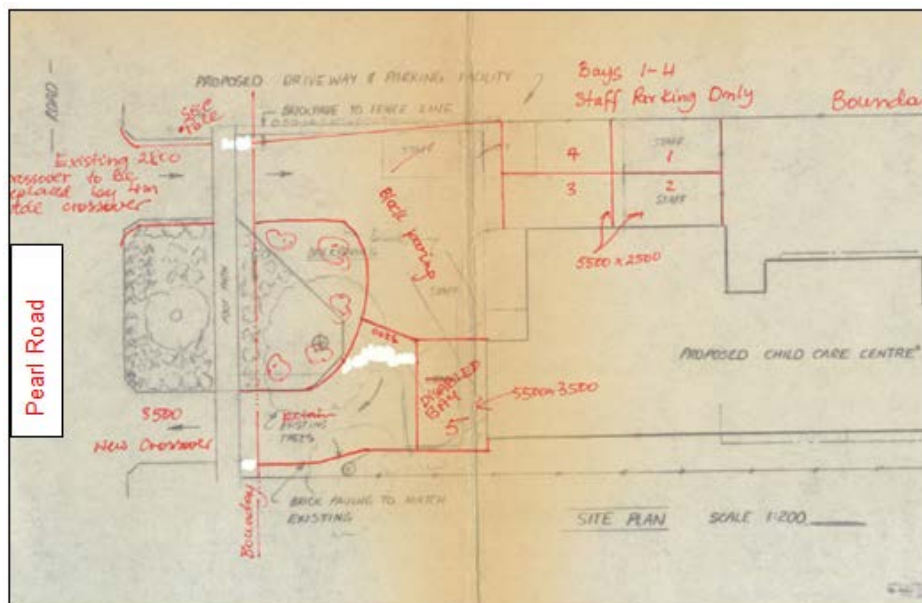


Figure 4 - Extract Approved Plan 1994

This approved parking layout was not implemented and the current parking arrangement for the premises provides for 10 spaces on site (all of which are tandem). Whilst this arrangement allows for the parking of more vehicles on site, it is not acceptable, particularly for the pick-up and drop-off of children. As shown in Figure 5 below, the existing tandem parking layout presents issues with access and egress from the site, as the vehicles parked in tandem will obstruct the movement of other vehicles.

Item 12.3 Continued

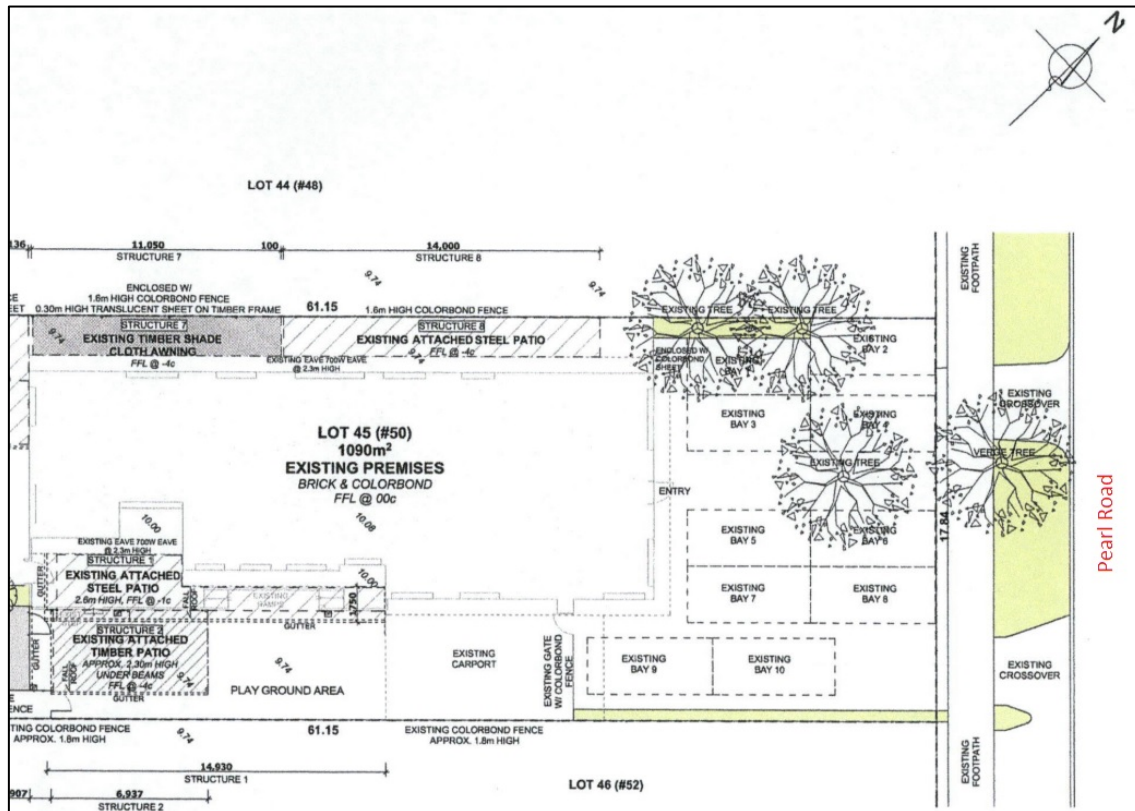


Figure 5 – Existing car parking layout

The parking layout proposed by this application (refer Figure 6) shows a central crossover with 5.8 metre wide access and a total of 8 car spaces provided on site including a disabled bay. This is considered to be an improved layout over the existing tandem arrangement, as it allows for parking in individual bays, sufficient room for traffic movement, access and egress in forward gear.

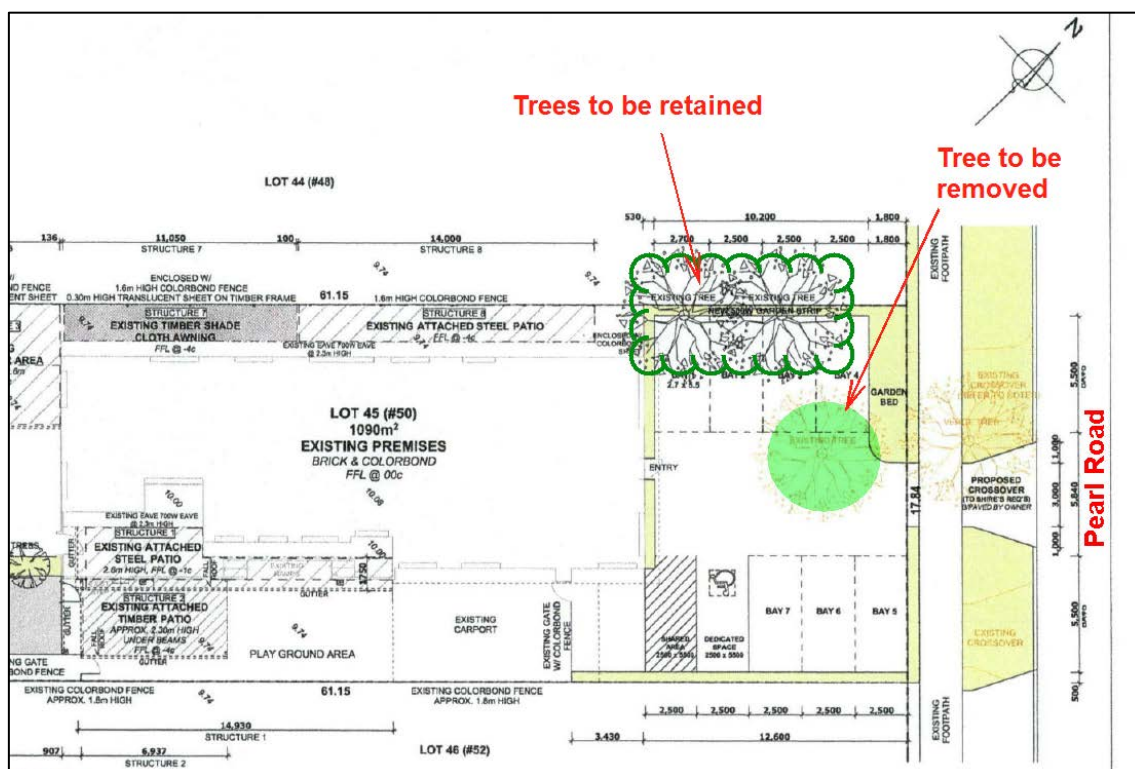


Figure 6 – Proposed car parking layout



*Item 12.3 Continued*

It is noted that two trees on site are to be retained, with one mature tree to be removed to provide for the new car parking arrangement (refer to Figure 6). An existing street tree is also proposed to be retained. The plans show a 1 metre setback to the proposed crossover. In order to facilitate retention of the existing street tree, a condition of approval will require the crossover to be modified to provide a 1.5 metre setback to the street tree as shown in Figure 7.

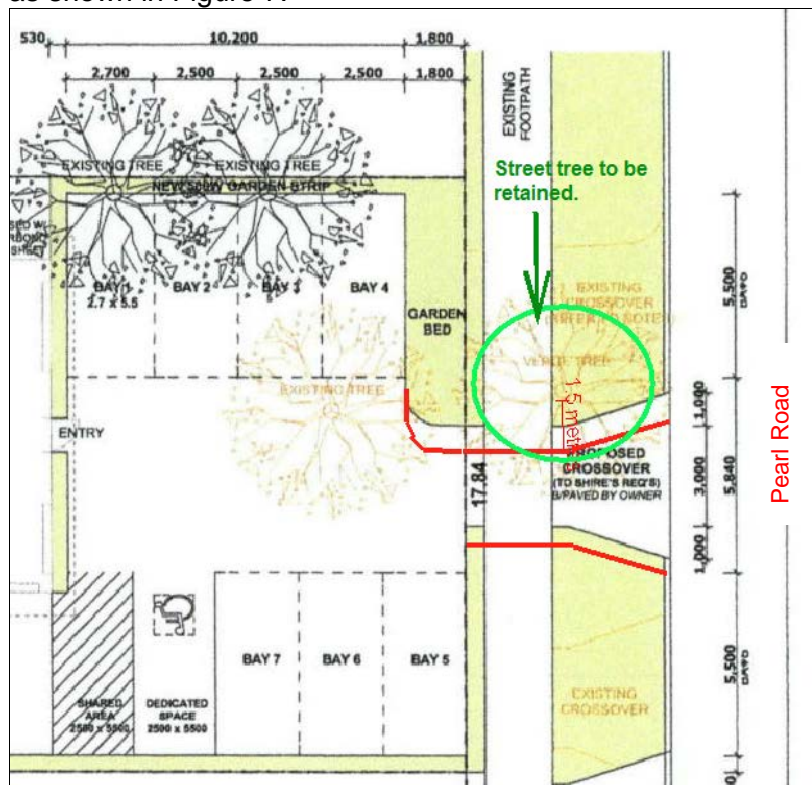


Figure 7 – Street tree to be retained with crossover location modified

### **Car Parking**

In determining the parking requirements associated with the proposed increase from 40 to 46 children, it is important to consider current parking standards as well as what has previously been approved on site.

In terms of current requirements, the parking provision for 'Child Care Premises' is included in both LPS 15 and LPP 9. Whilst LPP 9 requires the provision of one bay per five children, plus one bay per staff and the provision of a paved 'put down' and pick up' area, LPS 15 requires one space for every employee plus one space for every eight children. It is a well established planning approach that the provisions of a Local Planning Scheme prevail where the provisions of a Local Planning Policy are inconsistent with the Scheme. On this basis, a new Child Care Premises catering for 46 children with 8 staff, will require a total of 14 bays. In this instance a total of 8 bays is proposed on site.

In assessing this variation, it is important to consider the following:

- The current approval for the site allows for 5 car parking bays to cater for 40 children. This equates to a requirement for 1 bay per eight children.
- Applying the approved ratio of 1 bay per eight children to the proposed number of 46 children, results in a requirement of only 5.75 (6) car parking bays.

It is also acknowledged that the subject site caters for a very localised catchment, within that residential area. The parking requirements of LPS 15 are designed to accommodate for a range of Child Care Premises, including those in employment nodes where there would be a higher number of parents driving, dropping off and picking up children on the way to and from work.

*Item 12.3 Continued*

As the Child Care Premises remains largely unchanged by this application, it is considered reasonable to vary the LPS 15 requirements in this instance. It has been satisfactorily demonstrated that there has been no complaints relating to car parking at the property. It is considered appropriate to approve the 8 bays, designed in accordance with current standards, to provide for 46 children and staff.

**Parking Management Plan - Shuttle Bus Option**

Notwithstanding the above, the applicant has submitted a Parking Management Plan which provides further information in support of the application. The Parking Management Plan details the hours of operation of the Centre and includes the session times and number of children at the Centre at each of these times. The Plan proposes the staggering of staff shifts and sessions to help spread out parking demand across peak pick-up and drop-off times. The Plan also includes a survey of the number of vehicles parked on site during the month of March.

The applicant has indicated that the provision of a shuttle bus service could assist with freeing up between 2 - 3 car parking bays on site during peak times. The 12 seater shuttle bus would be driven by a staff member and would operate between 6:45am – 9:30am and 2:45pm – 5:30pm daily. It would be parked on-site during off peak times.

If Council considers that it is necessary for the shuttle bus arrangement to be implemented, a condition of development approval may be imposed to require the child care operator to provide a shuttle bus service to supplement the eight (8) car parking bays. However, such a condition is not recommended for the following reasons:

- The applicant's car parking survey results indicate only one instance of a 3 bay shortfall at 4.45pm on a Friday, and a sporadic 1 bay shortfall at different times during the week. It is considered that when these occasional shortfalls occur, there is appropriate opportunity for informal parking along the street.
- The car parking spaces are required for only a short period of time (approximately 15 minutes) to allow parents to drop-off/pick-up their children.
- Pearl Road is classified as an 'Access Road', which is the lowest order classification under the Main Roads WA hierarchy. This means that it caters for only a low volume of traffic, and informal street parking is appropriate.

Given the above, a shuttle bus service is not considered necessary.

**Conclusion**

It is acknowledged that both drop-off and pick-up times have peak periods. In order to manage this, the Centre operates staggered drop off and pick times for the children. In addition, due to serving the local catchment, it is recognised that some staff as well as parents may use public transport or walk children to the Centre. It is also noted that the Centre has been operating for a number of years and no issues have arisen.

The use of the outbuilding as a classroom does not impact on local amenity and is consistent with the licence issued under the *Child Care Services Act 2007*. The land use has been in operation since 1995 and provides a service for the residential population of the area. It is considered that the application accords with the Scheme provisions and the application is therefore supported.

*Item 12.3 Continued*

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this application.

### **SOCIAL IMPLICATIONS**

Approval of the proposed changes will ensure that the Child Care Premises will continue to operate and provide a community service for the area.

### **OFFICER RECOMMENDATION**

*That Council:*

***Approve planning application 42/2019 as detailed in plans dated 30 January 2019 submitted by F Krishnan on behalf of the owner Austro Asia Activities Pty Ltd for Modifications to Existing Child Care Premises at Lot 45 (No. 50) Pearl Road, Cloverdale subject to the following conditions:***

- 1. Development/land use shall be in accordance with the attached approved plan(s) dated 20 January 2019 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's Manager Planning Services.***
- 2. The Child Care Premises shall be limited to no more than 46 children and 8 staff at any one time.***
- 3. The vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, drained, line marked and kerbed in accordance with:***
  - (a) The approved plan (8 car bays);***
  - (b) Schedule 11 of City of Belmont Local Planning Scheme No. 15; and***
  - (c) Council's engineering requirements and design guidelines.***

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

- 4. All access ways, parking areas and hard stand areas shall be maintained in accordance with the City's engineering requirements and design guidelines.***
- 5. The redundant crossovers to the subject lot, shall be removed and the verge and kerb reinstated in accordance with the City's Technical Specifications, to the satisfaction of the City's Manager Infrastructure Development.***

*Item 12.3 Continued*

- 6.     *The existing street tree located adjacent to or abutting the development site shall be retained and may not be damaged, removed or interfered with during the course of the development, unless approved in writing by the City.***
- 7.     *The owner/applicant shall, after having obtained written approval from the City's Infrastructure Services (Infrastructure Services Clearance Application), construct a vehicle crossover in accordance with the approved plans and Council's engineering specifications to the satisfaction of the City's Manager Infrastructure Development.***
- 8.     *A landscaping and irrigation plan for the subject development site and street verge is to be prepared and submitted to the City for approval.***
- 9.     *The Child Care Premises operator shall implement parking management measures, including the staggering of child drop-off/pick-up times having regard for the impact of vehicle parking on the amenity of the street, to the satisfaction of the City's Manager Planning Services.***

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

## 12.4 REVISED LOCAL PLANNING POLICY NO. 12 – ADVERTISEMENT SIGNS

### BUILT BELMONT

#### ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 9 – Item 12.4 refers	<a href="#">Revised Local Planning Policy No. 12 – Advertisement Signs</a>
Attachment 10 – Item 12.4 refers	<a href="#">Submission Table – Advertisement Signs</a>
Attachment 11 – Item 12.4 refers	<a href="#">Key Changes Proposed to Revised Policy</a>

Voting Requirement	:	Simple Majority
Subject Index	:	LPP15/012 – LPS 15 Local Planning Policy 12
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil.
Previous Items	:	Item 12.5 – 26 February 2019 Ordinary Council Meeting
Applicant	:	City of Belmont
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 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

For Council to consider the final adoption of the revised Local Planning Policy No. 12 – Advertisement Signs (LPP 12) (refer [Attachment 9](#)).

*Item 12.4 Continued*

## **SUMMARY AND KEY ISSUES**

LPP 12 establishes parameters for the assessment of all development applications for advertisement signs in the City of Belmont. These parameters seek to ensure that signage does not adversely impact on the amenity of the locality, whilst also ensuring that there is an appropriate level of exposure for businesses to advertise their activities, products and/or services.

Revisions to LPP 12 were adopted by Council for public advertising on 26 February 2019. Advertising was subsequently undertaken between 19 March 2019 and 9 April 2019 during which time a total of three submissions were received, all of which supported the draft LPP 12.

One submission suggested several modifications pertaining to the proposed Deemed-to-comply criteria for pylon and monolith signs; clarification being provided on the assessment of variations; and provision being made for third-party advertisement signs within the Belmont Town Centre. With the exception of provisions pertaining to third-party advertisement signs within the Belmont Town Centre, these minor modifications are supported and the draft LPP 12 has been amended accordingly. Other minor modifications have also been made to the draft Policy to address implications for public art, provide additional clarification around key elements and improve overall readability.

It is recommended that Council adopts this revised version of LPP 12.

## **LOCATION**

The subject Policy applies to signage applications for all zoned and reserved land within the City of Belmont.

## **CONSULTATION**

Consultation is a statutory process required under Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for making or amending a local planning policy. Clause 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides the statutory process for amending a local planning policy, where the amendment cannot be considered minor in nature.

The draft LPP 12 was advertised from Tuesday 19 March 2019 to Tuesday 9 April 2019 (total of 21 days) by way of:

- An advertisement placed in the 19 March 2019 edition of the Southern Gazette.
- Advertising on the City's website.
- The draft Policy being available for viewing at the City's Civic Centre.
- A public notice being displayed on the City's Civic Centre and Library notice boards.
- Advertising on the City's Facebook page.
- The draft Policy being forwarded to the Belmont Business Advisory Group.
- An email being sent to Main Roads Western Australia.

In response, a total of three submissions were received all supporting the draft Policy. One submission however suggested minor modifications which are outlined in the summary and key issues section of this report, and further discussed in the Officer Comment section of this report.

A summary of submissions is provided in [Attachment 10](#).

*Item 12.4 Continued*

**STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

**Objective:** Maximise business development opportunities.

**Strategy:** Attract and support high quality business development and the sustainable use of land in Belmont, including Perth Airport, by providing information and assistance to businesses seeking to establish operations in the City.

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

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

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

**Corporate Key Action:** Implement Local Planning Scheme No. 15 (LPS 15).

**POLICY IMPLICATIONS**

Should Council adopt this draft revised version of LPP 12 'Advertisement Signs', it will supersede the existing LPP 12 'Sign Applications'.

**STATUTORY ENVIRONMENT**

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

The procedure for making and amending a Local Planning Policy is outlined under Clauses 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 – Deemed Provisions*.

Clause 61 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides for the exemption of certain advertisement signs from requiring development approval where provided by a Local Planning Policy.

**BACKGROUND**

The revised LPP 12 seeks to provide clear guidance on the assessment and determination of development applications for advertisement signs. In doing so, it draws upon existing elements of the current Policy but also seeks to include:

- Assessment parameters for a range of advertisement signs.
- Clear Policy objectives.
- The exemption of certain advertisement signs from requiring development approval.
- Clarification on signage strategy requirements.
- Specific requirements for advertisement signs in heritage listed places/areas.
- Guidance on the information requirements for an application for development approval.



*Item 12.4 Continued*

The draft Policy was reviewed after the close of the advertising period and several modifications are proposed, including:

- Amending the Deemed-to-comply provisions to allow for both a pylon and monolith sign to be located on the same lot, subject to meeting the relevant criteria.
- Providing additional clarification to explicitly state that a variation to the Deemed-to-comply criteria will be assessed against the objectives of the Policy.
- Creating an additional provision to prevent advertisement signs being placed in a manner that obscures public art and murals.

A copy of the draft modified LPP 12 showing the proposed modifications is contained as [Attachment 9](#), with new text shown as **bold and underlined** and deleted text shown as a ~~strike through~~ font. An outline of the key changes proposed to the revised LPP 12 after public advertising is provided in [Attachment 11](#).

### **OFFICER COMMENT**

The revised LPP 12 will provide a clear, more contemporary framework to assess applications for advertisement signs. The revised Policy is more direct and legible which will in turn lead to improved decision making and provide more guidance to landowners and businesses alike. Notwithstanding, several amendments to the draft Policy are proposed to provide additional clarification around key elements, improve overall readability and to respond to matters raised in the submissions. The key changes and matters raised in the submissions are discussed below, and a detailed description of each key change is outlined in [Attachment 11](#).

### **Pylon and Monolith Signs**

A submission raised a concern in relation to the draft Policy removing an allowance for both a monolith sign and pylon sign to be approved on the same lot. It is noted that the existing LPP 12 currently allows for both a pylon and monolith sign to be located on the same lot. As an example, Belmont Forum Shopping Centre currently contains a combination of both monolith and pylon signs along its Abernethy Road frontage, with two pylon signs associated with the KFC and McDonald's fast food outlets and one monolith sign serving multiple tenancies within the Belmont Forum Shopping Centre.

Pylon and monolith signs are larger, freestanding structures, typically located adjacent to the street, that are intended to be clearly visible and attract attention from the public realm. It is acknowledged that larger development sites, sites with numerous street frontages and sites with multiple tenancies, generally have a greater demand for multiple pylon and monolith signs to be located on a lot. Notwithstanding, it is considered necessary to limit the number and size of pylon and monolith signs on a property so as to minimise visual clutter and impacts on view lines and streetscape amenity.

In considering the above, it is accepted that for larger development sites with multiple tenancies, a more practical metric for assessing monolith and pylon sign proposals would be to consider their separation distance from one another. It is therefore proposed to modify the draft Policy to allow a maximum of one pylon sign or monolith sign to be located per street frontage; if more than one sign is proposed, the signs must be separated by a minimum distance of 50m. It is considered that this distance would be sufficient to provide businesses with flexibility to advertise, whilst also providing controls to prevent the proliferation of signage.

*Item 12.4 Continued*

### **Deemed-To-Comply Variations**

A submission raised concerns in relation to the operation of the Policy and the manner in which variations will be addressed. More specifically Clause 2.4 of the draft Policy stipulates that advertisement signs which do not comply with (i) the Deemed-to-comply criteria; (ii) the development requirements; and (iii) the Policy objectives, are unacceptable and will not be supported unless exceptional circumstances exist. The submission outlined that the proposed clause lacks clarity and provides no guidance as to what qualifies an acceptable variation.

The intention of Clause 2.4 is to outline that if an application does not meet the criteria listed in Column B of Table 1 and the Development Requirements listed in Part 6 of the Policy, that the application would then be assessed against the objectives outlined in Part 3. Clause 2.4 of the draft Policy has been reworded to make this assessment process more explicit.

### **Third-Party Advertisement Signs**

A submission noted that the draft Policy made provision for third-party advertisement signage where associated with a special event, subject to the signage only being displayed for a short period of time. The submission highlighted that third-party advertisement signage could be appropriate in high pedestrian traffic areas, including the Town Centre area surrounding Belmont Avenue.

It is noted that there is merit in the idea of third-party advertisement signs being located within highly pedestrianised activity centre environments, such as the Town Centre area surrounding Belmont Avenue. However, this would require detailed research and a major policy modification to ensure that suitable planning controls are put in place. Given this, it is not considered appropriate to provide for third-party signage in the Town Centre as part of this Policy review.

Notwithstanding the above, signage associated with a special event and/or sporting/community activity has been further reviewed. It is considered that such signage is unique to particular circumstances and is more suitably classified as event signage rather than third-party signage. It is therefore more appropriate for this form of signage to be assessed on a case-by-case basis against the deemed-to-comply provisions, development requirements and the objectives of the Policy. On this basis, reference to third-party advertisement signage associated with a special event and/or sporting/community activity has been removed from the Policy.

### **Protection of Public Artwork and Murals**

The existing LPP 12 does not contain any provisions to prevent advertisement signs being positioned in a manner that obstructs views of public artwork and murals. An additional development provision (Clause 6.1.7) is therefore proposed to ensure that advertisement signs do not impact upon any existing public artwork or murals.

### **CONCLUSION**

The draft LPP 12 represents a contemporary decision-making tool to guide the assessment and determination of development applications for advertisement signs, in turn improving efficiency in decision making. The modifications proposed to draft LPP 12 after public advertising provide further clarity and guidance for applicants/landowners. It is recommended that Council adopts the revised draft Policy contained as [Attachment 9](#).

*Item 12.4 Continued*

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

*That Council:*

- A. Adopts Local Planning Policy No. 12 – Advertisement Signs as detailed in [Attachment 9](#) in accordance with the provisions of Schedule 2, Part 2, Clause 4(3)(b)(ii) of the Planning and Development (Local Planning Schemes) Regulations 2015.**
- B. Place an advert in a local newspaper notifying that Local Planning Policy No. 12 – Advertisement Signs has been adopted with modifications in accordance with the requirements of Schedule 2, Part 2, Clause 4 (4) of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.**
- C. Informs those who made a submission on the draft Local Planning Policy No. 12 – Advertisement Signs of its decision.**

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

**12.5 PRESENTATION OF 2019 OPPORTUNITY AWARDS**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Confidential Attachment No</b>	<b>Details</b>
<b>Confidential Attachment 1 – Item 12.5 refers</b>	<a href="#"><u>Recommendations for 2019 Opportunity Awards</u></a>

Voting Requirement	: Simple Majority
Subject Index	: 74/008 - Opportunity Awards
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 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's endorsement of the Executive Leadership Teams recommendations for the 2019 Opportunity Awards to be presented at the Annual Mayoral Dinner, scheduled for Saturday, 5 October 2019.

**SUMMARY AND KEY ISSUES**

The Executive Leadership Teams makes recommendations in relation to the Opportunity Awards for endorsement by Council in accordance with a Council resolution passed in August 1998.

*Item 12.5 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

**Strategy:** Promote the City as the 'City of Opportunity'.

**Corporate Key Action:** Implement the City's Marketing Plan.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

### **BACKGROUND**

At the Ordinary Council Meeting held on 25 August 1998, Council resolved the following:

*"The presentation of Opportunity Awards to stakeholders in recognition of their contribution to a significant/outstanding project within the City over the past twelve months demonstrating that the project has enhanced the amenity and quality of life in the City, or has greatly assisted the organisation in achieving its objectives".*

The above item also requested that projects were to be recommended by the Executive Leadership Team and confidentially endorsed by Council.

The projects are to be recommended on the basis that the stakeholder has assisted the Executive Leadership Team in the development and enhancement of the City.

An exemplary level of co-operation must also have been displayed, that has resulted in everyone's objectives being achieved.

*Item 12.5 Continued*

A list of the previous winners of the Opportunity Awards since its inaugural presentation in 1998 follows:

Year	Recipients
1998	<ul style="list-style-type: none"> <li>Secureforce International</li> <li>The Western Australian Turf Club</li> <li>The Satterley Group.</li> </ul>
1999	<ul style="list-style-type: none"> <li>The Belmont Business Enterprise Centre</li> <li>Ascot Waters Consortium</li> <li>Eldercare and the Faulkner Park Retirement Estate Board of Management.</li> </ul>
2000	<ul style="list-style-type: none"> <li>The Perron Group</li> <li>Main Roads Department</li> <li>Ministry of Housing.</li> </ul>
2001	<ul style="list-style-type: none"> <li>Western Power and Office of Energy</li> <li>The Reading Group</li> <li>Mell-Fin Securities Pty Ltd.</li> </ul>
2002	<ul style="list-style-type: none"> <li>The Sister City Association</li> <li>The Belmont Rotary Club.</li> </ul>
2003	No Mayoral Dinner was held as a result of the refurbishment of the Civic Centre.
2004	The 2004 Mayoral Dinner concentrated on launching the rebranding and repositioning of the City of Opportunity Marketing Strategy.
2005	<ul style="list-style-type: none"> <li>Maxicom Construction Group</li> <li>People Solutions</li> <li>South Eastern Metropolitan District Office of the WA Police.</li> </ul>
2006	<ul style="list-style-type: none"> <li>Lotterywest</li> <li>Strategic Leadership Consulting Pty Ltd</li> <li>St John Ambulance.</li> </ul>
2007	<ul style="list-style-type: none"> <li>McLeods Barristers and Solicitors</li> <li>Motor Trade Association of Western Australia (Inc)</li> <li>Belmont / Victoria Park State Emergency Service Unit</li> <li>Western Australian Planning Commission.</li> </ul>
2008	<ul style="list-style-type: none"> <li>Reginald Fernandes</li> <li>Matthew Lyford – Watchtower</li> <li>Richard Campbell – CMS Events.</li> </ul>
2009	<ul style="list-style-type: none"> <li>Local Government Insurance Services (LGIS)</li> <li>Peter Coxon – Coxon Group of Companies.</li> </ul>
2010	<ul style="list-style-type: none"> <li>The Property Council of Australia</li> <li>Laraine Wheller – Wheller Consulting/Rubis.</li> </ul>
2011	<ul style="list-style-type: none"> <li>Perth Airport</li> <li>Eastern Metropolitan Regional Council</li> <li>Western Australian Local Government Association.</li> </ul>
2012	<ul style="list-style-type: none"> <li>South East Metro Crime Prevention and Diversity Unit.</li> </ul>
2013	<ul style="list-style-type: none"> <li>Main Roads Western Australia - City East Alliance Group</li> <li>Belmont Forum Shopping Centre.</li> </ul>
2014	<ul style="list-style-type: none"> <li>Finbar Group Limited – Spring View Towers Residential Apartments</li> <li>Swan River Trust - Foreshore Partnership</li> <li>Consulate-General of Japan – Support of Sister City Relationship.</li> </ul>
2015	<ul style="list-style-type: none"> <li>YMCA.</li> </ul>
2016	<ul style="list-style-type: none"> <li>Landcorp – The Springs Development</li> <li>Main Roads WA – Gateway Project – Perth Airport Entry.</li> </ul>
2017	No Awards were presented in 2017.
2018	<ul style="list-style-type: none"> <li>Zenien.</li> </ul>

Each winner receives an Award that is accompanied by a specific citation that defines the stakeholder's contribution.



*Item 12.5 Continued*

### **OFFICER COMMENT**

The Executive Leadership Teams has considered the issue for the 2019 Mayoral Dinner and has unanimously agreed on the nominations detailed in [Confidential Attachment 1](#).

### **FINANCIAL IMPLICATIONS**

There are no financial implications other than a minor cost associated with purchase of the awards themselves.

### **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 endorse the recipients of the 2019 Opportunity Awards as identified in [Confidential Attachment 1](#) and that the nominations remain confidential until presented at the Mayoral Dinner scheduled for Saturday, 5 October 2019.***

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

**12.6 RESPONSE – PARLIAMENTARY INQUIRY INTO LOCAL GOVERNMENT**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 17 – Item 12.6 refers</b>	<a href="#"><u>City of Belmont – Response to Select Committee into Local Government</u></a>
<b>Attachment 12 – Item 12.6 refers</b>	<a href="#"><u>Letter from Select Committee into Local Government</u></a>

Voting Requirement : Simple Majority  
Subject Index : 119/001 WALGA  
39/002 DLGSCI  
Location/Property Index : N/A  
Application Index : N/A  
Disclosure of any Interest : Nil.  
Previous Items : N/A  
Applicant : WALGA and DLGSCI  
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**

This report seeks Council's endorsement of the City of Belmont response to the Select Committee into Local Government and the Western Australian Local Government Association (WALGA) on the Parliamentary Inquiry into Local Government.

*Item 12.6 Continued*

## **SUMMARY AND KEY ISSUES**

During the Parliamentary debate on the *Local Government Legislation Amendment Bill 2019*, the Legislative Council passed a motion to establish a Select Committee into Local Government.

The motion is as follows incorporating the terms of reference;

- (1) That a Select Committee into Local Government is established.
- (2) The Select Committee is to inquire into how well the system of Local Government is functioning in Western Australia, with particular reference to —
  - a) whether the *Local Government Act 1995* and related legislation is generally suitable in its scope, construction and application;
  - b) the scope of activities of Local Governments;
  - c) the role of the Department of State administering the *Local Government Act 1995* and related legislation;
  - d) the role of Elected Members and Chief Executive Officers/employees and whether these are clearly defined, delineated, understood and accepted;
  - e) the funding and financial management of Local Governments; and
  - f) any other related matters the Select Committee identifies as worthy of examination and report.
- (3) The Select Committee shall comprise five members.
- (4) The Select Committee shall report by no later than 12 months after the motion for its establishment is agreed to and may, if it sees fit, provide interim reports to the House.

The Select Committee has notified that submissions are confidential until the Committee releases them, and that submissions should not be disclosed until the Select Committee authorises public release.

The City of Belmont response ([Attachment 17](#)) has been prepared in accordance with previous submissions on industry reform, and more recently the Local Government Act Review.

## **LOCATION**

Not applicable.

## **CONSULTATION**

The Committee has invited submissions on one or more of the areas of the Terms of Reference. The Executive Leadership Team (ELT) have considered and endorsed the City's response.

Members of the public are also invited to make submissions to the Select Committee. The City has advertised the terms of reference and relevant information on the City's website and social media to notify the public of the call for submissions.

*Item 12.6 Continued*

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

**Objective:** Achieve excellence in the management and operation of the Local Government.

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

Input to this process may have an influence on legislation which can affect the strategic activities of the City.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

The *Local Government Act 1995* (Act) and related legislation provide the framework for Western Australian Local Government. Local Governments are created by the Act which sets out the functions, responsibilities and powers of Local Government. This review process including consideration of the suitability of the scope, construction and application of the legislation may have long term impacts of beneficial or other nature for the community, Councils and the administration.

### **BACKGROUND**

A review of the Act was announced in 2017 by the McGowan Government, being the first significant reform of local government conducted in more than two decades.

The objective is for Western Australia to have a new, modern Act that empowers local governments to better deliver for the community. The vision is for local governments to be agile, smart and inclusive. The review is being undertaken in two stages.

Following calls for submissions on the review of the Act, the City of Belmont provided a submission to Department of Local Government, Sport and Cultural Industries (DLGSCI) and WALGA on Stage 1 of the review early in 2018, and Stage 2 of the review in February 2019.

During the Parliamentary debate on Stage 1 of the review and the *Local Government Legislation Amendment Bill 2019*, the Legislative Council passed a motion to establish a Select Committee into Local Government (the Select Committee).

*Item 12.6 Continued*

The motion is as follows incorporating the terms of reference;

- (1) That a Select Committee into Local Government is established.
- (2) The Select Committee is to inquire into how well the system of Local Government is functioning in Western Australia, with particular reference to —
  - a) whether the *Local Government Act 1995* and related legislation is generally suitable in its scope, construction and application;
  - b) the scope of activities of Local Governments;
  - c) the role of the Department of State administering the *Local Government Act 1995* and related legislation;
  - d) the role of Elected Members and Chief Executive Officers/employees and whether these are clearly defined, delineated, understood and accepted;
  - e) the funding and financial management of Local Governments; and
  - f) any other related matters the Select Committee identifies as worthy of examination and Report.
- (3) The Select Committee shall comprise five Members.
- (4) The Select Committee shall report by no later than 12 months after the motion for its establishment is agreed to and may, if it sees fit, provide interim reports to the House.

#### **OFFICER COMMENT**

The Select Committee originally required submissions on the Parliamentary Inquiry into Local Government by the close of business on 23 August 2019 and WALGA requested submissions by 13 August 2019. These dates have now been revised and the submission closing date is 13 September 2019.

Council have been consulted through Information Forums and Council Meetings on previous submissions provided to the Metropolitan Local Government Review Panel, Local Government Advisory Board and the Department of Local Government, Sport and Cultural Industries addressing industry reform, and more recently the Local Government Act Review.

The City of Belmont response to the Parliamentary Inquiry into Local Government ([Attachment 17](#)) is based on previous submissions provided and as identified above.

#### **FINANCIAL IMPLICATIONS**

There are a range of financial implications that may arise from the outcomes of this review process. Financial implications are not quantifiable at this time.

#### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

#### **SOCIAL IMPLICATIONS**

There are currently no social implications associated with this report.

*Item 12.6 Continued*

**OFFICER RECOMMENDATION**

That Council:

- A. Adopt Confidential Attachment 2 as its Submission to the Select Committee into Local Government and the Western Australian Local Government Association on the Parliamentary Inquiry into Local Government.
- B. Approve for the submission to the Select Committee Into Local Government (Confidential Attachment 2) to be made available to the public following approval by the Select Committee for its release.

**AMENDED OFFICER RECOMMENDATION**

That Council:

Adopt [Attachment 17](#), circulated 23 August 2019, as its Submission to the Select Committee into Local Government and the Western Australian Local Government Association on the Parliamentary Inquiry into Local Government.

**Reason:**

To accommodate the change in the Select Committee's position from that of the 'Submission' required to be confidential to being public available.

**Note:**

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

**ALTERNATIVE COUNCILLOR MOTION**

**DAVIS MOVED, SEKULLA SECONDED,**

***That Council:***

- 1. Amend Attachment 17, circulated 22 August 2019, 'Submission to the Select Committee into Local Government and the Western Australian Local Government Association on the Parliamentary Inquiry into Local Government' by:***

***Removing on Page 11 f) Consideration i 'The obligation to hold an Electors General Meeting as contained in the Local Government Act 1995 is not necessary and should be deleted.' and replacing it with 'The obligation to hold the Electors General Meeting remain as contained in the Local Government Act 1995.'***

- 2. Adopt Attachment 17, circulated 22 August 2019, as amended, as its 'Submission to the Select Committee into Local Government and the Western Australian Local Government Association on the Parliamentary Inquiry into Local Government'.***

**Reason:**

The Annual Electors' Meeting is an opportunity for residents and ratepayers to express their concerns and opinions at a meeting with Councillors and City of Belmont officers on an annual basis.

**CARRIED 9 VOTES TO 0**



**12.7 REQUEST FOR RATE EXEMPTION – ACCESS HOUSING AUSTRALIA LTD – LEVEL 7, 25 ROWE AVENUE, RIVERVALE**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	98/008 – Rate Exemptions
Location/Property Index	:	Various
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	Access Housing Australia Ltd (AHA)
Owner	:	Various
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 type="checkbox"/>            | <b>Legislative</b>    | <i>Includes adopting local laws, local planning schemes and policies.</i>                                                                                                                                                                                                                                                                                                                                                                                                     |
| <input type="checkbox"/>            | <b>Review</b>         | <i>When Council reviews decisions made by Officers.</i>                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <input checked="" type="checkbox"/> | <b>Quasi-Judicial</b> | <i>When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i> |

**PURPOSE OF REPORT**

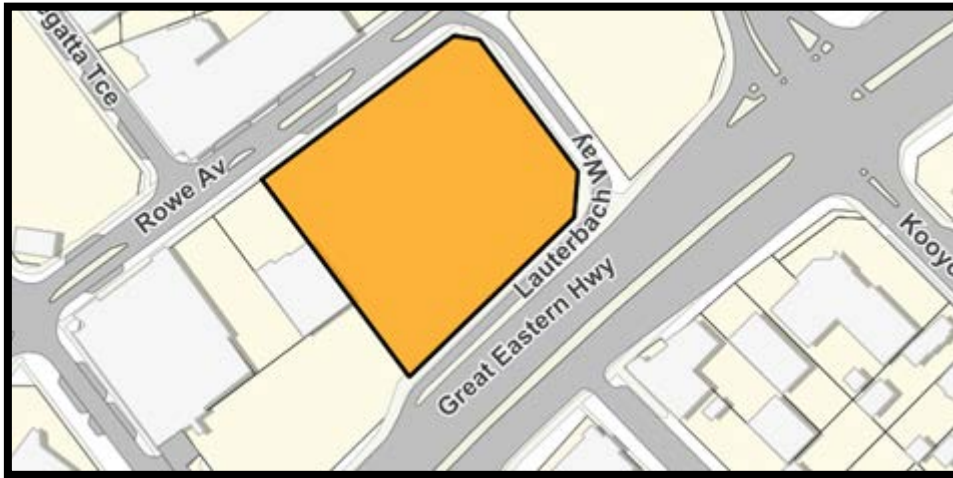
To consider the request for rate exemptions on Level 7, 25 Rowe Avenue, Rivervale – part of a commercial complex.

**SUMMARY AND KEY ISSUES**

An objection under Section 6.76 of the *Local Government Act 1995* to the Rate Book has been received with relevant documentation to support their claim.

*Item 12.7 Continued*

**LOCATION**



The complete property is Lot 1117 on Diagram 77415 known as 25 Rowe Avenue, Rivervale.

**CONSULTATION**

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

**STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There is no specific strategy associated with rating practices; however the consideration of this report is consistent with the Strategic Community Plan Key Result Area: Business Excellence Belmont.

**Objective:** Apply sound and sustainable business management principles.

**Strategy:** Ensure competitive and sustainable financial performance through effective modelling, financial management and reporting practices which underpin capacity building.

**POLICY IMPLICATIONS**

There are no policy implications associated with this report.

**STATUTORY ENVIRONMENT**

The relevant sections of the *Local Government Act 1995* that apply are:

1. Section 6.26 of the *Local Government Act 1995* states:

*“Except as provided in this section all land within a district is rateable land.*

*(2) The following land is not rateable land*

*(g) land used exclusively for charitable purposes;”*

*Item 12.7 Continued*

2. Section 6.53 of the *Local Government Act 1995* states:

“Land becoming or ceasing to be rateable land:

*Where during a financial year -*

*(a) land that was not rateable becomes rateable land; or*

*(b) rateable land becomes land that is not liable to rates,  
the owner of that land -*

*(c) is liable for rates proportionate to the portion of the year during which the  
land is rateable land; or*

*(d) is entitled to a refund of an amount proportionate to the portion of the year  
during which the land is not rateable land, as the case requires”*

3. Section 6.76 of the *Local Government Act 1995* states:

*“(1) A person may, in accordance with this section, object to the rate record of a local  
government on the ground —*

*(a) that there is an error in the rate record —*

*(ii) on the basis that the land or part of the land is not rateable land;*

*(3) An objection under subsection*

*(1) may be made by the person named in the rate record as the owner of land  
or by the agent or attorney of that person.”*

## **BACKGROUND**

Last financial year Access Housing Australia Ltd (AHA) wrote to all WA Council's where they own or lease properties from Housing Authority to be used for social housing. AHA is a Not for Profit Community Housing Organisation, a registered Charity and are one of WA's largest non-government social housing tenancy / property managers with more than 1800 properties across the Perth metro, Peel and South West regions.

In this instance whilst there are many properties either being leased from Department of Communities or owned by Access Housing Australia in the City of Belmont, the exemption request for the Head Office only is being considered for a rate exemption at this point in time.

Level 7, 25 Rowe Avenue, Rivervale, AHA signed a lease with the then property owner BAAC Pty Ltd on 1 December 2017 for a period of 10 years with a three by three year extension to be used as their head office. The property was sold in March 2019 to Meteorite Land (Rowe Avenue) Pty Ltd. The lease is still current.

The Net lettable area in the office leased is approximately 1514 square meters.

The working space includes offices used for the daily running of the organisation, meeting rooms, client interview rooms and Boardroom to meet with clients and other organisations regarding housing issues and concerns and how to help those in need of housing.

*Item 12.7 Continued*

**OFFICER COMMENT**

The following documentation has been provided:

- An application for Rate exemption from the Best Practices Guidelines (Western Australian Local Government Association approved documentation)
- Statutory Declaration confirming the use of the office
- Current Constitution
- 2 years Audited Financial Statements
- Notice of Endorsement for Charity Tax Concessions with the Australian Taxation Office
- Australian Charities and Not for Profit Commission Certification
- Letter from BAAC requesting the exemption for the Office at 25 Rowe Avenue at the time the exemption was originally received
- Letter from Government of Western Australia, Department of Communities in support of Access Housing's request for rate exemption

Council staff have conducted an onsite visit to ensure the property is being used for the same purposes as which is pertained in the exemption request.

**FINANCIAL IMPLICATIONS**

Section 6.26(2)(g) of the *Local Government Act 1995* states that the property must be used or held exclusively for charitable purposes. Section 6.53 of the *Local Government Act 1995* defines the property as being non-rateable effective from the date of the lease or 1 July of the year the application is being made.

In this instance the application was received in the 2018-2019 financial year but due to the time taken to investigate and gather documentation the request has not been finalised until now.

A separate Gross Rental Valuation was requested from The Valuer General's Office for this leased area. This equates to a loss of revenue for 2018-2019 of \$35,691.45 and a loss of revenue for 2019-2020 of \$36,316.23.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

To respond to changing client and community needs and maintain high quality client access within the City and to work in partnership within the community to ensure that tenants have access to the support services they require. The Head Office in this area allows the organisation better access to the Northern and Eastern corridors clients.

**OFFICER RECOMMENDATION**

***That Council endorse the rate exemption for the leased area on Level 7, 25 Rowe Avenue, Rivervale to Access Housing Australia in accordance with section 6.26 (2)(g) and Section 6.53 of the Local Government Act 1995 effective from 1 July 2018.***

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

**12.8 OPERATIONAL COMPARISON – WESTERN AUSTRALIAN AUDITOR GENERAL'S  
REPORT – RECORDS MANAGEMENT IN LOCAL GOVERNMENT**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
<b>Attachment 13 – Item 12.8 refers</b>	<a href="#"><u>Records Management in Local Government Report 17: April 2019</u></a>

Voting Requirement	: Simple Majority
Subject Index	: 32/001 Operational/Strategic Planning
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 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**

This report presents an assessment of the City's operations in comparison with findings from the recent Auditor General's *Report 17: Records Management in Local Government* (refer [Attachment 13](#)).

This report recommends that Council receive the Auditor General's *Report 17: Records Management in Local Government*.

The outcomes of this comparison are used to provide for further strategic planning and operational improvements.

*Item 12.8 Continued*

## **SUMMARY AND KEY ISSUES**

The operational comparison has highlighted some opportunities for improvement within the recordkeeping practices at the City. The City has detailed policies and procedures relating to record keeping however in some instances the application of these policies requires some improvement. Human factors appear to be the main issue, with officers not always adhering to organisational expectations for management of records.

## **LOCATION**

Not applicable.

## **CONSULTATION**

Consultation has been undertaken with the Executive Manager People and Organisational Development, Coordinator Business Applications, Coordinator Contracts and Tenders, Coordinator Records, Manager Marketing and Communications and Manager Information Technology throughout the audit process to sample and evidence information on the City's current practices.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

**Strategy:** Ensure decision making is supported by effective information and knowledge management.

## **POLICY IMPLICATIONS**

There are Council Policies in place that define the requirements for record keeping at the City as follows:

- BEXB29      Organisational Record Keeping
- BEXB29.1    Roles and Responsibilities - Elected Members
- BEXB29.2    Roles and Responsibilities - Employees
- BEXB44      Elected Members Communication

There are no policy implications associated with this report.

*Item 12.8 Continued*

## **STATUTORY ENVIRONMENT**

The key elements of this comparison report are governed by the following legislation:

The *Local Government Act 1995* –

### **'s.5.41 Functions of the CEO**

*The CEO's functions are to –*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and*
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and*
- (c) cause council decisions to be implemented; and*
- (d) manage the day to day operations of the local government; and*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and*
- (f) speak on behalf of the local government if the mayor or president agrees; and*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

### **s.6.5. Accounts and records**

*The CEO has a duty —*

- (a) to ensure that there are kept, in accordance with regulations, proper accounts and records of the transactions and affairs of the local government; and*
- (b) to keep the accounts and records up to date and ready for inspection at any time by persons authorised to do so under this Act or another written law.'*

### **State Records Act 2000**

#### **'s.19. Government organizations to have plans**

*Every government organization must have a record keeping plan that has been approved by the Commission under section 23.*

### **s.78. Offences**

- (1) A government organisation employee who does not keep a government record in accordance with the record keeping plan of the organization, commits an offence.'*

*Penalty: \$10 000.*



*Item 12.8 Continued*

**BACKGROUND**

To stay abreast of industry best practices, it has been standard protocol for the City to conduct internal audits and comparison reports in response to inquiries or audits that may be relevant to the organisation. The reports have been issued by the Department of Local Government, Sport and Cultural Industries, the Corruption and Crime Commission, Public Sector Commission and the Western Australian Auditor General.

Four local governments were recently the subject of an audit by the Office of the Auditor General (OAG). The findings from the audit are outlined within the Western Australian Auditor General's Report – Records Management in Local Government which was published in April 2019 ([Attachment 13](#)).

**OFFICER COMMENT**

This comparison report represents an assessment of the recordkeeping practices at the City of Belmont against the findings from the recent audits conducted by the OAG as outlined in its report.

The methodology used to determine the City's rating against the findings raised was through completion of a questionnaire by relevant officers based on the OAG report. Verification of the information provided was then carried out by Compliance officers in addition to verification of the documented policies and procedures undertaken by the City.

The questions posed were in line with the findings of the report focusing on:

1. Compliance with the required Recordkeeping Plan and adequate supporting policies and procedures
2. Implementation of the Recordkeeping Plan
3. Important records are not properly managed
4. Protection of records.

For ease of comparison the items have been separated as per the OAG report.

The Officers believe that the responses presented are an accurate indication of the City's current practices.

The City of Belmont responses and assessment scores have been compiled as a result of the internal audit, reflecting consideration of the findings of the Auditor General's report.

While it is recommended that priority be given to areas scoring below 4, it is considered equally important to consider all matters contained within the report and also address those scoring a 5 to scope for potential opportunities for improvement and prevent complacency.

Score	Assessment Criterion
5	Fully complies with OAG expectations
4	Mostly complies with OAG expectations – good process in place
3	Partially complies with OAG expectations – reasonable process in place
2	Some compliance with OAG expectations – requires review of process
1	Does not comply with OAG expectations

*Item 12.8 Continued*

## **1 Issues arising from the OAG Report**






The City of Belmont's current practices were audited against the matters raised by the OAG as outlined below.

### **1.1. Recordkeeping plans are approved but lack supporting policies and procedures.**

The OAG found that all local governments had approved Recordkeeping Plans (RKPs) however the four local governments that were subject to the audit did not have adequate policies to support the RKPs. The OAG expected to see policies and procedures that clearly set out the roles and responsibilities for officers, and cover all aspects of an organisation's business operations. The management of social media and digital records are also expected to be appropriately addressed.

The City currently has a Recordkeeping Plan which was approved by the State Records Commission in 2016 and is due for review by August 2021. Although the Plan itself has not been amended the policies, process maps, guidelines and work instructions that support the plan are updated regularly.

The following areas were looked at by the OAG and are the basis of the comparison.

	<b>The Management of Sensitive Records</b> <b>Comment:</b> The City has a procedure for the classification of a sensitive record within the <i>Records Services Instruction Manual</i> for records officers. Other City officers are provided with information during training.
	<b>Management of Vital Records</b> <b>Comment:</b> The City's procedures and guidelines for the management of Vital Records are contained in the Work Instruction – Vital Records; Business Continuity and Disaster Management Plans.
	<b>Social Media</b> <b>Comment:</b> The City has guidelines <i>Use of the City's Social Media Policy and Procedures</i> together with <i>Manage Social Media – Facebook</i> ; <i>Manage Social Media – Twitter</i> and two supporting Work Instructions pertaining to Facebook and Twitter approval processes and record keeping.
	<b>Business Area roles and responsibilities</b> <b>Comment:</b> The approved RKP was developed using the template provided by the State Records Office. The associated Record Keeping Guidelines cover the roles and responsibilities for business areas. These are further captured in the relevant process maps and work instructions. It is also covered in tailored training for responsible areas.
	<b>Digitisation of Records</b> <b>Comment:</b> The City has a number of procedures that relate to the electronic capture of records and the provision of services to enable the electronic lodgement and submission of documents, at this time the City does not have a policy for the digitisation of records. All Vital Records are captured digitally.

**Overall Assessment**

**4**

*Item 12.8 Continued*

## 1.2 Implementation of Recordkeeping Plans is poor.

The OAG found that the local governments audited did not implement their RKP's effectively in relation to:

- The provision of training for new and existing staff
- The management of staff records management practices
- Disposal of records – physical and digital.

These areas have been used for comparison.

5	<p><b>Training Comment:</b> Records management training is provided to all new employees as part of the induction process. Training is also provided to all new users for business systems that are outside of the main system eg: Pathway, Finance One, and Library Systems. Training is tailored to suit the individual business area with refresher training available to all officers at any time, training for changes to the process or system are also provided as required. All staff are made aware of the training through regular Team Brief Items and emails.</p>
3	<p><b>Monitoring of Staff Records Management Practices</b>  <b>Comment:</b> Structured monitoring of City Officers records management practices are currently being developed with the intention to improve the quality of record registration. Reviews of task management are undertaken monthly and reported through to the Operational Leadership Team (OLT). Task management is also reported on Bi-Monthly and reported through to Divisional Managers. Management of City Officers record registration is also carried out Bi-Monthly and reported through to Divisional Managers to follow-up with their teams. Physical records registered in the City's Electronic Document and Records Management System (ECM) and given a physical location are monitored and reported on by records officers through box auditing reports, formal process to be developed.</p> <p>In the course of the audit it was found that there are deficiencies in the record keeping practices of some officers. Human factors will always influence practices and although the City has detailed guidelines and procedures for the management of records, the review found that the implementation of these procedures is not being consistently carried out by all officers. A particular weakness was identified through the audit that the registration of records associated with social media postings and approvals inconsistent.</p> <p>Some confidential records are not available for review as part of this comparison report and therefore cannot be assessed for compliance with the Recordkeeping Plan. The information systems audit currently being carried out at the City by the OAG may outline any deficiencies in these areas.</p>
3	<p><b>Disposal of Records</b>  <b>Comment:</b> The City's disposal of physical records is managed through a well-documented Annual Disposal Program which is supported by processes and procedures.</p> <p>At present digital and physical records within ECM are given the appropriate disposal action in accordance with the General Disposal Authority for Local Government Records at the time point of registration. The City is not currently destroying digital records from ECM as the retention and destruction module is not fully functional. The provider of ECM is rewriting the retention and destruction module which is due to be deployed in the 2019B release at the</p>

*Item 12.8 Continued*

	<p>end of 2019. When this is available the City will upgrade to 2019B and implement the retention and destruction module.</p> <p>Other core business systems used by the City such as Finance One, Pathway, Open Windows and My Aurion do not have disposal parameters set as they are not records management systems.</p>
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<b>Overall Assessment</b>	<b>3</b>
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### **1.3 Important records are not properly managed.**

The Auditor General identified in its report that the local governments audited store records outside systems that were listed in their approved Recordkeeping Plan. It was also found that business systems were being used as records management systems without having proper records management functionality or the ability to link to the records management system. A number of records were being stored on network drives outside the system.

The City of Belmont has a number of business systems in which records are being stored. Not all business systems are listed in the current Recordkeeping Plan, with newer systems such as Open Windows installed after the approval of the Recordkeeping Plan. These systems will be included in the next review of the Recordkeeping Plan.

Of the City's core business systems Pathway has its core functionality integrated with ECM. The City's intranet (BelNet) provides a view of ECM documents and has some ECM functionality. All other business systems have no integration with ECM and officers must extract and save information into ECM.

There is full integration with Microsoft Office which enables emails, word documents and excel documents to be registered directly into ECM. Emails and other records are also stored on network drives or email servers. Records may not be recorded in ECM in a timely or proper manner eg: attachments missing from emails or in some cases not recorded at all.

Emails are archived in Archive Manager for a period of two years then destroyed in accordance with the implemented process.

The OAG is currently undertaking an audit involving the business systems of the City and their report may contain further recommendations.

All vital records are currently managed well and in accordance with the relevant process. An assessment of the factors identified has resulted in a score of three being applied.

<b>Overall Assessment</b>	<b>3</b>
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*Item 12.8 Continued*

#### **1.4 Protection of records is mixed.**

Physical records are well protected with restricted access to officers both onsite and at the external archive site. Digital records are also well protected within ECM security and access functionality and IT backup procedures. The City has a Records Disaster Recovery Plan, an IT Disaster Recovery Plan and IT Security Policy 2017.

The OAG is currently conducting an in-depth audit of the City's information systems and processes. The OAG's audit scope includes the protection of digital records and will be covered in a separate report when available.

<b>Overall Assessment</b>	<b>4</b>
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## **2 Conclusion**

The comparison report findings have found that the City has a number of policies, guidelines and procedures relating to management of records as per the approved Recordkeeping Plan (1.1). The City's processes for the protection of both physical and digital records (1.4) are also well established. These areas mostly comply with the expectations outlined within the OAG report.

Score	Number Assessed at
5	
4	2
3	2
2	
1	
<b>Total</b>	<b>4</b>

The registration of records is dependent on individual officers understanding the City's expectations and complying with the requirements of the Recordkeeping Plan. The City has well established training regimes for both new starters and existing officers however the comparison report has identified that there are opportunities for improvement which can be achieved through further training. The City already undertakes random auditing of record registration practices using ECM. Monitoring should be expanded to include physical records within all office locations and inclusion of standard record compliance based questions should be part of any internal audit process.

The storing of documents on business systems outside the approved records management system is also an area requiring improvement. A number of the City's systems do not have parameters set for the retention, disposal and archiving of records contained within those systems. There is also minimal interface with the approved records system in relation to the digital records. Further investigation is required to ensure that key City business systems are appropriately linked, including cloud based programs, and to ensure that records stored on key business systems are captured within ECM.

*Item 12.8 Continued*

It is proposed that the following actions be undertaken as opportunities for improvement:

1. Upgrade of the ECM system to the Ci-Anywhere 2019B version as soon as practicable.
2. Develop and implement an online My Learning module for officers to reinforce the City's record keeping requirements and employee obligations.
3. Include specific record management orientated questions as part of all internal audits.
4. Box auditing process to be documented in a work instruction to capture the follow-up process for missing records.
5. Structured monitoring of City Officers records management practices to be developed with the intention to improve the quality of record registration.
6. Undertake a review of the Record Keeping Plan commencing January 2020, and following endorsement by the City, to be submitted to the State Records Commission by July 2021.

The above actions requiring further remediation will be undertaken by way of a System Improvement Request to be monitored by the Business Improvement Team.

The Standing Committee (Audit and Risk) considered the findings of the comparison report at the meeting held 22 July 2019.

The City of Belmont is subject to a separate audit by the Office of the Auditor General relating to the City's Information Systems. The scope of that audit includes system security and digital records protection. The Standing Committee (Audit and Risk) was advised of this focus audit at the 25 February 2019 meeting by representatives from the Auditor General's Office. On receipt of the findings from the Information Systems audit, a report will be provided to the Standing Committee.

### **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.

### **COMMITTEE RECOMMENDATION**

***That Council receive the Western Australian Auditor General's Report – Records Management in Local Government ([Attachment 13](#)).***

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

**12.9 DELEGATED AUTHORITY REGISTER AMENDMENT**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 14 – Item 12.9 refers</b>	<a href="#"><u>Amended Delegated Authority Register 2019-2020</u></a>

Voting Requirement	:	Absolute Majority
Subject Index	:	11/005 Delegations and Authorisations
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	26 June 2018 OCM – Item 12.8
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 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 endorsement of an amendment to the 2019-2020 Delegated Authority Register as detailed in [Attachment 14](#).



*Item 12.9 Continued*

## **SUMMARY AND KEY ISSUES**

As a result of the Organisational Restructure the Community and Statutory Services Division has changed to now be the Development and Communities Division and the position title for the Director Community and Statutory Services has changed to Director Development and Communities.

The Delegated Authority Register 2019-2020 was adopted by Council at its Ordinary Council Meeting on 25 June 2019; this report is for Council consideration to amend the position title for the delegations applicable to the Director Development and Communities.

## **LOCATION**

Not applicable.

## **CONSULTATION**

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

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

## **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

## **STATUTORY ENVIRONMENT**

The following sections of the *Local Government Act 1995* are applicable when considering delegations:

- s5.16 Delegation of some powers and duties to certain committees
- s5.17 Limits on delegation of powers and duties to certain committees
- s5.18 Register of delegations to committees
- s5.42 Delegation of some powers and duties to CEO
- s5.43 Limits on delegations to CEO
- s5.44 CEO may delegate powers and duties to other employees
- s5.45 Other matters relevant to delegations under this division
- s5.46 Register of, and records relevant to, delegations to CEO and employees.

*Item 12.9 Continued*

A number of other pieces of legislation allow for delegation in Western Australia.

Those which are relevant to the City's Delegated Authority Register in addition to the *Local Government Act 1995* are listed below:

- *Building Act 2011*
- *Bush Fires Act 1954*
- *Cat Act 2011*
- *Dog Act 1976*
- *Food Act 2008*
- *Health Act 1911*
- *Public Health Act 2016*
- *Main Roads Act 1930*
- *Planning and Development Act 2005*
- *Strata Titles Act 1985*
- *Local Government (Administration) Regulations 1996*
- *Local Government (Financial Management) Regulations 1996*
- *Local Government (Functions and General) Regulations 1996*
- *Local Government Act (Uniform Local Provisions) Regulations 1996.*

## **BACKGROUND**

The Delegated Authority Register was reviewed at the Ordinary Council Meeting of 25 June 2019 – Item 12.5.

As a result of the Organisational Restructure the position title for the Director Community and Statutory Services has changed to Director Development and Communities requiring an amendment for the Delegated Authority Register to ensure that the power to delegate is accurate.

## **OFFICER COMMENT**

Delegations by Council are an effective way to reduce red tape and improve customer satisfaction through quicker decision making processes. Using the power of delegation appropriately assists local governments to efficiently deal with a wide range of operational matters that are minor, administrative in nature and time consuming.

The proposed amendment is to update the position title change for the Director Development and Communities and is applicable to the following delegations:

- DA25 – Development Applications
- DA26 – Preliminary and Final Built Strata Approval
- DA29 – Prohibition Orders
- DA30 – Registration of Food Business
- DA31 – Food Act 2008 – Prosecutions.

A copy of the Delegated Authority Register 2019-2020 is attached ([Attachment 14](#)) with the proposed amendments showing as tracked changes.

*Item 12.9 Continued*

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

***That Council endorse the update to the position title of Director Community and Statutory Services to Director Development and Communities in the Delegated Authority Register 2019-2020 as detailed in [Attachment 14](#).***

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

**12.10 ACCOUNTS FOR PAYMENT – JULY 2019**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 15 – Item 12.10 refers</b>	<b><u><a href="#">Accounts for Payment – July 2019</a></u></b>

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

**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 12.10 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

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

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

### **BACKGROUND**

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

### **OFFICER COMMENT**

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

Municipal Fund Cheques	788186 to 788211	\$181,559.02
Municipal Fund EFTs	EF062651 to EF063298	\$5,939,136.76
Municipal Fund Payroll	July 2019	\$1,528,034.86
Trust Fund EFT	EF062751 to EF062752	<u>\$164,917.84</u>
Total Payments for July 2019		<b>\$7,813,648.48</b>

A copy of the Authorised Payment Listing is included as [Attachment 15](#) to this report.

*Item 12.10 Continued*

**FINANCIAL IMPLICATIONS**

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

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

***That the Authorised Payment Listing for July 2019 as provided under [Attachment 15](#) be received.***

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

**12.11 MONTHLY ACTIVITY STATEMENT AS AT 31 JULY 2019**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 16 – Item 12.11 refers</b>	<b><u>Monthly Activity Statement as at 31 July 2019</u></b>

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**

- |                                     |                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <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 provide Council with relevant monthly financial information.

**SUMMARY AND KEY ISSUES**

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



*Item 12.11 Continued*

**LOCATION**

Not applicable.

**CONSULTATION**

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

**STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

**POLICY IMPLICATIONS**

There are no policy implications associated with this report.

**STATUTORY ENVIRONMENT**

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

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

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

**BACKGROUND**

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

*Item 12.11 Continued*

**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.

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 eg: tied grants.*

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

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

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

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

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

*Item 12.11 Continued*

In order to provide more details regarding significant variations as included in [Attachment 16](#) the following summary is provided.

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
<b>Expenditure - Capital</b>			
Road Works	19,256	88,899	Ahead of budget due to carryover projects.
Footpath Works	Nil	60,026	Ahead of budget due to carryover projects.
<b>Expenditure – Operating</b>			
Finance Department	233,777	182,961	Salary budget spread allowed for 3 pays in July.
Reimbursements	12,667	75,205	Includes prior year wages that will be accrued and recognised in 2018-2019.
Human Resources	193,850	124,850	Salary budget spread allowed for 3 pays in July.
Governance	301,647	233,836	Budget includes significant subscription expenses that will be incurred in August.
Financing Activities	Nil	51,962	Includes prior year expenses that will be accrued and recognised in 2018-2019.
Belmont Community Watch	112,641	4,401	Invoices outstanding for July.
Health	178,510	123,828	Invoices outstanding for July.
Belmont HACC Services	291,004	218,692	Salary budget spread allowed for 3 pays in July.
Town Planning	339,546	219,351	Salary budget spread allowed for 3 pays in July.
Sanitation Charges	133,965	82,860	Invoices outstanding for July.
Grounds Operations	482,891	379,781	Invoices outstanding for July.
Building Control	155,498	96,839	Salary budget spread allowed for 3 pays in July.
<b>Revenue - Capital</b>			
Crime Prevention and Community Safety	(97,000)	Nil	Grant income was received earlier than expected and recognised in 2018-2019.
Building Operations	Nil	(1,054,653)	Relates to grant income that will be accrued and recognised in 2018-2019.
<b>Revenue - Operating</b>			
Computing	(212,759)	(492,234)	Timing spread issue of the ABC recovery.
Rates	(38,048,987)	(38,107,279)	Initial levy slightly higher than budget.
Financing Activities	(166,100)	(19,394)	Monthly variances are expected due to the timing of term deposits maturing.
Streetscapes	Nil	(59,383)	Relates to income that will be accrued and recognised in 2018-2019.

*Item 12.11 Continued*

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

<b>Reconciliation of Nett Current Assets to Statement of Financial Activity</b>		
<b>Current Assets as at 31 July 2019</b>	<b>\$</b>	<b>Comment</b>
Cash and investments	64,672,519	Includes municipal and reserves
- less non rate setting cash	(58,833,384)	Reserves
Receivables	56,752,365	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(9,724,676)	ESL Receivable
Stock on hand	216,827	
<b>Total Current Assets</b>	<b>53,083,652</b>	
<b>Current Liabilities</b>		
Creditors and provisions	(19,195,270)	Includes ESL and deposits
- less non rate setting creditors and provisions	13,070,779	Cash Backed LSL, current loans and ESL
<b>Total Current Liabilities</b>	<b>(6,124,491)</b>	
<b>Nett Current Assets 31 July 2019</b>	<b>46,959,161</b>	
Nett Current Assets as Per Financial Activity Report	46,959,161	
Less Restricted Assets	(91,815)	Unspent grants held for specific purposes
Less Committed Assets	<b>(46,367,346)</b>	All other budgeted expenditure
<b>Estimated Closing Balance</b>	<b>500,000</b>	

### **FINANCIAL IMPLICATIONS**

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

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

- That Council adopt ten percent of the estimated closing balance as the base amount for determining materiality of variations in accordance with Regulation 34(5) of the Local Government (Financial Management) Regulations 1996.***
- That the Monthly Financial Reports as at 31 July 2019 as included in [Attachment 16](#) 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

**Note:**

**Item 13.2 – Notice of Motion (Cr Wolff) – Request for Contribution.** This item was brought forward for discussion immediately after Item 11 at the request of the Presiding Member. Refer to page 23.

#### 13.2 NOTICE OF MOTION (COUNCILLOR WOLFF) - REQUEST FOR CONTRIBUTION

### **BUSINESS EXCELLENCE BELMONT**

#### **ATTACHMENT DETAILS**

Nil.

Voting Requirement	:	Absolute Majority
Subject Index	:	57/017 – Community Support Provided by the City of Belmont 35/002 Notices of Motion
Location/Property Index	:	Various
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 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 consider the Notice of Motion received from Cr Wolff for a contribution equal to annual local government rates and Emergency Services Levy (ESL) for the properties leased by the Belmont Tennis Club Inc., Belmont Sports and Recreation Club Inc. and the Ascot Kayak Club Inc.

*Item 13.2 Continued*

## **SUMMARY AND KEY ISSUES**

A request has been received from Cr Wolff for a contribution by the City of an amount equivalent to the annual local government rates and ESL levied for City managed properties leased by the Belmont Tennis Club Inc., Belmont Sports and Recreation Club Inc. and the Ascot Kayak Club Inc.

In previous years, contrary to the terms of their respective leases, the City has not charged the Belmont Tennis Club Inc., Belmont Sports and Recreation Club Inc., or the Ascot Kayak Club Inc. the annual rates nor the ESL.

The total contribution by the City for the annual rates and ESL for the 2019-2020 financial year would amount to approximately \$30,981.

## **LOCATION**

The properties occupied by the Belmont Tennis Club Inc., Belmont Sports and Recreation Club Inc. and Ascot Kayak Club Inc.

## **CONSULTATION**

A letter was sent to each of the respective clubs on the 10 April 2019 notifying them that they would be expected to pay for rates and ESL commencing for the 2019-2020 financial year. The letter also included the estimated anticipated charges.

It was requested in the letter that should the cost cause a significant financial impost beyond the means of the Clubs operational capability then financial information be provided so that the City can consider each Clubs circumstances appropriately.

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

There is no specific strategy associated with rating practices; however the consideration of this report is consistent with the Strategic Community Plan Key Result Area: Business Excellence Belmont.

**Objective:** Apply sound and sustainable business management principles.

**Strategy:** Ensure competitive and sustainable financial performance through effective modelling, financial management and reporting practices which underpin capacity building.

## **POLICY IMPLICATIONS**

SB2 Donations – Financial

Assistance Policy Objective

To direct the process of administering financial assistance to the local community, including not for profit groups, local schools, sporting and recreational clubs and disaster relief appeals. The aim of the financial assistance is to provide a direct benefit to the residents of the City of Belmont and to allow for additional flexibility to respond to the changing needs of the community.

*Item 13.2 Continued*

**Policy Statement**

The City of Belmont will consider administering financial assistance for donations under one of the following programs:

- Community Contribution Fund
- Specific Donations (through formal Memorandums of Understanding)
- In Kind Donations (use of Council community facilities).

Each program listed above has guidelines, which may be reviewed and modified on an operational level, in order to continuously improve the administration of the funds to meet the changing needs of the community. The Executive Leadership Team has the responsibility of approving or rejecting any proposed changes to the program guidelines.

This policy outlines the process of how all requests for financial support are assessed and administered. Requests for financial assistance will only be considered where it is determined that the financial assistance will provide a direct benefit to the City of Belmont community by service provision that is reflective of community needs.

**STATUTORY ENVIRONMENT**

The relevant sections of the *Local Government Act 1995* that apply are:

Section 6.26 of the *Local Government Act 1995* states:

*“Except as provided in this section all land within a district is rateable land.”*

There are certain circumstances when land is not rateable, such as when used for religious or charitable purposes. No such circumstances are relevant for the properties that are the subject of this report.

**BACKGROUND**

Following a review of lease arrangements during the 2018-2019 year it became apparent that the City was not charging the Belmont Tennis Club Inc, Belmont Sports and Recreation Club Inc or the Ascot Kayak Club Inc for local government rates and the ESL.

A letter was sent on the 10<sup>th</sup> April 2019 to the respective Clubs making them aware that these charges would be levied/billed in August 2019 for the 2019-2020 financial year. The letter included a request for financial information should the respective Clubs not have the means to support the additional costs. To date, no information has been received from either the Kayak Club or the Tennis Club although this may have been due to the Clubs planning on providing accounts for the 2018-2019 financial year following receipt of the rates notice. A preliminary question was received from the then President of the Belmont Park Tennis Club, however no further formal communications have been received. The BSRC has responded and advised that the introduction of the rates and ESL will significantly impact their operations and have requested that the rates and ESL levy be withdrawn. This request included a copy of their unaudited accounts to 31 May 2019.



*Item 13.2 Continued*

**OFFICER COMMENT**

From a statutory perspective the City managed Crown land properties being used by the Belmont Tennis Club Inc., Belmont Sports and Recreation Club Inc. and the Ascot Kayak Club Inc. are rateable and rates should be levied. In this circumstance there is no justification for an exemption or a waiver.

Should Council wish to support the Clubs in this manner, it is considered by Officers that the most appropriate way is through an ongoing annual contribution that will directly offset the local government rates and ESL, without any cash payment directly to the Clubs. It is considered that any contribution of this nature should be supported by, and subject to, a Memorandum of Understanding consistent with those established for other ongoing funding recipients.

However, given that the Clubs have not, prior to receipt of this Notice of Motion, provided clear financial information to the City demonstrating that they are, in fact, unable to afford to pay local government rates and ESL, Officers have proceeded on the basis that the Clubs have not identified any insurmountable financial impact. Normally, it would be expected that any application for funding of this nature would be supported by clear and unambiguous evidence that they cannot afford to pay their Rates or ESL prior to Officers presenting any recommended contribution to Council.

**FINANCIAL IMPLICATIONS**

The 2019-2020 rates and ESL component of each property is listed below. The cost to Council would total \$30,981.

<b>Tenant / Club</b>	<b>Property</b>	<b>Rates</b>	<b>ESL</b>	<b>Total</b>
Belmont Sports and Recreation Club	400 Abernethy Road, Cloverdale	\$13,328	\$3,153	\$16,481
Belmont Tennis Club	400 Abernethy Road, Cloverdale	\$4,547	\$1,075	\$5,622
Ascot Kayak Club	Fauntleroy Avenue, Ascot	\$7,181	\$1,699	\$8,880
<b>Total</b>		<b>\$25,056</b>	<b>\$5,925</b>	<b>\$30,981</b>

These contributions have not been budgeted in the 2019-2020 Annual Budget at this stage and, should the motion be supported, funding would need to be identified at the October Budget Review.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

The proposed motion could be considered as support for specific member based clubs within the City.

*Item 13.2 Continued*

**COUNCILLOR MOTION**

That the City of Belmont contribute to each of the Belmont Sport and Recreation Club Inc., Ascot Kayak Club Inc., and Belmont Park Tennis Club Inc. an amount equivalent to their annual property rates and Emergency Services Levy.

**Reason:**

These Clubs have not been charged rates for many, many years, and although the City of Belmont is entitled to charge rates, there is very little relative financial benefit to the City (which has a revenue of over \$60 million) charging rates (totalling about \$30,000). In contrast, these particular Clubs are likely to be severely disadvantaged by having to pay the rates, which is not in the best interests of the community of the City of Belmont.

**Cr S Wolff declared an interest that may affect impartiality in Item 13.2 - Notice of Motion (Cr Wolff) Request for Contribution.**

**Nature of Interest:** Cr Wolff is Treasurer of the Belmont Park Tennis Club.

**Cr J Davis declared an interest that may affect impartiality in Item 13.2 - Notice of Motion (Cr Wolff) Request for Contribution.**

**Nature of Interest:** Cr Davis is Secretary of the Belmont Sports and Recreation Club.

**AMENDED COUNCILLOR MOTION**

**WOLFF MOVED, POWELL SECONDED,**

- 1. That the City of Belmont contribute to each of the Belmont Sport and Recreation Club Inc., Ascot Kayak Club Inc., and Belmont Park Tennis Club Inc. an amount equivalent to their annual property rates and Emergency Services Levy and any exempted commercial property rubbish service levy, if applicable.***
- 2. That the Mayor notify the residents of the City of Belmont through a letter, social and news media to clarify the outcome of this resolution.***
- 3. Prior to making the payments to the Clubs, the City seeks legal advice on whether rates and other charges are applicable***

**Reason:**

These Clubs have not been charged rates for many, many years, and although the City of Belmont is entitled to charge rates, there is very little relative financial benefit to the City (which has a revenue of over \$60 million) charging rates (totalling about \$30,000). In contrast, these particular Clubs are likely to be severely disadvantaged by having to pay the rates, which is not in the best interests of the community of the City of Belmont.

**CARRIED 9 VOTES TO 0**

**13.3 NOTICE OF MOTION TO REVOKE OR CHANGE A PREVIOUS DECISION OF COUNCIL –  
ITEM 13.2 – ORDINARY COUNCIL MEETING HELD ON 26 FEBRUARY 2019**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

Nil.

Voting Requirement	: Absolute Majority
Subject Index	: 35/002 – Notices of Motion
Location/Property Index	: N/A
Application Index	: N/A
Disclosure of any Interest	: Nil.
Previous Items	: 26 February 2019 OCM – Item 13.2 28 May 2019 OCM – Item 13.2
Applicant	: N/A
Owner	: N/A
Responsible Division	: Development and Communities

**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 revocation or change of a decision made at Item 13.2 of the Ordinary Council Meeting held on 26 February 2019.

*Item 13.3 Continued*

### **SUMMARY AND KEY ISSUES**

A Notice to Revoke a Decision Form was received from Cr Davis containing three signatures from Elected Members and is in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*. Members who signed the notice are Cr Davis, Cr Sekulla and Cr Rossi.

At the 28 May 2019 Ordinary Council Meeting Council considered the revocation and resolved to support the motion to revoke or change the resolution.

Following a Procedural Motion and further discussion, this report is for Council to consider the proposed changed resolution.

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

*Item 13.3 Continued*

**STATUTORY ENVIRONMENT**

Section 5.25(1)(e) of the *Local Government Act 1995* states:

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to —*
- (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made)'*

Regulation 10 of the *Local Government (Administration) Regulations 1996* states:

*'10. Revoking or changing decisions (Act s. 5.25(1)(e))*

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
- (b) in any other case, by at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee,*
- inclusive of the mover.*
- (1a) Notice of a motion to revoke or change a decision referred to in sub regulation (1) is to be signed by members of the council or committee numbering at least  $\frac{1}{3}$  of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
- (b) in any other case, by an absolute majority.*
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.'*

Section 15 of the *City of Belmont Standing Orders Local Law 2017* requires the following in regard to revocation:

*'15.1 Limitations on powers to revoke or change decisions*

- (1) Subject to subsection (2), the Council or a committee is not to consider a motion to revoke or change a decision —*
- (a) where, at the time the motion is moved or notice is given, any action has been taken under section 15.2 to implement the decision; or*
- (b) where the decision is procedural in its form or effect.*
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if it has considered a statement of impact prepared by or at the direction of the CEO of legal and financial consequences of the proposed revocation or change.'*

*Item 13.3 Continued*

**BACKGROUND**

At its Ordinary Council Meeting held on 26 February 2019 Council resolved the following:

**'AMENDED COUNCILLOR MOTION**

**DAVIS MOVED, SEKULLA SECONDED,**

*That Council agrees to implement a public awareness campaign, introduce a dog free zone on Ron Courtney Island only and fine the owners of unleashed dogs in the Garvey Park area in the environmentally sensitive area.*

*And further, the Council take the following action:*

- 1. The City of Belmont Rangers to have a stronger presence in the Garvey Park area specifically looking for unleashed dogs in the environmentally sensitive areas and fining the owner(s).*
- 2. New signage be placed in the environmentally sensitive areas in and around Garvey Park reminding residents of the rules.*
- 3. Prepare and launch a media campaign reminding the community of the problems associated with unleashed dogs in the Garvey Park area and the penalties.*

**CARRIED 6 VOTES TO 3**

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

*Reason:*

*To be more specific in relation to a dog free zone and by no means deter dog walkers visiting Garvey Park. I was advised the consistent problem area is Ron Courtney Island whereby it has been witnessed dogs swimming to the island from the Garvey Park river side and attacking the wildlife whilst unleashed.'*

The result of that decision is the requirement for the City to take steps to prohibit dogs on Ron Courtney Island.

Subsequent investigations have confirmed that Ron Courtney Island is owned by the Crown with its management and maintenance vested in the Swan River Trust (Department of Biodiversity, Conservation and Attractions).

In terms of the *Dog Act 1976* Section 31 (2B) Control of Dogs in Certain Public Places states:

*"A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited -*

*(a) at all times; or*

*(b) at specified times."*

Ron Courtney Island is not under the "care, control or management of the local government", and therefore the component of Council's resolution stating "introduce a dog free zone on Ron Courtney Island.." is legally not enforceable and cannot be implemented.

*Item 13.3 Continued*

Cr Davis subsequently submitted a 'Notice to Revoke a Decision' Form including the signatures of Cr Davis, Cr Sekulla and Cr Rossi. In accordance with legislation and the City's Standing Orders Local Law, the revocation was considered by Council at its Ordinary Council Meeting on 28 May 2019 and the following was resolved:

'OFFICER RECOMMENDATION'

DAVIS MOVED, SEKULLA SECONDED,

- A. *That a motion to revoke or change the resolution at Item 13.2 of the Council Meeting held on 26 February 2019, as detailed below be supported by Council:*

*"That Council agrees to implement a public awareness campaign, introduce a dog free zone on Ron Courtney Island only and fine the owners of unleashed dogs in the Garvey Park area in the environmentally sensitive area.*

*And further, the Council take the following action:*

- 1. The City of Belmont Rangers to have a stronger presence in the Garvey Park area specifically looking for unleashed dogs in the environmentally sensitive areas and fining the owner(s).*
- 2. New signage be placed in the environmentally sensitive areas in and around Garvey Park reminding residents of the rules.*
- 3. Prepare and launch a media campaign reminding the community of the problems associated with unleashed dogs in the Garvey Park area and the penalties."*

CARRIED 9 VOTES TO 0

DAVIS MOVED, SEKULLA SECONDED,

- B. *That the Resolution at Item 13.2 of the Council Meeting held on 26 February 2019, as detailed below be changed as follows:*

*That Council agrees to implement a public awareness campaign and fine owners of unleashed dogs in the Garvey Park area and at Tomato Lake.*

*And further, the Council take the following action:*

- 1. The City of Belmont Rangers to have a stronger presence in the Garvey Park area and at Tomato Lake specifically looking for unleashed dogs in the environmentally sensitive areas and fine owners where it is deemed appropriate or warranted.*
- 2. Appropriate signage be placed in and around Garvey Park and Tomato Lake reminding residents of the rules.*
- 3. Prepare and launch a media campaign reminding the community of the problems associated with unleashed dogs in the Garvey Park and Tomato Lake areas and the penalties.*



*Item 13.3 Continued*

Cr Wolff put forward the following Procedural Motion.

**PROCEDURAL MOTION**

**WOLFF MOVED, POWELL SECONDED,**

*B. That the item be referred back to an Information Forum.*

**CARRIED 5 VOTES TO 4**

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

*Reason:*

*Councillors need more information.'*

**OFFICER COMMENT**

As stated in the *City of Belmont Standing Orders Local Law 2017* for Council to consider a motion to revoke or change a decision a statement of impact of legal and financial consequences of the proposed revocation or change is to be considered.

**Legal and Financial Impact Summary**

Due to the ultra vires nature of the Council decision of 26 February 2019 it was considered appropriate for the decision to be revoked or changed. The impact from a legal perspective is positive as Ron Courtney Island is not under the care, control or management of the City of Belmont the decision is not legally enforceable and cannot be implemented.

The revocation or change of the decision will facilitate a legal and compliant outcome with the requirements of the *Local Government Act 1995* section 5.41 enabling the CEO to cause Council's decision to be implemented.

At the 28 May 2019 Ordinary Council Meeting, Part A of the recommendation was carried resulting in a Council resolution to support the resolution to revoke or change the motion. A Procedural Motion was then carried to refer the item back to an Information Forum to allow further discussion on the matter.

The item was discussed at the 13 August 2019 Information Forum and this report is for Council consideration of Part B of the recommendation, being Councillor Davis' proposed Motion in relation to the management of dogs in the Garvey Park area and at Tomato Lake.

*Item 13.3 Continued*

**FINANCIAL IMPLICATIONS**

The proposed change to the earlier resolution does have financial implications for the City due to the following reasons:

- Broader scope of impact due to the introduction of an additional location – “Tomato Lake area”.
- Increased signage requirements.
- Increased staffing requirements to effectively monitor Garvey Park, Tomato Lake and other potentially nominated dog prohibited zones.
- Marketing and communications costs.

It is anticipated that the costs associated with providing these could amount to thousands of dollars, in addition to the ongoing costs of dedicating additional staff resources to manage and enforce the matter.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**COUNCILLOR MOTION**

That Part B of the Resolution at Item 13.2 of the Council Meeting held on 26 February 2019, as detailed below be changed as follows:

That Council agrees to implement a public awareness campaign and fine owners of unleashed dogs in the Garvey Park area and at Tomato Lake.

And further, the Council take the following action:

1. The City of Belmont Rangers to have a stronger presence in the Garvey Park area and at Tomato Lake specifically looking for unleashed dogs in the environmentally sensitive areas and fine owners where it is deemed appropriate or warranted.
2. Appropriate signage be placed in and around Garvey Park and Tomato Lake reminding residents of the rules.
3. Prepare and launch a media campaign reminding the community of the problems associated with unleashed dogs in the Garvey Park and Tomato Lake areas and the penalties.

*Item 13.3 Continued*

**AMENDED COUNCILLOR MOTION**

**MOVED DAVIS, SECONDED SEKULLA**

*That Part B of the Resolution at Item 13.2 of the Council Meeting held on 26 February 2019, as detailed below be changed as follows:*

*That Council agrees to implement a public awareness campaign and fine owners of unleashed dogs in the Garvey Park area, Signal Hill and at Tomato Lake.*

*And further, the Council take the following action:*

- 1. The City of Belmont Rangers to have a stronger presence in the Garvey Park area, Signal Hill and at Tomato Lake specifically looking for unleashed dogs in the environmentally sensitive areas and fine owners where it is deemed appropriate or warranted.*
- 2. Appropriate signage be placed in and around Garvey Park, Signal Hill and Tomato Lake reminding residents of the rules.*
- 3. Prepare and launch a media campaign reminding the community of the problems associated with unleashed dogs in the Garvey Park, Signal Hill and Tomato Lake areas and the penalties.*

**CARRIED 9 VOTES TO 0**

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

**Note:**

The Presiding Member advised that in accordance with Section 5.23(2) of the *Local Government Act 1995* if there were any questions on Confidential Item 14.1, then Council will need to go behind closed doors.

9.33pm ***POWELL MOVED, WOLFF SECONDED, that in accordance with Section 5.23(2) of the Local Government Act 1995, the meeting proceed behind closed doors to discuss Confidential Item 14.1 – Nomination for Honorary Freeman of the City.***

**CARRIED 9 VOTES TO 0**

9.33pm The Principal Governance and Compliance Advisor departed the meeting.

9.33pm The Presiding Member advised that Council will be proceeding behind closed doors and asked all in attendance, other than Elected Members and staff to leave the Chamber. All members of the public gallery departed the meeting.

#### 14.1 NOMINATION FOR HONORARY FREEMAN OF THE CITY

##### BUILT BELMONT

Attachment No.	Details
Confidential Attachment 3 - Item 14.1 refers	<a href="#">Report Item – Nomination for Honorary Freeman of the City</a>

9.34pm The Principal Governance and Compliance Advisor returned to the meeting.

9.35pm The Principal Governance and Compliance Advisor departed the meeting.

9.37pm The Principal Governance and Compliance Advisor returned to the meeting.

*Item 14.1 Continued*

**OFFICER RECOMMENDATION**

**POWELL MOVED, WOLFF SECONDED,**

That Council:

1. Bestow the title of 'Honorary Freeman of the City' upon the Nominee for services to the City of Belmont.
2. Request that the Officer Recommendation remain Confidential until after the Bestowal Ceremony.

**LOST 4 VOTES TO 5**

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

**FORESHADOWED COUNCILLOR MOTION**

**CAYOUN MOVED, ROSSI SECONDED,**

***That this matter be deferred until after the review of the Policy.***

**CARRIED 9 VOTES TO 0**

9.57pm **ROSSI MOVED, POWELL 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 9.59pm.**

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**MINUTES CONFIRMATION CERTIFICATION**

The undersigned certifies that these minutes of the Ordinary Council Meeting held 27 August 2019 were confirmed as a true and accurate record at the Ordinary Council Meeting held 24 September 2019:

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

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

  
**PHILIP MARKS**