City of Belmont

ORDINARY COUNCIL MEETING

MINUTES

TABLE OF CONTENTS

18 November 2008

ITEM	SUBJECT HEADING	PAGE

ITEM SUBJECT HEADING PAGE

ATTACHMENTS INDEX

CONFIDENTIAL ATTACHMENT INDEX

**Councillors are reminded to
retain the OCM Attachments for discussion with the Minutes**

MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS OF THE CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON TUESDAY, 18 NOVEMBER 2008, COMMENCING AT 7.07 PM.

MINUTES

PRESENT

Cr P Marks, A/Presiding Member	East Ward
Cr C Hanlon	East Ward
Cr R Rossi	West Ward
Cr P Hitt	West Ward
Cr B Whiteley	South Ward
Cr J Powell	South Ward
Cr S Wolff	South Ward
Cr G Dornford	Central Ward
Cr B Brennan	Central Ward

IN ATTENDANCE

M S Cole	Chief Executive Officer
Mr N Deague	Director Community & Statutory Services
Mr R Lutey	Director Technical Services
Mr R Garrett	Director Corporate & Governance
Mr J Olynyk JP	Manager Governance
Mr J Hardison	Manager Property & Economic Development
Ms M Smith	Manager Community Services
Mr M Ridgwell	Principal Governance & Compliance Advisor
Ms S De La Cruz *(Departed 7.16pm)*	Coordinator Leisure, Arts & Cultural Services
Ms L Gaspar	Property & Economic Development Officer
Ms G Carlucci	Governance Officer

MEMBERS OF THE GALLERY

There were 26 members of the public in the gallery and 1 press representative.

OBSERVERS

There were 7 student delegates from the Adachi-Ku/Belmont Sister City Program in attendance.

1. OFFICIAL OPENING

The A/Presiding Member opened the meeting at 7.07pm, welcomed those in attendance and 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 on behalf of Councillors and Officers of the City of Belmont. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability. We 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 & LEAVE OF ABSENCE

Cr Martin *(22 October 2008 – 22 November 2008)* West Ward
Cr Godfrey *(13 November 2008 – 27 November 2008)* East Ward

3. DECLARATIONS OF INTEREST

7.07pm The Manager Governance read aloud the declarations of interest.

3.1 FINANCIAL INTERESTS

Name	Item No. & Title	Nature of Interest (and extent, where appropriate)
Nil.		

3.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Name	Item No. & Title
Cr Rossi	14.1 Disposal of Land, Redcliffe - Confidential Matter in accordance with Local Government Act 1995 Section 5.23 (2) (e) (ii)
Cr Whiteley	14.1 Disposal of Land, Redcliffe - Confidential Matter in accordance with Local Government Act 1995 Section 5.23 (2) (e) (ii)

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

4.1 ANNOUNCEMENTS

The A/Presiding Member made the following announcements

ANNOUNCEMENT 1 –

"It is my delight to announce our boardwalk and wetland enhancement project at Tomato Lake has won both the State and National Award for Open Space Development at the Parks & Leisure Australia National Conference. I would like to thank everyone involved in the project and congratulate them on a great outcome for the community and the environment."

ANNOUNCEMENT 2 –

"It is my pleasure to advise that the City of Belmont has been awarded the Diamond Diligence in Safety Award (DISA). This has come about as a result of the high OSH Management Systems Standard, with an overall result of 97 per cent, coupled with the injury statistics, which has seen a reduction of 45 per cent for incidence and 81 per cent for frequency rates over 4 years.

The City of Belmont was presented a Gold Diligence Certificate in September 2006. Since that date staff have focused on rectifying the non conforming elements and maintaining a high level of conformance on other elements by continually improving the systems through the use of the Business Management System, and as a result further reduced the City of Belmont's exposure to hazards and risks.

It must also be highlighted that the success of the City of Belmont's pro-active culture and high level of awareness filters throughout the organisation with demonstrated commitment from both management and employees."

ANNOUNCEMENT 3 –

"The official National Customer Service Awards Ceremony 2008 was held at the National Gallery of Victoria, Melbourne on the 29 October 2008 where the national winners in each category and the prestigious Customer Service Institute of Australia's Australian Service Excellence Award 2007/08 were announced. State winners in each category automatically qualified for the official National Customer Service Awards program.

The City of Belmont is the State and National winner in the Local Government category for two consecutive years 2006/07 and 2007/08. Mayor Glenys Godfrey received the award on behalf of the Council at the National Awards presentation ceremony.

To win the State and National Awards for two consecutive years illustrates our strong values and culture and the high standards of management, training and commitment to customer service excellence within the organisations."

ANNOUNCEMENT 4 –

"On Wednesday the 22nd October the Department for Planning and Infrastructure held an Awards luncheon where local councils were recognised for their contribution to promoting TravelSmart in their community. I am fortunate to announce that the City of Belmont was awarded for its championing contribution to TravelSmart within the community, a great achievement for the City."

ANNOUNCEMENT 5 –

"I will now defer to Cr Wolff Tour Leader to introduce the successful Sister City Student Delegation for 2009."

Cr Wolff made the following presentation –

"The City of Belmont has had a Sister City relationship with Adachi-ku in Japan for almost 25 years. In fact, next year, we celebrate the 25th anniversary of this strong and resilient relationship.

One of the purposes of the relationship is to foster peace and understanding between our countries and cultures.

The Sister City relationship is overseen by the Belmont Sister Assoc, whose current chairman is Mr Gil Grant. One of the key objectives of the Association is to organise student and citizen exchanges. Towards that objective, a City of Belmont student delegation will be travelling to Adachi, early next year, in January 2009.

The student delegation will consist of a Tour Leader, a Student Chaperone, and eight students from the City of Belmont.

The Tour leader on this occasion will be myself. My role will be to represent the Belmont Council in Adachi and lead the tour.

The Student Chaperone I am proud to announce will be Ms Della Howell. Her principle role will be to take care of the students.

Before I present the students, I wish to point out that in preparation for the trip to Adachi, the students are required to fund raise $4500. Over the last few months, due to the hard work and organising of our team, together with donations received for our sausage sizzles, phonebook deliveries and chocolate sales, we have raised the funds required.

The students have also been learning Japanese and songs and speeches to present to Adachi. Additionally they have visited the Belmont History Museum to learn more about the City of Belmont, to round out their knowledge of Belmont in their roles as student representatives of the City of Belmont.

There are eight students from the City of Belmont in the delegation travelling to Adachi in January 2009. Mr Deputy Mayor, I'm proud to present this delegation to Council tonight. They are: Maddison Whittle, Taylor Walker, Dylan Walter, Daniele Barltlett, Victoria Greenwood, Alexandria Dodds, Edward Oversby and Jessica Ashwell."

7.16pm The Coordinator Leisure, Arts & Culture Services departed the meeting with the Sister City student delegates and did not return.

4.2 DISCLAIMER

7.16pm The A/Presiding Member drew the public gallery's attention to the Disclaimer and the Principal Governance & Compliance Advisor read the Disclaimer aloud.

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

Nil.

5. PUBLIC QUESTION TIME

5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

5.1.1 Mr H Zybrowski – 3 Reibe Avenue, Kewdale

The following questions were taken on notice at the Ordinary Council Meeting of 21 October 2008.

"Does the Council recognise that the majority of impacted residents are not going to make any effort to make a change as ludicrous as this? On that basis what is the point of going to the effort of changing the positioning of two vowels in a street name?"

Response: There is a presumption that the Geographic Names Committee of Landgate will agree to the change in spelling. If this were to be the case, the possibility that many residents of Reibe Avenue will not change the spelling to Riebe Avenue is accepted. Over time it is anticipated that new residents will use the approved name. Fortunately, the change is only minor and there are many instances where people do not spell road names correctly, but usually that does not affect their delivery of mail or services.

It is considered a measure of respect to the Riebe family to correct the spelling anomaly. Future generations of the family would appreciate the certainty that it was indeed their family relative that was honoured, not someone else. It is also important for the sake of accuracy of the historical record to correct what is known now to be an inaccuracy.

"If Mr Riebe was such an important entity in the history of the Shire, why would the Council name a street less than 100 metres long after the person? Surely another piece of significant infrastructure would be more appropriate?"

Response: The Council regards as a significant honour any street being named after a person. The Council has a policy on the naming of streets and parks and there is no consideration given to matching a person's perceived importance with a street or park according to some hierarchy.

"C5.4.1 NAMING OF STREETS, PARKS AND RESERVES

Policy Objective:

To ensure the naming of streets, parks and reserves within the City conform to accepted criteria.

Policy Statement:

1. ***A Schedule of Names Reserved for Streets and Parks be maintained by the Planning Department following advice from the Geographic Names Committee of the Department of Land Information (DLI).***
2. ***The Planning Department will be responsible for recommendations to the Council that relate to the naming or renaming of all streets, parks and reserves within the City. Such recommendations are to comply with the Guidelines of the Geographic Names Committee of the DLI or justification be provided for any exception to the Guidelines that is likely to be acceptable to the Geographic Names Committee.***
3. ***Unless otherwise determined by resolution of the Council, names shall be drawn from the following sources:***

Criteria for Recognition

(a) The surnames of pioneering families.

(b) Prominent district identities.

(c) Persons who have made a significant contribution to the community.

(d) Councillors who have retired and completed a service to the community of approximately six years or more. (Corresponding to the original two terms of three years).

(e) Encouragement of ethnic and gender diversity.

(f) Horses that have been winners of two or more major racing events.

(g) Flora and fauna that is recognised as being unique to the location encompassed by the Swan Coastal Plain.

Priority for Use of Names

The use of a name be determined by where the person resided. The horse names to apply to Ascot.

4. ***The Schedule of Names Reserved for Streets and Parks be reviewed biennially for a report to the Council."***

The Council has a large list of names of persons who could be considered having a street, park or building named after them. It was considered that having the street name of Riebe Avenue would be sufficient.

"Could the Council please demonstrate to me what lateral thinking it has exercised in this matter to create a win/win scenario for all parties concerned? It appears to me that the only winner in this case is the objecting family who have taken 40 years to come forth with the issue."

Response: Councillors considered very carefully the comments made by objecting landowners as well as those from the Riebe family.

Councillors have suggested that under the road sign of Riebe should be a smaller sign of 'Formerly Reibe Ave. Charles Riebe - Engineer Belmont Roads Board'.

5.1.2 Mr R Birch – 195 Knutsford Avenue, Kewdale

The following question was taken on notice at the Ordinary Council Meeting of 21 October 2008.

"Can this register [Councillor Attendance Register] *be inspected during the year?"*

Response: The Manager Governance has advised that attendance of Councillors at Council meetings is recorded in the minutes of every public meeting. In addition the attendance of every Councillor is reported in the City of Belmont Annual Report.

The Chief Executive Officer has discussed and written to Mr Birch on the matter and supplied a copy of the reference to Councillor attendance from the Annual Report.

5.1.3 Mr G Haynes - Unit 1/288 Great Eastern Highway, Ascot

The following questions were taken on notice at the Ordinary Council Meeting of 21 October 2008

"Why were business tenants located on Great Eastern Highway Ascot between Lyall St and Moreing St not consulted prior to the decision taken by the City of Belmont to ask the MRD to close Lyall St for a trial of 3 months?"

"Is the City of Belmont aware that staff and their customers/clients in business premises located between Lyall St and Moreing St have to access these business's via Moreing St?"

Response: The Director Technical Services reiterated that it is a trial closure only and to his knowledge all premises were written to.The City will seek further submissions on the impact of the closure prior to the end of the trial period.

"Is the City of Belmont aware that staff and customers of these business premises when travelling South (towards Perth) on Great Eastern Highway can not turn right at Moreing St because of a continuous traffic island specifically designed to prevent this from occurring?"

"Is the City of Belmont aware that staff and customers/clients of these premises, when travelling towards Perth on Great Eastern Highway, used to access these business's via the Lyall St route?"

Response: The City is aware that there are limitations on vehicle access into the Ascot area as a result of the installation some years ago of the concrete kerbing in the centre of Great Eastern Highway.

"Is the City of Belmont aware that this closure has resulted in a far greater volume of traffic travelling down Epsom Avenue thus negating any real benefit of reducing traffic and horse exposure through the closure of Lyall St?"

Response: The impact on traffic in Epsom Avenue and other streets in Ascot will be assessed during the trail closure period.

"Is the City of Belmont aware of the extremely dangerous circumstance that has developed as a result of vehicles cueing up to turn right at the Epsom Avenue traffic lights blocking off a complete lane of Great Eastern Highway – thereby increasing the traffic congestion on an already badly congested arterial road?"

"Is the City of Belmont aware that any proposal to provide a "turn right" arrow at the Epsom Avenue lights will reduce the accident potential – however it will contribute to further congestion – particularly during peak hours?"

Response: The City is aware of the limitations of the Epsom Avenue/Great Eastern Highway intersection and has asked Main Roads Western Australia to review the situation during the trial closure period with a view to installing a right turn filter arrow.

"Is the City of Belmont aware of the impact of this closure in terms of inconvenience to the customers/clients who wish to access these premises?"

"Is the City of Belmont aware of the negative financial impact this closure will have on those business's located on Great Eastern Highway between Lyall St and Moreing St?"

Response: The Presiding Member took these questions on notice and stated that Council and the City is aware and that all these concerns will be taken into consideration during this trial period.

"Is the City of Belmont prepared to compensate business's located on Great Eastern Highway between Lyall St and Moreing St for loss of trade and financial damage caused by this ill advised decision to close Lyall St?"

Response: The Chief Executive Officer advised that it is only a three month trial but any claim would be referred to the City's insurers.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.18pm A/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 (l), the A/The Presiding Member advised that she had registered four members of the public who had given prior notice to ask questions, these being Ms L Woodward, Ms V Dehring, . Mr G Haynes and Ms J Gee.

5.2.1 Ms Lillian Woodward – 10a Francesco Street, Rivervale

"Are Councillors aware of the Local Government Amendment Bill 2008 which went to the second reading on 18/6/08 and lapsed on 7/8/08 due to the Legislative Assembly of the 37th Parliament being dissolved when the election was called?"

"Are Councillors aware that Clause 34 - Section 6.25 amended includes a definition of "Owner" to make it clear that a "lease for life" resident is defined in the same way as set out in the Retirement Villages Act 1992 whereby leaseholders are not "owners".

"This Bill further states that "This amendment is necessary to clarify that lease for life residents are not liable for the payment of rates. This is a technical amendment to clarify this issue based on recent interpretation of the Act."

"The residents of the 12 units at Francisco Street Belmont will be lobbying their Local Member, Hon Eric Ripper to ensure this Bill is reintroduced to Parliament as soon as possible."

Response: As clearly stated in the question, the Local Government Amendment Bill 2008 has lapsed and consequently has no relevance to the current circumstances.

"Can you please explain to the 15 residents, who are real pensioners, not self funded retirees or superannuants and who are mostly in their 80s and who reside in the 12 units at 10 Francisco Street, Belmont why you are spending many thousands of dollars on legal fees to try and find a loophole in the Local Government Act to cause us so much stress by making us pay rates. It seems unfair that the Mayor can spend thousands of dollars of ratepayers money to go on a junket/trip to Venice, on to Rome, then on to Manchester etc when we are living on a fixed pension which is clearly insufficient in these times. Our units are not rateable due to Section 6.26 (2) (a) (i) and (g) and it appears to be a waste of ratepayers money to spend so much on legal fees for so little return and to cause us so much stress."

Response: Firstly, as a result of this issue currently being the subject of a review by the State Administrative Tribunal (SAT), the City is limited in the amount of detail that can be used in any responses provided.

This matter is before the SAT due to an appeal by RetireesWA of a decision made by this Council. The City has only two choices:

1. **Accept the position of RetireesWA as valid and change its initial decision to one in favour of the applicant, or**
2. **Consider its decision correct and justify that decision through a defined process before the SAT.**

In this case, the City considers that the decision made by it is in accordance with existing legislated requirements, and therefore, as a result of the appeal, is required to justify its position to SAT.

Local governments are required to comply with the provisions of the Local Government Act 1995.

As an overriding principle, Section 6.26(1) of the Local Government Act states that all land in a district is rateable land.

Section 6.26(2) defines land which *not* rateable land. This section requires that specific circumstances exist in relation to land before it can be applied. It is the responsibility of the owner or occupier of the land to prove an entitlement for exemption under Section 6.26(2).

Every exemption provided under this section of the Act results in an additional burden being placed on all rate payers in the local government (including rate paying pensioners) due to the revenue foregone as a result of the exemption. Local governments must ensure that all rate payers and residents are treated fairly within the requirements of the legislation that governs it.

5.2.2 Ms Verna Dehring - 373 Knutsford Ave, Kewdale

"With the event of the Federal Government allocating money to Local Councils and the urgent need for a completely new Senior Citizens building, could the Council please apply immediately for the finance to help with the costs.

This building is well past its use by date. I believe it was one of the first of its kind built. It has been known for many years that the beams would not hold any extensions.

I have previously taken Councillors to have a look at the Shire of Cannings Senior Citizens building in Herald Ave Willetton and have had no feedback.

No one has complained before as everyone loves the area where the Belmont Seniors building is. It caters for their shopping and bus use.

Would it be possible for all the Councillors to have a look at the Herald Ave building before deciding the type of building required? Attached is the Herlad Ave Presidents card.

I ask this as a member of a family that has paid Belmont Shire rates for 40 years."

Response: The Council is aware of the Senior Citizens Centre in the City of Canning located at Herald Avenue Willetton and we agree it is important to evaluate the current and future use of this facility before a decision is made to build a replacement for our City of Belmont Senior Citizens Centre.

The Federal Government has only allocated $190,000 to the City of Belmont to expend on an infrastructure program by September 2009. This is well below an amount suitable to initiate the construction of a community building.

The Council cannot rush into a decision to construct such an asset, because the trend is to have a multipurpose facility and maintenance and eventual replacement costs must be taken into account.

We wish to assure you that the needs of our Senior Citizens of today and tomorrow will be given careful consideration *to ensure the best possible outcome for everyone*.

5.2.3 Mr G Haynes- Unit 1/288 Great Eastern Highway, Ascot

"As a tenant, whose rates to the City of Belmont I pay by way of outgoing expenses, I was informed about a survey by another tenant who was fortunate enough to receive a copy of the survey. Why did the City of Belmont place the responsibility of informing me of this survey on other tenants? I did not receive a blank survey form and was unable to respond. Could the City of Belmont be so kind to send me a blank survey form so that I (and other tenants) might be able to participate in the survey as the closure of Lyall St has had a significant negative impact on my members and potential member's access to my premises?"

Response: The Director Technical Services explained that he has become aware that the original survey was not received by all those affected by the closure. The City sent the most recent survey to all owners with the request that the owners pass the information on to their tenants. At properties where the owners address differed from the property address surveys were also sent to a tenant with a request the survey be passed on to any other tenants. The Director Technical Services advised that the City will fax the recent survey onto Mr Haynes.

"Has the City of Belmont considered constructing a 'slip road' pr service road' between Lyall St and Moreing St parallel to Great Eastern Highway? This I sincerely believe should be a matter of priority before any decision to close Lyall St is made.

If the City of Belmont has considered this proposal, are there any impediments as to why this solution, which would be mutually acceptable to most protagonists of both sides of the 'Lyall St closure' debate should not proceed as a matter of urgency?"

Response: The Director Technical Services advised that there are potential impediments such as the City not having ownership/control the land, the potential to move traffic to Moering St and costs but the matter will be addressed in the report that will go to Council after the trial period.

"Does the City of Belmont employ any staff whose responsibility is to liaise with small businesses which may be affected by planning or other decisions?

If such a person is employed by the City of Belmont, could that person or persons be directed to liaise with the land owners and tenants of business premises located on Great Eastern Highway between Lyall St and Moreing St?"

Response: The Director Community & Statutory Services advised that the Manager Property & Economic Development assists and facilitates contact with business people, but on this occasion has not been requested to be involved..

5.2.4 Ms J Gee – 44b Treave Street, Cloverdale

"Who calls an enquiry when Councillors buy commercial blocks?"

Response: The Chief Executive Officer explained that the City employs a third party independent assessor when an application is before Council that is owned by a serving Councillor. Furthermore, there are Governance processes in place to insure all correct disclosures are made.

"Cr Dornford purchased a block knowing the zoning, is this a case of 'Insider Trading?'"

Response: The Chief Executive Officer advised that the *Local Government Act 1995* ensures that all Declarations of Interest are adequately made in conjunction with the advice of an independent assessor. 'Insider Trading' is not the correct terminology to use in Local Government and as explained above processors are taken to ensure the correct layer of Governance is applied in such situations.

"If there is an enquiry, are the Cost warn by the city?"

Response: The Chief Executive Officer advised that yes the cost will be to the City.

The A/Presiding Member invited the public gallery members, who had yet to register their interest to ask a question, to do so. Three further registrations were forthcoming, these being from Ms M Bass, Ms C Nore and Mr J Watson.

5.2.5 Ms M Bass on behalf of the Belmont Residents Ratepayers Action Group (BRRAG)

"Could council look at some kind of deterrent along Keane and Kew St Kewdale that will slow traffic?"

"At present many young motorists are using these streets as a speeding strip, and it is just a matter of time before there is a serious accident. Some suggestions from residents were that Belmont Council install the large buns used in slowing traffic in the back streets of South Perth, where it's impossible to drive over them at any great speed without damaging your vehicle".

Response: The Director Technical Services advised that a traffic analysis will have to be conducted prior to any consideration.

"About 2 years ago council held a meeting and inspected local shopping centres around the city with the aim to improve the esthetics of these area. Residents believe that homes in and around Belmont have improved, but some of these shopping areas are no keeping pace with the new modern Belmont. What has been the outcome of this study? Will residents see any improvements and when and how will this be done?"

Response: The Manager Property & Economic Development explained that the City is engaged in ongoing negotiations with the different owners of the individual local shopping centres. As expected, there are varying actions and levels of activities within each centre. In some cases the owners are actively working on redevelopment plans, in others we're having problems getting the owners to even meet with us. This is not the sort of project that can be easily finished, but will be ongoing and incremental.

ROSSI MOVED, POWELL SECONDED, to extend Public Question Time.

CARRIED 9 VOTES TO 0

5.2.6 Ms M Bass – 77 Keymer Street, Belmont

"Could Council please give full financial contributions and associated costs over the last financial year that Belmont Council has paid to EMRC?."

Response: The A/Presiding Member took this on notice.

"Has the Mayor of Belmont who is attending the Symposium on Energy from Biomass & Waste Management Conference in Venice gone by business class or economy class?"

Response: The Chief Executive Officer advised that the Mayor will be travelling economy class.

5.2.7 Ms C Nore – 96-98 Matheison Road, Ascot

"Why hasn't Council done a reasonable traffic study of Lyall Street?""

Response: The Director Technical Services explained the study was standardised and did not include weekends or Melbourne Cup Day. The traffic counts appear to reasonably represent the current traffic pattern.

"What is Council proposing to do with the increased traffic resulting from the Ascot Inn re-development on Epson Avenue?"

Response: The Director Technical Services explained that the City is aware that there will be an increase in traffic along Epson Avenue and the proponent of the development will be required to undertake the relevant traffic studies.

5.2.8 Mr J Watson – 9 Lyall Street, Ascot

"Is there evidence that a right turn from west bound Great Eastern Highway traffic at signalled Epsom Avenue is less safe than a right turn for similar traffic into non-signalled Lyall Street?"

Response: The Director Technical Services explained to Mr Watson the comparative safety of the Lyall Street and Epsom Avenue intersections. The number of accidents related to vehicles being hit while right turning into the Ascot was small and that although he could not recall which had more, the difference was only one accident.

Note: The Director Technical Services later cofirmed than in the 5 years to 31 December 2007, (which are the latest available statistics), Great Eastern Highway/Lyall Street intersection had 2 accidents and Great Eastern Highway/Epsom Avenue had 3.

7.53pm As there were no further questions, the A/Presiding Member declared Public Question Time closed.

6. CONFIRMATION OF MINUTES / RECEIPT OF INFORMATION MATRIX

6.1 ORDINARY COUNCIL MEETING HELD 21 OCTOBER 2008
(Circulated under separate cover)

WHITELEY MOVED, WOLFF SECONDED, That the minutes of the Ordinary Council Meeting held on 21 October 2008 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 9 VOTES TO 0

6.2 INFORMATION MATRIX FOR THE AGENDA BRIEFING FORUM HELD 11 NOVEMBER 2008**
****Council Attachment 1 – Item 6.2 refers**

POWELL MOVED, WHITELEY SECONDED, That the Information Matrix for the Agenda Briefing Forum held on 11 November 2008 as circulated in the attachment, be received and noted.

CARRIED 9 VOTES TO 0

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

Nil.

7.53pm The Principal Governance & Compliance Advisor departed the meeting and returned at 7.56pm.

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

Nil.

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

Nil.

10. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

11. REPORTS OF COMMITTEES

11.1 STANDING COMMITTEE (AUDIT & RISK) HELD 27 OCTOBER 2008
(Circulated under separate cover)

POWELL MOVED, WHITELEY SECONDED, That the Minutes for the Audit & Risk meeting held on 27 October 2008 as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

12. REPORTS OF ADMINISTRATION

WITHDRAWN ITEMS

Item 12.1 was withdrawn at the request of Cr Rossi.
Item 12.2 was withdrawn at the request of Cr Powell.
Item 12.3 was withdrawn at the request of Cr Powell.
Item 12.6 was withdrawn at the request of Cr Dornford.
Item 12.7 was withdrawn at the request of Cr Rossi.

BRENNAN MOVED, ROSSI SECONDED, that with the exception of Items 12.1, 12.2, 12.3, 12.6 and 12.7 which are to be considered separately, Officer Recommendations, specifically Items 12.4, 12.5, 12.8, 12.9, 12.10, 12.11, 12.12 and 12.13, be adopted en bloc.

CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0

12.1 LOT 95 (14) AURUM STREET, ASCOT - STABLES

Built Belmont

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	115/001
Location / Property Index	:	Lot 95 (14) Aurum Street, Ascot
Application Index		193/2008/DA, SAT313 of 2008
Disclosure of any Interest	:	N/A
Previous Items	:	Item 12.3 OCM 15 July 2008
Applicant	:	Avalon Sheds & Stables
Owner	:	M L Williams Pty Ltd
Responsible Division	:	Community & Statutory Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To reconsider a development application for retrospective approval for four stables located at Lot 95 (14) Aurum Street, Ascot in accordance with a requirement of the State Administration Tribunal Directions Hearing of 7 October 2008.

12.1 Continued

SUMMARY AND KEY ISSUES

- Lot 95 (14) Aurum Street, Ascot is zoned 'Residential & Stables' where stables are designated a 'P' permitted use.
- The stables were constructed without planning approval or a building licence being issued.
- The stables do not comply with the City's Health (Stables Premises) Local Law 1999 with respect to distance between stables and adjacent commercial property.
- Council at its meeting of 15 July 2008 resolved to grant planning approval for Stall 1 to be utilised as a Stable and Stalls 2, 3, & 4 to be used for storage purposes only.
- The applicant appealed to the State Administration Tribunal (SAT). A Directions Hearing was held on 7 October 2008 where SAT made orders for the applicant to provide additional submissions where in their view 'exceptional circumstances' would justify approval of the four stables.
- The additional submission was received 20 October 2008.

LOCATION

Lot 95 (14) Aurum Street, Ascot.

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.

12.1 Continued

The application was previously referred to the adjacent 'Mixed Use' zoned property. No response was received.

In the submission dated 20 October 2008, letters of non objection have been received from the residential property owner to the rear of the subject lot and the lessee from the marine showroom premises. It should be noted, the owner of the subject lot also owns the adjacent Lot 176 (10) Aurum Street 'Residential & Stables' zoned property.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT - *"Encourage the upgrading and compatible redevelopment of the City of Belmont."*

BUSINESS BELMONT – *"Maximise business development opportunities within the City."*

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 14

The subject lot is zoned 'Residential and Stables' under Town Planning Scheme No. 14 (TPS14). The Residential and Stables zone is intended to provide for compatible usage of land in close proximity to the Ascot Racecourse by residential accommodation and stables and ancillary functions of the horse racing industry. Setbacks for stables and yards shall comply with Clause 10.7.4 and the provisions of Council's Stables Local Law.

Clause 5.11 of TPS14 permits Council to grant approval of existing developments provided the development conforms to the provisions of the Scheme.

Health (Stables Premises) Local Law 1999

Health (Stables Premises) Local Law 1999 specifies the standards required for the construction of stables (materials and size) and specifies the setbacks required from any dwelling on the subject lot and any dwelling, office or commercial premises on adjacent lots.

State Administration Tribunal Act 2004

Section 31 of the State Administration Tribunal Act 2004 provides the Tribunal with the ability to request the decision maker to reconsider its decision.

Deemed Refusal

The deemed refusal date for this application was 23 July 2008 and the Council determined the application at its meeting held on 15 July 2008.

12.1 Continued

Right of Appeal

Is there a right of appeal? ☒ Yes ☐ No

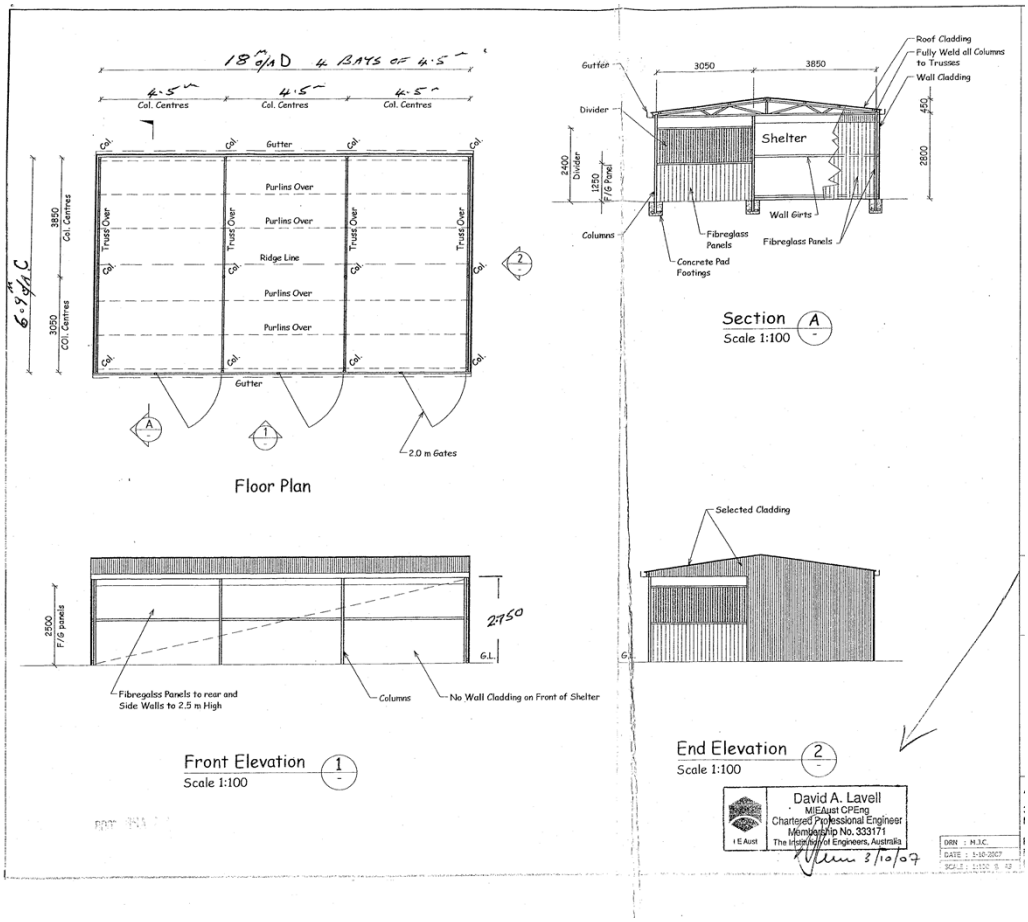
The applicant appealed to the State Administration Tribunal. A Directions Hearing was held on 7 October 2008. A further Directions Hearing has been set for 21 November 2008 pursuant to Clause 31 of the SAT Act for Council to reconsider the matter at its meeting of 18 November 2008.

BACKGROUND

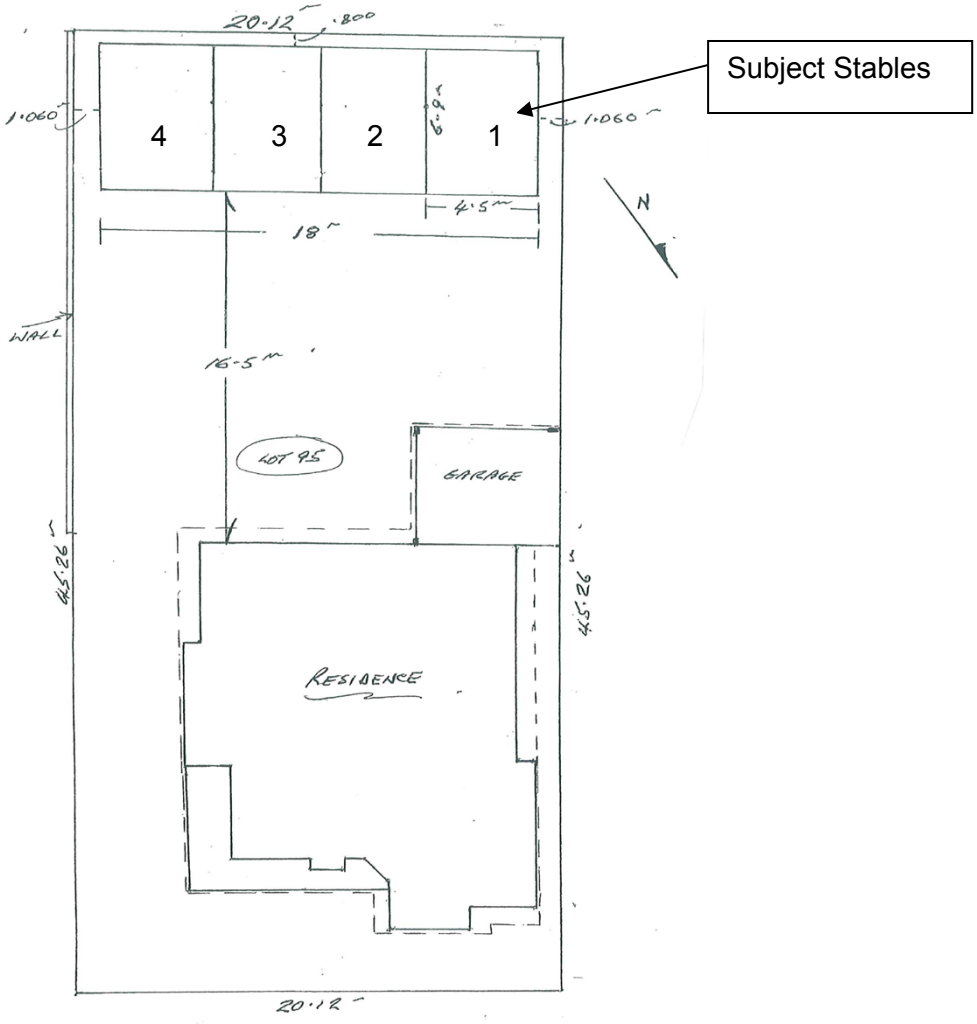
Lodgement Date:	24 April 2008	**Use Class:**	Stables – 'P' Use
Lot Area:	911m2	**TPS Zoning:**	Residential and Stables
Estimated Value:	$18,000	**MRS:**	Urban

History

An application was received dated 24 April 2008 for retrospective planning approval for stables (total of four stalls), located behind the existing dwelling at Lot 95 (14) Aurum Street, Ascot. The stables are constructed of colorbond and fibreglass walls with colorbond roof and sand floors. Each stall measures 4.5m wide x 6.9m deep. The stables are located 0.8m from the rear and 1.06m from both side boundaries (refer site plan, floor plan and elevations below).



12.1 Continued



The Council at its meeting held on 15 July 2008 considered the application for retrospective planning approval for a stable block consisting of four (4) stalls and approved the application subject to the following conditions:

"1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.

2. All stormwater from roofed and paved areas shall be collected and disposed of on-site in accordance with the City of Belmont's Engineering Requirements and Design Guidelines and any associated drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction from any thing.

3. That stall 1 closest to the northwest boundary is to be utilised as a Stable.

4. That stalls 2, 3 and 4 are to be used for storage purposes only."

12.1 Continued

The applicant was also advised that in accordance with the City's Health (Stables Premises) Local Law 1999, only stall 1 can be registered as a stable as all others are located within the required 15 metre separation distance from a commercial premises.

The applicant lodged an appeal to the State Administration Tribunal.

A Directions Hearing held on 7 October 2008 resulted in the Tribunal making the following orders:

- **The applicant to file with the SAT and provide to the Respondent (The City of Belmont) any further submissions it wishes the Respondent to Consider.**
- **Pursuant to section 31 (1) of the State Administration Tribunal Act, Council is invited to reconsider the matter at its meeting of 18 November 2008.**
- **The matter is listed for a further Directions Hearing on 21 November 2008.**

Proposal

On 20 October 2008 the City received a submission from Jackson McDonald lawyers on behalf of the applicant (Avalon Sheds & Stables) which is summarised as follows:

1. The commercial premises to which the 15metre setback applies are a marine sales and repair shop. The construction and use of the Stables will have no adverse impact on the Marine Shop.
2. Extensions to the Marine Shop were completed two and half years ago and a change of use is seen as unlikely.
3. The part of the Marine Shop adjacent to the Stables is a large building with a 23metre long and 7metre high wall facing the property. Any potential amenity impacts (assuming there are any which is denied) are neutralised by the existence of this wall.
4. Both the lessee and the owner of the Marine Shop have no objection to the construction and use of the stables.
5. The residential and stables premises immediately to the rear of the stables includes an existing brick stables building immediately adjacent to the stables.
6. The construction and use of the stables will have no adverse impact upon the residential and stables premises to the rear. The owners of this property have no objection to the construction and use of the stables.
7. The rear stables have the exact same amenity impacts on the Marine Shop as the subject stables and are located exactly the same distance from the Marine Shop as the subject stables.
8. Even if the stables are not approved, the existence of the rear stables necessarily means that the Marine Shop will be subject to the same amenity impacts as if the stables were approved.
9. The applicant consents to a condition requiring a 3.4metre masonry wall which will neutralise the impact (if any, which is denied) of both the subject stables and the rear stables on the Marine Shop.

12.1 Continued

10. Approval for stables has previously been granted by Council within the 15metre setback requirement reduced on the basis that the stables incorporated a 5.3metre high concrete tilt up boundary wall along the rear and side boundary abutting the Mixed Use zone. The rationale was that the design created a barrier to the neighbouring property which internalised any impacts of the stables and created a more useable rear area of the lot. The Manager Health and Ranger Services at that time supported the proposal.

The applicant advises that for the reasons set out above, there are exceptional circumstances which justify the variation of the setbacks in the Local Law.

Under point 10, mention is made of another application which is cited as a precedent. This is not considered to be a valid reason to justify an 'exceptional circumstance' particularly when this approval was initially issued in error and never acted on.

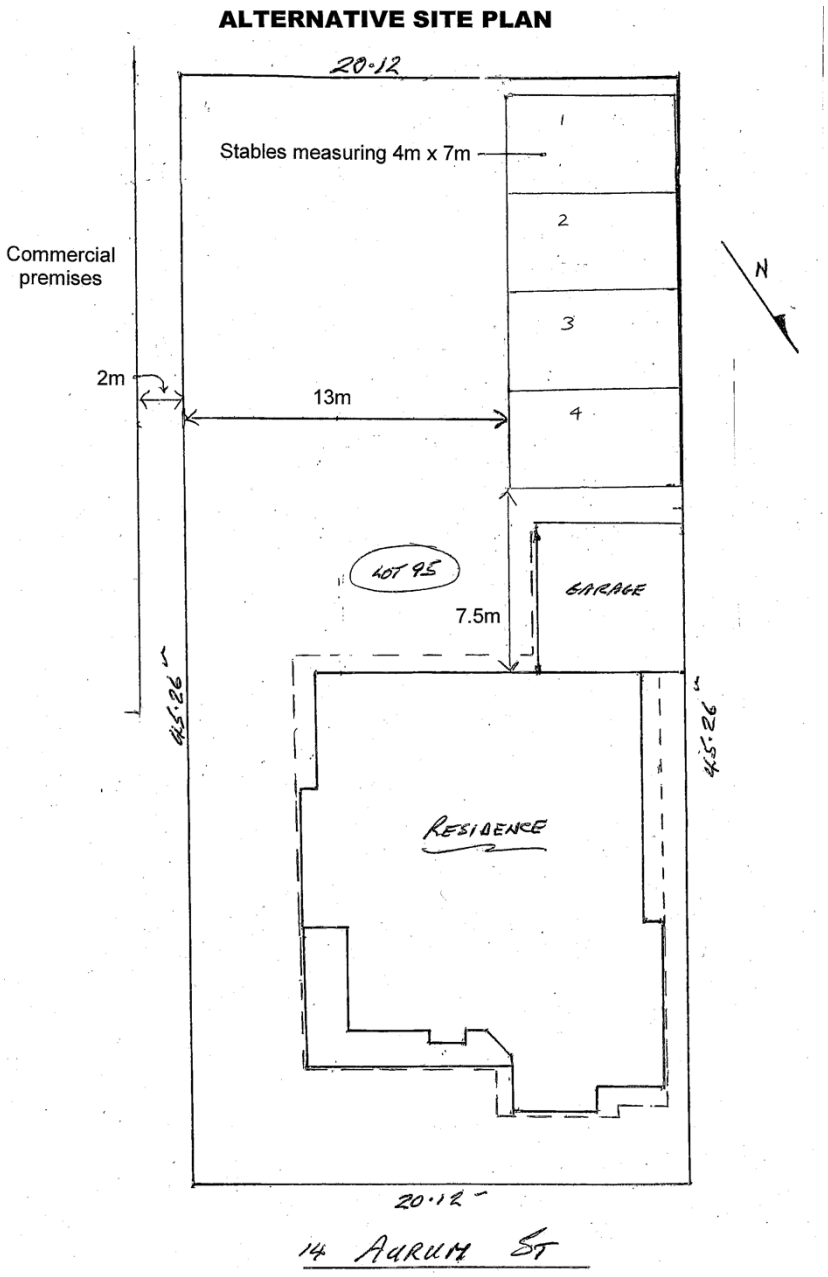
The applicant further submits that if exceptional circumstances do not exist in respect of the present application then it is likely that there will never be exceptional circumstances to justify a variation of the setbacks in the Local Law. A copy of the submission will be made available to Councillors on request.

Notwithstanding, if the applicant followed due process and submitted a planning application prior to construction of the stables, he would have been advised of the 15 metre setback requirement and amended plans would have been requested at that time.

It should also be noted that Council officers believe an alternate configuration will permit four stables on-site. Given the location of the dwelling and distance to the rear boundary, four stables measuring (4m x 7m) could be located along the north-western side boundary to the rear of the existing garage (refer alternative plan below). This would comply with the local law requirements with respect to the 15metre setback to the adjacent commercial premises.

This was discussed at the Directions hearing with the applicant, who was instructed to liaise with the owner with respect to the relocation of the stables. However, the appellant has advised the Manager Health and Ranger Services that the owner would not accept this option because he wanted to retain access to the adjacent property which he also owns.

12.1 Continued



OFFICER COMMENT

The Council at its meeting of 15 July 2008 considered three options as follows:

1. Refuse the application.
2. Approve 1 stall for stable use and the other 3 within the 15 metre setback for storage only.
3. Approve the application for stables subject to the construction of a 3.4 metre high wall along the rear and a portion of the side boundary.

12.1 Continued

Given that no arguments were presented to justify a case for 'exceptional circumstances' under the Health (Stables Premises) Local Laws, Option 2 was chosen.

Clause 10.8.4 of the City of Belmont Town Planning Scheme No. 14 details the requirements for setbacks of stables and yards from lot boundaries. The Scheme states that stable development should comply with Council's Health (Stables Premises) Local Law 1999. This then invokes the separation distances specified in the Local Law, which then become the Town Planning Scheme development requirements. However, under Clause 10.16 of the Scheme there is a general variation provision which the Council can exercise that effectively can vary the requirements of the Local Laws.

The Local Law allows the City to vary provisions on the basis of 'exceptional circumstances'. It should be noted that the required distances between stables, dwellings and commercial buildings as set out in the City's local law are the most lenient in the State. This is due to the historic nature of the City's stables area and its close proximity to Ascot Race Course.

It is considered relevant to consider the planning and health issues associated with the appeal.

From a planning viewpoint, the following points are made.

- The lot is capable of accommodating 4 stables and this is consistent with Council's objective of encouraging stables development. It is possible that the 4 stables can be positioned along the north-western boundary, that is the common boundary with Lot 176 (10) Aurum Street.
- Setback distances from a planning viewpoint are not 'cast in stone' and can be varied, depending on the merits of a development. In this case, it is relevant to assess adjoining land-uses/developments.

  Lot 87 (19) Keymer Street has stables built at the rear of the property with a wall of the stables built on the boundary at 3.4m high.

  Lot 503 (238) Great Eastern Highway is a large lot of 5,680 m2 zoned 'Mixed Use' on which is located a marine workshop and associated showroom building. The stables the subject of this appeal are located approximately 4 metres from this development. It could be argued that Option 3 with the erection of a 3.4 metre high wall would provide a barrier to minimise possible adverse impacts of noise, odour and dust on the adjoining Lot 503.

  If future redevelopment were to occur on Lot 503, a possible land-use which may raise a problem is the one associated with a food premises. Having regard to the size of the lot and the likelihood such a use being sited close to Great Eastern Highway, this problem may be overcome. If residential or office uses were to be proposed in the future, adequate setbacks from the stables would need to be considered.

  Note: To clarify Option 3, what is proposed is to require a 3.4 metre high boundary brick or masonry wall at the rear of the appeal site, (Lot 95) and for it to be extended from the south-east corner along the south-east boundary for a distance of approximately 14 metres to coincide with the edge of the paved area. Refer to the aerial photograph.

12.1 Continued

This then raises the perspective of the Health (Stables Premises) Local Law.

The thrust of this legislation is to ensure public health standards are properly assessed. The stables in terms of their structure do comply with the Local Law. They do not comply in regard to the required 15 metres distance from any office or commercial premises.

The Local Law does allow for discretion, where it allows the Council to relax that requirement ***"….if in the opinion of Council, exceptional circumstances justify a variation and no likely adverse health effect will arise as a result of the variation."***

The specific issue for the Council is to determine whether there are exceptional circumstances with no likely adverse health effects under the terms of the Local Law.

Council's Health Department is of the view that exceptional circumstances would apply where innovative building techniques, methods and materials were to be used in the stables development. Another exceptional circumstance could be the position of the dwelling on a lot which would limit the opportunity to build stables. In this case, it is still possible to build the four stables, but in another position on the subject lot.

In summary the matter is as follows.

1. SAT has requested of the appellant to put forward its arguments for 'exceptional circumstances'.

2. Council Officers have provided the appellants with a development option of four stables that would comply with the 15 metre distance requirement of the Local Law, but the landowner was not interested in entering any discussion on the matter and sought a decision from SAT.

12.1 Continued

3. Council need to determine whether the appellant's claim of 'exceptional circumstances' is valid.

4. If the Council were to agree or conditionally agree with the appellant, then the Council should advise SAT of its decision and also to request it to impose relevant planning conditions.

5. If the Council were to reject the appellant's claim of 'exceptional circumstances', then the hearing of SAT will proceed to the Directions Hearing scheduled for the 21 November 2008 and SAT will ultimately make its decision.

There are therefore two basic decisions identified in this report that can be taken by the Council.

Option A. That it rejects the appellant's submission on 'exceptional circumstances' and accordingly its decision at the Council meeting of the 15 July 2008 remains unchanged.

Option B. That it accepts the appellant's submission on 'exceptional circumstances' and therefore would advise the Tribunal that it would support an approval based on Option 3, which required a brick or masonry wall to be constructed.

Option A is recommended for the following reasons:

1. The intent of exceptional circumstances was not included in the Local Laws to allow applicants to circumvent the proper planning and building approval process. By the applicants own admission at the SAT hearing on 10 September 2008 when asked why he failed to follow normal process, he responded that he knew the City would just approve them later anyway.

2. The applicant has a long and extensive history of building stables in the Ascot area and should be fully aware of the proper process and the required setbacks. The same applicant submitted in November 2007 a planning application to build stables at 9 Moreing Street, Ascot and when a site visit was carried out it was noted that the stables construction had again already commenced without any planning or building approval having been granted.

3. The argument of "exceptional circumstances", which should have been put forward at the normal planning stage is being used by the applicant in an attempt to show retrospective validity for an application for illegal development.

4. If the Council were to approve this application, it would be seen to endorse and encourage the applicant (and others) in the future to simply build and seek the required approval through SAT should the Council refuse a non-compliant application.

12.1 Continued

5. The applicant claims that the stables to the rear have been built in the same way as the subject illegal stables and that the owner to the rear does not object. These stables were built before 1999 and different standards applied. Although it can be argued that adjoining lots may not suffer from a loss of amenity by this illegal development, it is considered there is a failure to satisfy the test of 'exceptional circumstances'.

   It should be appreciated that the subject illegal stables comply with the setback requirements as they relate to the rear property, so it is irrelevant that these landowners have no objection.

6. The previously approved premises that the applicant refers to was approved due to an officer error and the approval states categorically that it would not set a precedent. This argument is not an exceptional circumstance as the City should not be confirming a previous error. It should be appreciated however that this applicant did follow the correct planning process but did not proceed with development.

FINANCIAL IMPLICATIONS

McLeod's solicitors have been engaged to provide legal advice and to represent the City at the Tribunal hearings.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

12.1 Continued

OFFICER RECOMMENDATION

That the State Administration Tribunal be advised that Council has considered the submission by Jackson McDonald Lawyers received on 20 October 2008 regarding the planning application 193/2008/DA for Stables at Lot 95 (No. 14) Aurum Street, Ascot, and that the decision of Council's meeting of 15 July 2008 which read:

"Item 12.3 of OCM 15 July 2008

"A. Grant retrospective planning approval for application 193/2008/DA as detailed in plans dated 24 April 2008 submitted by Avalon Sheds and Stables on behalf of the owner M L Williams Pty Ltd for Stables at Lot 95 (No. 14) Aurum Street, Ascot subject to the following conditions:

1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.

2. All stormwater from roofed and paved areas shall be collected and disposed of on-site in accordance with the City of Belmont's Engineering Requirements and Design Guidelines and any associated drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction from any thing.

3. That stall 1 closest to the northwest boundary is to be utilised as a Stable.

4. That stalls 2, 3 and 4 are to be used for storage purposes only.

B. Advise the applicant that in accordance with the City's Health (Stables Premises) Local Law 1999, only stall 1 can be registered as a stable as all others are located within the required 15 metre setback area."

- remains unchanged

12.1 Continued

Notation

Cr Rossi proposed the following Alternative Motion which is based on Option B that insists the stable premises on Lot 87 (19) Keymer Street to the rear has no conflict with the adjoining marine workshop. Option B allows for the four stables to operate as stables and the provision of the wall will reduce any possible adverse impacts if in the future the marine workshop is redeveloped to another use. He further advised that the actions of the appellant are not condoned, but if a person contravenes proper planning and building process then the Council has authority to prosecute as a separate action(s).

ALTERNATIVE MOTION

ROSSI MOVED, HITT SECONDED, **That the State Administration Tribunal be advised that Council has considered the submission by Jackson McDonald Lawyers received on 20 October 2008 regarding application 193/2008/DA for Stables at Lot 95 (No. 14) Aurum Street, Ascot and the decision of Councils meeting of 15 July 2008 is to be modified. Accordingly Conditions 3 and 4 are to be deleted and the decision modified as follows:**

That Council grant retrospective planning approval for application 193/2008/DA for Stables at Lot 95 (No. 14) Aurum Street, subject to the following conditions:

1. ***The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.***

2. ***All stormwater from roofed and paved areas shall be collected and disposed of on-site in accordance with the City of Belmont's Engineering Requirements and Design Guidelines and any associated drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction from any thing.***

3. ***A 3.4m high boundary brick or masonry wall to be constructed along the rear boundary and extend along the southeast side boundary for approximately 14metres to coincide with the edge of the paved area to ensure the attenuation of potential impacts to the satisfaction of the Manager Planning Services or Manager Health & Ranger Services.***

LOST 2 VOTES TO 7

Against: Cr Hitt, Cr Hanlon, Cr Powell, Cr Brennan, Cr Whiteley, Cr Marks and Cr Wolff

12.1 Continued

Notation

Cr Hitt foreshadowed the Alternate Motion and proposed Council vote on the original Officer Recommendation.

HITT MOVED, HANLON SECONDED, That the State Administration Tribunal be advised that Council has considered the submission by Jackson McDonald Lawyers received on 20 October 2008 regarding the planning application 193/2008/DA for Stables at Lot 95 (No. 14) Aurum Street, Ascot, and that the decision of Council's meeting of 15 July 2008 which read:

> ***"Item 12.3 of OCM 15 July 2008***
>
> > ***"A. Grant retrospective planning approval for application 193/2008/DA as detailed in plans dated 24 April 2008 submitted by Avalon Sheds and Stables on behalf of the owner M L Williams Pty Ltd for Stables at Lot 95 (No. 14) Aurum Street, Ascot subject to the following conditions:***
> >
> > ***1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.***
> >
> > ***2. All stormwater from roofed and paved areas shall be collected and disposed of on-site in accordance with the City of Belmont's Engineering Requirements and Design Guidelines and any associated drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction from any thing.***
> >
> > ***3. That stall 1 closest to the northwest boundary is to be utilised as a Stable.***
> >
> > ***4. That stalls 2, 3 and 4 are to be used for storage purposes only.***
> >
> > ***B. Advise the applicant that in accordance with the City's Health (Stables Premises) Local Law 1999, only stall 1 can be registered as a stable as all others are located within the required 15 metre setback area."***

- ***remains unchanged***

CARRIED 7 VOTES TO 2
Against: Cr Rossi, Cr Dornford

12.2 LOT 10 (153) GREAT EASTERN HIGHWAY, BELMONT - OFFICE

Built Belmont

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	115/001
Location / Property Index	:	153 Great Eastern Highway, Belmont
Application Index		367/2008/DA
Disclosure of any Interest	:	Nil.
Previous Items	:	N/A
Applicant	:	Bollig Design Group
Owner	:	Goldride Investments Pty Ltd
Responsible Division	:	Community & Statutory Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider a development application for an Office on Lot 10 (153) Great Eastern Highway, Belmont.

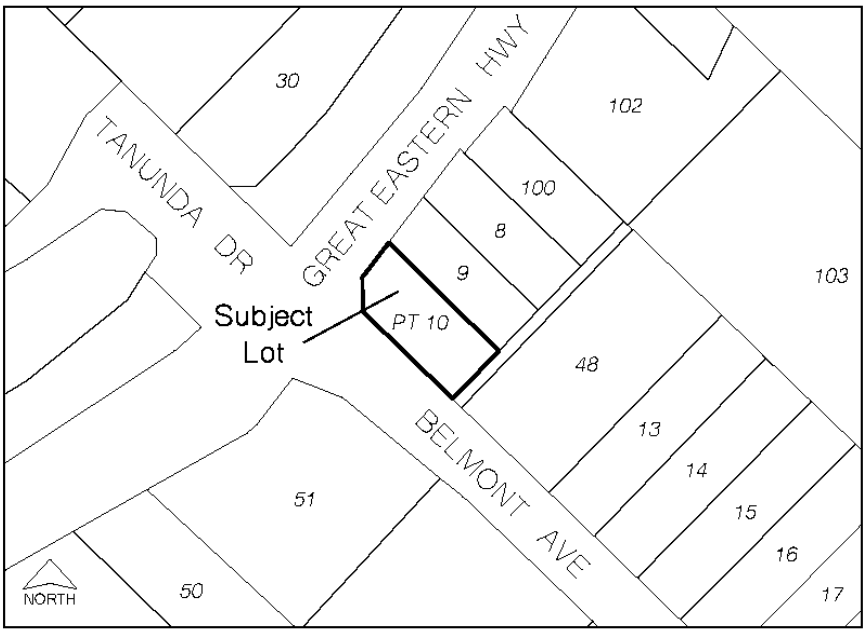
12.2 Continued

SUMMARY AND KEY ISSUES

- The proposal is for four-storey offices with basement parking using a mechanical car stacker system.
- Road widening for Great Eastern Highway is proposed.
- Variations to setbacks, site coverage, landscape strip and parking provisions are proposed.
- The application is required to be determined by the Council as the cost of the proposed development is $6 million and delegation is limited to less than $4.5 million and numerous variations to Scheme requirements are proposed.

LOCATION

Lot 10 (153) Great Eastern Highway, Belmont.



CONSULTATION

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

The application has been referred to Main Roads WA for comment. A formal response supporting the application has been received (refer Officer Comment section for details).

12.2 Continued

STRATEGIC PLAN IMPLICATIONS

"BUILT BELMONT –Attract and support high quality, high employment businesses to the City of Belmont.

BUILT BELMONT - Encourage the upgrading and compatible redevelopment of the City of Belmont.

BUSINESS BELMONT –"Maximise business development opportunities within the City."

POLICY IMPLICATIONS

Local Planning Policy No. 9 - Building Height & Bulk along Great Eastern Highway seeks to control the height and bulk of all buildings along Great Eastern Highway to ensure that the amenity of both existing and future development is appropriate in respect to height and bulk.

Draft Local Planning Policy No. 10 – Great Eastern Highway Strategic Access Policy for the purpose of providing a policy plan for vehicle, pedestrian and cyclists access along Great Eastern Highway, with particular attention to access for vehicles to properties fronting the Highway. A minor variation to Draft Local Planning Policy No. 10 is proposed with respect to width of right of way at rear being 5.02 metres instead of 6 metres. Main Roads WA has verbally advised that this variation is supported.

STATUTORY ENVIRONMENT

Local Government (Miscellaneous Provisions) Act 1960

The Local Government (Miscellaneous Provisions) Act 1960 states that any encroachment over, on, or under a street requires the approval of the local government and the Minister for Local Government. Clause 400 Subsection 2 provides the following:

> *"a person with the permission of the local government and in accordance with plans and specifications settled and approved by the local government may —*
>
> *(a) place in front of his building, an awning or verandah, at least 2.75 metres above the footpath in a street, way, or other public place, in its district, and unless prohibited from so doing by local laws of the local government, may use posts for the support of the awning or verandah provided the posts are placed in such positions close to the outer edge of the footpath as the local government directs;*
>
> *(b) place in front of his building a balcony of cantilever type having a framework constructed of iron securely fixed with iron brackets or other supports to the satisfaction of the building surveyor of the local government, at least 2.75 metres above the footpath in a street, way, or other public place in its district and so that it does not encroach over the street, way, or public place to a greater distance than*

12.2 Continued

(i) 750 millimetres if the street is in a city; or
(ii) the outer edge of the footpath or such lesser distance as is prescribed from time to time by local laws in operation in the district if the street is in a shire or a town;

but permission granted under this subsection does not relieve a person from complying with local laws operating in the district and relating to awnings, verandahs, or balconies, generally or to their removal in particular."

Town Planning Scheme No. 14

Clause 10.6 contains the relevant development requirements for the 'Mixed Business' zone. The intention of the 'Mixed Business' zone *is "to allow for the development of a mix of varied but compatible land uses such as 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 resident and workforce. Uses can mix on adjacent lots of land or on the same lot and uses may mix horizontally on the same lot or separate lots and/or vertically in buildings. Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads."*

Under Town Planning Scheme No. 14 Table 1 – Zoning Table, Office use is designated as a 'P' which means a permitted use.

Clause 5.8 contains provisions relating to matters to be considered by Council when assessing applications including compatibility, amenity, traffic, landscaping and any relevant submissions received.

Clause 10.16 contains provisions for Council to vary a standard or requirement of the Scheme.

Deemed Refusal

Under Clause 5.5.1 of the City of Belmont Town Planning Scheme No. 14 an application is 'deemed to be refused' if it is not determined within a 60 day period.

Clause 5.5.2 of the City of Belmont Town Planning Scheme No. 14 applies where a landuse is classified as a 'D' or 'S' use under the City of Belmont Town Planning Scheme No. 14 Zoning Table and is subject to advertising requirements detailed in Clause 5.7 of the Scheme. As such, the application is 'deemed to be refused' if it is not determined within a 90 day period.

The only exception to these cases is where there is a written agreement for 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 5 November 2008. Should the Council defer this item then the deemed refusal rights will arise before the matter is referred back to the Council.

12.2 Continued

Right of Appeal

Is there a right of appeal? ☒ Yes ☐ No

The applicant / owner may appeal a planning approval / planning refusal to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged with SAT within 28 days. Further information can be obtained from the SAT website – www.sat.justice.wa.gov.au.

BACKGROUND

Lodgement Date:	7 August 2008	**Use Class:**	'P' Office
Lot Area:	1075m2	**TPS Zoning:**	Mixed Business
Estimated Value:	$6million	**MRS:**	Urban / Controlled Access Highway

The site is currently vacant.

Proposal

- The proposal is for a four storey office development with basement parking. A total of 22 office tenancies are proposed ranging in size from 62m2 up to 140m2.
- The building is to be constructed of precast concrete wall rendered and painted with acratex and blue or green glass with anodised aluminium horizontal sunshades. The Great Eastern Highway and corner truncation (northwest) elevation shall comprise of curving curtain walls with a canopy over main corner pedestrian entrance. Aluminium louvres for ventilation to the basement are visible on the Belmont Avenue (south west) elevation.
- A total of 58 bays are provided on-site. Basement parking comprises 53 bays which are accommodated using four Wohr Combilift 543 mechanical car stacker systems. Four visitor bays and one disabled bay are located on-site external to the secure tenant parking. Access to the basement parking is via the right of way at the rear of the lot.
- A bicycle storage area is also provided in the basement car park area.

The applicant has provided information as to why the significant variations to scheme provisions should be supported. These are detailed in the Officers Comment section.

Power Supply

Above ground power is located along Belmont Avenue with underground power located along Great Eastern Highway.

OFFICER COMMENT

Land Use

Office is a permitted use in the Mixed Business zone.

12.2 Continued

Landmark Site

The subject lot is located within the City's Mixed Use Study Area. Part 1 of that Study, which included a 'Vision Plan' for the Study Area, was commenced in 2001 and adopted in 2004. The Mixed Use Study noted that landmark buildings are generally located at prominent entry points and along frontage of important arterial roads. In this instance, the Vision Plan nominated the corner of Belmont Avenue and Great Eastern Highway as a key landmark site and stated that "high quality landmark buildings should be encouraged on these sites that mark the entry point to the Town Centre".

The Vision Plan also noted the importance of development controls with respect to compatibility of land uses and acknowledged that parking and access are likely to be an issue. As such the Study anticipated that variations to the built form and parking layouts from existing statutory requirements would be required for the subject site. Part 2 of the Study resulted in the rezoning of the area to Mixed Business as part of Amendment No. 52 which was approved by the Minister for Planning and Infrastructure and gazetted on 25 July 2008.

The applicant advised the following:

- The site currently presents an eyesore at a gateway entry to the City of Belmont.
- The proposed four storey landmark office building creates a gateway entrance statement to Belmont Avenue and the City of Belmont.
- The building is proposed to be designed to a high quality and environmentally sensitive standard of 4.5 star ABGR (Australian Building Greenhouse Rating) as it will incorporate high quality thermal performance glazing, high quality low energy air conditioning systems, sunshades to the glazing to minimise solar impact and wherever possible use of recycled materials.
- The resultant building will set a benchmark for quality office buildings within the City of Belmont in terms of design, amenity and environmental performance.
- The development will provide the City of Belmont with an outstanding solution to the development of a very difficult site at a main gateway entrance to the City.

It is acknowledged that the proposed building will provide a high quality, environmental friendly landmark gateway entry to the business district of Belmont. Given the location, shape and access issues, the proposed built form accords with the Mixed Use Study for key landmark sites and therefore the development is supported.

Traffic, Road Widening and Access

Road widening along the Great Eastern Highway and the corner of Belmont Avenue is proposed. No access to Great Eastern Highway is permitted. Vehicle access to the site and the basement parking is provided via the private right of way adjacent to the southeast elevation. Under Draft Local Planning Policy No. 10 (LPP10) - Draft Great Eastern Highway Strategic Access Policy this right of way is designated as an 'ultimate easement in gross' (at time of redevelopment) to achieve optimum access solutions to the highway. The right of way adjacent to the subject lot is 5.02metres wide. Although LPP10 states the easement in gross should be a minimum of 6metres wide, the proposed width of 5.02metres is considered to be the absolute minimum to permit two way access for vehicles.

12.2 Continued

A Traffic Impact Statement prepared by Transcore states that Belmont Avenue is classified as a District Distributor B (carrying in the vicinity of 7500 vehicles per day), whilst Great Eastern Highway is classified as a Primary Distributor road (carrying in the order of 50,000 vehicles per day. Footpaths are provided on both sides of Belmont Avenue and Great Eastern Highway and cyclists share the footpath along the Swan River foreshore reserve and along Belmont Avenue.

The Traffic Report incorporates trip generation and distribution and access analysis. As the proposed development is for office use, it is anticipated that peak morning traffic would be inbound and peak afternoon traffic outbound resulting in minimum or no opposing traffic from the development through the ROW during peak times. Turning path analysis into the basement parking via the ROW was also provided. Given the entrance to the basement parking is located less than 10metres into the ROW and low generation of proposed development traffic, it is considered that the development would not have any adverse impact on the traffic operations of the surrounding roads and intersections. The Traffic Report did however recommend that the pedestrian phasing and facilities be reviewed and improvement measures implemented as required in order to maximise pedestrian safety.

The City's Technical Services Department has assessed and accepted the Traffic Report analysis. In addition, the proposed layout of the stacker system, location of disabled and visitor bays and access via the right of way complies with Australian Standards and is therefore supported.

The City has received formal response from Main Roads WA which supports the application subject to standard conditions such as earthworks, drainage, kerbing, landscaping and no access to Great Eastern Highway. Main Roads approval is also subject to no part of the building including awnings, canopy or shading structure is to extend into the road reserve. Due to future upgrading of Great Eastern Highway, the grade levels at the intersection may increase up to 600mm. It is suggested that the applicant liaise with Main Roads at the time of the final design to ensure potential drainage problems in the vicinity of the entrance to the disabled hoist are eliminated.

The development incorporates a cantilevered canopy over the front entry steps which will protrude into the portion of the subject lot nominated for future road widening of Great Eastern Highway. The proposed canopy achieves a clearance height of 5.1metres above the footpath which complies with the *Local Government (Miscellaneous Provisions) Act 1960*, however it will protrude 2.1metres into the road reserve once the road widening is taken. This is more than the prescribed 750mm. Accordingly any approval should include a condition requiring the canopy to be modified to ensure the canopy does not encroach more than 750mm into the proposed road widening of Great Eastern Highway.

Scheme Variations

The applicant proposes variations to scheme provisions on the basis of the difficulty of the site due to the restricted building footprint and road widening requirements. The resultant building and concessions will provide the City with a landmark building and one which will function and operate clearly and effectively within accepted commercial guidelines as is common throughout the City of Perth Central Business District and surrounding areas.

12.2 Continued

- *Site Coverage*
  The lot is currently 1,075m2 in area, less 410m2 road widening which totals 665m2. Given the shape and size of the subject lot, together with its location and the proposed high quality development, the variation to 60% site coverage in this instance is acceptable. It is also noted that the applicant has endeavoured over a number of years to acquire the adjacent lots in order to overcome the site area limitations but was not successful.

- *Landscape Strip*
  Under the Mixed Business zone, a 3metre wide landscape strip to the primary frontage and 1metre wide strip to the secondary street frontage is required. In this instance the landscape area varies in width from 1.75metres along Belmont Avenue up to a maximum of 8metres abutting Great Eastern Highway. However this includes the proposed road widening, which (when taken) will reduce the landscaping to an average of 2metres along the Great Eastern Highway verge. The applicant has designed the landscaping to compliment the building. The Parks and Environment Services Departments have confirmed that the location and type of plants are to comply with Main Roads specifications within road reserve adjacent to intersections.

  Given the site restrictions (corner lot with proposed road widening), the variation to the 3metre wide landscape strip is supported. Should the application be approved, a landscape and reticulation plan would be required to be submitted and approved prior to issue of the building licence.

- *Setbacks*
  The scheme requires a 15metre front setback and 7.5metre secondary road setback. Given the size of the lot, compliance with these setbacks would prohibit development of the site. Accordingly, given the landmark location and compliance with both the Mixed Use Study Vision and Mixed Business zoning with respect to the office land use and architectural design, it is considered that the setback variations would not have a detrimental impact and are supported.

- *Parking*
  The four office levels provide a total of 2422m2 nett lettable area (NLA) which requires 81 bays at 1 bay per 30m2. A total of 58 bays are provided on-site, therefore there is a shortfall of 23 bays.

  In order to overcome the site limitations, the proposal incorporates the use of four Wohr 'Combilift 543' mechanical car stacking systems. The applicant has advised that the 'Combilift 543' car stacker system is not new internationally and has been recently installed in Sydney. (Please note that a Combilift 551 (no pit level) is currently operating in Fremantle). The four stacker system allows four cars to be stored and/or retrieved at any one time. Individual storage/retrieval times vary depending on the location of the user's bay at the time of initiating the process. No delay occurs where the vehicle bay is located on the ground floor, however when the spare bay and required bay are not located on the ground floor movements will take up to 50 seconds to a maximum of 80 seconds. The system can be operated either manually or by remote operation.

12.2 Continued

Mechanical bays have maximum vehicle height restriction of 2.1metres, maximum vehicle weight of 2.6 tonnes per bay and vehicle width clearance of 2.3metres. This complies with TPS Schedule 3 – Car Parking Layout which requires standard bay size of 5.5m x 2.5m.

The applicant has advised the following advantages of mechanical car stacking systems:

- Allows more vehicles to be parked in a given area, reducing the need for on-street parking.
- The space saving ability of this technology significantly reduces excavation requirements. Less excavation and piling reduces risks of damaging existing buildings located in the vicinity during construction.
- Vehicle safety: Vehicles are stored behind an automatic gate, vehicles are safe and secure against theft and vandalism.
- A back up generator is to be installed so storage and retrieval of vehicles is possible during a power failure.
- Visitor parking is located external to the mechanical car stacker system.

In support of the parking shortfall the applicant has also provided the following information:

Applicants Comments	Officers Comments
The 58bays provided equate to 1 bay per 41.7m2 NLA. This is high in terms of inner city and surrounding city suburbs. For example Subiaco requires 1 bay per 40m2 base rate plus a discount up to 25% thus resulting in a far lower parking rate.	It is acknowledged that the location is not Subiaco where public transport includes both train and buses. However Great Eastern Highway is a major transport corridor with bus stops located just south of the Belmont Avenue intersection.
Bicycle bays are provided.	Cycle paths are located along the Swan River foreshore reserve and Belmont Avenue and continue along Severin Walk and end of trip facilities are provided. The applicant would be advised to provide end of trip facilities (bicycle store, lockers and showers).

12.2 Continued

Applicants Comments	Officers Comments
The building floor plates have been purpose designed to suit strata title tenancies which incorporate their own individual amenities accessed from a common lobby and central lift area. Each strata office shall be allocated a minimum of two exclusive car bays with the larger offices allocated three bays for their exclusive use. This is to be specified in the Strata Management Plan.	It is considered that the location and size of the offices will attract the type of businesses that will require office floor space in close proximity to Belmont, the airport and Perth CBD yet do not have large numbers of staff or will attract visitors to the site. In addition to the Strata Management Plan, a notification on title is considered necessary to ensure perspective owners and/or tenants are made aware of the parking shortfall.
Visitor parking is provided external to the mechanical car stacker system. Alternatively, each tenancy can make arrangements for visitors to park in their allocated stacker bays.	Protocols should be put in place for visitor parking use as part of the Strata Management Statement.

It is acknowledged that the parking deficiency is quite high. In this instance, however, it is considered that the reduction in parking provision can be supported on the basis that:

- perspective tenants and employees will be made aware of the parking limitations through the Strata Management Statement, thus attracting suitable tenancies that do not require a great number of parking bays;
- access to public transport along Great Eastern Highway;
- close proximity to bicycle paths together with the provision of end of trip facilities; and
- outstanding design on a landmark site.

Local Planning Policy No. 9 - Building Height & Bulk along Great Eastern Highway

The development also accords with Local Planning Policy No. 9 - Building Height and Bulk (LPP 9) along Great Eastern Highway with respect to minimising overshadowing and overlooking and as a corner lot provides a focal point for the locality. In addition, given the materials and design the building is considered to create an attractive and lasting identity for this intersection. Should the application be supported, any approval would require the finish of the boundary walls along the Northeast elevation to feature a textured patterned surface to the satisfaction of the Manager Planning Services. This would accord with both scheme provisions and LPP 9 in regard to facades, materials and colours.

12.2 Continued

Building Requirements.

The City's Building Department has assessed the application and confirmed the development must comply with Building Code of Australia provisions with respect to fire rating, energy efficiency, sprinkler systems, location pump & tanks, and ventilation to basement parking area. Should the application be approved, these issues would be required to be addressed prior to the issue of a building licence. It should also be noted that a Traffic Management Plan for Construction would be required. It should be noted that this requirement is not normally put on a development as a condition but as a footnote. However as Great Eastern Highway is a primary distributor, it is considered necessary to ensure that the construction phase does not impact on Great Eastern Highway traffic flow.

Summary

It is acknowledged that the lot size and shape together with road widening requirements and access limitations to the site represent a challenge. The resultant building will provide the City with a high quality landmark building at the entrance to the business area of Belmont.

The proposed development accords with the City's strategic policies with respect to encouraging redevelopment, supporting high quality business and providing employment opportunities. The proposal also accords with the City's Local Planning Policies 9 & 10 with respect to building bulk and height and access along Great Eastern Highway. In addition, the proposal also accords with the City's Vision Plan (Mixed Use Study Part 1) with respect to landmark buildings.

Given the limitations of the size and shape of the lot and location with respect to Great Eastern Highway road widening and access restrictions, the proposed variations to setbacks, site coverage, landscaping and parking are considered to conform with both Councils strategic and local policies and therefore the variations are supported.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

The subject lot was previously a service station and has been classified as a potential contaminated site. The applicant has advised that all site contaminants have been removed and the site cleared. Written confirmation from the Department of Environment and Conservation dated 19 August 2008 has confirmed that the site is to be reclassified as "decontaminated".

OFFICER RECOMMENDATION

That Council approve planning application 367/2008/DA as detailed in plans dated 7 August 2008 submitted by Bollig Design Group on behalf of the owner Goldride Investments for Office at Lot 10 (No. 153) Great Eastern Highway, Belmont subject to the following conditions/reasons:

12.2 Continued

1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.

2. Right of Way along rear boundary to be resealed and drained to the satisfaction of the Director Technical Services.

3. The 1 metre strip of land adjoining the Right of Way along rear boundary to be ceded as public accessway easement and constructed in black asphalt and drained to merge with existing Right of Way.

4. Footpath along Great Eastern Highway and Belmont Avenue to be upgraded (minimum 1800mm wide).

5. Exit door to stairs adjacent to Right of Way to open inwards not outwards in accordance with Building Code of Australia and to the satisfaction of Manager Building Services.

6. A Traffic Management Plan for Construction to Australian standards to be submitted prior to issue of building licence to the satisfaction of the Director Technical Services to facilitate building works.

7. A Management Statement being prepared in accordance with Section 5C of the Strata Title Act 1985 (as amended), to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act:

   (a) Development or redevelopment of the strata lots must comply with an existing development approval issued by the city of Belmont, which complies with the requirements of the City of Belmont Town Planning Scheme No. 14 and planning policies.

   (b) Management strategy for tenants within site to include allocation of parking bays, protocols for visitor parking and to encourage use of public transport.

8. A landscaping and reticulation plan acceptable to the City shall be prepared by a professional horticulturist or a qualified landscape contractor and submitted to the City for approval. The plans shall be submitted prior to the issue of a building licence unless otherwise agreed to in writing.

   The plan shall show by numerical code, the species, quantity and anticipated mature dimensions of all plant types to be planted and shall include landscaping to the street verge.

9. Landscaping, plants and reticulation shall be installed in accordance with a landscaping and reticulation plan to be submitted to the City and approved by the Manager Planning Services, the Senior Planning Officer or the Planning Officer and the landscaping and reticulation shall be maintained and the plants shall be nurtured and maintained until they reach their mature dimensions and shall thereafter be maintained at those mature dimensions unless Council approves otherwise in writing.

12.2 Continued

10. The applicant to provide an Environmental Site Contamination Report on soil and groundwater conditions including remediation of on-site contaminants to the satisfaction of Council's Environmental Officer prior to the issue of a building licence.

11. Prior to occupation or use of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, line marked and kerbed in accordance with:

    (a) The approved plan (58 spaces measuring 2.5 metres x 5.5 metres);
    (b) Schedule 3 of the City of Belmont Town Planning Scheme No. 14; and
    (c) Council's engineering requirements and design guidelines, with respect to drainage requirements.

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

12. All access ways, parking areas and hard stand areas shall be maintained in accordance with the City's Engineering Requirements and Design Guidelines. If not so maintained, the Director Technical Services may require by notice, in writing that the area be brought up to a satisfactory standard within a specified period of time and the notice shall be complied with within that period. Without limitation, the notice may require that lines marking car bays be re-painted, pot holes be repaired, damaged kerbs be replaced and degraded access or parking areas be resurfaced generally in accordance with Council's Engineering Requirements and Design Guidelines.

13. The redundant crossovers shall be removed and the verge and kerb reinstated in accordance with the City's Engineering Requirements and Design Guidelines.

14. Stormwater Management plan to be submitted in accordance with the City of Belmont's Engineering Requirements and Design Guidelines to the satisfaction of the Director Technical Services.

15. A geotechnical report prepared for the City by an appropriately qualified structural engineer shall be lodged with the City, at the cost of the owner/applicant, prior to an application for a building licence. The report must identify the geotechnical conditions of the site and certify to the City that any earthworks proposed are structurally sound. The earthworks must be carried out in accordance with the geotechnical report as modified (if at all) by the City.

16. The construction and finish of all external walls (including boundary walls) that are visible from a street or public place shall be approved by the City prior to or at the time of an application for a building licence.

17. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.

12.2 Continued

18. The canopy is to be modified to ensure it does not encroach more than 750mm into the proposed road widening of Great Eastern Highway.

19. The provision of bicycle bays as shown on the stamped and dated plans which form part of the planning approval.

20. The provision of shower facilities within the development. Where the shower facility is provided within a 'disabled toilet' then, in relation to access and facilities for people with disabilities the development will be required to comply with the Building Code of Australia, Australian Standards 1428.1.

21. No earthworks shall encroach onto the Great Eastern Highway reserve.

22. No stormwater drainage shall be discharged onto the Great Eastern Highway reserve.

23. The applicant shall make good any damages to the existing verge vegetation within the Great Eastern Highway reservation.

24. The applicant shall make good any damage to the existing verge vegetation within the Great Eastern Highway reservation.

25. No vehicle access shall be permitted to or from the Great Eastern Reserve.

26. No development, other than landscaping shall be permitted on the land shown required for future road purposes on the enclosed extract of Main Roads drawing 8021-74-5.

27. Redundant driveways shall be removed and the verge and its vegetation made good at the applicant's cost.

28. The entire building is to be retained within the Lot boundaries. No part of the building, including awnings, canopy or shading structure is to extend into the road reserve.

12.2 Continued

Notation

Cr Powell proposed the following amendment and footnote to Condition 20 of the Officer Recommendation in order to address any potential conflict when shower facilities are located within disabled toilets.

POWELL MOVED, HITT SECONDED, That Council approve planning application 367/2008/DA as detailed in plans dated 7 August 2008 submitted by Bollig Design Group on behalf of the owner Goldride Investments for Office at Lot 10 (No. 153) Great Eastern Highway, Belmont subject to the following conditions/reasons:

1. ***The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.***

2. ***Right of Way along rear boundary to be resealed and drained to the satisfaction of the Director Technical Services.***

3. ***The 1 metre strip of land adjoining the Right of Way along rear boundary to be ceded as public accessway easement and constructed in black asphalt and drained to merge with existing Right of Way.***

4. ***Footpath along Great Eastern Highway and Belmont Avenue to be upgraded (minimum 1800mm wide).***

5. ***Exit door to stairs adjacent to Right of Way to open inwards not outwards in accordance with Building Code of Australia and to the satisfaction of Manager Building Services.***

6. ***A Traffic Management Plan for Construction to Australian standards to be submitted prior to issue of building licence to the satisfaction of the Director Technical Services to facilitate building works.***

7. ***A Management Statement being prepared in accordance with Section 5C of the Strata Title Act 1985 (as amended), to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act:***

   (a) Development or redevelopment of the strata lots must comply with an existing development approval issued by the city of Belmont, which complies with the requirements of the City of Belmont Town Planning Scheme No. 14 and planning policies.

   (b) Management strategy for tenants within site to include allocation of parking bays, protocols for visitor parking and to encourage use of public transport.

8. ***A landscaping and reticulation plan acceptable to the City shall be prepared by a professional horticulturist or a qualified landscape contractor and submitted to the City for approval. The plans shall be submitted prior to the issue of a building licence unless otherwise agreed to in writing.***

12.2 Continued

The plan shall show by numerical code, the species, quantity and anticipated mature dimensions of all plant types to be planted and shall include landscaping to the street verge.

9. Landscaping, plants and reticulation shall be installed in accordance with a landscaping and reticulation plan to be submitted to the City and approved by the Manager Planning Services, the Senior Planning Officer or the Planning Officer and the landscaping and reticulation shall be maintained and the plants shall be nurtured and maintained until they reach their mature dimensions and shall thereafter be maintained at those mature dimensions unless Council approves otherwise in writing.

10. The applicant to provide an Environmental Site Contamination Report on soil and groundwater conditions including remediation of on-site contaminants to the satisfaction of Council's Environmental Officer prior to the issue of a building licence.

11. Prior to occupation or use of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, line marked and kerbed in accordance with:

- ***(a) The approved plan (58 spaces measuring 2.5 metres x 5.5 metres);***
- ***(b) Schedule 3 of the City of Belmont Town Planning Scheme No. 14; and***
- ***(c) Council's engineering requirements and design guidelines, with respect to drainage requirements.***

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

12. All access ways, parking areas and hard stand areas shall be maintained in accordance with the City's Engineering Requirements and Design Guidelines. If not so maintained, the Director Technical Services may require by notice, in writing that the area be brought up to a satisfactory standard within a specified period of time and the notice shall be complied with within that period. Without limitation, the notice may require that lines marking car bays be re-painted, pot holes be repaired, damaged kerbs be replaced and degraded access or parking areas be resurfaced generally in accordance with Council's Engineering Requirements and Design Guidelines.

13. The redundant crossovers shall be removed and the verge and kerb reinstated in accordance with the City's Engineering Requirements and Design Guidelines.

14. Stormwater Management plan to be submitted in accordance with the City of Belmont's Engineering Requirements and Design Guidelines to the satisfaction of the Director Technical Services.

12.2 Continued

15. A geotechnical report prepared for the City by an appropriately qualified structural engineer shall be lodged with the City, at the cost of the owner/applicant, prior to an application for a building licence. The report must identify the geotechnical conditions of the site and certify to the City that any earthworks proposed are structurally sound. The earthworks must be carried out in accordance with the geotechnical report as modified (if at all) by the City.

16. The construction and finish of all external walls (including boundary walls) that are visible from a street or public place shall be approved by the City prior to or at the time of an application for a building licence.

17. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.

18. The canopy is to be modified to ensure it does not encroach more than 750mm into the proposed road widening of Great Eastern Highway.

19. The provision of bicycle bays as shown on the stamped and dated plans which form part of the planning approval.

20. Shower facilities to be provided within the development to the satisfaction of the Manager Planning Services and Manager Building Services prior to issue of the building licence.

21. No earthworks shall encroach onto the Great Eastern Highway reserve.

22. No stormwater drainage shall be discharged onto the Great Eastern Highway reserve.

23. The applicant shall make good any damages to the existing verge vegetation within the Great Eastern Highway reservation.

24. The applicant shall make good any damage to the existing verge vegetation within the Great Eastern Highway reservation.

25. No vehicle access shall be permitted to or from the Great Eastern Reserve.

26. No development, other than landscaping shall be permitted on the land shown required for future road purposes on the enclosed extract of Main Roads drawing 8021-74-5.

27. Redundant driveways shall be removed and the verge and its vegetation made good at the applicant's cost.

28. The entire building is to be retained within the Lot boundaries. No part of the building, including awnings, canopy or shading structure is to extend into the road reserve.

12.2 Continued

Footnote

In regard to Condition 20, the applicant is advised that shower facilities are to be provided in accordance with the City's 'Supplementary Planning Guidance for End of Trip Facilities'. Please liaise with Planning and Building Officers with respect to location of shower facilities to ensure compliance with the BCA and Australian Standards 1428.1 with respect to disabled access and disabled facilities.

CARRIED 9 VOTES TO 0

12.3 LOT 103 (435-447) GREAT EASTERN HIGHWAY (CNR BULONG AVENUE AND COOLGARDIE AVENUE), REDCLIFFE – 52 MULTIPLE DWELLINGS

Built Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 2 – Item 12.3 refers	Submission Table

Voting Requirement	:	Simple Majority
Subject Index	:	115/001
Location / Property Index	:	Lot 103 (435 – 447) Great Eastern Highway (cnr Bulong Avenue through to Coolgardie Avenue), Redcliffe
Application Index		250/2007DA
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	Dryka and Partners Architects
Owner	:	Tish Pty Ltd
Responsible Division	:	Community and Statutory Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To reconsider a development proposal, which is in excess of $4.5 million, for 52 multiple dwellings with communal recreation facilities on Lot 103, which has frontage only to Coolgardie Avenue and Bulong Avenue, Redcliffe.

The application was deferred by the Council at it meeting of 16 September 2008 for the purpose of further public consultation and a further traffic study to review likely volumes and nature of the traffic at First Street and Coolgardie Avenue.

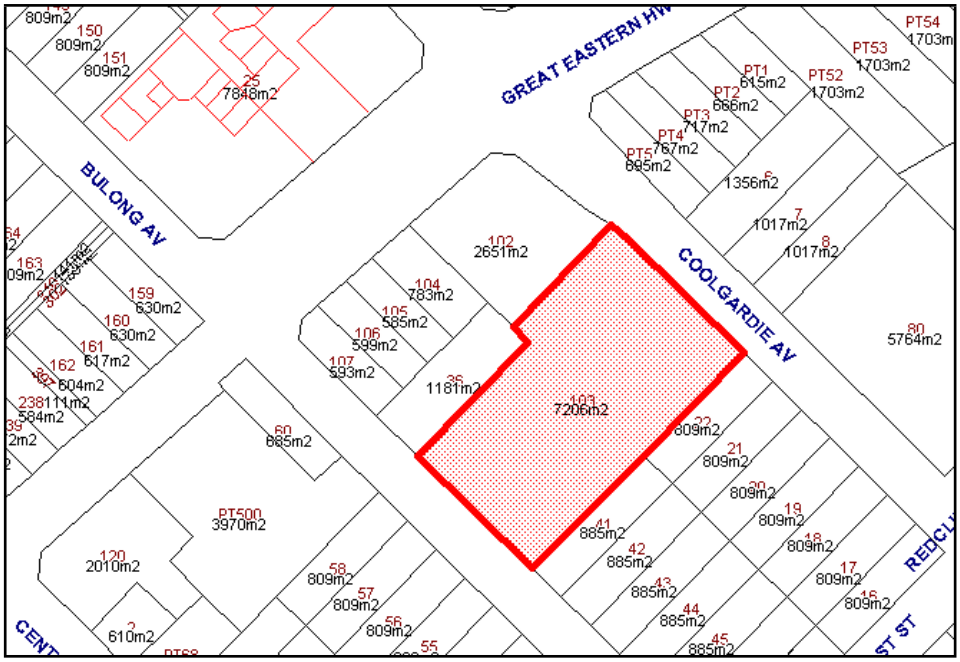
12.3 Continued

SUMMARY AND KEY ISSUES

- The site is zoned 'Mixed Use' which allows for a mixed use of compatible land uses such as residential, offices, showrooms and appropriate industrial activities. The Scheme states *"Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads."* The proposed land use and architectural style of the development is considered to satisfy this requirement. The site does not have direct frontage or vehicular access to Great Eastern Highway. The site only has street frontage to Bulong Avenue and Coolgardie Avenue.
- 'Multiple dwelling' is a land use that is classified as a 'D' use class within the 'Mixed Use' zone and is not permitted unless the Council exercises discretion and grants approval. There is no specific residential density allocated for residential development within this zone and the consideration of the proposed R80 density is at Council discretion. The density and land use is considered acceptable in this location.
- The Scheme identifies that the site falls within 'Development Area 6' and requires *"An approved Structure Plan…….in order to guide subdivision and development."* However Clause 10.18.5.2 of the Scheme also allows Council to approve development prior to a Structure Plan coming into effect if the development *"…..will not prejudice the specific purposes and requirements of the Development Area."* The proposal does not prejudice future planning for the area and is supported.
- The revised traffic study indicates that traffic volumes will increase on Coolgardie Avenue and First Street, however all traffic volumes remain within acceptable traffic volumes for the local streets.

LOCATION

Lot 103 (435–447) Great Eastern Highway, Bulong Avenue and Coolgardie Avenue, Redcliffe.



12.3 Continued

CONSULTATION

Category A applications are those that are complete, fully comply, can be approved under delegated authority, need no approval from any other body. Category A applications are classified as such on the basis that they are fully compliant and do not require advertising under relevant legislation.

The Great Eastern Highway address of the property arises due to this lot – Lot 103 - and adjoining Lot 36 Bulong Road and Lots 104 – 107 Great Eastern Highway being held in the one ownership and currently operate as one industrial/warehouse site. However Lot 103 has no direct frontage, nor access to Great Eastern Highway. Therefore the development is not required to be referred to Main Roads WA for comment.

Consultation was undertaken in early September 2008 to approximately 24 property owners. Eight objections were received which were reported to the Council at its 16 September 2008 meeting for consideration with the application. At that meeting the Council resolved to undertake further public consultation. The second advertising period was undertaken for 21 days to the owners' of approximately 160 properties surrounding the subject site. Thirty two (32) submissions were received;

- 15 objections (this is in addition to the 8 objections originally received in September)
- 6 support
- 3 no comment

A schedule of submissions that were received from the first advertising period and the second advertising period is included under Attachment 2.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT – "Achieve a planned City that is safe and meets the needs of the community."

BUILT BELMONT - "Encourage the upgrading and compatible redevelopment of the City of Belmont."

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Amendment No. 49 to Town Planning Scheme No. 14, which was gazetted on 2 May 2008 introduced seven new 'Development Areas' (DA) into the Scheme. This included Development Area 6 (DA6) – land bounded by Tonkin Highway, Great Eastern Highway, Coolgardie Avenue, Redcliffe Road, Fauntleroy Avenue and Precincts 1A and 1B as defined under the Perth Airport Masterplan 2004. The subject site is located within this Development Area.

12.3 Continued

Clause 10.18.5.1 of the Scheme requires the preparation of a structure plan before further subdivision and development occurs within a 'Development Area'. Clause 10.18.5.2 of the Scheme also allows Council to approve development prior to a Structure Plan coming into effect if the development *"…..will not prejudice the specific purposes and requirements of the Development Area."*

During the progress of Amendment No. 49, the Council at its meeting of 13 March 2007 resolved, inter alia, that;

> *"5. Council take a facilitatory role in the preparation of Structure Plans for development control areas DA5, DA6 and DA9."*
>
> *"8. Development prior to the Structure Plan approval in areas DA5 – DA11 be suspended, unless special circumstances occur. Council to review the suspension in 12 months time."*

Consequently, the application for Lot 103, which was received in June 2007 (and which also included a residential development proposal on abutting land) was deferred, pending the progress of a Structure Plan consultation exercise for DA6. In October 2007 a 'Café Dialogue' session was held for the 'Redcliffe Area Development and Rejuvenation (RADAR) to consider redevelopment of land within DA6. In regard to residential development, the session identified the following:

- A desire to see high density residential development concentrated around the transport nodes in order to maintain lower density in other areas;
- Possible loss of spaciousness through increased housing density due to increase of population;
- City of Belmont could encourage industry to move to a more industrialised area (rezoning for residential and commercial expansion);
- Development of more residential land, providing a variety of block sizes. People feel this will provide an increase in population and bring more young people into the community.

After the gazettal of Amendment No. 49 in May 2008, the applicant recommenced the planning for Lot 103. In July 2008, the applicant sought to formally progress the application with revised plans, which addressed various issues and modifications that arose through previous discussions with the Planning Department.

Deemed Refusal

Under Clause 5.5.1 of the City of Belmont Town Planning Scheme No. 14 an application is 'deemed to be refused' if it is not determined within a 60 day period.

Clause 5.5.2 of the City of Belmont Town Planning Scheme No. 14 applies where a landuse is classified as a 'D' or 'S' use under the City of Belmont Town Planning Scheme No. 14 Zoning Table and is subject to advertising requirements detailed in Clause 5.7 of the Scheme. As such, the application is 'deemed to be refused' if it is not determined within a 90 day period.

The only exception to these cases is where there is a written agreement for further time between the applicant and the City of Belmont.

12.3 Continued

On 28 July 2008, the applicant formally requested the resumption of this application. Therefore the deemed refusal date for this application was 26 September 2008.

Right of Appeal

Is there a right of appeal? ☒ Yes ☐ No

The applicant / owner may appeal a planning approval / planning refusal to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged with SAT within 28 days. Further information can be obtained from the SAT website – www.sat.justice.wa.gov.au.

BACKGROUND

Lodgement Date:	22 June 2007 and revised plans 28 July 2008 and 22 August 2008	**Use Class:**	Multiple Dwelling - 'D' Use
Lot Area:	7,206m2	**TPS Zoning:**	Mixed Use
Estimated Value:	$17.3 million	**MRS:**	Urban

The Site and Surrounding Land

Lot 103 currently contains an office/warehouse/industrial building with external areas used for outdoor storage. Buses and coaches are stored on-site. Vehicular access is taken from Coolgardie Avenue.

The land surrounding Lot 103 comprises a mix of residential and commercial land uses as detailed below:

- The land to the south east of Lot 103 and opposite the site in Bulong Avenue comprises single residential lots.
- The land opposite Lot 103 in Coolgardie Avenue is used for outdoor storage.
- The abutting sites which are located to the north west of Lot 103 comprises vacant land, storage and on the corner of Great Eastern Highway and Coolgardie Avenue a showroom and Homeopathic Centre.
- The land located diagonally opposite Lot 103 and situated on the corner of Coolgardie Avenue and Great Eastern Highway comprises a Liquor store.
- A tavern, lunch bar, service station with convenience store is located fronting Great Eastern Highway between Coolgardie Avenue and Central Avenue.

The Proposal

The development comprises 52 multiple dwellings which are provided within four separate building blocks of two and three storey. The dwellings are distributed across the site within:

- Two, two-storey residential blocks (12 units) oriented towards Bulong Avenue;
- Two, two and three storey residential blocks (40 units) oriented around a central open space area, cabana, and pool;
- A gymnasium building is proposed on-site.

12.3 Continued

All street frontages are provided with brick pier and open infill style fencing.

A total of 79 car bays are proposed onsite, of which 67 bays are provided as secure parking behind security gates. The majority of these 67 bays are provided with carports. Twelve (12) visitor car bays are provided and distributed between the Bulong Avenue and Coolgardie Avenue street frontages. Vehicular access is provided off Bulong Avenue, (one crossover) and Coolgardie Avenue (three crossovers).

The architectural style of the development includes a variety of pitched and flat roof form, balconies and large areas of glazing to capture views to the central open space area, Bulong Avenue and towards Great Eastern Highway. The building materials include a variety of face brickwork, rendered and painted walls and colorbond roofing material.

Power Supply

This site has above ground power. There are two power poles along the Bulong Avenue frontage of the site providing 66kV power. (Note: Transmission (66kV and/or 132kV) / High Voltage Cables (11 to 22kV) / Low Voltage Cables (440V) and Streetlight Cables (240V)).

OFFICER COMMENT

Since the Council report of 16 September 2008, the following two matters, which relate to the revised traffic study and the public advertising period is included within this report.

Traffic Study

The Traffic Study, prepared by Transcore Pty Ltd, for the proposed development was reviewed by the City's Project/Development Engineer who confirms the contents and findings of the report. In summary the report indicates that:

- Traffic volumes on Coolgardie Avenue and extending into First Street will increase by 16% (moderate increase). The study also considers the 'anticipated' future office development of the 'mixed use' zoned land (Lots 102, 104-107, 36) which is under the same ownership and abuts Lot 103 and consequently the combined traffic volumes may increase by 47% (noticeable increase). (Note; Lots 102, 104-107, 36 is a separate development application which is subject of a future separate consideration).

- The current (2006) traffic volume on Coolgardie Avenue (south of Great Eastern Highway) and into First Street is 1,230 vehicles per day (vpd). Therefore the traffic volume increase of 16% - 47% (to approx. 1800vpd) will mean traffic volumes in these streets will remain under 3,000 vpd.

- The City's Local streets are designed to accommodate 3,000vpd.

- The Traffic Study stated that the use of First Street would be for access to Perth Airport. However this statement is not fully supported by the officers from the City's Technical Services and the Planning Services Departments. The route via Coolgardie Avenue/First Street/Brearley Avenue/Second Street/Stanton Road will also provide access through Redcliffe to the localities of Belmont and Cloverdale.

12.3 Continued

- Traffic volumes are low through the intersections of Great Eastern Highway/Coolgardie Avenue and Great Eastern Highway/Bulong Avenue. As there are good sight lines, therefore the impact of the development (and at peak periods) will be insignificant on the streets and intersections.

- The parking requirements for the development are fully contained on-site and no additional demand for on-street parking is anticipated.

- The permeability of the proposed carpark with four crossovers allows an efficient distribution of traffic to Bulong Avenue and Coolgardie Avenue.

Public Consultation

The objections received generally relate to:

- Expected increase in traffic volumes in the locality and affect on traffic and pedestrian safety.
- Quality of the development and potential for 'slums'.
- Anticipated occupants being a low socio economic group and associated anti social behaviour and increase in noise.
- Height of the development, overlooking and overshadow issues and conflict with the single storey housing.
- Appropriateness of increased density.
- Lack of shopping facilities.

All of the objections are addressed in the Schedule of Submissions provided under the Attachment to this report with an 'Officer Recommendation' outlining a response to the submissions. In summary, this includes:

- The recent traffic study addresses the adequacy of the surrounding streets and intersections to accommodate the traffic movements and the increase in traffic volumes, which is not considered significant.
- The architectural style and building material of the development is considered a high standard of development.
- The future occupants of the units are unknown and the perceived undesirable association with future crime and antisocial behaviour can not be assumed.
- The development complies with height, overshadowing, privacy and building setbacks of the Residential Design Codes. The two and three storey development is considered compatible with the nearby low rise residential locality.
- The density is considered appropriate in this location having regard for the commercial retail activities nearby, the proximity to Great Eastern Highway as a Major Regional Road/public transport route, proximity to the City and proximity to the Airport.

12.3 Continued

The following information was previously presented to the Council at its meeting of 16 September 2008:

Land Use, Architecture and Building Materials

The proposed residential development is consistent with the provisions of the zoning of the site which aims to encourage residential land uses in this area. The use is compatible with the nearby residential land uses and also takes advantage of the commercial activities (convenience store, lunch bar, tavern, liquor store) which are located in close proximity.

The orientation of the two storey residential buildings towards the Bulong Avenue frontage and the proposed building materials and architectural style will contribute to a style and scale of development that is sympathetic with the single residential dwellings in this street. The orientation of balconies and large glazing away from the south east elevation of the development will protect the privacy of adjoining single residential dwellings.

The development has also considered minimizing the impact of the Coolgardie Avenue warehouse/storage yards upon the proposed residential land use of the site. The Coolgardie Avenue façade of the development has minimal glazing overlooking this streetscape. In addition, the orientation of the residential units towards the central open space area and/or towards Great Eastern Highway will further enhance the residential amenity of this development.

The architectural style is considered to achieve a high standard of development due to the range of materials, colour and architectural features.

The development complies with all aspects of the Residential Design Codes and R80 density provisions. The vehicle access points and vehicle movement on site satisfies the City's Engineering provisions.

Residential Density

The development falls within a residential density of R80 (maximum 57 multiple dwellings/proposed 52 multiple dwellings). This density is normally associated with the density and multi-level development in the Rivervale locality of Great Eastern Highway.

The applicant has provided supporting planning justification for the density and highlights the nearby commercial facilities, recreation (Garvey Park), public transport route (Great Eastern Highway), the site's accessibility, available public services, proximity to the City, and the airport and the need to increase the range of housing styles and density in this location, as factors that justify an increased density to R80.

The planning justification is noted and the R80 density is supported. The Café Dialogue session undertaken to identify future planning for the area supports the concept of high density in a location such as Lot 103.

It is considered that the two and three level, low scale nature of the development, the distribution of open space on site and the large size of the lot contributes to a development that is compatible in this location.

12.3 Continued

Development Area DA6

Clause 10.18.5.1 of the Scheme would normally require a structure plan to be prepared before Council supports a development within the Development Area. However, in this instance it is considered that the proposed development of Lot 103 may be approved, without the requirement to prepare a structure plan for all or part of the Development Area. The receipt of any submissions during the advertising stage will further address this matter.

The proposed development of Lot 103 will not prejudice future planning options for the wider Development Area and locality, by virtue of the fact that:

- the site is located near the periphery of the Development Area.
- the orientation of the lot with two street frontages and the size of the site enables the site to be developed as a separate entity and does not rely on a coordinated approach with other lots.
- The landuse and scale of development is consistent with the zoning of the site and the findings of the Café Dialogue session which established the guidelines for future planning in this locality.

In summary, the architectural features of the development, building materials, density and landuse is considered acceptable and the development is recommended for approval.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

As of the 1 July 2003 Energy Efficiency requirements have been implemented via the Building Code of Aust Volume 2 and all residential buildings need to comply with the 'deemed to satisfy' requirements or alternatively an Energy Audit Report can be submitted by an accredited person.

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That Council approve planning application 250/2007DA as detailed in plans dated 28 July and 22 August 2008 submitted by Dryka and Partners Architects on behalf of the owner Tish Pty Ltd for 52 Multiple Dwellings at Lot 103 (435-447) Great Eastern Highway (cnr Bulong Avenue, Coolgardie Avenue), Redcliffe subject to the following conditions:

1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.

12.3 Continued

2. The upper floor walkway, located on the south east façade of Block A shall have a minimum 1600mm opaque screen, where the walkway is located less than 7.5m from the south east boundary of Lot 103.

3. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.

4. For residential unit development all fencing visible from the street or an internal accessway shall be constructed in brick and timber, or brick and see through wrought iron, or other materials which match the units and which are acceptable to the Director Community and Statutory Services, Manager Planning Services or Senior Planning Officer.

5. The development shall be connected to the reticulated sewerage system.

6. The part of Lot 103 the subject of an existing drainage easement shall be maintained for drainage purposes to the satisfaction of the Director Technical Services.

7. Prior to occupation or use of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, line marked and kerbed in accordance with:

   (a) The approved plan (79 spaces measuring a minimum of 2.5 metres x 5.5 metres);

   (b) Schedule 3 of the City of Belmont Town Planning Scheme No. 14; and

   (c) Council's engineering requirements and design guidelines, with respect to drainage requirements.

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

8. Prior to occupation or use of the development, vehicle crossovers shall be constructed in coloured concrete or brick paving in accordance with the City of Belmont specifications for the construction of concrete or brick paved crossovers for residential properties.

9. The redundant crossovers to Lot 103 as shown on the approved plans shall be removed and the verge and kerb reinstated in accordance with the City's Engineering Requirements and Design Guidelines.

10. A geotechnical report prepared for the City by an appropriately qualified structural engineer shall be lodged with the City, at the cost of the owner/applicant, prior to an application for a building licence. The report must identify the geotechnical conditions of the site and certify to the City that any earthworks proposed are structurally sound. The earthworks must be carried out in accordance with the geotechnical report as modified (if at all) by the City.

12.3 Continued

11. The applicant to submit a stormwater management plan, to the satisfaction of the City's Project/Development Engineer, and outlining the proposal to dispose of the stormwater runoff, off site via an approved stormwater pollutant trap which is to be installed on site before connecting to an approved Council manhole on the verge.

12. A landscaping and reticulation plan acceptable to the City shall be prepared by a professional horticulturist or a qualified landscape contractor and submitted to the City for approval. The plans shall be submitted prior to the issue of a building licence unless otherwise agreed to in writing.

    The plan shall show by numerical code, the species, quantity and anticipated mature dimensions of all plant types to be planted and shall include:

    (a) landscaping to a minimum of 25% of the setback area to all roads;
    (b) landscaping to the street verge;
    (c) species and plants capable of screening the car parking bays from the abutting ground floor bedroom windows.

13. Landscaping, plants and reticulation shall be installed in accordance with a landscaping and reticulation plan to be submitted to the City and approved by the Manager Planning Services, the Senior Planning Officer or the Planning Officer and the landscaping and reticulation shall be maintained and the plants shall be nurtured and maintained until they reach their mature dimensions and shall thereafter be maintained at those mature dimensions unless Council approves otherwise in writing.

14. Any relocation or removal of street trees is to be undertaken by the owner, at the owner's cost, with the prior approval of the Manager Parks & Environment or the Parks Technical Officer and in accordance with any direction contained in or given with that approval.

15. If during the course of the development a street tree is damaged or destroyed the owner / applicant shall:

    (a) replace the street tree with a tree of a similar type and maturity; and
    (b) maintain the replacement tree for a period of 12 months.

16. The applicant to provide a Waste Management Plan to the satisfaction of the Manager Health and Rangers Services. This may include an additional bin storage area in a location that is accessible to Bulong Avenue, provision for a private rubbish collection or a Council service with a reduced number of bins due to the ability to share bins with the proposed complex.

12.3 Continued

Notation

Cr Wolff proposed the following Deferral Motion for reasons that due to the number of objections received from residents to this development, more consultation is needed to ensure an appropriate compromise is establishes between Council, the residents and the developer over this development.

Notation

Cr Powell foreshadowed the following Alternate Motion with an added point B which states that Council advises the applicant that prior to the development of Lots 102, 104-107 and 36 the proponent examine ways to have the traffic of these lots egress onto Great Eastern Highway via Bulong Avenue and not onto Coolgardie Avenue.

DEFERAL MOTION

WOLFF MOVED, HITT SECONDED, That this item be deferred for further consultation so as to arrive at a compromise between Council, the residents and the developer over this development.

LOST 1 VOTES TO 8
Against: Cr Marks, Cr Hanlon, Cr Rossi, Cr Hitt, Cr Dornford, Cr Brennan, Cr Whiteley,Cr Powell

POWELL MOVED, BRENNAN SECONDED,

A. That Council approve planning application 250/2007DA as detailed in plans dated 28 July and 22 August 2008 submitted by Dryka and Partners Architects on behalf of the owner Tish Pty Ltd for 52 Multiple Dwellings at Lot 103 (435-447) Great Eastern Highway (cnr Bulong Avenue, Coolgardie Avenue), Redcliffe subject to the following conditions:

1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.

2. The upper floor walkway, located on the south east façade of Block A shall have a minimum 1600mm opaque screen, where the walkway is located less than 7.5m from the south east boundary of Lot 103.

3. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.

4. For residential unit development all fencing visible from the street or an internal accessway shall be constructed in brick and timber, or brick and see through wrought iron, or other materials which match the units and which are acceptable to the Director Community and Statutory Services, Manager Planning Services or Senior Planning Officer.

12.3 Continued

5. The development shall be connected to the reticulated sewerage system.

6. The part of Lot 103 the subject of an existing drainage easement shall be maintained for drainage purposes to the satisfaction of the Director Technical Services.

7. Prior to occupation or use of the development, vehicle parking, manoeuvring and circulation areas shall be designed, constructed, sealed, line marked and kerbed in accordance with:

(a) The approved plan (79 spaces measuring a minimum of 2.5 metres x 5.5 metres);

(b) Schedule 3 of the City of Belmont Town Planning Scheme No. 14; and

(c) Council's engineering requirements and design guidelines, with respect to drainage requirements.

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

8. Prior to occupation or use of the development, vehicle crossovers shall be constructed in coloured concrete or brick paving in accordance with the City of Belmont specifications for the construction of concrete or brick paved crossovers for residential properties.

9. The redundant crossovers to Lot 103 as shown on the approved plans shall be removed and the verge and kerb reinstated in accordance with the City's Engineering Requirements and Design Guidelines.

10. A geotechnical report prepared for the City by an appropriately qualified structural engineer shall be lodged with the City, at the cost of the owner/applicant, prior to an application for a building licence. The report must identify the geotechnical conditions of the site and certify to the City that any earthworks proposed are structurally sound. The earthworks must be carried out in accordance with the geotechnical report as modified (if at all) by the City.

11. The applicant to submit a stormwater management plan, to the satisfaction of the City's Project/Development Engineer, and outlining the proposal to dispose of the stormwater runoff, off site via an approved stormwater pollutant trap which is to be installed on site before connecting to an approved Council manhole on the verge.

12. A landscaping and reticulation plan acceptable to the City shall be prepared by a professional horticulturist or a qualified landscape contractor and submitted to the City for approval. The plans shall be submitted prior to the issue of a building licence unless otherwise agreed to in writing.

12.3 Continued

The plan shall show by numerical code, the species, quantity and anticipated mature dimensions of all plant types to be planted and shall include:

(a) landscaping to a minimum of 25% of the setback area to all roads;
(b) landscaping to the street verge;
(c) species and plants capable of screening the car parking bays from the abutting ground floor bedroom windows.

13. Landscaping, plants and reticulation shall be installed in accordance with a landscaping and reticulation plan to be submitted to the City and approved by the Manager Planning Services, the Senior Planning Officer or the Planning Officer and the landscaping and reticulation shall be maintained and the plants shall be nurtured and maintained until they reach their mature dimensions and shall thereafter be maintained at those mature dimensions unless Council approves otherwise in writing.

14. Any relocation or removal of street trees is to be undertaken by the owner, at the owner's cost, with the prior approval of the Manager Parks & Environment or the Parks Technical Officer and in accordance with any direction contained in or given with that approval.

15. If during the course of the development a street tree is damaged or destroyed the owner / applicant shall:

(a) replace the street tree with a tree of a similar type and maturity; and
(b) maintain the replacement tree for a period of 12 months.

16. The applicant to provide a Waste Management Plan to the satisfaction of the Manager Health and Rangers Services. This may include an additional bin storage area in a location that is accessible to Bulong Avenue, provision for a private rubbish collection or a Council service with a reduced number of bins due to the ability to share bins with the proposed complex.

That:

B Council advises the applicant that prior to the development of Lots 102, 104-107 and 36 the proponent examine ways to have the traffic of these lots egress onto Great Eastern Highway via Bulong Avenue and not onto Coolgardie Avenue.

CARRIED 9 VOTES TO 0

12.4 LOT 429 (60) KEANE STREET, KEWDALE – PROPOSED TWO-STOREY SINGLE RESIDENTIAL DWELLING

Built Belmont

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	115/001
Location / Property Index	:	Lot 429 (60) Keane Street, Kewdale
Application Index		312/2008DA
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	Averna Homes
Owner	:	W J Trute
Responsible Division	:	Community and Statutory Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider the development of a single residential dwelling on Lot 429 (60) Keane Street given the objection received from the adjoining owner regarding the proposed parapet wall.

12.4 Continued

SUMMARY AND KEY ISSUES

The single residential dwelling and proposed garage parapet wall (2.7m high/9m length) complies with all provisions of the Residential Design Codes and Local Planning Policy No. 21 –'Building Guidelines for Lots 450m2 and Less'.

A 3 metre section of the proposed parapet wall abuts an existing parapet wall on the side boundary of the adjoining property, however, the balance of the proposed parapet wall is 6 metres forward of the existing parapet wall on the adjoining landowner's property. That 6 metre portion of wall represents a variation from the provisions of 'Local Planning Policy No.19 – 'Boundary Walls Policy' which specifies that a proposed parapet wall may extend up to 1 metre past an existing parapet wall on the same boundary.

The adjoining landowner objects to the proposed parapet wall of the garage and has requests that the wall be setback 1 metre from their boundary.

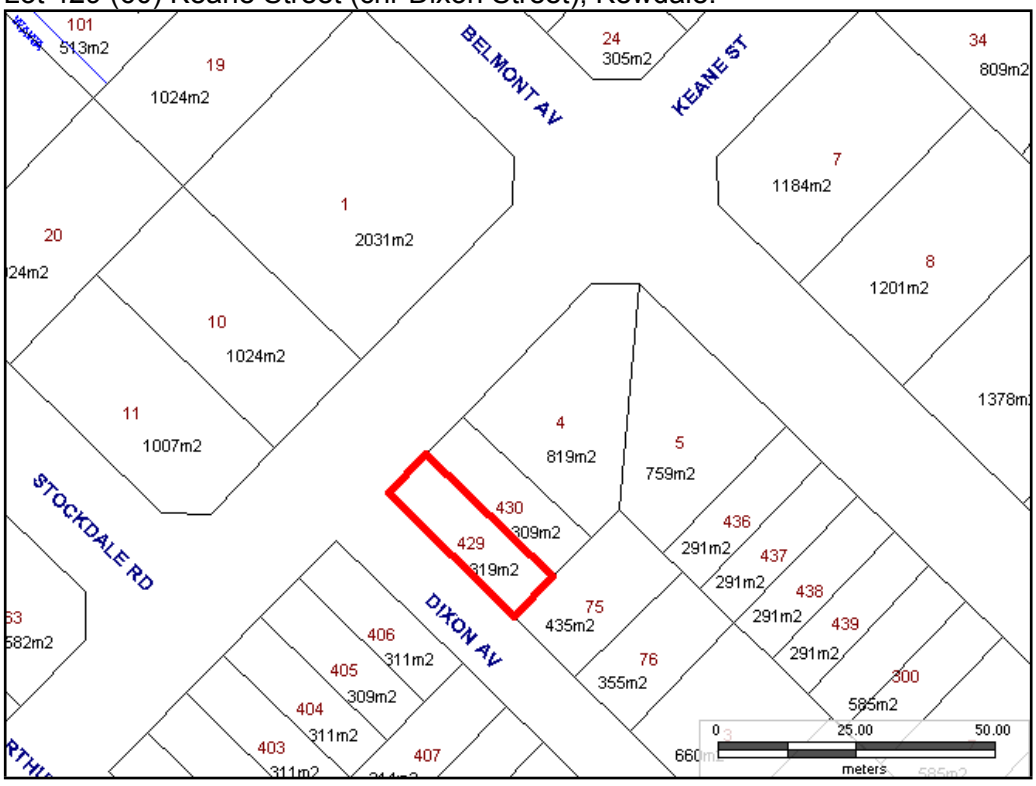
The owner of the property and proposed development is a staff member of the City of Belmont and therefore the application was assessed by an independent planning consultant.

Due to an objection being received, the matter has been referred to the Council for determination.

The development is considered acceptable and it is recommended that planning approval be issued for the development.

LOCATION

Lot 429 (60) Keane Street (cnr Dixon Street), Kewdale.



12.4 Continued

CONSULTATION

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

The original proposal for the single dwelling sought a variation to the R Codes with respect to the height of the proposed parapet wall (proposed 3 metre total height whereby the R Codes require a 2.7 metre average/3 metre maximum height). The applicant provided the adjoining landowners comments with respect to the original 3 metre high parapet wall proposal. The adjoining landowner (60A Keane Street) objected to the proposal on the basis of:

- the dominance of the wall and associated roof when viewed from their property;
- inconsistency with the streetscape; and
- the loss of afternoon sun onto their property due to the wall height.

The applicant subsequently reduced the height of the wall to a total height of 2.7 metres to fully comply with the R Codes.

The amended proposal for a 2.7 metre high parapet garage wall was again referred to the adjoining landowner at No. 60A Keane Street due to the non-compliance of the proposed parapet wall with Local Planning Policy No.19. The proposed parapet wall will extend 6 metres (in lieu of the 1 metre specified under the policy) forward of the existing parapet wall located on the neighbours property.

In response, the adjoining landowner has requested a 1m side setback to the proposed wall and objects to the parapet wall on the common boundary on the basis that:

- the wall will affect the view from her house when viewing across the front of Lot 429.
- workers will walk over her garden when the parapet wall is constructed.

The objection is discussed further in the 'Officer Comment' section.

STRATEGIC PLAN IMPLICATIONS

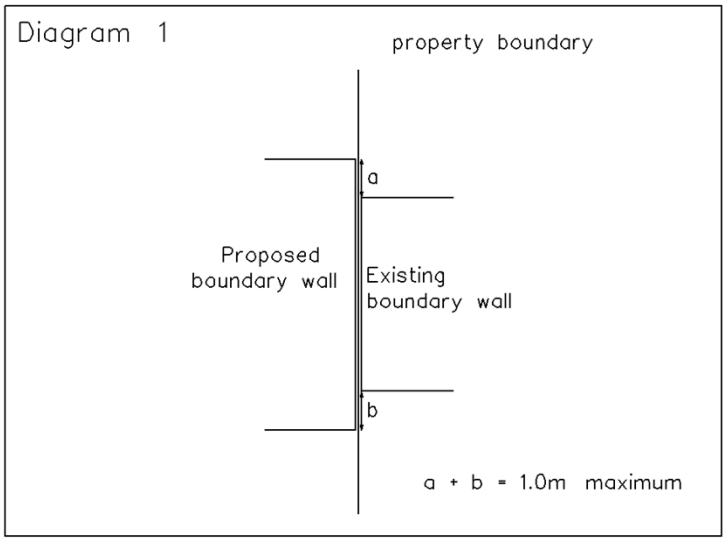
BUILT BELMONT - "*Encourage the upgrading and compatible redevelopment of the City*".

POLICY IMPLICATIONS

Local Planning Policy No.19 – 'Boundary Walls Policy' specifies:

> *"Boundary walls are permitted to abut existing boundary walls on the adjacent property where the proposed boundary wall is located within one metre of the existing wall and is no more than a total of 1.0m longer than the existing wall; or (refer Diagram 1)."*

12.4 Continued



A 3 metre section of the proposed 9 metre long parapet wall abuts an existing parapet wall on the side boundary of the adjoining property, however, the balance of the proposed parapet wall is 6 metres forward of the existing parapet wall on the adjoining landowner's property. That 6 metre portion of wall represents a variation from the provisions of 'Local Planning Policy No.19 – 'Boundary Walls Policy' which specifies that a proposed parapet wall may extend up to 1 metre past an existing parapet wall on the same boundary.

Local Planning Policy No. 21 'Building Guidelines for Lots 450m2 & Less' specifies that "*For lots less than 450m2, the City will accept a front street setback of a minimum of 2 metres, and an average of 4 metres*."

STATUTORY ENVIRONMENT

Clause 10.16 of the Town Planning Scheme provides Council with the discretion to vary development standards and requirements.

Deemed Refusal

Under Clause 5.5.1 of the City of Belmont Town Planning Scheme No. 14 an application is 'deemed to be refused' if it is not determined within a 60 day period.

The deemed refusal date for this application passed on 5 September 2008 and the applicant already has deemed refusal rights.

Right of Appeal

Is there a right of appeal? ☒ Yes ☐ No

The applicant / owner may appeal a planning approval / planning refusal to the State Administrative Tribunal (SAT) subject to Part 14 of the Planning and Development Act 2005. Appeals must be lodged with SAT within 28 days. Further information can be obtained from the SAT website – www.sat.justice.wa.gov.au.

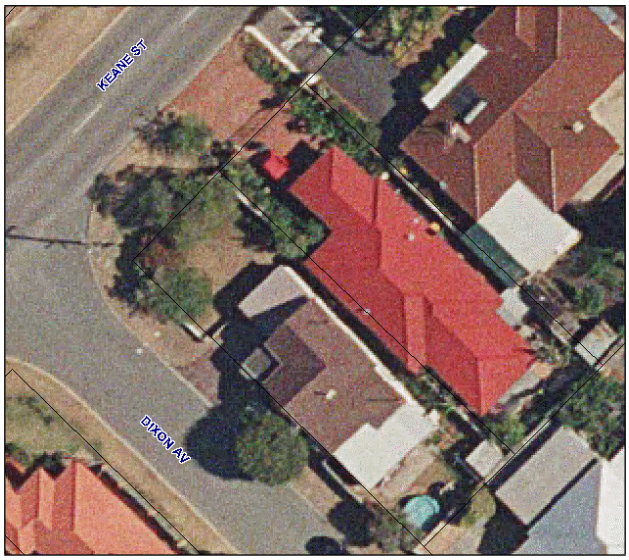
12.4 Continued

BACKGROUND

Lodgement Date:	7 July 2008	**Use Class:**	Single House - 'P' use
Lot Area:	319m2	**TPS Zoning:**	Residential R20
Estimated Value:	$270,000	**MRS:**	Urban

The subject site is located on the corner of Dixon Avenue and Keane Street. The site is vacant due to the recent demolition of the former dwelling on the site.

The adjoining property – Lot 430 (No. 60A) – contains an existing single storey dwelling. The dwelling has a front setback of approximately 5.2 metres to a carport with the remainder of the building being setback 9.8 metres from Keane Street. It is the 9.8 metre setback that immediately abuts the subject site. 60A Keane Street has an existing 12.5 metres long parapet wall which abuts the common boundary with the subject site (Lot 429).

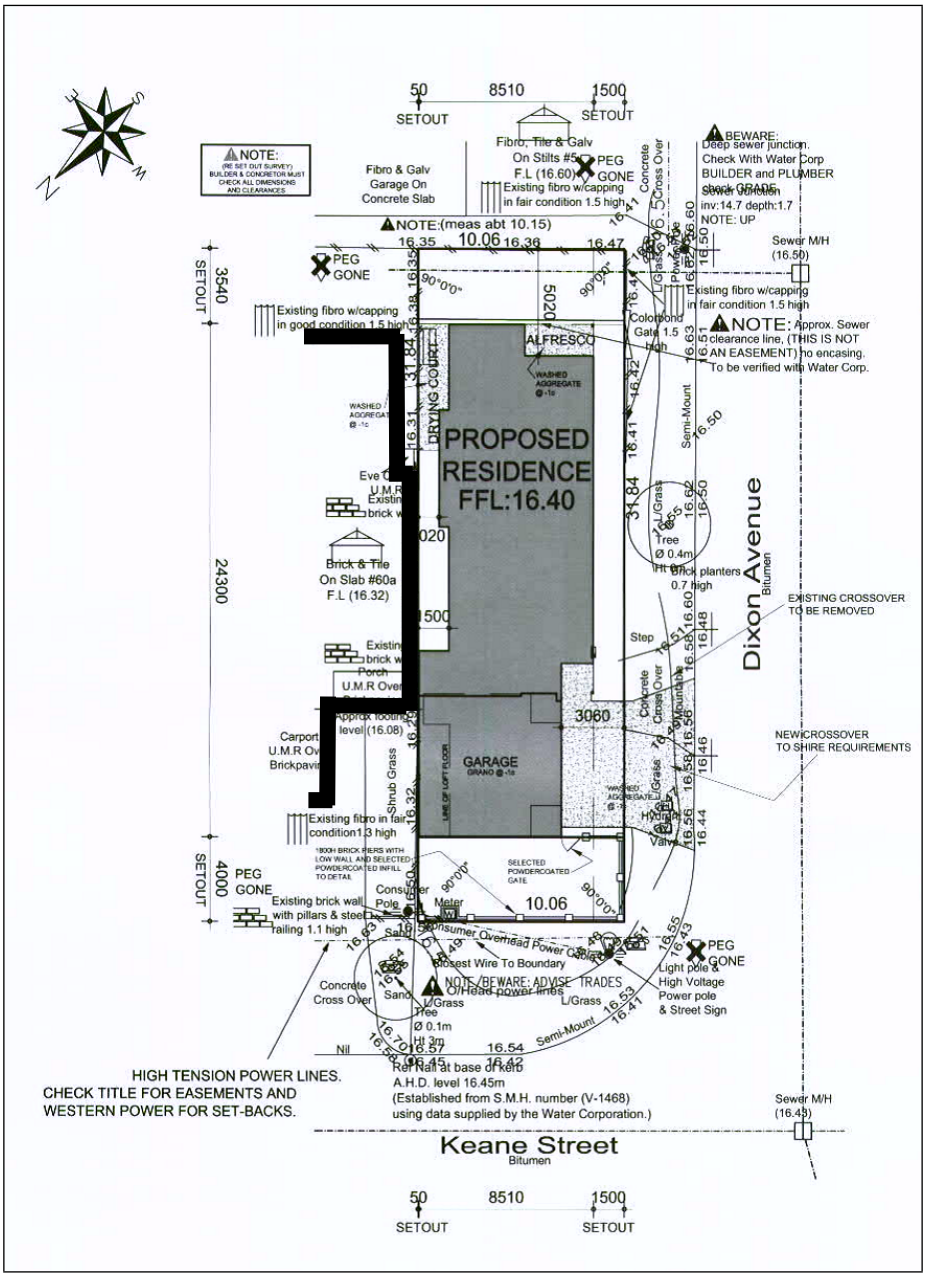


Proposal

The proposed dwelling has a front setback of 4 metres to Keane Street. A double garage with loft above is proposed on the Keane Street frontage of the site with the Keane Street façade of the dwelling providing windows on the ground and upper level. Vehicular access to the garage is taken from Dixon Street.

The proposed garage and ensuite bathroom of the dwelling forms the parapet wall along the north eastern boundary of the lot. The parapet wall is setback 4 metres from Keane Street and extends for a length of 9 metres along the boundary, of which 6 metres will be visible from the adjoining lot. A 3 metre portion of the parapet wall will abut an existing parapet wall on the boundary (the adjoining neighbours building outline is shown below by a thick black outline).

12.4 Continued



Power Supply

This site has above ground power. There is one power pole along the Dixon Street frontage of the site providing Low Voltage Cables (440V) and Streetlight Cables (240V)).

OFFICER COMMENT

The development complies with the R Codes and setbacks specified under Local Planning Policy No. 21 –'Building Guidelines for Lots 450m2 and Less'.

In regard to the matters raised by the adjoining land owner, the following comments are provided:

12.4 Continued

- The parapet wall is located on the south west side of Lot 430. The 2.7 metre high wall does not overshadow the objector's property as assessed under the R Codes. Notwithstanding that, some afternoon shadow may occur from the parapet but is will only be marginally more than a 1.8 metre high boundary fence.

- It is acknowledged that the adjoining owner may find the single storey wall and (45 degree) pitched roof a dominant feature when viewed from Lot 430, However the wall height and overall building height are complying features of the development. It may be noted that the visual impact of the development would similarly exist even if the wall was setback 1 metre, as requested by the adjoining owner.

- The interior depth of the garage is not excessive at 6.9 metres and the imposition of a 1 metre side setback will reduce the garage to a slightly substandard length (5.9 metres). Alternatively if the total garage is relocated 1metre closer to the Dixon Street boundary (i.e. to create a 1 metre side setback to the common boundary) then this will reduce the potential area for visitors to park behind the garage and off the road.

- The required 4 metre average front setback to Keane Street is observed and the proposal is not considered to be detrimental to the streetscape. It is noted the front setback could have been proposed with a minimum 2 metre setback/average 4 metre setback, however the applicant has achieved a 4 metre absolute setback.

- Any damage to garden area during construction of the parapet will need to be addressed between the adjoining owners at that time. Garden damage can occur with construction of boundary fences, regardless of a parapet wall. The owner will need to obtain permission from the adjoining owner of Lot 430 to enter upon her land to finish the external surface of the parapet wall. This is no basis on which to refuse a parapet wall.

- The view from Lot 430 and diagonally across Lot 429 will be affected by any development which observes the required 2m minimum/4m average Keane Street setback on Lot 429. This is because the dwelling on the adjoining lot – Lot 430 - has a significant Keane Street front setback of 9.8 metres. Any new development on Lot 429 (with or without a parapet wall on the common boundary) is likely to be forward of this dwelling. There is no requirement to protect the view from a property.

The 9.8 metre section of front setback of the existing dwelling on Lot 430 immediately abuts the proposed parapet wall. Consequently this large front setback contributes to the 6 metre portion of parapet wall being evident from the dwelling on Lot 430 and the apparent variation to LPP No.19. However, it is considered that the existing development of Lot 430 should not prejudice the development of the proposed parapet as Lot 429 complies with the R Code provisions for a parapet wall and the Local Planning Policy No. 21's front setback requirements. The proposed parapet wall would need a Keane Street front setback of 8.8 metres in order to achieve compliance with LPP No.19. There is no basis on which to request an increased Keane Street front setback to 8.8 metres.

12.4 Continued

It may be noted that the Policy provision which limits the proposed parapet wall to a length of 1 metre past an existing parapet wall would not apply if the existing dwelling on Lot 430 was setback from the boundary. In such a case, the matter currently under consideration would not be considered a Policy variation. This aspect of the Policy now appears incongruous and should not be applied.

When assessing a variation to LPP No.19, the 'Performance Criteria' of the R Codes for parapet walls must also be considered. In this regard it is considered that the proposal: makes effective use of the space on-site: enhances the privacy and amenity of the development; does not affect direct sunlight into major openings or outdoor living areas of the adjoining property; and does not significantly affect the amenity of the adjoining lot.

The proposal is considered acceptable and the application is recommended for approval.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

As of the 1 July 2003 Energy Efficiency requirements have been implemented via the Building Code of Aust Volume 2 and all residential buildings need to comply with the 'deemed to satisfy' requirements or alternatively an Energy Audit Report can be submitted by an accredited person.

12.4 Continued

OFFICER RECOMMENDATION

That Council approve planning application 312/2008DA as detailed in plans dated 26 August 2008 submitted by Averna Homes on behalf of the owner W J Trute for a single residential dwelling with loft at Lot 429 (60) Keane Street (cnr Dixon Street), Kewdale subject to the following conditions:

1. ***The parapet wall shall have a maximum height of 2.7 metres from natural ground level in accordance with the Residential Design Codes.***

2. ***Prior to occupation or use of the development, all boundary walls shall be:***

   (a) finished in face brick;
   (b) rendered and painted; or
   (c) painted brick work.

3. ***Prior to occupation or use of the development, vehicle crossovers shall be constructed in coloured concrete or brick paving in accordance with the City of Belmont specifications for the construction of concrete or brick paved crossovers for residential properties.***

4. ***The redundant crossover to Lot 429 as shown on the approved plans shall be removed and the verge and kerb reinstated in accordance with the City's Engineering Requirements and Design Guidelines.***

5. ***All stormwater from roofed and paved areas shall be collected and disposed of on-site in accordance with the City of Belmont's Engineering Requirements and Design Guidelines and any associated drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction from any thing.***

6. ***Front fencing to comply with the provisions of the Residential Design Codes, which require front wall and fences to be visually permeable above 1.2 metres. The section of the fence which is located within the visual truncation of Keane Street/Dixon Street corner is required to maintain open style infill fencing panels above a height of 750 mm from natural ground level.***

7. ***The Keane Street façade of the dwelling shall maintain a window on the ground floor and upper floor as shown on the approved plans.***

8. ***The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.***

OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 12

12.5 CITY OF BELMONT LOCAL PLANNING SCHEME NO. 14 – SCHEME AMENDMENT NO. 53 (TO INTRODUCE COST CONTRIBUTION PROVISIONS FOR STRUCTURE PLAN AREAS AND INCLUDE A SPECIFIC COST CONTRIBUTION SCHEDULE FOR 'THE SPRINGS' DEVELOPMENT AREA 11)

Built Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 3 – Item 12.5 refers	Cost Contribution Schedule
Attachment 4 – Item 12.5 refers	Letter of 18 August 2008 from WAPC to the City of Belmont – Structure Plan conditions
Attachment 5 – Item 12.5 refers	Table – WAPC Conditions for Structure Plan approval

Voting Requirement	:	Simple Majority
Subject Index	:	116/099 (Town Planning Scheme No. 14 – Amendment No. 53 – The Springs) 116/077 (The Springs)
Location / Property Index	:	All designated Development Areas within the City of Belmont
Application Index		N/A
Disclosure of any Interest	:	Nil
Previous Items	:	**OCM 29 November 2005** - Support inclusion of Cracknell Park as POS within 'The Springs' **OCM 20 February 2007** -1) Advertising of the draft Structure Plan and draft Design Guidelines (LPP 31) for 'The Springs'; 2) Adoption of Amendment No. 49 to designate seven additional 'Development Areas' which will require structure plans. **OCM 28 August 2007** – Pending gazettal of Amendment No. 49, Council adopted 'The Springs' Structure Plan and Local Planning Policy No. 31 – The Springs Design Guidelines for proposed DA 11, subject to conditions. **OCM 20 May 2008** – Following gazettal of Amendment No. 49, Council reaffirmed its resolution of 28 August 2007 to adopt 'The Springs' Structure Plan.
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Community and Statutory Services

12.5 Continued

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, town planning schemes & policies*
☐	**Review**	*When Council reviews decisions made by Officers*
☐	**Quasi-Judicial**	*When Council determines an application / matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town 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

1. To consider adoption of Amendment No. 53 to the City of Belmont Town Planning Scheme No. 14 for formal advertising; and

2. To obtain a resolution from Council on several items related to DA 11 - The Springs Structure Plan Area, including:

    - adoption of the proposed Developer Cost Contribution Schedule as interim policy;
    - support for inclusion of 'Precinct Development Table' within 'The Springs' Structure Plan;
    - endorsement in principle of a restrictive covenant over Cracknell Park; and
    - endorsement of LandCorp's Public Open Space Strategy.

SUMMARY AND KEY ISSUES

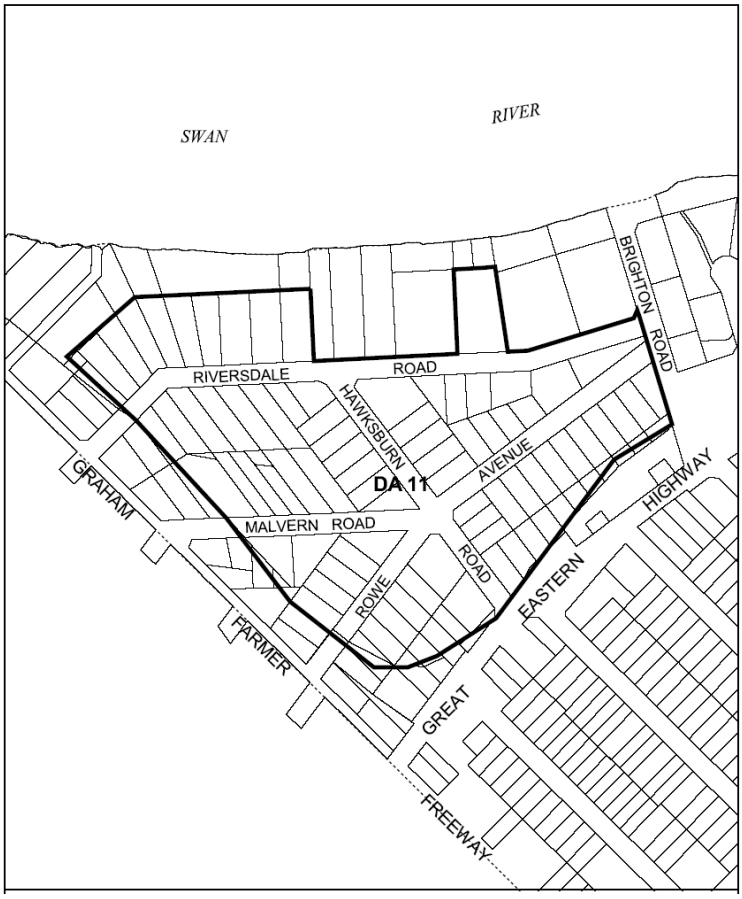
- Council to consider adoption of Scheme Amendment No. 53 to the City of Belmont Local Planning Scheme No. 14 for public advertising.
- When structure plan areas are established, the City of Belmont Town Planning Scheme No. 14 also includes provision, where required, for the inclusion of cost contribution provisions within the Scheme.
- Amendment 53 proposes:
    1. The inclusion of required cost contribution provisions to the City of Belmont Town Planning Scheme No. 14; and
    2. Specific cost contributions to facilitate the redevelopment of 'The Springs' area.

12.5 Continued

- There are several other outstanding issues in regard to 'The Springs' Structure Plan which require a resolution of Council in order to satisfy Department for Planning and Infrastructure requirements.

LOCATION

The areas that may be affected by proposed Amendment No. 53 are potentially all designated Development Areas within the City of Belmont and, specifically, The Springs (DA 11).



CONSULTATION

LandCorp has undertaken extensive consultation with the owners of property within The Springs. The most recent draft Cost Contribution Schedule was provided to owners in April 2006.

Continuing consultation is planned with the landowners during the advertising process so as to ensure they are familiar with and understand its workings.

Consultation is a statutory process required under the Planning and Development Act 2005. The Act requires that advertising of a Scheme Amendment be undertaken for 42 days.

12.5 Continued

It is recommended that advertising of the Amendment be undertaken by:

- Placing an advertisement in the West Australian and the Southern Gazette;
- Notifying relevant authorities; and
- Writing to all land owners and occupiers located within and adjacent to the area identified.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT – "*Encourage the upgrading and compatible redevelopment of the City*."

BUSINESS BELMONT – "*Maximise business development opportunities within the City*".

POLICY IMPLICATIONS

Draft State Planning Policy 3.6 – Development Contributions for Infrastructure

STATUTORY ENVIRONMENT

- Schedule No. 14 of Town Planning Scheme No. 14 designates 'The Springs' as Development Area (DA 11).
- Section 10.18 of TPS No. 14 contains provisions which address required structure planning within designated Development Areas. An approved Structure Plan is required prior to further development or subdivision.
- Section 10.9 'Special Development Precinct Zone', Clause 10.8.9(d) of TPS No. 14 enables Council to impose a condition on a development approval within 'The Springs' area requiring an applicant to contribute a proportion of the costs of providing common services and community infrastructure, or to prepare developer cost contribution estimates prior to the finalisation of definite proposals and costs for the precinct.
- WAPC Draft Model Scheme Text Provisions for Development Contributions.
- The Springs Structure Plan – adopted by Council 28 August 2007, subject to modifications (Item 12.1.7 refers).

BACKGROUND

Cost contribution provisions for new developments and redevelopment are required to ensure the cost-efficient provision of infrastructure and facilities such as roads, public transport, water supply, sewerage, electricity, gas, telecommunications, drainage, open space, schools, health, community and recreation facilities. The planning and coordination of all of these utilities and services is fundamental to the economic and social wellbeing of any community.

12.5 Continued

Development contributions are usually by way of land, works or payments towards the provision of infrastructure. Requirements for development contributions are imposed as conditions of subdivision or, in areas of fragmented ownership such as 'The Springs', by way of a development contribution arrangement made under the Town Planning Scheme. The arrangement/plan must be equitable and transparent so as to provide certainty to developers, infrastructure providers and the community about the charges which apply and how the funds will be spent. The key principle is that the landowner receiving a benefit pays for it, whether the benefit is accrued just to residents of a new development or to existing residents as well.

Amendment No. 49 designated specific areas within the City of Belmont as Development Areas (DAs). Each DA requires an approved structure plan prior to consideration of further development. In consideration of the (then) pending gazettal of Amendment No. 49, Council adopted The Springs Structure Plan and Local Planning Policy No. 31 – The Springs Design Guidelines for proposed DA 11 at its meeting of 28 August 2007.

The Amendment was approved by the Minister for Planning and Infrastructure on 11 March 2008, subject to modifications. As the draft Structure Plan was adopted before it was technically required, once Amendment No. 49 was gazetted the Council reaffirmed its resolution of 28 August 2007 to adopt 'The Springs' Structure Plan.

Town Planning Scheme No. 14 provides the authority for Council to impose the requirement for developer cost contributions to cover the costs of providing common services and community infrastructure within 'The Springs'. Amendment No. 53, however, is intended to specifically address financial issues and responsibilities for all landholders within a Structure Plan area at the time of development. It has been drafted by Council's solicitors in consultation with Council officers and with reference to the WAPC Draft Model Scheme Text Provisions for Development Contributions.

The objectives of the WAPC Draft Model Scheme Text Provisions for Development Contributions are to:

- introduce a mechanism to deal with cost contributions which relate to subdivision and development;
- provide for the equitable sharing of infrastructure costs amongst owners and in particular, to ensure that cost contributions are only required towards such infrastructure as is reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and
- coordinate the timely provision of infrastructure.

While the Amendment will introduce cost contribution provisions into TPS No. 14 that could potentially apply to all designated Development Areas, actual cost contribution requirements will only be incorporated into the Schedule No. 15 of the Scheme to exclusively address 'The Springs' situation. Cost contribution requirements for any other designated structure plan area would have to go through a separate amendment process prior to inclusion and would therefore be subject to consultation and public scrutiny.

12.5 Continued

The Springs – Cost Contributions
LandCorp has provided a detailed final Cost Contribution Schedule (Attachment 3 refers). 'Section 3 – Landowner Contribution Schedule – Summary' shows the total contribution amount for each lot within DA 11 *when and if* they choose to develop.

What the Contributions Cover
Landowner cost contributions will only go towards landscape and streetscape improvements, upgrading of services, and associated costs (administration and management) within DA 11. A detailed breakdown is provided in 'Section 5 – Description of Apportioned Development Costs' of the Cost Contribution Schedule.

LandCorp currently intends to finance and undertake the above noted improvements and upgrading. In addition, LandCorp intends to exclusively finance and not seek contribution from owners on the following cost items:

- Land value of the Public Open Space;
- The new Rowe Avenue extension;
- Riversdale Road / Rowe Avenue link road;
- Costs associated with road closures and amalgamation (Malvern & Hawksburn Roads);
- Costs associated with the subdivision of land in LandCorp ownership (i.e. rear laneways, etc).

The only costs for which the City will be responsible under the Development Contribution Plan are those associated with its normal business, such as rehabilitation of existing roads and footpaths, drainage, and maintenance. This amount is estimated at $494,550 and may be provided as works in kind.

Calculation of Contributions
The contributions are based on lot area. The total developable area within DA 11 is 10.2066 ha, and all contributions (except for power) are calculated as a percentage of this total developable area. Examples of how these calculations are performed are provided in Section 5.0 of the Landowner Contribution Plan.

With respect to power, this has again been calculated on a lot area basis, but this time as a percentage of the total developable area of each cell. That is, the costs of the power upgrade have been calculated on a cell by cell basis, taking into account the development potential of each cell. The developable area of each cell is shown in Attachments 1 and 2 to the Landowner Contribution Plan, and examples of how these calculations are performed are also provided in Section 5.0 of the Plan.

Cost contribution amounts may be adjusted over time based on the 'Building Price Index' to reflect movement in construction costs. The Index is a statistically based method of measuring building price movements over time for the purpose of updating construction costs. It takes into consideration factors such as labour, materials and market conditions. Should actual costs be below the fixed amount, a refund of excess payment would be made to the landowner or the required payment reduced.

12.5 Continued

Collection of Contributions
The City of Belmont will collect the contributions as landowners develop their land, as it is the appropriate body with legal authority to administer the Landowner Contribution Plan. Payment will be due upon approval of a development application and before a building licence is issued. A legal agreement will be prepared to enable contributions paid to the City (less administration fees) to be recouped by LandCorp.

DA 11 includes 90 separate titled lots and, at the time of writing this report, LandCorp holds title to 67 lots (74%) and 23 lots (26%) remain in private ownership. The strata developments at 56, 66 and 68 Riversdale Road are not included in the Landowner Contribution Plan as they are outside DA 11, have no further development potential, and are unlikely to redevelop. The strata development at 51 Riversdale Road is included in the Plan as there is potential for a density increase of two units.

Heads of Agreement
In order to clearly define the basic principles both LandCorp and the City of Belmont will adhere to and establish the responsibilities of each agency, it was determined that a "Heads of Agreement" was needed between both parties. The initial draft agreement has been redrafted several times in order to clarify ambiguities and to better protect the interests of both parties. Officers and legal counsel for both parties have been unable to reach agreement with regard to the assumption of liability for legal challenges.

As the responsibilities and basic principles to which both parties are agreed are, for the most part, detailed within Amendment No. 53, Council's solicitors have advised that the Heads of Agreement is redundant and no longer necessary.

The Springs Structure Plan and Design Guidelines (LPP No. 31)
Officers from the City of Belmont and LandCorp met with officers from DPI on 23 October 2008 to discuss conditions imposed by the WAPC (Attachment 4 refers), to be satisfied by the City prior to consideration of approval. A chart has been prepared which summarises the issues discussed and the agreed positions reached on the requested modifications (Attachment 5 refers). Some of the conditions imposed will need to be referred back to the WAPC's Strategic Planning Committee for reconsideration and/or further direction.

Restrictive Covenant – Cracknell Park
The City of Belmont owns the majority of Cracknell Park freehold (Lots 27 and 28); the remaining portion (R45534) is owned by the Crown and managed by the City. The Department for Planning and Infrastructure has advised that if Cracknell Park is to be credited towards the Public Open Space requirement for The Springs, it wants security in the form of a restrictive covenant or notation on title that the area will remain parkland in perpetuity. Specifically, DPI requires a restrictive covenant in favour of the Western Australian Planning Commission or at least a record on title under section 70A of the Transfer of Land Act advising that a Public Open Space credit had been granted by the WAPC for the land for the re-subdivision of the area bounded by Great Eastern Highway, Graham Farmer Freeway and Brighton Road. DPI's concern is that Council could sell the land at a future date.

12.5 Continued

Endorsement of LandCorp's Public Open Space Strategy

Hassell has prepared 'The Springs Redevelopment Public Open Space Strategy, October 2007' for the Department for Planning and Infrastructure on behalf of LandCorp. The report elaborates on the Structure Plan by reviewing the background and justification for the provision of public open space within 'The Springs' in support of the Stage 1 and future subdivision applications submitted to the WAPC for determination. It addresses the amount and location of proposed public open space within the context of current WAPC policies, including 'Liveable Neighbourhoods', and details the amenity and opportunities for each area identified.

As it is consistent with the Structure Plan adopted by Council, LandCorp is requesting that Council demonstrate its support for the Strategy by formally endorsing it.

OFFICER COMMENT

The proposed Landowner Contribution Plan and Amendment No. 53 are the result of many months of consultation amongst Council officers, LandCorp, and their respective legal counsel. While the intent of the draft Town Planing Scheme provisions for cost contributions are the same as those of the WAPC's Draft Model Scheme Text Provisions for Development Contributions, there have been minor adjustments due to the specific nature of some of the WAPC's provisions.

Given that:

1. The intent of the Amendment is consistent with the WAPC's Draft Model Scheme Text Provisions for Development Contributions; and
2. Town Planning Scheme No. 14 already contains provisions for development contributions relating to The Springs area;

adoption of the Amendment for the purpose of advertising is fully supported.

Any issues relating to the wording of specific clauses and/or the specific nature of cost contributions can be resolved prior to the consideration of the Amendment for final approval. This matter is gaining in urgency given the anticipated submission of additional development proposals.

As noted in the Background section of this report, the City and LandCorp could not reach agreement on the issue of assuming liability for any legal challenges to the Development Contribution Plan. This issue will ultimately require resolution by DPI. As the matter was taken out of the hands of the City of Belmont and given to DPI by the former Minister for Planning and Infrastructure and both parties have been advised by their respective solicitors not to accept the burden of liability, it is suggested that DPI assume some, if not all, of this responsibility.

Further to the meeting amongst Council officers, LandCorp and DPI officers on 23 October 2008 regarding DPI's requested modifications to 'The Springs' Structure Plan and Design Guidelines (LPP No. 31), Council's endorsement/decision on a number of issues is required, including:

- adoption of the Developer's Contribution Schedule as 'interim policy' pending the gazettal of Amendment No. 53;

12.5 Continued

- inclusion of a Precinct Table within the Structure Plan, which specifies setbacks, heights, densities and required ratios of dwelling types for each Precinct;
- registration of a restrictive covenant over Cracknell Park to ensure it remains public park in perpetuity.

These resolutions are supported for the reasons stated in the table located in the Background section of this report.

With regard to the Precinct Development Table, a further meeting will be held between Council officers, LandCorp and DPI officers specifically to discuss the built form requirements for the Riversdale Road North Precinct.

Inclusion of a Precinct Development Table is a modification to the Structure Plan and will require a resolution of support from Council. As the Table's content, particularly with regard to the Riversdale Road North Precinct, is still the subject of ongoing negotiation with DPI and the WAPC it is recommended that such a resolution include delegation to the Director Community and Statutory Services to approve any changes.

It is believed that re-advertising of the Structure Plan is not required for inclusion of the Precinct Development Table, as the majority of the information in the Table is available elsewhere within the Structure Plan and Design Guidelines. The exception is the new requirement that a minimum proportion of dwelling units of must have a maximum floor area of $60m^2$ and $90m^2$, which DPI and the WAPC have advised is non-negotiable.

It is further recommended that Council formally endorse 'The Springs Redevelopment Public Open Space Strategy, October 2007', as the Public Open Space Strategy fully reflects what is in the approved Structure Plan with regard to the location and amount of public open space. The endorsement should provide additional support for the proposed subdivision/amalgamation when being reassessed by the Western Australian Planning Commission.

FINANCIAL IMPLICATIONS

The City of Belmont will incur costs in regard to management of the Cost Contribution Plan, as LandCorp does not have the authority to accept or manage payments for provision of community services and infrastructure. LandCorp will pay the City $350,000.00 to cover the costs of administering the Cost Contribution Plan for a period of ten years. Clause 10A.21 of draft Amendment 53 allows for the adjustment of this amount (amongst other cost contributions) on at least an annual basis, if required.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

12.5 Continued

OFFICER RECOMMENDATION

That Council:

A. In pursuance of Section 75 of the Planning and Development Act 2005, amend Local Planning Scheme No. 14 by:

1. Deleting clause 10.18.2.1 and substituting the following:

"10.18.2.1 Interpretation

In this Part and in Part 10A, unless the context otherwise requires:

'Cell' means a part of a Development Contribution Area identified as a Cell in the relevant Development Contribution Plan;

'Cost Contribution' means the contribution to Infrastructure Costs payable by an Owner under Part 10A and pursuant to an applicable Development Contribution Plan;

'Cost Contribution Schedule' means a schedule of a Development Contribution Plan which sets out the ascertained cost contribution of every Owner in a Development Contribution Area or in a Cell;

'Development Area' means an area of land the subject of a structure plan, being an area described in Schedule 14;

'Development Contribution Area' means the area of land to which a Development Contribution Plan relates and being an area defined in Schedule 15;

'Development Contribution Plan' means a plan and any necessary accompanying text referred to in Schedule 15, which:

(a) identifies any Specified Infrastructure Works required within a Structure Plan Area in addition to General Infrastructure Works;

(b) provides the cost or estimated cost of Shared Infrastructure Works where the City considers it reasonable that those details be provided; and

(c) includes a schedule showing the portion or proportion of the cost payable by each Owner of land in the Structure Plan Area where the City considers it reasonable that such details be provided;

'Infrastructure' means services including administration, and facilities, in respect of which, in accordance with the Commission's Policy, it is reasonable for Owners to make a Cost Contribution;

12.5 Continued

'Owner' in and in relation to this Part 10 and Part 10A means an owner or any co-owner of land in a Structure Plan Area or a Development Contribution Area as the context requires, or a person or persons authorized to represent such an owner or co-owner;

'proposed structure plan' means a structure plan, that has been prepared in accordance with the provisions of this Part 10, but has not come into effect in accordance with clause 10.18.13.1;

'Shared Infrastructure Works' means any works, lands, services, or other things whatsoever required to be provided for the subdivision or development of land within a Structure Plan Area such as, but not limited to, the services of administration and supervision, land for any school site, open space, drainage, road works, or any public facility or work whatsoever, and the works necessary to adapt or prepare that land in the subdivision or development process;

'Structure Plan' means a structure plan that has come into effect in accordance with clause 10.18.13.1;

'Structure Plan Area' means an area of land which is the subject of a structure plan or a proposed structure plan, and coincides with a Development Area described in Schedule 14."

2. In Part 10, after clause 10.18.7.4 inserting the following:

"10.18.7.5 Where a proposed structure plan imposes a classification on the land included in it by reference to reserves, zones, or the Residential Design Codes, the proposed structure plan may only be adopted if the Structure Plan Area is included in one or more Development Contribution Areas in Schedule 15.

10.18.7.6 Where a proposed structure plan proposes the provision of Infrastructure in the Structure Plan Area, the proposed structure plan may only be adopted by the City if a Development Contribution Plan (or more than one such Plan):

(a) has been published with the proposed Structure Plan for public submission; and

(b) the City has adopted the Development Contribution Plan after considering all submissions in relation to it."

3. Inserting after Part 10, a new Part 10A as follows:

"PART 10A – Development Contribution Areas

12.5 Continued

10A.1 Development Contribution Areas are shown on the Scheme Map as 'DCA' with a number and are included in Schedule 15. It is contemplated that any Development Contribution Area will correspond with or will be contained within a Development Area described in Schedule 14.

10A.2 In respect of a Development Contribution Area described in Schedule 15, the provisions in Schedule 15 applying to the Development Contribution Area apply in addition to the provisions for the corresponding Development Area in Schedule 14, and in addition to any general provisions of the Scheme. In the case of conflict between those provisions, the order of priority is as follows:

(a) provisions in Schedule 15;

(b) provisions in Schedule 14;

(c) general provisions of the Scheme.

10A.3 In this Part, unless the context otherwise requires:

'Credit' means the amount of excess Cost Contribution which has been made either in money or works including land, over and above the amount of Cost Contribution for which an Owner is liable at any particular time;

'Developable Land Area' means a land area after making the deductions provided for in the clause headed "Developable Area Deductions";

'Estimated Lot Yield' means at any particular time, the total potential number of lots including freehold title, survey strata and strata lots, which are capable of being produced from the land within the Development Contribution Area that remains to be subdivided or developed and which is calculated in accordance with the methods specified in clause 10A.8;

'General Infrastructure Works' means the works stipulated in clause 10A.10(2);

'Infrastructure Costs' means the costs of Infrastructure Works;

'Infrastructure Works' means the works necessary for the provision of Infrastructure as referred to in clause 10A.10;

'Infrastructure Cost Schedule' means a table appurtenant to a Development Contribution Plan, which contains the itemised estimates of Infrastructure Costs, as periodically reviewed under this Part;

12.5 Continued

'Nominal Contribution' means a Cost Contribution in respect of an area of land specified by the City for use for a special purpose, (e.g. a private educational establishment), which is set at a lesser rate than the Cost Contribution that would apply for residential subdivision and development, in acknowledgement that the special purpose contributes betterment to the Development Contribution Area by virtue of the services provided to the community and that a full Cost Contribution may act as a disincentive to the provision of such services;

'Potential Lots' means the total number of lots, including freehold title, survey strata and strata lots, a particular parcel of land, which has been identified for group housing, aged persons housing, office, shop, showroom, place of worship or other commercial or non-residential uses approved in writing by the City, is capable of producing, if subdivided or developed to the maximum capacity permitted under the Scheme as calculated in accordance with the methods specified in clause 10A.8;

'Preliminary Contribution Payment' means a payment made by an Owner pursuant to a condition of subdivision or development approval or a notice served upon an Owner by the City, prior to the adoption of the Cost Contribution Schedule under a Development Contribution Plan by the City;

'Residential Lot Yield' is the number of residential lots treated as equal to 100th part of the floor area expressed in square metres of the non-residential component of a mixed use development. The Residential Lot Equivalent of any mixed use lot is ascertained by dividing by 100 the floor area (expressed in square metres) of the non-residential component of the development proposed or carried out on the lot;

'Specified Infrastructure Works' are works, in addition to General Infrastructure Works, that are specified by the City or in a Cost Contribution Plan as required to be undertaken within a Cost Contribution Area, the cost of which shall be shared between Owners within that area in accordance with clause 10A.10(1).

10A.4 Purpose

The purpose of having Development Contribution Areas is to:

(a) provide for the equitable sharing of Infrastructure Costs between Owners in a Development Contribution Area;

(b) ensure that Cost Contributions are reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and

(c) coordinate the timely provision of Infrastructure within the Development Contribution Area.

12.5 Continued

10A.5 Development Contribution Plan Prerequisite to Subdivision and Development

10A.5(1) A Development Contribution Plan shall be prepared for each Development Contribution Area.

10A.5(2) Where a Development Contribution Area is described in Schedule 15__of the Scheme, all Owners within that Development Contribution Area are required to make a Cost Contribution in accordance with the provisions of this Part and the applicable Development Contribution Plan.

10A.5(3) A Development Contribution Plan is intended to take effect upon the incorporation of the relevant Development Contribution Area in Schedule 15 as part of the Scheme, but effect may be given to the Development Contribution Plan prior to such incorporation if that will facilitate the equitable sharing of Infrastructure Costs, provided that the Development Contribution Plan has been prepared in detail and in the opinion of the Council is likely to be adopted by it in that form.

10A.5(4) Subject to clause 10A.5(6), the City is not to support subdivision or approve development of land within a Development Contribution Area until:

(a) a Development Contribution Plan for that Development Contribution Area is in effect; and

(b) the Owner who has applied for a subdivision or development approval has made arrangements in accordance with clause 10A.19 for the payment of the Owner's Cost Contribution.

10A.5(5) Clause 10A.5(4) does not apply to the development of a single house or outbuildings associated with a single house on a lot which has not been subdivided since the coming into operation of this Part.

10A.5(6) Notwithstanding clause 10A.5(4), where a Development Contribution Plan is not in effect, the City may support subdivision or approve development where the Owner has made other arrangements satisfactory to the City with respect to the Owner's contribution towards the provision of Infrastructure Costs in the Development Contribution Area. Such arrangements may include the execution by the Owner of a deed in terms satisfactory to the City securing the payment of the Owner's Cost Contribution, including provision for escalation of costs over time and securing payment of the escalated costs, and additionally securing compliance with other relevant provisions of this Scheme.

10A.6 General Principles and Content of Development Contribution Plan

12.5 Continued

10A.6(1) A Development Contribution Plan made in respect of any Development Contribution Area is to be prepared in accordance with the following principles:

(a) it is to provide for Cost Contributions to only the amount of such Infrastructure Costs as fairly and reasonably relate to, and are reasonably required as a result of, the subdivision and development of land in the Development Contribution Area. The cost of Infrastructure Works outside the Development Contribution Area may be included if and to the extent that the Development Contribution Area will derive benefit from those works;

(b) it is to provide for Cost Contributions in accordance with the provisions of this Part 10A;

(c) unless otherwise specifically provided in the Development Contribution Plan or in this Scheme, matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;

(d) unless otherwise specifically provided in the Development Contribution Plan or in a related Structure Plan, or in this Scheme, Cost Contributions are to be based upon the proportion that the area of that Owner's land bears to the total area of land within the Development Contribution Area for which Cost Contributions have yet to be made. If there is a conflict in this regard between provisions in the Development Contribution Plan and/or a related Structure Plan and/or this Scheme, then the provisions of this Scheme are to prevail over any other inconsistency, and the provisions of the Development Contribution Plan are to prevail over any inconsistent provision in a related structure plan;

(e) where relevant, an Owner's Cost Contribution is to take into account and to be based upon the highest and best uses attainable for the Owner's land regardless of the development actually proposed or carried out, and the same approach is to be adopted in regard to the valuation of land contributed by the Owner such as land for POS or a school site; and

(f) the value of Infrastructure Costs shall be based on amounts expended, but when expenditure has not occurred, it is to be based on the best and latest estimated costs available.

10A.6(2) A Development Contribution Plan is to specify:

(a) the Development Contribution Area to which the Development Contribution Plan applies;

12.5 Continued

(b) the Infrastructure Costs to be funded through the Development Contribution Plan;

(c) the method of determining the Cost Contribution of each Owner in a manner consistent with the provisions of this Part 10A;

(d) the priority and timing for the provision of Infrastructure;

(e) the period during which it is to operate, which period may be extended;

(f) the Specified Infrastructure Works that are to be undertaken within the Development Contribution Area as required by clause 10A.10(3); and

(g) any special arrangements proposed, contemplated or permitted for pre-funding of works.

10A.7 Developable Area Deductions

For the purposes of clause 10A.6(1)(d), and more generally for the purpose of calculating and apportioning Infrastructure Costs and Cost Contributions under any other provision of the Scheme, but subject to any provision of this Scheme, or any provision of a Development Contribution Plan providing specifically to the contrary, the following areas are to be excluded from the land area calculations of both the total land area in the Development Contribution Area and the Owner's land in the Development Contribution Area:

(a) roads designated under the Metropolitan Region Scheme as Primary Regional Roads and Other Regional Roads;

(b) existing public open space;

(c) government primary and secondary schools, existing and proposed;

(d) sites nominated by the relevant Structure Plan for exclusive use of private educational establishments and which have also been approved by the City for a Nominal Contribution;

(e) drainage reserves;

(f) public utility sites;

(g) community purpose sites;

(h) other land required for Infrastructure Works; and

(i) any other deduction specifically provided for in the Development Contribution Plan.

12.5 Continued

10A.8 Calculation and Apportionment of Infrastructure Costs and Cost Contributions

10A.8(1) Area-Based Apportionment

(a) Where under this Scheme, or under a Development Contribution Plan or a related Structure Plan Infrastructure Costs are to be apportioned on an area basis, then the proportion of the Infrastructure Cost which any Owner must contribute will be the same as the proportion that the Owner's Developable Land Area bears to the total Developable Land Area. That proportion in this clause 10A8 is referred to as "Owner's Area-base Proportion".

(b) Unless otherwise provided in the Scheme, or in a Development Contribution Plan or in a related Structure Plan:

(i) Where the whole of the Infrastructure Costs are to be apportioned on an area basis, the Cost Contribution of an Owner will be the Owner's Area-based Proportion of the total Infrastructure Costs.

(ii) Where part of the Infrastructure Costs under the Development Contribution Plan are to be apportioned on an area basis, the Cost Contribution of an Owner to that part will be the Owner's Area-based Portion of that part of the Infrastructure Costs.

(iii) Where it is provided in a Development Contribution Plan that the cost of any part of the Infrastructure Cost, or that the cost of providing any service, is to be apportioned on a cell basis, or a basis which refers to a land area less than the total Developable Land Area, the Cost Contribution of an Owner to that part of the Infrastructure Costs or to the provision of that service will be the Owner's Area-based Proportion.

(c) The Cost Contributions based on area may be incorporated in a Cost Contribution Schedule and incorporated in the Development Contribution Plan.

10A.8(2) Lot Yield Based Apportionment

(a) The provisions of this clause 10A8(2) apply to any Development Contribution Plan where the apportionment of Cost Contributions is Lot Yield based rather than Area based.

12.5 Continued

(b) It is intended that the provisions of this clause 10A8(2) may be applied to a Cell within any Development Contribution Area as if the Cell was the whole of the Development Contribution Area, and the provisions shall be applied mutatis mutandis. That approach will be adopted if and to the extent that the Development Contribution Plan so provides.

(c) It is intended that the Lot Yield based apportionment may apply to any one or more items of Infrastructure Cost identified for that purpose in the Development Contribution Plan, and will be sensitive to the possibility that the contribution rate for one or more items of cost may vary between Cells, landholdings or lots as described in the Development Contribution Plan.

(d) A Development Contribution Plan is to stipulate if and to what extent Infrastructure Costs are to be calculated on a Lot Yield basis, and in that event is to set out the formula and/or principles which are to be used to determine the Cost Contribution of each Owner.

(e) A Development Contribution Plan may allow for one or more Infrastructure Costs to be apportioned on an Area basis and for one or more to be apportioned on a Lot Yield basis.

10A.9 Nominal Contributions

10A.9(1) The provisions of this clause 10A.9 may be applied only where Cost Contributions are apportioned on a Lot Yield basis.

10A.9(2) A Nominal Contribution may be approved by the City for a specified area of land to be used exclusively for a special purpose likely to contribute betterment to the Development Contribution Area, at a rate approved by the Council being a proportion of the full value of the Cost Contribution that would have been payable on the land area devoted to the special purpose had it been developed for residential purposes, and the Nominal Contribution will be required as a condition of development or subdivision approval.

10A.9(3) Where a change of land use occurs for land for which previous development had been subject to a Nominal Contribution, an additional Cost Contribution will be required to bring the total Cost Contributions for that land at the date the liability for the additional Cost Contribution falls due, up to the equivalent rate for the new land use on the basis of the Cost Contribution Per Lot specified in clause 10A.8.

12.5 Continued

10A.9(4) Where a Cost Contribution has been paid by an Owner and the City subsequently approves a Nominal Contribution for a specified area of the land for which the Cost Contribution has been paid, the difference between the paid Cost Contribution and the subsequent Nominal Contribution shall be deemed a credit to that Owner.

10A.10 Infrastructure Works

10A.10(1) The categories of General Infrastructure Works and Specified Infrastructure Works described in sub-clauses 10A.10(2) and 10A.10(3) respectively below comprise the Infrastructure Works the costs of which are included in the Infrastructure Costs which are to be shared by the Owners located within the Development Contribution Area.

10A.10(2) General Infrastructure Works

(a) Any work done by or on behalf of the City in complying with the provisions of the Scheme or any other law in connection with any Development Contribution Plan and including but not limited to any environmental assessment as required by the Department of Environmental Protection (DEP) or the Environmental Protection Authority (EPA).

(b) The acquisition of land, including associated infrastructure and structures, for any road, intersection, sewerage pumping station, or community facility.

(c) The provision or upgrading of any road in the Development Contribution Area, including but not limited to land acquisition, earthworks, shared paths, cycleways, footpaths, road widening, traffic management devices, landscaping, the formation, preparation, priming and sealing of the road and the provision of kerbing, drainage, service ducts, intersection treatments and lighting and costs associated with the relocation of existing services in connection with the road or in the road reserve.

(d) Any environmental remediation or improvement including the removal of any contaminant or peat, or associated with the Specified Infrastructure Works stipulated in the Development Contribution Plan.

(e) The management and settling of a compensation claim including proceedings in the State Administrative Tribunal or any Court or Arbitration. Any compensation paid or payable for or in respect of the provision of any of the Infrastructure Works or facilities referred to in this Part 10A, or in the administration of this Part 10A and in relation to the applicable Development Contribution Plan.

12.5 Continued

(f) The engagement of consultants in connection with designing and undertaking of the Infrastructure Works, including but not limited to surveying, engineering, planning, legal service, environmental services,, project management services and landscaping services.

(g) Any work done by or on behalf of the City associated with the preparation, processing and gazettal of any Scheme amendment required to facilitate a Development Project, and the administration and management of a Development Contribution Plan including but not limited to bank charges, audit fees, office and sundry costs, legal expenses, valuation fees, reviews of land values and costs, caveat and conveyancing fees, quotes and certification of estimated costs, Council staff salaries including a Coordinator/Manager of the Development Contribution Plan, any interest costs incurred by the City in respect to loan funds required to provide timely implementation of any of the identified Common Infrastructure works or related costs, any claims for injurious affection and the costs of establishing any required system to facilitate the administration and the ongoing management of a Development Contribution Plan along with the specific requirements of the Scheme pertaining thereto.

(h) Any work done by or on behalf of the City in connection with any dispute or differences associated with the administration or management of any Development Contribution Plan or any Structure Plan to which a Development Contribution Plan relates, all the interpretation of the provisions of this Part 10A in connection with Development Contribution Plans.

10A.10(3) Specified Infrastructure Works

A Development Contribution Plan may stipulate Specified Infrastructure Works required within any particular Development Contribution Area.

10A.10(4) Infrastructure Costs

The Infrastructure Costs include the following:

(a) The costs incurred by the City of and incidental to the carrying out or provision of the Infrastructure Works;

12.5 Continued

(b) The administration costs incurred by the City in the administration of any Cost Contribution Plan or related Structure Plan whether included within the scope of the Infrastructure Works or otherwise but without limiting the generality of the forgoing including a reasonable assessment of the value of time spent by officers of the City in administration tasks, any legal, planning, engineering or surveying consultant's or contractor's fees, costs or expenses associated with the City's administration and any costs whatsoever incurred by the City in connection with the administration of a Development Contribution Plan or related Structure Plan, and which costs would not have been incurred by the City were it not for the administration of the Development Contribution Plan or related Structure Plan;

(c) The payment or the liability to pay compensation for or in respect of the provision of any of the Infrastructure Works or facilities referred to in this Part 10A, or any administration of this Part 10A and in relation to the applicable Development Contribution Plan.

(d) The costs associated with the administration matters referred to in items (g) and (h) of the preceding Clause 10A.10(2).

(e) All costs incurred by the City including legal fees, court, tribunal or arbitration fees and costs, and expert or other witness fees, incurred in connection with any dispute or difference associated with the administration or management of any Development Contribution Plan or any related Structure Plan.

10A.10(5) The Owners are required to contribute to the Infrastructure Costs on an equitable basis in accordance with the provisions of this Part and any approved Cost Contribution Schedule.

10A.11 Credits for Infrastructure Works

Where a Credit is recorded in respect to any Owner it may be used as payment of any future Cost Contribution required from that Owner or the Owner may apply for reimbursement, which shall be paid out without interest, when the City deems sufficient funds have accumulated to cover the whole or part of any such applications and the outstanding Infrastructure Costs are estimated to be fully recoverable from the anticipated future subdivision and development of land in the relevant Development Contribution Area. Where several Owners have accumulated a Credit, the City may satisfy refunds in staged payments in proportion to the amount of the Credit recorded in respect to each Owner.

12.5 Continued

10A.12 Provision of Land for Infrastructure Works

Where the Infrastructure Cost Schedule includes a land component for Infrastructure Works on a lot for which a Cost Contribution is due, the Owner shall cede to the Crown or transfer to the City the required land for the Infrastructure Works at the first stage of subdivision and/or development for that particular landholding or by prior agreement at an alternative date agreed by the City. If the value of the land determined in accordance with clause 10A.17 exceeds the total Cost Contribution for that Owner, the excess value shall be recorded as a Credit to the Owner.

10A.13 Overdue Cost Contributions

Any overdue Cost Contribution in respect to any land shall be a liquidated debt due to the City by the Owner of such land and may be recovered by the City in a court of competent civil jurisdiction. The preceding provisions of this clause do not prevent the City from taking out any other enforcement or default action available to it under the provisions of this Scheme or under the provisions of the Planning and Development Act 2005.

10A.14 Pre-funding of Infrastructure Works

10A.14(1) An Owner of land within the Development Contribution Area may, with the prior approval of the City, undertake implementation of any of the Infrastructure Works referred to in Clause 10A.10. Where an Owner wishes to undertake implementation of Infrastructure Works, (with the exception of the giving up of land required for Infrastructure Works), the Owner shall, before commencing to carry out such works, first lodge with the City a formal claim for the cost of the Infrastructure Works and the City reserves the right to review and accept or reject the claim, and to permit or prevent the Owner from carrying out the works until such time as the Owner's claim has been agreed. The City will endeavour to respond to an Owner's claim within sixty (60) days.

12.5 Continued

10A.14(2)If the City agrees that an Owner can pre-fund any Infrastructure Works, the Owner shall at all times maintain proper and itemised records of all relevant expenditure, including receipts and invoices and provide copies of the same to the City on request. Where the cost of carrying out such works exceeds the amount of the claim originally agreed to by the City, the City may accept or reject the additional cost or any part thereof.

10A.14(3)Where the City accepts a claim for a Credit or an entitlement to re-imbursement in respect of the pre-funding of Infrastructure Works, the City shall record the extent of the claim and if necessary adjust the Development Contribution Plan accordingly.

10A.14(4)Where an Owner seeks a Credit for pre-funding of Infrastructure Works (whether by the provision of land or the construction of any works) against the Owner's Cost Contribution liability and the City has previously agreed to the carrying out of such works by that Owner on that basis, then the Credit to be given to the Owner will be calculated on the basis of the cost agreed by the City under clauses 10A.14(1) and 10A.14(2).

10A.14(5)Notwithstanding clause 10A.14(4) above, where an Owner has pre-funded Infrastructure Works and the Credit allowed by the City exceeds the Cost Contribution of the Owner under the applicable Development Contribution Plan, the Owner should be refunded the excess after the City has received sufficient contributions from other Owners in that Development Contribution Area towards meeting the anticipated Infrastructure Costs and having regard to the priority of Infrastructure Works.

10A.15Ability to Raise Loans to Undertake Infrastructure Works

The City may raise loans for the purpose of providing the finance necessary for the implementation of Infrastructure Works at a timing and order of prioritisation determined by the City with any interest or charges incurred in raising loans or carrying out such work deemed to be an Infrastructure Cost.

10A.16Cost Contribution Schedule

10A.16(1)Within 90 days of the Gazettal date of a Development Contribution Plan, the City is to distribute a Cost Contribution Schedule to all Owners in the Development Contribution Area. The Cost Contribution Schedule may be distributed as a schedule of the Development Contribution Plan, or may be distributed separately.

10A.16(2)The Cost Contribution Schedule is to set out in detail the calculation of the Cost Contribution for each Owner in the Development Contribution Area.

12.5 Continued

10A.16(3) The Cost Contribution Schedule after the relevant Cost Contribution Plan has been published and approved by the City as provided in clause 10.18.7.6, is to have effect as if it was included in and formed part of this Scheme.

10A.17 Valuation

10A.17(1) Unless Part 10 of the Land Administration Act 1997 applies and contains provisions to the contrary effect, this clause applies if it is necessary to ascertain the Value of any land for the purposes of this Part 10A.

10A.17(2) In clause 10A.17:

'Value' means the capital sum which an unencumbered estate in fee simple of the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require:

(i) on the basis that there are no buildings, fences or other improvements of a like nature on the land;

(ii) on the assumption that any rezoning necessary for the purpose of the development and to which the land may reasonably be made subject has come into force; and

(iii) taking into account the added value of all other improvements on or appurtenant to the land.

'Valuer' means a licensed valuer agreed by the City and the Owner, or where the City and the Owner are unable to reach agreement, a valuer nominated by the President for the time being of the Western Australian Division of the Australian Property Institute.

10A.17(3) If an Owner objects to a valuation made by the Valuer, the Owner may give notice to the City requesting a review of the amount of the Value, at the Owner's expense, within 28 days after being informed of the Value.

10A.17(4) If the Valuer does not change the Value of the land to a figure acceptable to the Owner, the Value is to be determined:

(a) by any method agreed between the City and the Owner; or

(b) if the City and the Owner cannot agree, by arbitration in accordance with the Commercial Arbitration Act 1985.

10A.17(5) At the request of the City or the Owner, the Value placed upon the land of an Owner may be revised from time to time by a Valuer. Where such a revision is undertaken, the Valuer may:

(a) reconsider the Values placed on other land in the Development Contribution Area; and

12.5 Continued

(b) make such revisions as considered just and equitable to those Values if the Valuer considers this is necessary as a result of a re-valuation made under clause 10A.17(3).

10A.17(6) The date of valuation for the purposes of this Part is the date that the Owner's liability to pay the Owner's Cost Contribution to the City arises under clause 10A.18, or such other date as is agreed between the City and the Owner.

10A.18 Liability for Cost Contributions

10A.18(1) An Owner is required to make a Cost Contribution in accordance with the provisions of this Part and the applicable Development Contribution Plan.

10A.18.(2) An Owner's liability to pay the Owner's Cost Contribution to the City arises on the earlier of:

(a) the City advising the Owner that it is prepared to confirm to the Commission that conditions of subdivision approval supervised by the City and imposed on an application to subdivide or amalgamate the Owner's land within the Development Contribution Area have been complied with;

(b) the Commission endorsing its approval on the Diagram or Plan of Survey of the subdivision of the Owner's land within the Development Contribution Area;

(c) the commencement of any development including any new or extended use on the Owner's land within the Development Contribution Area;

(d) the time of applying to the City or Commission for approval of any development including any new or extended use on the Owner's land within the Development Contribution Area; or

(e) the City, with the approval of the Commission, having given notice in writing to the Owner calling upon the Owner to pay the Cost Contribution and the time for payment stipulated in that notice having expired.

10A.18(3) Notwithstanding clause 10A.18(2), an Owner's liability to pay the Owner's Cost Contribution does not arise if the Owner commences development of the first single house or outbuildings associated with that first single house on an existing lot which has not been subdivided since the Gazettal of the Development Contribution Plan.

12.5 Continued

10A.18(4) If for any reason an Owner does not pay the Owner's Cost Contribution upon the happening of the earliest or any of the occasions mentioned in clause 10A.18(2), then the City may give notice or a further notice under item (e) of that clause, and that notice shall then have effect as if it was the first occasion giving rise to the liability to make the Cost Contribution, but without prejudicing the entitlement of the City to claim interest due on any overdue Cost Contribution.

10A.19 Payment of Cost Contribution

10A.19(1) The Owner, with the agreement of the City, is to pay the Owner's Cost Contribution by:

(a) cheque or cash;

(b) transferring to the City or a public authority land in satisfaction of the Cost Contribution;

(c) some other method acceptable to the City; or

(d) any combination of these methods.

Payment by an Owner of the Cost Contribution, including a Cost Contribution based upon estimated costs (estimated after the publication of the relevant Development Contribution Plan and its incorporation in Schedule 15), constitutes full and final discharge of the Owner's liability under the Development Contribution Plan unless the contrary is stipulated by the City or is otherwise agreed.

10A.20 Cost Contributions based on Estimates

10A.20(1) Where Cost Contribution Schedule contains estimated costs, such estimated costs are to be reviewed at least annually by the City:

(a) in the case of land to be acquired, in accordance with clause 10A.17;

(b) in all other cases, in accordance with the best and latest information available to the City,

until the expenditure on the relevant item of Infrastructure Costs has occurred.

10A.20(2) Where requested in writing by an Owner, the City is to have such estimated costs independently certified by an appropriate qualified person and must provide such independent certification to an Owner where requested to do so.

10A.20(3) Where any Cost Contribution has been calculated on the basis of an estimated cost, the City:

12.5 Continued

(a) is to adjust the Cost Contribution of any Owner in accordance with the revised estimated costs or final expenditure;

(b) may accept a Cost Contribution, based upon estimated costs, as a final Cost Contribution and enter into an agreement with the Owner accordingly; or

(c) may enter into an agreement with an Owner by which the Owner agrees to make further contribution based on revision of estimates and/or the final ascertaining of costs by payment, and may in such agreement take security for such further contribution.

10A.20(4) Where an Owner's Cost Contribution is adjusted under clause 10A.20(3), the City, on receiving a request in writing from an Owner, is to provide the Owner with a copy of estimated costs and the calculation of adjustments.

10A.21 Revision of Cost Contributions, Estimated Lot Yields and Areas Capable of Being Developed

10A.21(1) The City shall from time to time review Cost Contributions and the Infrastructure Cost Schedule associated with a Development Contribution Plan provided such reviews should be conducted at least annually.

10A.21(2) The City shall, at the time it reviews Cost Contributions and the Infrastructure Cost Schedule in a Development Contribution Plan, review, where relevant:

(a) the Estimated Lot Yield;

(b) the Cost Contribution Per Lot;

(c) the remaining area of the Development Contribution Plan which is capable of being developed;

having regard for the actual lots produced in the Development Contribution Plan since the last review, the remaining Infrastructure Works, any amendments to the Structure Plan or Detailed Area Plan as the case may be and any other factors the City considers relevant.

12.5 Continued

10A.21(3) When calculating or reviewing Cost Contributions and the Cost Contribution Schedule in a Development Contribution Plan, the City is to have regard to the value of the land required for Infrastructure Works and include an amount 10% over and above the Value of such land, to ensure that the City has or will receive sufficient funds in the relevant Development Contribution Plan account to acquire land for Infrastructure Works, to meet its obligations for appropriate payment to such Owners, and ensure the Infrastructure Works can be completed in a manner that minimises the need for external borrowing. The City may also apply a further amount above the Value to recognise any compulsory taking or other acquisition of land and/or structures.

10A.21(4) The City, in reviewing the various elements pursuant to subclauses 10A.21(1) and 10A.21(2) above, may revise or amend any of those elements and any Cost Contributions payable by an Owner of land in the Development Contribution Plan and Cost Contribution Schedule.

10A.21(5) Following revision or amendment of the elements mentioned in subclauses 10A.21(1) to 10A.21(3) inclusive, the City shall notify by way of public advertising the outcome of the review advising of the availability of details concerning the review and revisions and inviting comment.

10A.21(6) Following the issue of the invitation pursuant to clause 10A.21(5), a period of 28 days shall be allowed from the date such advertising commenced for an Owner affected by the review to object to the revision of Cost Contributions and any other finding of the review, other than the assessed Value which shall be dealt with under clause 10A.17. An Owner who lodges an objection under this clause shall submit with the objection supporting evidence from a suitably qualified person in the specific field of the cost revision being objected to and can only object to those elements that have been altered as part of the review. Any objection received by the City in accordance with this subclause during this period shall be assessed by the City and if not agreed by the City, shall be subject to arbitration in accordance with clause 10A.27.

10A.22 Preliminary Contribution Payments

10A.22(1) Where an Owner or former Owner of land in a Development Contribution Area has made a Preliminary Contribution Payment towards their Cost Contribution, then the Preliminary Contribution Payment will be credited towards the Cost Contribution required under this Part 10A.

10A.22(2) Should an Owner's or former Owner's Preliminary Contribution Payment be less than the required Cost Contribution, the City may seek a further payment from those Owners who have made such Preliminary Contribution Payments, which represents the difference between such Preliminary Contribution Payments and the amount of the Owner's Cost Contribution calculated as if the

12.5 Continued

payment was made at the time Development Contribution Plan was adopted by the City. Owners shall make the further payment stipulated by the City within thirty (30) working days of receiving a written request from the City.

10A.22(3) Should an Owner's or former Owner's Preliminary Contribution Payment be more than the required Cost Contribution, then the Owner is entitled to a credit or refund, which represents the difference between such Preliminary Contribution Payment and the amount of the Owner's Cost Contribution calculated as if the payment was made at the time the Development Contribution Plan was adopted by the City. If the Owner seeks a refund for the difference, the City is to endeavour to make such a payment within thirty (30) working days or as soon as the necessary funds are available in the relevant account.

10A.23 Charge on land

10A.23(1) The amount of any Cost Contribution for which an Owner is liable under clause 10A.18, but has not paid, is a charge on the Owner's land to which the Cost Contribution relates, and the City may lodge an absolute caveat, at the Owner's expense, against the Owner's title to that land, in respect of the charge.

10A.23(2) The City, at the Owner's expense and subject to such other conditions as the City thinks fit, is to withdraw a caveat lodged under clause 10A.23(1) to permit a dealing and may then re-lodge the caveat to prevent further dealings.

10A.23(3) If the Cost Contribution is paid in full, and if requested to do so by the Owner, the City, at the expense of the Owner, is to withdraw any caveat lodged under clause 10A.23(1).

10A.24 Administration of Funds

10A.24(1) The City is to establish and maintain a reserve account in accordance with the Local Government Act 1995 for each Development Contribution Area into which Cost Contributions for that Development Contribution Area will be credited and from which all payments for Infrastructure Costs within that Development Contribution Area will be paid. The purpose of such a reserve account or the use of money in such a reserve account is limited to the application of funds for that Development Contribution Area.

10A.24(2) Interest earned on Cost Contributions credited to a reserve account in accordance with clause 10A.24(1) is to be applied in the Development Contribution Area to which the reserve account relates.

10A.24(3) The City is to provide to every Owner who has a liability to make a Cost Contribution an audited annual statement of accounts for that Development Contribution Area as soon as practicable after the audited annual statement of accounts becomes available.

12.5 Continued

10A.25 Shortfall or Excess in Cost Contributions

10A.25(1) If there is a shortfall in the total of Cost Contributions when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the City may but is not obliged to:

(a) make good the shortfall from its municipal fund; or

(b) enter into agreements with any one or more Owners to fund the shortfall; or

(c) raise loans or borrow from a financial institution; or

(d) reduce or delete any proposed Infrastructure Work to the extent of the shortfall,

but nothing in clause 10A.25(1)(a) restricts the right or power of the City to attempt to make good the shortfall by imposing a Differential Rate or a Specified Area Rate to a specified Development Contribution Area in that regard, if the relevant provisions of the Local Government Act 1995 are satisfied.

10A.25(2) If there is an excess in funds available to the Development Contribution Area when all Cost Contributions have been made or accounted for in a particular Development Contribution Area, the City is to apply the excess funds for the provision of additional facilities or improvements in that Development Contribution Area.

10A.26 Powers of the City

The City in implementing the Development Contribution Plan has the power to:

(a) acquire compulsorily or otherwise any land or building within the Scheme area under the provisions of the Planning and Development Act 2005 or the Land Administration Act 1997; and

(b) deal with or dispose of any land which it has acquired under the provisions of the Planning and Development Act 2005 in accordance with the law and for such purpose may make agreements with other Owners as it considers fit.

12.5 Continued

10A.27 Dispute Resolution

Subject to clause 10A.17(4), any dispute between an Owner and the City in connection with the Cost Contribution required to be made by an Owner may be resolved by arbitration in accordance with the Commercial Arbitration Act 1985, in which case the arbitrator shall be bound by the provisions of Parts 10 and 10A and the Development Contribution Plan, including the Infrastructure Cost Schedule. Any dispute involving a decision by the Council of the City in the exercise of a discretionary power is to be determined by application to the State Administrative Tribunal, and the City may stand in the place of an applicant in regard to any dispute or difference if no affected Owner is prepared to apply for review."

4. Inserting the Development Contribution Plan for 'The Springs' Development Area 11 (Attachment 3 refers) into Schedule No. 15.

B. Forward the Amendment to the Environmental Protection Authority for assessment prior to commencing advertising for public inspection in accordance with the provisions of the Planning and Development Act 2005.

C. Adopt the proposed Developer Cost Contribution Schedule (as amended) as interim policy; and that the matter be forwarded to the WAPC for approval to use the proposed Schedule as interim policy pending gazettal of an amendment to the City of Belmont Town Planning Scheme No. 14 to introduce cost contribution provisions for structure plan areas.

D. Support inclusion of a 'Precinct Development Table' within 'The Springs' Structure Plan, which includes:

(i) building envelopes;

(ii) minimum/maximum building heights expressed in metres;

(iii) ratios of dwelling sizes, including a requirement for a minimum proportion of the dwelling units within each Precinct to have a maximum floor area of 60m^2 and 90m^2; the proportion of each to be applied on a site by site basis;

(iv) densities and, where appropriate, density bonuses; and

(v) other matters which are the subject of further negotiation with DPI and the WAPC; to be resolved to the satisfaction of the Director Community and Statutory Services.

12.5 Continued

E. Accept the Department for Planning and Infrastructure's requirement for registration of a restrictive covenant in favour of the Western Australian Planning Commission over Cracknell Park restricting its use, provided that it does not inhibit the use and development of Cracknell Park for recreational and related purposes.

F. Endorse 'The Springs Redevelopment Public Open Space Strategy, October 2007', prepared by Hassell on behalf of LandCorp.

OFFICER RECOMMENDATION ADOPTED EN BLOC – REFER TO RESOLUTION APPEARING AT ITEM 12

12.6 PROPOSED ROAD CLOSURE – LAKEWOOD AVENUE, ASCOT

Built Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 6 – Item 12.6 refers	Locality Plan
Confidential Attachment 1 – Item 12.6 refers	Survey Respondent Plan - Ascot

Voting Requirement	:	Simple Majority
Subject Index	:	102/044 : Lakewood Ave – Proposed Closure
Location / Property Index	:	Lakewood Avenue
Application Index		N/A
Disclosure of any Interest	:	N/A
Previous Items	:	Item 4.1, 20 May 2008 & Item 12.5, 19 August 2008
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Technical Services Division

COUNCIL ROLE

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

PURPOSE OF REPORT

To advise Council regarding submissions following the advertising of the proposed closure of the south western end of Lakewood Avenue and Waterway Crescent, Ascot Waters.

12.6 Continued

SUMMARY AND KEY ISSUES

Following the receipt of the petition requesting the closure of the southern end of Lakewood Avenue and Waterway Crescent, Council resolved to advertise the potential closure in accordance with Section 3.50 of the Local Government Act 1995.

As part of the advertising process all residents of Ascot Waters were written to directly seeking their input on the matter. This item reports the results of the advertising and most recent traffic counts and recommends a course of action.

LOCATION

Lakewood Avenue, Ascot Waters

CONSULTATION

All 465 owners / residents of Ascot Waters were written to seeking their comments on the proposed closure and an advertisement was placed in the newspaper. 154 submissions were received.

The majority of residents in Lakewood Avenue support the closure, however the overall majority of submissions in response to the consultation process do not.

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Provisions of Section 3.50 of the Local Government Act 1995 and Section 58 of the Land and Administration Act 1997 applies.

BACKGROUND

On 30 April 2008, the City received a petition from 15 residents of Lakewood Avenue, seeking to have the street closed at the south western junction with Waterway Crescent in order to reduce the “excessive” traffic using Lakewood Avenue as a short cut rather than using the longer and more appropriate Waterway Crescent.

Traffic Counts taken in Lakewood Avenue and Waterway Crescent shortly after the petition was received indicated that Lakewood Avenue was being used as a short cut, carrying some 35% more traffic than Waterway Crescent, which is the local distributor road.

12.6 Continued

Lakewood Avenue also has some direct crossover access whereas Waterway Crescent properties only have driveway access from rear laneways.

It was however noted that the traffic in Lakewood Avenue was quite low at 306 vehicles per day and the 85th percentile speed of 47.2 kms per hour was well within acceptable limits.

At the Ordinary Council Meeting of 19 August 2008, it was resolved that:-

"1. Approve the advertising of the potential closure of the south western end of Lakewood Avenue at Waterway Crescent in accordance with Section 3.50 of the Local Government Act 1995 and advise the initiator of the petition accordingly.

2. ***Ensure each resident in the Ascot Waters precinct be specifically contacted on the possible closure of Lakewood Avenue and Waterway Crescent.***

3. ***Have the results reported back to Council for further deliberation."***

OFFICER COMMENT

In response to the advertising, some 30 submissions were received in support of the proposed closure. 22 of the submissions was from residents of Lakewood Avenue or those in Waterway Crescent directly affected by the traffic, 6 were from other properties in Ascot Waters and 1 was from outside the area (Shelley).

Of the some 35 residents of Waterway Crescent and Lakewood Avenue directly affected by the closure, 73% were in favour of it proceeding.

Comments by those supporting the closure include:

- the street is relatively narrow, on-street parking on one side only;
- direct driveway access onto Lakewood Avenue is a hazard not encountered anywhere else in Ascot Waters;
- vehicles turning right from Waterway Crescent into Lakewood Avenue at the south western end cut the corner and make the turn at excessive speed;
- traffic increased as a result of the Ascot Vale subdivision construction traffic;
- impact when Ascot Vale is fully developed;
- sight distance problem when reversing because of the bend near the north eastern end of Lakewood Avenue; and
- excessive traffic noise and Lakewood Avenue is being used as a shortcut.

Of the 123 submissions in opposition to the proposed closure, 3 were from directly affected properties in Lakewood Avenue or Waterway Crescent, and 120 were from other properties in Ascot Waters.

12.6 Continued

Comments by those opposing the closure include;

- traffic problem will be moved to Cygnus Road, the subdivision design should not be changed,
- closure of Lakewood Avenue may lead to request for closure of other streets, closing Lakewood Avenue will affect other streets;
- all residents should have the right to use Lakewood Avenue as a through road;
- closures are confusing to essential services (ambulance, police and fire brigade);
- hindering traffic flow, hinder access to river, future Lakewood Avenue residents may not want it closed;
- Waterway Crescent will become busier, waste of money, what's special about Lakewood Avenue;
- the estate is difficult enough to navigate without complicating it any further;
- problems only caused by vehicles going to and from work, put in speed humps;
- Lakewood Avenue is safer because it has on-street parking, closure would be an inconvenience to other residents;
- install more pedestrian crossing signs;
- a minority of owners should not be able to affect the rest of the owners;
- there are never children playing in the street;
- more footpaths are needed;
- children always playing on the street and should be made to use the park by their parents; and
- install "Local Traffic Only" signage.

Recent traffic counts (following completion of the works associated with the Ascot Vale subdivision) are compared to traffic counts while subdivision works were underway in the following table. These counts reflect a changed traffic pattern.

Street	***May 2008 AWT***	***September 2008 AWT***
Lakewood Avenue	306	241
Waterway Crescent	226	306
Cygnus Road	75	67
Total	607	614

Arguments that support the closure of Lakewood Ave are; the 20 garages directly access Lakewood Avenue and present an increased hazard to residents compared to other streets in Ascot Waters where the only garage access is through very low traffic and very low speed rear laneways. The small kink in Lakewood Avenue near its northern junction with Waterway Crescent exacerbates the problem of accessing garages near this location because of it reduces the available sight distance. Lastly, of the 20 residents in Waterway Crescent or Lakewood Avenue whose garages directly access Lakewood Avenue, and who are most directly affected by the additional traffic in Lakewood Avenue, 14 are in favour of the closure and one made a submission in opposition to it.

12.6 Continued

Arguments to support the retention of Lakewood Avenue as a through road are the current relatively low traffic volumes (241 vehicles per day) and the reduction in traffic since construction work finished on the Ascot Vale subdivision. The closure of Lakewood Avenue has the potential to increase traffic in Cygnus Road which would be undesirable and may result in a request to close that street. This would further reduce the permeability of the subdivision for residents and service / emergency vehicles. The most recent traffic counts indicate that traffic flows in Waterway Crescent have increased both in absolute numbers (80 vehicles per day) and in percentage terms (35%) possibly indicating the publicity given to the traffic issues has resulted in a reduction in traffic using Lakewood Avenue as a shortcut. The combined figures for Waterway Crescent and Lakewood Avenue indicate little change in traffic but show there has been a redistribution of the major traffic flow to the local distributor road.

The 85th percentile speed in Lakewood Avenue has dropped from 47.2 kms per hour to 44.6 kms per hour and in Waterway Crescent it has gone from 47.5 kms per hour to 44.3 kms per hour. These changes in speed possibly reflect the use of the streets by residential traffic only, the Ascot Vale construction traffic having no impact now that the subdivision is completed.

Given the weight of public opinion, the changed traffic flow and the reduced traffic speeds, a suggested course of action is to not proceed with the closure, install "Local Traffic Only" signs in Lakewood Avenue and Cygnus Road at both junctions with Waterway Crescent, and review traffic count data following the full development of the Ascot Vale subdivision.

FINANCIAL IMPLICATIONS

There is a very minor cost in installing the "Local Traffic Only" signs, however this can covered within the City's existing sign budget.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That Council:-

1. Note the submissions received in respect of the possible closure of Lakewood Avenue at Waterway Crescent in accordance with Section 58 of the Land and Administration Act 1997;

2. As a result of the changed traffic patterns in Lakewood Avenue and Waterway Crescent, not proceed with the closure of Lakewood Avenue at its south western intersection with Waterway Crescent at this time.

3. Install "Local Traffic Only" signs in Lakewood Avenue and Cygnus Road junctions with Waterway Crescent; and

4. *Monitor* traffic flows following the full development of houses on the Ascot Vale subdivision.

12.6 Continued

Notation

Cr Dornford proposed the following Alternate Motion which included an extra point 4 that Council monitor traffic flows on the Ascot Vale subdivision after 12 months of this Council resolution.

8.37pm The Director Corporate & Governance departed the meeting and returned at 8.38pm.

8.38pm The Property & Economic Development Officer departed the meeting and returned at 8.41pm.

ALTERNATE MOTION

DORNFORD MOVED, HITT SECONDED, That Council:-

1. Note the submissions received in respect of the possible closure of Lakewood Avenue at Waterway Crescent in accordance with Section 58 of the Land and Administration Act 1997;

2. As a result of the changed traffic patterns in Lakewood Avenue and Waterway Crescent, not proceed with the closure of Lakewood Avenue at its south western intersection with Waterway Crescent at this time.

3. Install "Local Traffic Only" signs in Lakewood Avenue and Cygnus Road junctions with Waterway Crescent; and

4. Monitor traffic flows on the Ascot Vale subdivision after 12 months of this Council resolution.

LOST 2 VOTES TO 7
Against: Cr Marks, Cr Hanlon, Cr Rossi, Cr Brennan, Cr Whiteley, Cr Wolff, Cr Powell

BRENNAN MOVED, ROSSI SECONDED, **That Council:-**

1. Note the submissions received in respect of the possible closure of Lakewood Avenue at Waterway Crescent in accordance with Section 58 of the Land and Administration Act 1997;

2. As a result of the changed traffic patterns in Lakewood Avenue and Waterway Crescent, not proceed with the closure of Lakewood Avenue at its south western intersection with Waterway Crescent at this time.

3. Install "Local Traffic Only" signs in Lakewood Avenue and Cygnus Road junctions with Waterway Crescent; and

4. Monitor traffic flows following the full development of houses on the Ascot Vale subdivision.

CARRIED 7 VOTES TO 2
Against: Cr Dornford, Cr Hitt

12.7 SENIOR CITIZENS FACILITY HALL ROOF

Social Belmont

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	125/027 Senior Citizens Facility
Location / Property Index	:	215 Wright Street Cloverdale
Application Index		N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	City of Belmont
Responsible Division	:	Community and Statutory Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To obtain Council's endorsement of actions taken to date and future action in relation to the roof over the Main Hall at the Senior Citizens facility.

SUMMARY AND KEY ISSUES

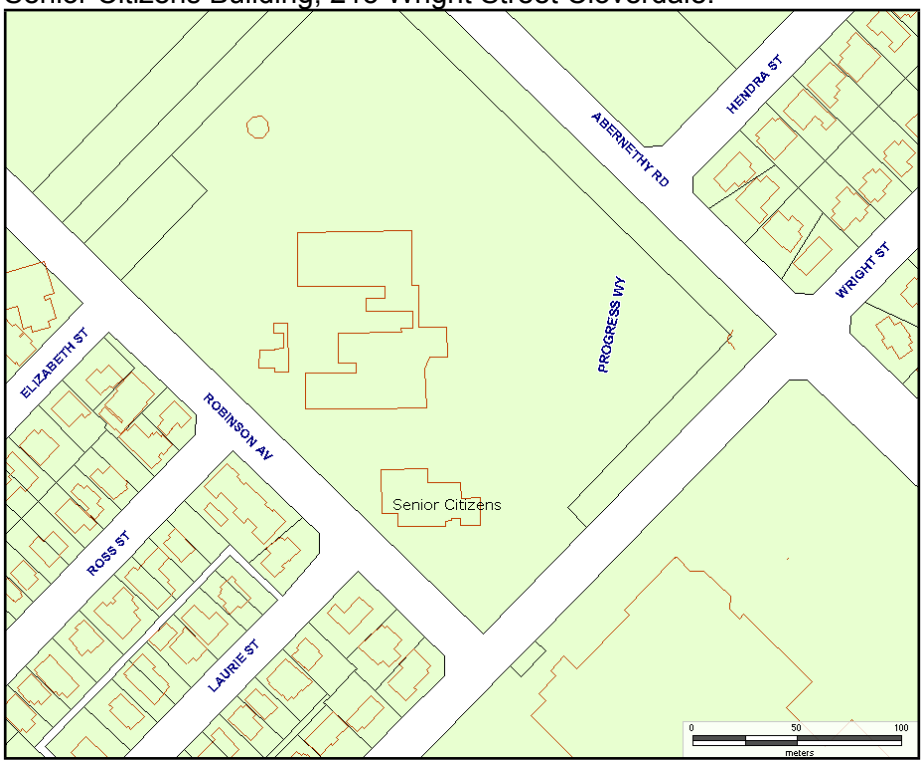
Structural issues have become evident at the Senior Citizens facility and a subsequent review by a consultant engineer identified serious issues that required urgent action.

12.7 Continued

This resulted in the closure of the main hall in the facility and the Senior Citizens Club Bingo being relocated to Forster Park. This report will outline the action to date and recommends that the Hall remains closed, but allowing the balance of the facility to be used and that demolition be deferred until all options for the Facility and alternatives have been explored and to keep the Senior Citizens Club fully informed.

LOCATION

Senior Citizens Building, 215 Wright Street Cloverdale.



CONSULTATION

The Senior Citizens Club has been kept informed of issues and subsequent actions in relation to the Hall Roof.

The presentation to the Information Strategy Concept Forum (ISCF) on 5 August 2008 was also presented to the Committee of the Senior Citizens Club on Friday 8 August 2008.

The City has assisted the Senior Citizens Club to relocate Friday night bingo and the bingo license to Forster Park Hall; this seems to be operating successfully.

Council Officers have continued to consult with Senior Citizens Club and made the Club Executive aware in a recent meeting that:

- It is unlikely the hall roof will be repaired.
- Council is considering its long term options but has not yet made a formal decision.
- Council is committed to providing services and facilities for Seniors.

12.7 Continued

STRATEGIC PLAN IMPLICATIONS

SOCIAL BELMONT - *Objective: Community access to services & facilities.*
"Provide, or facilitate access to, services and facilities required by seniors and other 'in need' community members."

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

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

BACKGROUND

In July 2008 it was noticed by Council Officers that there was movement in the hall roof that was not normal. A Structural Engineer was engaged to carry out a more detailed inspection of the roof framing. The Engineer's report received 23 July 2008 stated, in summary, that: *"The trusses were over stressed and have exceeded the tolerances permitted in the Australian Standard."*

This information was provided to Councillors at an ISCF meeting on 5 August 2008 and subsequently the Club was advised on 8 August 2008. The Hall was closed immediately to ensure access was restricted.

Due to the heavy Stramit ceiling and to allow further investigation, the decision was made to:

- Remove lighting
- Remove ceiling (200m2) to reduce weight
- Remove redundant ductwork

Following the removal of the ceiling, the Engineer carried out a further detailed examination and calculations. His report received on 4 September 2008 stated: *"It is therefore my opinion that the roof should be considered dangerous and the hall should be sealed off to prevent access"* and a recommendation that the only possible repair would be to replace the trusses.

To determine the financial impact of this remedial work a cost consultant was engaged to provide estimates for the various options available. Due to the age of the facility and the availability of matching materials, the only option to achieve a reasonable outcome would be to replace the roof structure over the main hall, remove tiles from the entire building and replace it with Colorbond metal roofing. The cost of this option is estimated at $245,000 + GST.

As an interim measure, while Council evaluates its options, the existing roof has been temporarily braced and propped as documented by the Engineer to prevent further movement of the roof structure. This work was completed on 30 October 2008 and has been inspected by the Engineer.

12.7 Continued

OFFICER COMMENT

Given that the building is 40 years old, it is considered that to expend this significant amount of money would be difficult to justify.

It is apparent therefore that demolition of the building, at some point in time, would be the most practical outcome. However, as the Hall has been successfully propped and braced to prevent collapse, the balance of the facility can safely continue to be utilised. Due to the props in the space the Hall will remain "out of bounds". The Seniors can continue to use Forster Park for their Bingo and other hall type activities. This being the case, there does not appear to be any compelling reason to demolish the Facility in the short term.

Delaying the demolition means that alternative arrangements for the Seniors' activities can be carefully considered. This also affords the time to determine how and where the recreational activities conducted at the Senior Citizens facility can be accommodated elsewhere, as well as ensuring effective consultation takes place.

FINANCIAL IMPLICATIONS

The cost to undertake remedial action to secure the building thus far is approximately $35,000. This includes the installation of bracing as noted above.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That Council:

1. Endorse the actions taken by Council Officers to secure the Senior Citizens Facility roof to prevent a possible collapse.

2. Endorse the permanent closure of the Main Hall at the Senior Citizens Facility and that the balance of the Facility remains operational as long as it remains feasible to do so.

3. Request Council Officers to communicate with the Senior Citizen's Club on the current situation with the Senior Citizens building so that its members are properly informed. Further that consideration be given to an assessment of the options available to relocate the recreational activities taking place at the Facility.

4. Defer the demolition of the Facility until all options and outcomes have been considered by the Council.

12.7 Continued

Notation

Cr Rossi proposed the following Alternate Motion which includes further points 5 and 6 to ensure that the activities can continue uninterrupted and that the club do not lose their patron numbers.

ROSSI MOVED, POWELL SECONDED, That Council:

1. ***Endorse the actions taken by Council Officers to secure the Senior Citizens Facility roof to prevent a possible collapse.***

2. ***Endorse the permanent closure of the Main Hall at the Senior Citizens Facility and that the balance of the Facility remains operational as long as it remains feasible to do so.***

3. ***Request Council Officers to communicate with the Senior Citizen's Club on the current situation with the Senior Citizens building so that its members are properly informed. Further that consideration be given to an assessment of the options available to relocate the recreational activities taking place at the Facility.***

4. ***Defer the demolition of the Facility until all options and outcomes have been considered by the Council.***

5. ***Contribute towards fuel for a daily shuttle bus.***

6. ***Assist with the recruitment of volunteer drivers for a daily senior shuttle bus to the various activities.***

CARRIED 9 VOTES TO 0

12.8 WATER RELATED GUIDELINES

Natural Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 7 – Item 12.8 refers	'Erosion and Sediment Control' Guidance notes
Attachment 8 – Item 12.8 refers	'Erosion and Sediment Control' Work Instruction
Attachment 9 – Item 12.8 refers	Standard requirements for Stormwater Management and Water Conservation

Voting Requirement	:	Simple Majority
Subject Index	:	30/017: Water Campaign
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	:	Technical Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To present water related guidelines developed by the Eastern Metropolitan Regional Council (EMRC) to Council for endorsement.

12.8 Continued

SUMMARY AND KEY ISSUES

The City has been a participant in ICLEI's Water Campaign since 2004, having achieved Milestones 1-3. The City is now working on Milestone 4, the implementation of a Water Action Plan. The aims of the Water Campaign are to improve water quality and encourage water conservation by Local Government and the community.

As part of Milestone 2, Council endorsed the following water conservation goals:

- **Corporate:** To reduce water consumption by 30% below 1999/00 levels by 2005/06 and achieve a further 15% reduction by 2010. In total the City aims to reduce water consumption by 45% by 2010 on 1999/00 levels.

- **Community:** To reduce water consumption per residential property by 15% below 2000 levels by 2002 and achieve a further 15% reduction by 2010. In total the City aims to reduce water consumption per residential property by 30% by 2010 on 1999/00 base year levels.

To assist in the development of water related policy and guidelines as part of Milestone 4, the EMRC successfully obtained funding for member Councils through the Regional Milestone Assistance Fund Project.

The EMRC has since developed several water related guidelines for City of Belmont operation. These include:

- 'Erosion and Sediment Control' Guidance Notes
- 'Erosion and Sediment Control' Work Instruction
- Standard requirements for Stormwater Management and Water Conservation, for inclusion in tender specifications, where relevant.

In order to satisfy the requirements of the Regional Milestone Assistance Fund Project, these guidelines are required to be endorsed by Council.

For major subdivisions an erosion and sediment control programme is already required through a footnote to the development approval.

LOCATION

N/A

CONSULTATION

It has been determined that community consultation is not required.

The Works and Building Services Departments have been consulted regarding the practicality of the erosion and sediment control guidance notes and work instruction. The Governance Department has been consulted regarding the inclusion of standard requirements for stormwater management and water conservation in tender specifications.

12.8 Continued

STRATEGIC PLAN IMPLICATIONS

The development of water related guidelines is consistent with the following objectives of the 'Natural Belmont' section of the Strategic Plan:

- Protect and enhance the quality and amenity of our natural environment.
- Minimise pollution of the environment.
- Use and manage our water resources in a sustainable manner.
- Increase community and staff capacity to better protect and manage the natural environment.

POLICY IMPLICATIONS

The implementation of water related guidelines assists the City in achieving the intent of the Environmental Enhancement Policy (Policy C4.8.1), which is to *"develop a strategy to protect and enhance the natural environment"*.

STATUTORY ENVIRONMENT

The *Soil and Land Conservation Act (1945)* is the principal Western Australian Act relating to the control of soil erosion. The Act provides for the use of *Soil Conservation Notices* where land degradation occurs or is likely to occur. Remedial actions including directing the prevention of erosion, drift or the movement of sand, soil, dust or water on or from specified land may be required by a Soil Conservation Notice.

BACKGROUND

The City has been a participant in ICLEI's Water Campaign since 2004, having achieved Milestones 1-3. The City is now working on Milestone 4, which is the implementation of a Water Action Plan. The aims of the Water Campaign are to improve water quality and encourage water conservation by Local Government and the community.

To assist in the development of water related policy and guidelines as part of Milestone 4, the EMRC successfully obtained funding for member Councils through the Regional Milestone Assistance Fund Project.

The EMRC has since developed several water related guidelines for the City of Belmont. These include:

- 'Erosion and Sediment Control' Guidance Notes
- 'Erosion and Sediment Control' Work Instruction
- Standard requirements for Stormwater Management and Water Conservation for inclusion in tender specifications, where relevant.

In order to satisfy the requirements of the Regional Milestone Assistance Fund Project, these guidelines are required to be endorsed by Council.

12.8 Continued

For major subdivisions an erosion and sediment control programme is already required through a footnote to the development approval.

The guidelines were presented to a meeting of the Standing Committee (Environmental) on Tuesday 30 September 2008, with the following recommendation made:

"MARKS MOVED, WOLFF SECONDED, That the Standing Committee (Environmental) recommends that Council endorse the water related guidelines for Council Operations developed by the Eastern Metropolitan Regional Council (EMRC).

CARRIED 5 VOTES TO 0"

OFFICER COMMENT

Council endorsement of the water related guidelines will assist in the achievement of Milestone 4 of ICLEI's Water Campaign. As part of the Environment Plan 2005-10, the City aims to achieve Milestone 4 by 2008.

Specific details on each of the guidelines are documented below:

- ***'Erosion and Sediment Control' Guidance Notes & Work Instruction***

The guidance notes outline on-ground management mechanisms that can be implemented to minimise soil erosion and prevent down stream sedimentation during construction works. Building and construction sites are a primary focus, as they are generally most vulnerable, however control measures are also considered in a broader context. The notes recommend the preparation and implementation of an Erosion and Sediment Control Plan (ESCP) for projects likely to result in erosion and/or sedimentation.

Several of the practices recommended in the guidance notes are currently in use by the City. For example, as per the Construction Management Plan developed for the upgrade of Hardey Park, straw bales have been used for sediment control during construction of a carpark.

The benefit of the guidance notes and work instruction is that the implementation of erosion and sediment control management is formalised, rather than being developed in an impromptu manner. The collation of various management mechanisms in a central document enables the most appropriate mechanism to be selected for each construction project.

The overall aim of the 'Erosion and Sediment Control' guidance notes is to protect water quality of wetlands, drainage lines, compensation basins and the Swan River within the City of Belmont.

- ***Standard requirements for Stormwater Management and Water Conservation for inclusion in tender specifications, where relevant.***

12.8 Continued

Standard paragraphs relating to stormwater management and water conservation have been developed for inclusion in tender specifications, where relevant. These provide a generalised summary of considerations to be made in relation to 'best practice' stormwater management and water conservation. The main reference is the Department of Water's (2007) Stormwater Management Manual for Western Australia.

It is intended that these paragraphs will be included in the City of Belmont's template for Tender Specifications, to be considered for inclusion in each tender.

FINANCIAL IMPLICATIONS

Detrimental financial impacts associated with erosion and sedimentation include:

- Increased cost of maintenance of stormwater systems.
- Repair of erosion damage due to increased flooding downstream, such as undermined roads, destroyed fences etc.
- Increased frequency and cost of street sweeping.
- Increased 'lost time' for contractors/developers following rainfall events causing erosion and sedimentation and thus repair and delays.
- Reduced value of land in terms of reduced ability to use the land, accessibility, land capability and aesthetic value.
- Safety aspects to the community e.g. flooded or undermined roads, etc. In wet conditions, silt-covered streets are slippery and can create an accident hazard if sediment is allowed to remain.

These potential impacts can be avoided at minimal cost, with the implementation of effective erosion and sediment control measures.

It is anticipated that there will be minimal cost implications associated with inclusion of standard requirements for stormwater management and water conservation in tender specifications.

ENVIRONMENTAL IMPLICATIONS

Detrimental environmental impacts associated with erosion and sedimentation include:

- Water may become muddy, reducing transparency and sunlight penetration and decreasing photosynthesis by aquatic plants. The subsequent reduction in oxygenation of the water may stress fish and other aquatic animals.
- Eroded soil particles may transport contaminants such as heavy metals, fertilisers and pesticides into waterways, which may adversely affect the condition of receiving waters. For example increased nutrient loads to a waterway promote plant growth and can lead to toxic algal blooms.
- Increased sediments can smother filter feeders in the aquatic system, irritate the gills of fish, and damage other animals in the water column.
- Sedimentation can block urban drains and waterways and cause increased seasonal flooding. Sediment may also fill river pools leading to loss of habitat for aquatic flora and fauna.

These environmental impacts can be avoided with the implementation of effective erosion and sediment control measures.

12.8 Continued

The inclusion of standard requirements for stormwater management and water conservation in tender specifications has the potential to result in positive environmental benefits. This will assist the City achieve goals set in the Water Campaign.

COMMITTEE RECOMMENDATION

That Council endorse the following water related guidelines, as attached:

A) The 'Erosion and Sediment Control' Guidance notes (Attachment 7);
B) The 'Erosion and Sediment Control' Work Instruction (Attachment 8), and;
C) The Standard requirements for Stormwater Management and Water Conservation (Attachment 9).

OFFICER RECOMMENDATION ADOPTED EN BLOC – REFER TO RESOLUTION APPEARING AT ITEM 12

12.9 FINANCIAL REPORT AS AT 31 OCTOBER 2008

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 10 – Item 12.9 refers	Monthly Financial Activity Statement as at 31 October 2008

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 & 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, town planning schemes & policies*
☐	**Review**	*When Council reviews decisions made by Officers*
☐	**Quasi-Judicial**	*When Council determines an application / matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal*

PURPOSE OF REPORT

To provide Council with information relating to accounting reports and statements.

12.9 Continued

SUMMARY AND KEY ISSUES

To provide Council with information relating to accounting reports and statements.

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

Key Result Area: Business Excellence.

"Improve knowledge management and ensure organisational compliance to statutory record keeping obligations".

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

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

Regulation 34 was amended as at 1 July 2005 to require a Statement of Financial Activity reporting on the sources and applications of funds for that month. A quarterly or tri-annual statement is no longer required under the amended Regulation.

Regulation 34(5) determines the mechanism required to ascertain the definition of material variances which are require 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 Comment section.

12.9 Continued

BACKGROUND

The Local Government (Financial Management) Regulations 1996 require that financial statements are presented on a monthly basis to Council. In July 2007, Council adopted 10 percent of the budgeted closing balance as the materiality threshold.

OFFICER COMMENT

The statutory monthly financial report is to consist of a Statement of Financial Activity reporting on sources and applications of funds 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.

The amendment to the Regulations has fundamentally changed the reporting structure which has been used to 30 June 2005, as it now requires reporting of information consistent with the "cash" component of Council's budget rather than being "accrual" based. The monthly Statement of Financial Activity now ties in more closely with the Management Report provided to Council quarterly.

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.*

As identified above, Council is required to adopt a percentage or value to determine material variances in accordance with the requirements of Australian Accounting Standards (AASB1031).

AASB1031 discusses the principles to be applied in determining if a variance is material. AASB1031 states that:

Material Omissions or misstatements of items are material if they could, individually or collectively; influence the economic decisions of users taken on the basis of the financial report. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.

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 adopted 10 percent of the budgeted closing balance as the materiality threshold

It should also be noted that many of the variances listed in the monthly Statement of Financial Activity would not technically fall within the auspices of AASB1031 as they are timing differences only, and would not generally have the potential to adversely

12.9 Continued

affect either the decision making or the discharge of accountability for Council. Regardless of this, it is proposed that all variances in excess of the specified percentage will have details reported. All variances calculated are a comparison of year to date actual vs year to date budget.

In order to provide more details regarding significant variations in Attachment 10, the following summary is provided.

Report Section	*YTD Budget*	*YTD Actual*	*Comment*
Applications of Funds – Capital			
Finance Department	65,771	0	Fleet not yet purchased.
Computing	580,249	160,440	Business applications and equipment not yet purchased.
Technical Services	112,354	10,533	Some projects not yet commenced.
Ruth Faulkner Library	76,900	0	Fleet / Equipment not yet purchased.
Grounds Operations	243,173	672,822	Incorrect budget spread for development of 712 Great Eastern Highway. Project completed within annual budget.
Roadworks	1,810,129	1,009,164	Some projects not yet commenced.
Streetscapes	84,836	6,348	Some projects not yet commenced.
Operations Centre	359,859	440,737	Some plant purchased earlier than expected.
Building Control	87,668	24,975	Fleet not yet purchased.
Building Operations	315,228	261,916	Some projects not yet commenced.
Applications of Funds – Operating			
Computing	753,845	359,321	Software PC & Other not yet purchased.
Marketing & Communications	212,517	162,423	Timing issues with budget spread.
Transfer to Reserves	72,986	12,500	Transfers not yet processed.
Executive Services	517,531	378,220	Salary related costs below budget.
Human Resources	308,371	256,562	Salaries & Other consultants below budget.
Governance	668,260	616,872	Salaries & Legal Services lower than anticipated
Rates	1,108,938	1,057,638	Salaries below budget.
Property & Economic Development	181,685	118,368	Some maintenance not yet commenced.
Belmont Community Watch	181,604	121,167	Not all invoices received for Security Services
Crime Prevention & Comm Safety	112,762	58,385	Project Management Services not commenced and CCTV project not yet started.
Belmont HACC Services	682,185	569,623	Salaries timing issues with budget spread.
Youth Services General	248,323	159,083	Salaries below budget.
Town Planning	447,549	396,424	Salaries & Services other Consultants below budget.
Sanitation Charges	1,189,159	953,628	Not all invoices received for Rubbish service expenses.
Ruth Faulkner Library	453,885	392,469	Salaries below budget, and some projects not yet commenced.
Community & Recreation Services	257,446	165,066	Salaries & Services Other below budget and some projects not yet commenced.

12.9 Continued

Report Section	*YTD Budget*	*YTD Actual*	*Comment*
Grounds Operations	1,174,399	991,771	Slight timing issues with some projects.
Grounds Overheads	550,003	617,648	Insurance premium fully expensed
Streetscapes	403,720	260,378	Street Tree Maintenance works commence later than anticipated.
Operations Centre	152,527	206,347	Additional wages time booked to Operations Centre – being investigated.
Public Works Overheads	375,173	478,738	Insurance premium full expensed
Technical Services	556,147	436,260	Salaries & Services below budget.
Other Public Works	205,270	584,353	Street Lighting tariff fully paid yet costs budgeted evenly.
Sources of Funds – Capital			
Computing	(112,230)	(0)	Transfers not yet processed.
Property & Economic Development	(266,668)	(0)	Proposed land sale not yet occurred.
Road Works	(207,423)	(71,651)	Grant funding not yet received.
Operations Centre	(130,271)	(237,273)	Plant sales earlier than anticipated.
Sources of Funds – Operating			
Finance Department	(459,403)	(382,873)	ABC Allocation lower than anticipated.
Computing	(414,224)	(359,321)	ABC Allocation lower than anticipated.
Insurance	(932,556)	(863,500)	Recovery lower than anticipated.
Transfer to reserve	(137,604)	0	Transfers not yet processed.
Executive Services	(168)	(56,298)	Advertising income received earlier than anticipated
Rates	(26,561,752)	(26,661,477)	Rates slightly higher than anticipated due to interim rates etc.
Financing Activities	(398,806)	44,950	Interest on Investments lower than anticipated. Investment income for October not yet recognised.
Grounds Overheads	(457,661)	(380,092)	Recoveries lower than anticipated.
Road Works	(218,604)	(108,771)	Grant funding not yet received.
Public Works Overheads	(354,805)	(431,058)	Overhead recoveries higher than anticipated.
Plant Operating Costs	(491,638)	(420,167)	Plant usage lower than anticipated.
Other Public Works	(41,528)	(141,100)	Reimbursements for private works higher than anticipated.

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

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 31 October 2008	**$**	**Comment**
Cash and investments	29,636,905	Includes municipal, reserves & deposits
- less non rate setting cash	-11,106,343	Reserves and deposits held
Receivables	8,133,185	Mostly rates levied yet to be received
- less non rate setting receivables	-1,213,063	ESL levied and GST payable
Stock on hand	195,044	
Total Current Assets	**$25,645,728**	

12.9 Continued

Current Liabilities		
Creditors and provisions	-6,566,052	Includes deposits
- less non rate setting creditors & provisions	4,318,194	ESL, GST and deposits held
Total Current Liabilities	**-$2,247,858**	
Nett Current Assets 31 October 2008	$23,397,870	
Nett Current Assets as Per Financial Activity Report	$23,397,870	
Less Restricted Assets	**-279,176**	Finding My Place unspent grants held or specific purposes
Less Committed Assets	**-$22,618,694**	All other budgeted expenditure
Estimated Closing Balance	**500,000**	

In addition to the statutorily required reports, Council is provided quarterly with a complete copy of the Monthly Management Report utilised by officers for daily budget control over the Municipal Fund. This report is accumulated into cost Centres and reports at a detailed level within each of these cost centres.

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 at this time.

OFFICER RECOMMENDATION

That the Monthly Financial Reports as at 31 October 2008 as included in Attachment 10 be received.

OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 12

12.10 ACCOUNTS FOR PAYMENT

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 11 – Item 12.10 refers	Accounts for payment listing

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 & 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, town planning schemes & policies*
☐	**Review**	*When Council reviews decisions made by Officers*
☐	**Quasi-Judicial**	*When Council determines an application / matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town 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

Confirmation of accounts paid and authority to pay unpaid accounts.

12.10 Continued

SUMMARY AND KEY ISSUES

A list of payments is presented to Council each month for confirmation and endorsement in accordance with the Local Government Finance regulations.

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

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."*

12.10 Continued

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	779786-779924	$545,268.51
Municipal Fund EFTs	EF005218-EF005548	$2,571,292.71
Trust Fund Cheque	905273	$17,571.58
Trust Fund EFT	EF005244	$1,440.50
Total Payments for August 2008		$3,135,573.30

A copy of the Authorised Payment Listing is included as Attachment 11 to this item.

FINANCIAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That the Authorised Payment Listing as provided under Attachment 11 be received.

OFFICER RECOMMENDATION ADOPTED EN BLOC – REFER TO RESOLUTION APPEARING AT ITEM 12

12.11 ADOPTION OF THE 2007-2008 ANNUAL REPORT

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 12 – Item 12.11 refers	2007-2008 Annual Report

Voting Requirement	:	Adoption of the 2007-2008 Annual Report
Subject Index	:	32/001 – Operational / Strategic Planning - Originals
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 & 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, town planning schemes & policies*
☐	**Review**	*When Council reviews decisions made by Officers*
☐	**Quasi-Judicial**	*When Council determines an application / matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal*

PURPOSE OF REPORT

To adopt Council's Annual Report for 2007-2008.

12.11 Continued

SUMMARY AND KEY ISSUES

The statutory Annual Report is prepared to advise the Community on the activities of the local government and includes the audited Annual Financial Statements. The Annual Report also contains an overview of the Plan for the Future. The Annual Report is to be presented to the Annual meeting of electors that must be conducted prior to the 31 December of the financial year being reported on, however, if the Auditor's Report is not available in time for acceptance by 31 December, then it must be accepted within 2 months of receiving the Auditor's Report.

LOCATION

N/A

CONSULTATION

No public consultation was considered to be required in respect to this matter. The Annual Financial Statements and Audit Report have been considered by the Audit and Risk Committee.

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Section 5.53(1) of the Local Government Act 1995 prescribes that a Local Government must prepare an Annual Report and Section 5.53(2) prescribes what must be contained within the Annual Report.

Section 5.54 of the Local Government Act prescribes that the annual report be accepted by the local government by 31 December after that financial year however, if the Auditor's Report is not available in time for acceptance by 31 December, then it must be accepted within 2 months after the receipt of the Auditor's Report.

Section 5.55 of the Local Government Act prescribes that local public notice is to be given as soon as practicable, as to the availability of the Annual Report after its acceptance by the local government.

Section 29(2) of the Disability Services Act requires a local government with a Disability Services Plan to report via its Annual Report on the implementation of this Plan.

Competitive Neutrality Obligations under the Competition Principles Agreement require the City to publish an annual report on the implementation of the principles including any allegations of non compliance.

12.11 Continued

Principle 6 of the State Records Principles and Standards 2002 (State Records Act 2000) requires that the City's Annual Report include evidence on the efficiency and effectiveness of the City's Record Keeping Plan, training and induction programs.

Section 94 of the Freedom of Information Act 1992 requires the City to provide an "Information Statement" that outlines the structure of the City, access to information and a range of other information. The City provides details of our "Information Statement" in our Annual Report.

BACKGROUND

The local government is required to prepare, adopt and advertise its Annual Report, prior to the Elector's Meeting. The Annual General Meeting of Electors was in accordance with Council policy scheduled to take place at 7.00pm on Wednesday, 10 December 2008.

However due to the unavailability of both the Mayor and the Chief Executive Officer it is proposed that the meeting date be rescheduled to Wednesday, 17 December 2008 which will allow for the attendance of the Mayor & Chief Executive Officer.

OFFICER COMMENT

The Annual Report, as show in Attachment 12, contains:

- Reports from the Mayor and Chief Executive Officer together with reports from individual Committee Presiding Members.
- A copy of the Financial Statements including the Auditor's Report.
- Council's obligations under clause 7(1) Agreement of the National Competition Policy.
- An overview of the Plan for the Future.
- Report on City's Disability Services Plan achievements.
- Details of the City's Freedom of Information Act - Information Statement.
- Report on the status of the City's Record Keeping Plan.

A copy of the Annual Report has been provided as an attachment and a final "published" version will be circulated to all Councillors when they become available.

The official published copy of the Annual Report will be available for members of the public at the Electors Meeting and will include a complete set of financial statements; however a copy will be made available for public inspection as soon as practicable following Council's resolution on this report.

Council is also advised that arrangements have been made for the appropriate advertising to be carried out once the Annual Report has been accepted.

FINANCIAL IMPLICATIONS

There are no significant financial implications evident at this time other than the costs associated with publication of the Annual Report and statutory advertising.

12.11 Continued

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That:

1. Council accept the 2007-2008 Annual Report as provided under Attachment 12.

2. The availability of the Annual Report be advertised in accordance with Section 5.55 of the Local Government Act 1995.

3. The Annual Meeting of Electors be rescheduled to Wednesday 17 December 2008 and that Local Public Notice be given advising of the change of date.

OFFICER RECOMMENDATION ADOPTED EN BLOC – REFER TO RESOLUTION APPEARING AT ITEM 12

12.12 CHIEF EXECUTIVE OFFICER'S REVIEW OF FINANCIAL SYSTEMS AND PROCEDURES

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 13 – Item 12.12 refers	Four-Yearly CEO's Internal Control Review

Voting Requirement	:	Simple Majority
Subject Index	:	32/005 – Internal Policy & Procedure Documents / Manual
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 & 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, town planning schemes & policies*
☐	**Review**	*When Council reviews decisions made by Officers*
☐	**Quasi-Judicial**	*When Council determines an application / matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include town planning applications, building licences, applications for other permits / licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal*

PURPOSE OF REPORT

To report to Council the process undertaken and the outcome of the Chief Executive Officer's review of the appropriateness and effectiveness of the financial management systems and procedures.

12.12 Continued

SUMMARY AND KEY ISSUES

The Chief Executive Officer is required to review the appropriateness and effectiveness of the financial management systems and procedures of the City not less than once in every four years. The last review of this nature was undertaken in 2004 by Council's auditors (Macri Partners).

A report was presented to the 18 February 2008 Audit and Risk Committee meeting to consider the approach required for the current review. This report presents the findings of that process. A copy of that presentation is attached at Attachment 13.

LOCATION

N/A

CONSULTATION

No public consultation was considered to be required in respect to this matter. The process used to determine details in this report has been considered by the Audit and Risk Committee.

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 requires that:

"*The CEO is to —*
(a) ensure that the resources of the local government are effectively and efficiently managed;
(b) assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and
(c) undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews."

12.12 Continued

BACKGROUND

The last full review of internal controls in place within the City of Belmont was undertaken by Council's auditors Macri Partners (formerly Barrett & Partners) in 2004.

Through the implementation of the Business Excellence Framework, Quality Assurance processes, compliance activities, new system implementation (financial and others) and ongoing external audit review, it is the opinion of management that systems and controls have been reviewed a number of times throughout the last four years. It was proposed that, rather than appointing the City's auditors again, the Chief Executive Officer report to Council detailing the reviews that have been undertaken during 2005, 2006 and 2007 and their impact on assessing the adequacy of the financial internal controls.

If the City's auditors were to be appointed to undertake the review again this year, the cost would likely have exceeded $10,000 (amount paid for the review in 2004).

OFFICER COMMENT

In the four years following the 2004 review by Macri Partners, a number of activities have taken place that have resulted in significant reviews of the internal financial controls established in the organisation. These have resulted in confirmations as to the effectiveness of the existing controls, to enhancements to existing controls through to the establishment of entirely new controls to suit the requirements of new activities. Significant items that have impacted this process include:

- Business Excellence Framework
- Quality Assurance
- New Finance One financial system
- Annual financial and interim audits
- Annual Compliance Audit Return.

While the annual financial audits and interim audits do not of themselves constitute a review of the appropriateness and effectiveness of the financial management systems and procedures, they have provided substantial reassurance as to the effectiveness of the reviews that have been undertaken. No significant items have been raised by the auditors that have not already been identified and addressed, or were in the process of being addressed. The same position is taken with the Compliance Audit Return which in 2007 resulted in a 100% compliance in the financial component.

The key areas which have resulted in the review and confirmation of the appropriateness and effectiveness of the financial management systems and procedures are the introduction of Quality Assurance, Business Excellence principals and the installation of an entirely new financial software system.

Business Excellence:

The Business Excellence journey has seen the introduction of in excess of 30 finance related process maps to ensure that the organisation has its processes documented and available for use and review. The development of the process maps resulted in each case in careful consideration of the process being documented. In some cases this generated modifications to the process to enhance the efficiency or effectiveness.

12.12 Continued

In addition to the process maps, work instructions and system procedures were also developed where required. These documents delve deeper into the process they are supporting and detail actions required to be taken as part of the process as well as referencing relevant documents such as Council policies, legislation or codes of conduct. Again the development of these documents resulted in a detailed review of the system and procedural requirements.

Quality Assurance:

While the adoption of the principles of Business Excellence generated the need for documentation and recording of processes and procedures, the Quality Assurance process resulted in the review, confirmation and, in some cases, further enhancement of the systems and procedures that were established.

2005 saw the internal audit of eight key areas of the financial management systems and procedures:

tenders & contracts,
rates,
land acquisition & disposal,
land asset management reporting,
payroll, compliance,
performance reporting and
hardware/software management.

In 2006 the internal audit process continued with the audit of:

leasing,
annual budget process,
purchasing (SP16),
payroll,
fleet management,
tendering (SP23),
sponsorships & donations,
rates,
delegations & authorisations and
information technology.

2007 continued the internal audit process with:

annual budget process,
contracts & tendering,
property & economic development,
risk management and insurance and
information technology.

Where items are repeated in the above list, different aspect of that area were considered in the different years.

The undertaking of these internal audits generated in excess of seventy nine (79) System Improvement Requests (SIRs) which identified and resulted in corrections to processes to ensure that all processes met the requirements of relevant legislation, policy, business excellence and quality assurance guidelines.

12.12 Continued

Finance One:

In addition to the above comprehensive reviews being undertaken, an entirely new financial system was implemented effective 1 July 2006. The introduction of this system required an almost complete review of the systems and procedures in place within the City for financial management and record keeping. While the key personnel to undertake this implementation were Finance staff, constant review of the systems and structures were undertaken by external consultants to ensure the system functioned effectively and efficiently.

Because of the significant difference between the old system and the new, all form design, system processes, authorisation processes and automated workflows were required to be reviewed and established or modified. The quality assurance audits undertaken subsequent to this implementation had the effect of validating of enhancing the systems established during the implementation.

During the consideration of the report presented to the 18 February 2008 Audit and Risk Committee meeting, it was suggested that the Director Corporate and Governance verify with the Department of Local Government that the processes undertaken were considered satisfactory to constitute the required review by the Chief Executive Officer. Verbal confirmation was received from the Department shortly after the Audit and Risk Committee meeting.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

That Council note and endorse the review undertaken in accordance with Regulation 5(2)(c) of the Local Government (Financial Management) Regulations 1996 through the Business Excellence Framework, Quality Assurance and financial system implementation activities undertaken during 2005 to 2008.

OFFICER RECOMMENDATION ADOPTED EN BLOC –
REFER TO RESOLUTION APPEARING AT ITEM 12

12.13 TENDER 19/2008 – PROVISION OF FINANCIAL AUDIT SERVICES

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Confidential Attachment 2 – Item 12.13 refers	Price Schedule
Confidential Attachment 3 – Item 12.13 refers	Evaluation Matrix

Voting Requirement	:	Absolute Majority
Subject Index	:	114/208 : Financial Audit Services
Location / Property Index	:	N/A
Application Index		N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Corporate & Governance Division

COUNCIL ROLE

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

PURPOSE OF REPORT

To seek Council approval to award Tender 19/2008 – Financial Audit Services.

12.13 Continued

SUMMARY AND KEY ISSUES

To seek Council approval to award Tender 19/2008 in accordance with the requirements of the Local Government Act 1995.

The tender is for the provision of Financial Audit Services commencing 5 January 2009 and covering three financial years ending 30 June 2011, with the option of a two year extension at the sole discretion of the City.

9 sets of tender documents were issued and 3 tenders were received as follows:

Macri Partners
Grant Thornton
UHY Haines Norton

All three tenders submitted were conforming and were evaluated as per the submitted tender information.

Macri Partners is the recommended supplier for the provision of Financial Audit Services.

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

Policy Manual, Section 3.57 – Tenders – Calling and Acceptance.

STATUTORY ENVIRONMENT

Section 7.3 of the Local Government Act 1995 requires the appointment of an auditor "from time to time" by an absolute majority of Council. Due to the decision to make the appointment for a term of three years plus two one year options, the possibility existed that the total cost could exceed the $100,000 tender threshold. For this reason, a tender was called. The tender requirements are governed in the main by the Local Government Act 1995, in particular Section 3.57 which states that "a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services"

12.13 Continued

BACKGROUND

The City's Audit and Risk Committee reviewed the proposed tender specifications and evaluation criteria at its meeting of 15 September 2008 and an invitation to tender for the provision of Financial Audit Services was advertised in the West Australian on Saturday 27 September 2008, closing on Wednesday 15 October 2008 at 2.00 pm.

Following the evaluation process the Officers' recommendation was adopted by the Audit and Risk Committee at its meeting of 27 October 2008.

OFFICER COMMENT

Price Schedule

The Price Schedule, Confidential Attachment 2, shows a comparison of the Tenderers' price submissions.

Evaluation Criteria

The Evaluation Committee consisted of the Coordinator Contracts & Tenders, the Director Corporate & Governance and the Manager Governance.

The tenders were assessed based on the same selection criteria that was included within the tender, being:

	Criteria	***Weighting***
1.	Experience	20%
2.	Personnel	10%
3.	Quality	10%
4.	Methodology	10%
5.	Company Capacity	20%
6.	Price	30%
	Total	**100%**

The Evaluation Criteria, as per Confidential Attachment 3, identifies Macri Partners as the preferred supplier for the contract, being the highest scorer and the most economical.

All three tenderers are capable of fulfilling the requirements of the contract. They all have experience in conducting financial audits for local governments. Macri Partners are the smallest of the three firms and their depth is somewhat less than the other 2 but they have been the auditors for the City of Belmont for the last 5 years and have developed a good rapport with the City.

FINANCIAL IMPLICATIONS

The accepted price represents an increase of 7.5% on the current price but increases by less than 6% over the three year period.

12.13 Continued

ENVIRONMENTAL IMPLICATIONS

N/A

COMMITTEE RECOMMENDATION

That tender 19/2008 for the provision of Financial Audit Services as specified be awarded to Macri Partners commencing 5 January 2009 and covering three financial years ending 30 June 2011, with the option of a two year extension at the sole discretion of the City, for the commencement annual cost of $17,000.00 excluding GST.

OFFICER RECOMMENDATION ADOPTED EN BLOC – REFER TO RESOLUTION APPEARING AT ITEM 12

13. REPORTS BY THE CHIEF EXECUTIVE OFFICER

13.1 REQUESTS FOR LEAVE OF ABSENCE

Nil.

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

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

HITT MOVED, WHITELEY SECONDED, that in accordance with section 5.23(2)of the Local Government Act, the Forum proceed behind closed doors to discuss Confidential Item 14.1

CARRIED 9 VOTES TO 0

14.1 DISPOSAL OF LAND, REDCLIFFE - CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 SECTION 5.23 (2) (E) (II)

(Circulated under separate cover)

****Confidential Attachment 4 – Item 14.1 refers**
****Confidential Attachment 5 – Item 14.1 refers**

ROSSI MOVED, HITT SECONDED, That Council

1. ***Endorse the intended disposal of Lot 2 (49) Treffone St, Redcliffe, to the Roman Catholic Archbishop of Perth pursuant to the provisions of Section 30(2)(b)(i) of the Local Government (Functions and General) Regulations 1996 for the ex GST valuation price as provided in this report.***

2. ***Delegate authority to the Chief Executive Officer to sign all necessary documentation to effect this disposal.***

CARRIED 9 VOTES TO 0

****ABSOLUTE MAJORITY REQUIRED***

14.2 QUOTATION OF LEASE, ASCOT - CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 SECTION 5.23 (2) (E) (II)

****Confidential Attachment 7 – Item 14.2 refers**
****Confidential Attachment 8 – Item 14.2 refers**
****Confidential Attachment 9 – Item 14.2 refers**
****Confidential Attachment 10 – Item 14.2 refers**

ROSSI MOVED, POWELL SECONDED, That Council:

1. ***Approve awarding Quotation Q01/2008 to Kathy Tasovac for the Lease of the Kiosk within the Community & Leisure facility, Garvey Park, 1 Fauntleroy Avenue, Ascot for the rental amount, works and equipment as specified in the attached schedule***

2. ***Endorse advertising the proposed disposal by lease of the Kiosk within the Community & Leisure Facility at Garvey Park, 1 Fauntleroy Avenue, Ascot.***

3. ***Delegate responsibility to the Chief Executive Officer to dispose of the Kiosk by lease, in accordance with the requirements of section 3.58, Local Government Act 1995; and***

4. ***Authorise the Mayor and the Chief Executive Officer to place the Common Seal of the City of Belmont on any documentation associated with the disposal by lease of the Kiosk within the Community & Leisure Facility at Garvey Park, 1 Fauntleroy Avenue, Ascot.***

CARRIED 9 VOTES TO 0

*****ABSOLUTE MAJORITY REQUIRED***

POWELL MOVED, BRENNAN SECONDED, that the Meeting again be open to the public.

CARRIED 9 VOTES TO 0

8.57pm The meeting came out from behind closed doors and no members of the public returned to the meeting.

The Manager Governance did not read aloud the following resolutions carried behind closed doors as no members of the public returned to the meeting.

15. CLOSURE

There being no further business to discuss, the A/Presiding Member declared the meeting closed at 8.57pm.