



**City of Belmont**  
**ORDINARY COUNCIL MEETING**  
**MINUTES**  
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23 October 2018

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- Attachment 1 – Item 12.1 refers
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- Attachment 5 – Item 12.2 refers
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**CONFIDENTIAL ATTACHMENTS INDEX**

- Confidential Attachment 1 – Item 14.1 refers
- Confidential Attachment 2 – Item 14.1 refers

<p><b>Councillors are reminded to retain the OCM Attachments for discussion with the Minutes</b></p>
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## MINUTES

### **PRESENT**

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr R Rossi, JP, Deputy Mayor	West Ward
Cr M Bass ( <i>arr 7.11pm</i> )	East Ward
Cr B Ryan	East Ward
Cr J Davis ( <i>dep 8.20pm</i> )	South Ward
Cr J Powell	South Ward
Cr S Wolff	South Ward
Cr L Cayoun	West Ward
Cr G Sekulla, JP	West Ward

### **IN ATTENDANCE**

Mr J Christie	Chief Executive Officer
Mr R Garrett	Director Corporate and Governance
Mr J Pol	A/Director Community and Statutory Services
Mr M Ralph	A/Director Technical Services
Mr J Olynyk, JP	Manager Governance
Mr W Loh	Manager Planning Services
Mrs M Lymon	Principal Governance and Compliance Advisor
Ms D Morton	Media and Communications Officer
Ms S D'Agnone	Governance Officer

### **MEMBERS OF THE GALLERY**

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

**1. OFFICIAL OPENING**

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

The Presiding Member read the Acknowledgement of Country.

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

**7.01pm** The Director Corporate and Governance departed the meeting.

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

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

**2. APOLOGIES AND LEAVE OF ABSENCE**

Ms J Hammah (Apology)  
Mr R Lutey (Apology)

Director Community and Statutory Services  
Director Technical Services

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

**3.1 FINANCIAL INTERESTS**

<b>Name</b>	<b>Item No and Title</b>	<b>Nature of Interest (and extent, where appropriate)</b>
Cr J Davis	Item 7.1 (14.1) Belmont Sports and Recreation Club Inc. Financial Arrangements – Confidential Matter in Accordance with <i>Local Government Act 1995</i> Section 5.23(2)(c)	<b>Indirect Financial Interest</b> Cr Davis is Secretary of the Belmont Sports and Recreation Club

**7.02pm** The Director Corporate and Governance returned to the meeting.

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

Nil.

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

**4.1 ANNOUNCEMENTS**

Nil.

**4.2 DISCLAIMER**

The Presiding Member advised the following:

*I wish to draw attention to the Disclaimer Notice contained within the Agenda document and advise members of the public that any decisions made at the meeting tonight can be revoked, pursuant to the Local Government Act 1995. Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received.*

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

Nil.

## 5. PUBLIC QUESTION TIME

### 5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

#### 5.1.1 MS B SCHARFENSTEIN, 140 COOLGARDIE AVENUE, REDCLIFFE

The following questions were taken on notice at the 25 September 2018 Ordinary Council Meeting. Ms Scharfenstein was provided with a response on 11 October 2018. The response from the City is recorded accordingly:

- 1a. Was a detailed hydrology report, including the realignment of the Southern Main Drain to create the living stream, provided to COB Officers and Councillors prior to voting to accept the City's recommendation on the DA6 Vision Plan?

#### Response

**A detailed hydrology report was not prepared as part of the Development Area 6 (DA6) Vision Plan and Implementation Strategy. This level of detail was not necessary for a strategic visioning document that sets out the general aims and directions for future development.**

**A local water management strategy (LWMS) will be prepared as part of the Structure Plan and will detail existing site characteristics such as geology, hydrogeology and groundwater characteristics. The LWMS will also set out the infrastructure and management requirements of the Southern Main Drain.**

- 1b. Could the City please delineate what, precisely is i) its Officers, and ii) its Councillor's level of understanding of the hydrology of DA6, including the upgraded Southern Main Drain as it arises from the Airport Estate and flows into DA6, and the engineering requirements and cost of realigning the Southern Main Drain to create the living stream in DA6?

#### Response

**As stated above the City has not yet undertaken hydrological modelling for the DA6 precinct. The relevant technical reports will be prepared and appended to the DA6 Structure Plan.**

- 1c. Will Councillors be required to demonstrate their comprehension of the hydrology, or other engineering reports and justification of the cost for the living stream, and its PFAS contamination status, prior to voting on the DA6 Structure Plan?

#### Response

**Elected members will be required to consider all relevant aspects and endorse the Structure Plan and associated Infrastructure Funding Strategy before it is submitted to the Western Australian Planning Commission (WAPC).**

*Item 5.1.1 Continued*

2. In the event of the decommissioning of Brearley Avenue will the CEO/Mayor provide details of:
- (a) The total land area generated by the decommissioning
  - (b) The proportion of that land that will be allocated as public open space
  - (c) The proportion of the land allocated for the enhancement and preservation of environmentally sensitive flora
  - (d) The proportion of the land allocated for the enhancement and preservation of heritage values including indigenous heritage
  - (e) The proportion of land to be released for building works
  - (f) The scope and cost of tree and vegetation replanting to offset the trees and other vegetation destroyed in the course of the closure of Brearley Avenue, the decommissioning, and roadworks associated with rendering other roads able to safely and efficiently cope with changes in traffic flows?

**Response**

**The closed Brearley Avenue reserve encompasses approximately 4.26 hectares of land. Public Open Space, flora retention and heritage preservation as well as the projected costs for tree retention, planting and the upgrading and/or construction of infrastructure will be determined as part of the preparation of the planning framework for the precinct.**

3. At the JDAP MRWA's representative, Zeljko Zagorac, argued against approval of the service station on the basis:
- That on closure of Brearley Avenue it is likely vehicles will queue back into the right lane of Great Eastern Highway, causing a risk of rear end collisions.
  - The U turn signalling causes a safety hazard, as the signals conflict with vehicles turning left out of Coolgardie Avenue into Great Eastern Highway.
  - The intersection is close to capacity and MRWA does not support further development or intensification of use within the DA6 area.
  - The intersection of Coolgardie Avenue will change from D to F (fail) once Brearley Avenue is closed and will get worse when there is further development within DA6.

Given this was the assessment of an MRWA Traffic Engineer, why has COB continued to support the closure of Brearley Avenue knowing that the intersection will become hazardous for motorists?

In the event that motor vehicle accidents occur because the intersection cannot function beyond its design capacity, will the City's prior knowledge of the risks make it culpable and therefore liable to provide redress to residents?

**Response**

**The City recommended refusal of the Service Station, Convenience Store and Fast Food Outlet on Lots 104, 105, 106 and 107 (No. 443) Great Eastern Highway and Lot 36 (No. 85) Bulong Avenue, Redcliffe. Both the City and Main Roads Western Australia (MRWA) did not support the approval of this Development Application. Notwithstanding this, the Metro Central Joint Development Assessment Panel (JDAP) approved the development. The Metro Central JDAP is not bound by the recommendations of the City or MRWA, and is at liberty to approve applications on their planning merits.**

*Item 5.1.1 Continued*

**MRWA's advice was intended to demonstrate that the Service Station, Convenience Store and Fast Food Outlet development would impact on traffic in the locality. The risk of incidents caused by traffic from the development should not be misconstrued to be caused by the closure of Brearley Avenue.**

**MRWA have considered recent traffic studies and issues raised in the 30 submissions to arrive at its recommendation to permanently close Brearley Avenue at Great Eastern Highway. The traffic studies considered by MRWA indicate that closing Brearley Avenue will bring benefits of improved safety and traffic flow on Great Eastern Highway and Tonkin Highway southbound off-ramp. Removing direct access to the Highway at Brearley Avenue will also reduce the opportunity for passenger and commercial vehicles to take short cuts or 'rat run' along residential streets to access the Airport at Dunreath Drive.**

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

The following questions were taken on notice at the 25 September 2018 Ordinary Council Meeting. Mr Foster was provided with a response on 11 October 2018. The response from the City is recorded accordingly:

1. I sent a photo to the Mayor and the CEO on Tuesday 11 September 2018 of a car rollover at the intersection of Second and Central and alerted both, that vehicles are approaching this intersection at speed and are constantly overrunning the corner and ending up on the verge.

This also happens at the intersection of First Street and Coolgardie Avenue and is evidenced by the state of the road signs and tyre marks on the island and the verges surrounding this intersection. These two intersections are two of three entrances to the DA6 as outlined by Main Roads WA (MRWA)/Public Transport Authority (PTA)/COB. Would the COB be able to update me on their daily interactions with MRWA regarding this accident considering that several key stakeholders have been altering the City of Belmont for several years regarding the dangerous road conditions created by maintaining this historical link to the Perth Airport Estate and the similar intersection of Coolgardie Avenue and First Street where speedy approaches from First Street to Coolgardie Avenue and Great Eastern Highway via Coolgardie to First Street are making this intersection also dangerous?

**Response**

**The circumstances behind the car rollover on Central Avenue are unknown at this stage. The incident will be investigated by the appropriate statutory authorities. This is the first recorded incident at this location and therefore it is premature to speculate on this particular incident. It is however, noted that this intersection will be modified to a standard T intersection as part of the upcoming works associated with the Redcliffe Rail Station and associated roadworks.**

**The City has not been made aware of any similar incidents at the Coolgardie Avenue/First Street intersection. Notwithstanding, following the completion of key road construction, the City will be assessing the road network throughout DA6 for both speed and volume considerations.**



*Item 5.1.2 Continued*

3. Can the CEO/Mayor:
  - a. Inform us of arrangements over the coming weeks to monitor and count traffic flows on all roads and relevant intersections impacted by the closure of Brearley Avenue?
  - b. Give assurances of the timely publications of those studies?

**Response**

**As part of the development of the Structure Plan for the DA6, the City will be undertaking a number of traffic assessments throughout DA6.**

**Part of that process will include the collation of traffic speed/volume information on key roads within DA6. As previously advised, these will not commence until Brearley Avenue has been closed and traffic has had some time to stabilise into a steady pattern, otherwise the collected information is impractical for future planning purposes.**

**For the same reasons, the City will also wait until the initial impacts of the DFO have stabilised. The City will include this future traffic information within structure planning documentation.**

## 5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.03pm The Presiding Member drew the public gallery's attention to the rules of Public Question Time as written in the Agenda. In accordance with rule (I), the Mayor advised that he had registered three members of the public who had given prior notice to ask a question.

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

### 5.2.1 MS M SALDANHA, 63A WESTON STREET, CARLISLE

The Presiding Member asked Ms Saldanha if she would like him to read her questions on her behalf, or whether she would prefer to read them herself. Ms Saldanha requested that the Presiding Member read her questions.

These questions relate to the minutes of the Council meeting dated 27 March 2018, page 16, where the Chief Executive Officer advised that the McLeods Barristers and Solicitors have been the City's preferred supplier for at least the past 12 years. However, the records will show that they have been the preferred legal supplier since at least 1993 when they drew up the easement deed for 337 Sydenham Street.

1a. Why did the CEO choose to misrepresent the long association the Belmont Council has had with McLeods to the Belmont ratepayers?

#### Response

The Chief Executive Officer advised that his response quite clearly indicated a long association with McLeods Barristers and Solicitors, and the statement by Ms Saldanha referencing 1993 simply confirms the veracity of his response.

1b. Why does the City not share it's legal business around to other solicitors so that there is more competition in the market and prices come down?

#### Response

The Chief Executive Officer advised that the City regularly engages alternative solicitors dependent upon the needs of the particular circumstance. There are a number of solicitors' firms listed on the Western Australian Local Government Association Preferred Suppliers Panel (including McLeods), which is the result of competitive tendering by WALGA.

This does not restrict the City's ability to engage other solicitors with experience and knowledge pertinent to a particular situation.

*Item 5.2.1 Continued*

- 1c. In the recent case of Saldanha vs City of Belmont, the legal costs were >\$600K and the costs taxed was ~\$200K. Why is the City not taking up the option for the courts to assess McLeods bill of \$600K and recover some of the costs from McLeods, as recommended by the Legal Practitioners Complaints Committee itself?

**Response**

The Chief Executive Officer advised the City is not aware of any recommendation from the Legal Practitioners Complaints Committee in regard to this matter.

The City is aware of Ms Saldanha's claim that the '*taxed amount was significantly less than the amount charged by McLeods, indicating that McLeods grossly overcharged for their work*' and a previous request that the City lodge a request to the Legal Practitioners Complaints Committee to undertake an assessment of these costs.

As previously advised to Ms Saldanha, the City does not intend to make a request for assessment to the Legal Practitioners Complaints Committee of the costs associated with the legal action.

As Ms Saldanha is fully aware, the cost orders apply only to tasks that are directly related to the undertaking of the litigation. Therefore matters such as, for example, providing advice in respect of the prospects of litigation is not within the scope of costs. Neither were the numerous responses along the way to enquires made by Ms Saldanha to the City that required further investigation and responses from our solicitors.

Whilst the City was disappointed with the final legal costs associated with the case, it believes these costs could have been avoided. There were a large number of time consuming issues going back into history to the early 1990s, which were unsuccessfully pursued by Ms Saldanha but which nevertheless, needed to be responded to and inevitably incurred costs that could not be fully recovered through taxation. The basis for taxation is to allow what is just and reasonable for necessarily incurred steps without extravagance.

Throughout the process the City and its solicitors continued to point out the cost implications should the issue continue to be pursued by Ms Saldanha and Mr Chia and be lost, and in doing so, gave ample opportunity for Ms Saldanha and Mr Chia to opt out of the process and thereby limit their exposure and the costs to the City.

- 1d. In the future will the City of Belmont share the legal services around to other service providers so that competition will bring down legal costs?

**Response**

The Chief Executive Officer advised that the City regularly engages alternative solicitors dependent upon the needs of the particular circumstance.

*Item 5.2.1 Continued*

2. These questions also relate to the minutes of the Council meeting dated 27 March 2018, page 13, 5.2.1.2. The CEO stated, with regard to the easement in favour of the City of Belmont on 337 that and I quote 'to allow the development to occur on 337 Sydenham Street, a condition was imposed requiring an easement to allow future sharing of access with the neighbouring property at 339 Sydenham Street'. This is simply not true as the planning condition states:

*'An easement in gross shall be provided free of cost to Council in accordance with the approved plan and Council's requirements, to facilitate the orderly movement of vehicular traffic associated with the subject land. The easement documents shall be prepared by Council's Solicitors at the developer's cost.'*

**7.11pm Cr Bass entered the meeting.**

There is no reference whatsoever to the neighbouring property at 339 Sydenham Street. The attached approved drawing provides no indication whatsoever that access to 339 was to be provided.

A request to the CEO to correct the record was declined. Please advise why the CEO chooses not to correct the record despite the evidence.

**Response**

**The Chief Executive Officer advised that the information in his response is correct as the requirements of the condition were considered in the context of the Planning Scheme and Policies at that time. There is no need to correct the record.**

These questions relate to the minutes of the Council meeting dated 26 June 2018, page 5, 5.2.1.1 where the Director Community and Statutory Services advised that the easement in gross referred to by Local Planning Policy No. 2 comes under the provisions of Sections 195 and 196 of the *Land Administration Act 1997*.

- 3a. S195 and S196 of the *Land Administration Act 1997* do not by themselves authorise Local Governments to take easements in gross as per the WA Court of Appeal decision in *Saldanha vs City of Belmont 2018*. Moreover, S196(3) states '*An interest in land cannot be undertaken under this part of the purpose only of creating a public access easement*'. Further S196(4) further states that '*subject to subsection (3), a public access easement is a public work for the purposes of this Part and Part 10. Part 10 is about compensation*'.

What is the justification to use ratepayer's funds to provide compensation for development of private land, especially when the developer is compensated, and the inconvenience is borne by the subsequent owners of the properties through which the easement runs?

**Response**

**The Chief Executive Officer advised the City has not provided compensation for development of private land.**

*Item 5.2.1 Continued*

- 3b. Given the issues with safety and security experienced with the easement in gross on 337 Sydenham Street, and the fact that the Council deemed the use of 'easement in gross' unsuccessful and withdrew the policy in 1996, why has the Council reintroduced the practice via Local Planning Policy 2?

**Response**

**The Chief Executive Officer advised that an easement to provide shared vehicle access among the properties cannot reasonably be deemed to cause safety and security issues. Further, the City has not deemed the use of easements in gross unsuccessful.**

- 3c. To date has the City of Belmont taken any 'easement in gross' under Local Planning Policy 2? If yes, how much compensation has been paid to the owner/s of the affected properties?

**Response**

**The Chief Executive Officer advised that a number of landowners have granted easements in gross in developing their property under the provisions of Local Planning Policy No. 2. The City has not paid any compensation.**

4. This question relates to the easement in gross in favour of the City of Belmont on 337 Sydenham Street. A clause in the easement deed states that '*the Grantee (the City of Belmont) may direct any person it authorised to use the easement to make a reasonable contribution towards the maintenance of the easement, to the grantor (the owners of 337)*'.

Please advise why the City has not yet directed the owners of Units 2 and 3, 339 Sydenham Street, who it authorised in writing to use the easement since 2014, to make a contribution to the maintenance of the easement despite the fact that evidence of the overgrown gardens on the easement and deterioration of the driveway due to heavy use by the occupants of 339 has been provided to the City of Belmont?

**Response**

**The Chief Executive Officer advised the terms of the easement state that the owner of 337 Sydenham Street is responsible for the cost for repair and maintenance of the easement. In order for the City to direct the owners of Units 2 and 3, 339 Sydenham Street to make a reasonable contribution, evidence of costs for the repair and maintenance needs to be submitted to the City for assessment.**

**5.2.2 MR S PAULL, 177 KNUTSFORD AVENUE, RIVERVALE, ON BEHALF OF COFFEES R Us**

1. Is this Council supportive of the mobile food Industry?

**Response**

**The Chief Executive Officer advised there are regulations governing mobile food vans. The City of Belmont does provide opportunities for mobile food vendors across the City, however the City must also consider existing businesses and ensure the mobile vendors do not compete with these businesses.**

2. Why is there so much red tape for mobile food van owners like myself? Attending a reasonable amount of locations during a two month period will give me fees payable of up to \$7,500.

**Response**

**The Chief Executive Officer advised that mobile food van legislation is in place for good reason.**

**The Chief Executive Officer further advised that in order to gather information from the relevant Officers and investigate the matter fully he would take Mr Paull's question on notice. The Chief Executive Officer invited Mr Paull to meet and discuss his concerns if necessary.**

3. Why don't brick and mortar businesses need to pay for permits when mobile food vans do?

**Response**

**The Chief Executive Officer advised that in addition to paying substantial rates, brick and mortar businesses are permitted to operate under Local Planning Scheme No. 15.**

4. What do mobile food vans get for their registration fees?

**Response**

**The Chief Executive Officer advised he did not have the answer to that question at hand, however this information is something that Mr Paull, as the owner of a mobile food van, should be aware of.**

5. Do you think it is fair to charge my mobile food vans at the expense of the schools I contribute to?

**Response**

**The Chief Executive Officer advised that all business across the board must comply with relevant rules and regulations and mobile food vans are no exception.**

6. I thought the City's Health Department was there to help small business operators. Will they answer my questions or shall I go to the State Administrative Tribunal (SAT)?

*Item 5.2.2 Continued*

**Response**

**The Chief Executive Officer advised that he would be pleased to take up Mr Paull's issues with the City's Health Department.**

7. Will this Council request that my fine be withdrawn or shall I go to SAT?

**Response**

**The Chief Executive Officer advised Mr Paull to apply in writing to the City requesting that his fine be withdrawn, and to include his reasons in the request. The matter can then be investigated to determine if a breach occurred and the Chief Executive Officer will provide a response to Mr Paull.**

7.27pm Cr Davis departed the meeting.

**5.2.3 Ms L JACKSON, VENUE MANAGER, BELMONT SPORTS AND RECREATION CLUB INC., 400 ABERNETHY ROAD, CLOVERDALE**

Could Council please consider deferring loan repayments for the Belmont Sports and Recreation Club Inc. (BSRC) until July 2019 to allow the Club to first repay a loan from a local resident?

**Response**

**The Presiding Member advised that this matter would be discussed and considered behind closed doors later in the meeting.**

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

1. Was the BSRC loan amount for \$40,000 or \$50,000?

**Response**

**The Presiding Member advised that the BSRC loan amount was \$50,000, however repayments of \$5,400 have been received, leaving an outstanding balance of \$44,600.**

2. Has there been a schedule for repayment of the BSRC loan?

**Response**

**The Presiding Member advised that due to the Club's financial position, a deferral of repayments has previously been granted. The Club has now provided their 2017/2018 financial statements to Council and a determination of loan arrangements will be made behind closed doors later in the meeting.**

**5.2.5 Ms L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE**

1. Was there an investigation into anybody at the BSRC in relation to their financial troubles?

**Response**

**The Chief Executive Officer advised he was not at liberty to discuss details, however he could advise that a Police investigation was undertaken which resulted in no evidence of wrongdoing being attributed to any one person.**

2. What rates did the Airport pay a few years ago and how have their rates changed with the Direct Factory Outlet (DFO)?

**Response**

**The Director Corporate and Governance advised that in previous years rates received from the Airport were approximately \$8M. Those rates have increased to approximately \$11M this financial year. The basis of the increases is entirely due to developed and leased properties on the Airport Estate.**

**7.36pm The Director Corporate and Governance departed the meeting.**

**7.36pm Cr Davis and the Director Corporate and Governance returned to the meeting.**

3. When will traffic assessments be starting in DA6?

**Response**

**The A/Director Technical Services advised that traffic issues were being experienced around the DFO when traffic increased two or three fold during its opening week, causing overflow issues for the general area. In a broader sense, civil works associated with the closure of Brearley Avenue will be completed shortly. When the road network settles into some sort of general order, traffic assessments will commence.**

**The City is also working with the Redcliffe Primary School to address some short and long term issues in their area.**

**The A/Director Technical Services further advised that the City has communicated with many DA6 residents and has a good understanding of the short and long term problems being experienced in the area. Additional feedback from residents will be sought if required.**

4. Epsom Avenue signage directs drivers to park on verges but the verges are not wide enough.



*Item 5.2.5 Continued*

### **Response**

The A/Director Technical Services advised that the City has recognised Epsom Avenue and Stanton Road as areas with increased traffic volumes as the area develops. It must be recognised that the Redcliffe area is going through a series of rapid change with developments within the Airport Estate, the Redcliffe Train Station construction and long term DA6 redevelopment.

It is proposed that in the long term the City will conduct and collate extensive traffic counts along Epsom Avenue and the side streets, including Stanton Road, First Street and Second Street in order to obtain a comprehensive analysis of traffic volumes in the area.

7.44pm The Manager Governance departed the meeting.

5. Will the City be putting any measures in place?

### **Response**

The City recognises that traffic volumes will increase, however it is presently more concerned about monitoring and controlling vehicle speeds and the safety of residents on these streets.

There has been a change to the road structure in the area with the closing of Brearley Avenue being the main component. The City intends to give traffic in the area an opportunity to settle into a pattern by which time the counts will be more indicative of the final road network.

After traffic settles into a pattern, analysis may show that some areas are working well while others may need extra attention.

Development and increased densification are the reality in a growing city and that brings increased traffic using roads. The City must make the environment as safe as possible for all residents.

It was the City's hope that Brearley Avenue would have closed much earlier than it eventually did and that associated traffic issues would have evened out prior to the opening of the DFO, which is also contributing to greatly increased traffic numbers. Traffic counters will be operating in DA6 within the next month, which has always been a part of the long term proposal for DA6.

6. Why was consideration not given for entry into the DFO? Who is responsible and was a deal cut with another organisation?

### **Response**

The Chief Executive Officer advised that no deal was cut with any other agency. The preferred route into the area is via Tonkin Highway and Dunreath Drive, which the DFO advertised on their website. With 20,000 people descending on the DFO on its first day, it was inevitable that some problems with access and egress would occur. Main Roads WA are currently addressing another issue on the Tonkin Highway off-ramp which when rectified will assist to improve traffic flows.

*Item 5.2.5 Continued*

7. Mr Mayor, did you ever write to anyone saying we can't have this?

**Response**

**The Presiding Member advised that Councillors have made their views very clear over many years.**

**The A/Director Technical Services advised that DA6 access and egress has been part of the planning process from the beginning. The City is monitoring traffic on Stanton Road which is providing access from Belmont and Redcliffe into the DA6 area as well as the Airport Precinct including the DFO. Whilst the wider posted route to the DFO is via Tonkin Highway, Stanton Road is a viable route for local Belmont and Redcliffe residents to enter both DA6 and the Airport Precinct.**

**7.46pm The Manager Governance returned to the meeting.**

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

1. I am wondering how we can take steps to stop the use of herbicides at the City of Belmont. The City has the capacity to stop using this product not only for the safety of the Officers that use it but also for the public. I have sent emails to the City about the dangers of using certain herbicides.

**Response**

**The Chief Executive Officer advised that he has previously responded to a number of Mr Rosolin's emails relating to his concerns regarding the City's use of Glyphosate. The Australian Pesticides and Veterinary Medicines Authority advise that exposure to Glyphosate does not pose a risk to humans when used correctly and in accordance with label specifications. City staff are trained in the use of this product in accordance with the label recommendations. The City's position is that Glyphosate is a safe product that will continue to be used to control weeds unless there is a change in its classification by the Australian Pesticides and Veterinary Medicines Authority.**

**7.55pm As there were no further questions, the Presiding Member declared Public Question Time closed.**

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

**6.1 ORDINARY COUNCIL MEETING HELD 25 SEPTEMBER 2018  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

***SEKULLA MOVED, BASS SECONDED, that***

***That the minutes of the Ordinary Council Meeting held on 25 September 2018 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 16 OCTOBER 2018  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

***POWELL MOVED, WOLFF SECONDED, that***

***That the Information Matrix for the Agenda Briefing Forum held on 16 October 2018 as printed and circulated to all Councillors, be received and noted.***

**CARRIED 9 VOTES TO 0**

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

Nil.

**8. QUESTIONS BY MEMBERS WITHOUT NOTICE**

**8.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE**

Nil.

**8.2 QUESTIONS BY MEMBERS WITHOUT NOTICE**

Nil.

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

Nil.

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

Nil.

**11. REPORTS OF COMMITTEES**

Nil.

**12. REPORTS OF ADMINISTRATION**

**WITHDRAWN ITEMS**

Item 12.1 was withdrawn at the request of Cr Sekulla

**BASS MOVED, POWELL SECONDED,**

*That with the exception of Item 12.1, which is to be considered separately, the Officer Recommendations for Items 12.2, 12.3, and 12.4 be adopted en bloc by an Absolute Majority decision.*

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

**12.1 AUDIO RECORDING OF COUNCIL MEETINGS**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 1 – Item 12.1 refers	<a href="#"><u>Draft Policy BEXB45 – Council Meetings – Audio Recording Public Question Time</u></a>
Attachment 2 – Item 12.1 refers	<a href="#"><u>Draft Policy BEXB45 – Council Meetings – Audio Recording Full Meeting</u></a>
Attachment 3 – Item 12.1 refers	<a href="#"><u>McLeod Article Proposed Recording and Live Streaming of LG Council and Committee Meetings</u></a>
Attachment 4 – Item 12.1 refers	<a href="#"><u>Survey Responses – Audio and Video Recording/Streaming – Governance Network</u></a>

Voting Requirement : Simple Majority  
 Subject Index : 154/008 Ordinary Council Meetings  
 Location/Property Index : N/A  
 Application Index : N/A  
 Disclosure of any Interest : Nil.  
 Previous Items : 24 June 2014 OCM – Item 13.5  
                               22 March 2016 OCM – Item 12.4  
                               25 October 2016 OCM – Item 13.2  
                               28 February 2017 OCM – Item 12.2  
 Applicant : N/A  
 Owner : N/A  
 Responsible Division : Corporate and Governance

**COUNCIL ROLE**

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

*Item 12.1 Continued*

### **PURPOSE OF REPORT**

To consider the implementation of audio recording at Ordinary and Special Council Meetings (Meetings).

### **SUMMARY AND KEY ISSUES**

Elected Members agreed at the Special Information Forum on 26 March 2018 to list the matter of audio recording council meetings at the next available Information Forum.

Further information was provided to Elected Members at the Information Forum held on 10 April 2018 relating to audio recording Council Meetings with the matter deferred pending further investigation.

A Special Information Forum held on 31 July 2018 presented a range of information with a presentation provided to Elected Members by McLeods Barristers & Solicitors (McLeods).

Following consideration by officers it is recommended to continue with the current practice for minute taking at Meetings.

### **LOCATION**

Not applicable.

### **CONSULTATION**

The matter of audio recording has been considered by Council on a number of occasions as outlined in Table 1 below.

The most recent occasion the matter was considered by Council was at the 28 February 2017 Ordinary Council Meeting where Council resolved the following:

*'That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings.*

**CARRIED 4 VOTES TO 3'**

Following further discussion and several comments from members of the public gallery requesting that the meetings be recorded, consultation with Elected Members was undertaken at the 10 April 2018 Information Forum and at the 31 July 2018 Special Information Forum.

McLeods provided advice and a presentation on the subject with supporting documentation provided to all Elected Members as part of the Special Information Forum held on 31 July 2018.

A survey was also conducted through the Local Government Governance Network to obtain information on industry practices dealing with audio and video recording and streaming (refer [Attachment 4](#)).

Relevant internal staff, the Operational Leadership Team and the Executive Leadership Team has also been consulted.

*Item 12.1 Continued*

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

The *Local Government Act 1995* states –

#### 5.22. Minutes of Council and Committee Meetings

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

#### 5.25. Regulations about Council and Committee Meetings and Committees

- (1) *Without limiting the generality of section 9.59, regulations may make provision in relation to –*
  - (a) *the matters to be dealt with at ordinary or at special meetings of councils; and*
  - (b) *the functions of committees or types of committee; and*
  - (ba) *the holding of council or committee meetings by telephone, video conference or other electronic means; and*
  - (c) *the procedure to be followed at, and in respect of, council or committee meetings; and*
  - (d) *methods of voting at council or committee meetings; and*
  - (e) *the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made); and*
  - (f) *the content and confirmation of minutes of council or committee meetings and the keeping and preserving of the minutes and any documents relating to meetings; and*
  - (g) *the giving of public notice of the date and agenda for council or committee meetings; and*

*Item 12.1 Continued*

- (h) the exclusion from meetings of persons whose conduct is not conducive to the proper conduct of the meetings and the steps to be taken in the event of persons refusing to leave meetings; and*
  - (i) the circumstances and time in which the unconfirmed minutes of council or committee meetings are to be made available for inspection by members of the public; and*
  - (j) the circumstances and time in which notice papers and agenda relating to any council or committee meeting and reports and other documents which could be —*
    - (i) tabled at a council or committee meeting; or*
    - (ii) produced by the local government or a committee for presentation at a council or committee meeting,**are to be made available for inspection by members of the public.*
- (2) Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.*

*[Section 5.25 amended by No. 64 of 1998 s.28.]*

The *Local Government (Administration) Regulations 1996* detail the requirements for the content of the minutes of a Council or Committee meeting and the requirement that unconfirmed minutes are available for public inspection.

11. Minutes, content of (Act s. 5.25(1)(f))

The content of minutes of a meeting of a council or a committee is to include —

- (a) the names of the members present at the meeting; and*
- (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting; and*
- (c) details of each motion moved at the meeting, the mover and the outcome of the motion; and*
- (d) details of each decision made at the meeting; and*
- (da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration); and*
- (e) a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and*
- (f) in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.*

*[Regulation 11 amended in Gazette 23 Apr 1999 p. 1717.]*



*Item 12.1 Continued*

13. Unconfirmed minutes, public inspection of (Act s. 5.25(1)(i))

*A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —*

- (a) in the case of a council meeting, within 10 business days after the meeting; and*
- (b) in the case of a committee meeting, within 5 business days after the meeting.*

There is no legislative requirement for the audio recording of Council meetings.

Parliamentary Privilege is legal immunity enjoyed by members of certain legislatures which are granted protection from civil or criminal liability for actions undertaken or statements made related to one's duties. This immunity is not afforded to Local Government Elected Members in Western Australia and recordings of meetings could be used as evidence in any legal proceedings.

**BACKGROUND**

This matter of audio recording Meetings has been discussed on various occasions over recent years; following is a summary of previous items:

<b>Meeting</b>	<b>Recommendation Summary</b>	<b>Outcome</b>
24 February 2009	Notice of Motion (Cr Dornford) – Council shall in each and every Ordinary Council Meeting and Special Council Meeting provide for electronic recordings of all debates, discussions and deliberations of a non-confidential nature, and shall be made available for reference by any Councillor or any member of the public if and when so required at any time	Lost 3 votes to 8
24 June 2014 - Ordinary Council Meeting	Notice of Motion (Cr Cayoun) – Proposal be prepared for consideration by Council for immediate implementation of voice recording	Lost 4 votes to 5
15 February 2016 - Special Information Forum	Draft Policy for discussion – Recording and Access to Recorded Information	N/A
22 March 2016 - Ordinary Council Meeting	Officer Recommendation – Adopt Policy – Council Meetings – Recording and Access to Recorded Information – adopt a fee of \$55 per provision of access to audio recording	Alternative Councillor Motion put
	Alternative Councillor Recommendation – Adopt Policy – Recording and Access to recorded information with an amendment to allow for open access to twelve months of recordings via the City of Belmont website – to occur once all systems and processes are in place	Lost 4 votes to 5
25 October 2016 - Ordinary Council Meeting	Notice of Motion (Cr Hitt) – To adopt a policy relating to audio recording meetings and that audio record/recordings of all Council Meetings be kept and these records be made available to all Councillors and the public on request	Lost 4 votes to 5

*Item 12.1 Continued*

<b>Meeting</b>	<b>Recommendation Summary</b>	<b>Outcome</b>
	Foreshadowed Motion (Cr Powell) – That the matter of audio recording of Council meetings be referred to an Information Forum	Carried 5 votes to 4
5 December 2016 - Workshop	Discussion of Audio Recording of Council Meeting with Denis McLeod, the City's Solicitor in attendance to provide comment	N/A
28 February 2017 – Ordinary Council Meeting	Officer Recommendation – That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings	Carried 4 votes to 3
10 April 2018 – Information Forum	Council Meetings – Audio Recording (Draft Policy and Draft Council Report)	N/A
31 July 2018 – Special Information Forum	Presentation by David Nicholson, McLeods Barristers and Solicitors - Council Meetings – Audio Recording	N/A

*Table 1: Previous items to Council - Audio Recording Council Meetings*

The Council Chamber is equipped with the “Liberty Meeting Recorder software” which was installed as a component of the Audio Visual upgrade in January 2016. The software has the capability to audio record the meetings with the existing microphones as an input.

At the Information Forum held on 10 April 2018 a draft policy was presented to Elected Members for discussion and comment. After considering a range of points and legal advice it was agreed that further consideration was required on the matter and draft policy prior to reconsideration at a later Information Forum.

Additional industry information was provided through a survey process as well as advice from McLeods. At the 31 July 2018 Special Information Forum Mr David Nicholson from McLeods made a presentation and responded to questions from Elected Members (refer [Attachment 3](#)). Councillors were aware that members of the public, in attendance at council meetings, had on occasion contended that anomalies have occurred during public question time relevant to questions asked and answers given. Following these discussions the policy was amended to refer to the recording of Public Question Time for Ordinary Council Meetings and Special Council Meetings as an option to assist with verification of the Minutes.

**OFFICER COMMENT**

The *Local Government Act 1995* provides that minutes are to be kept of Council or committee meeting proceedings but is not prescriptive regarding the manner of the minute keeping.

The City complies with all legislative and Department of Local Government, Sport and Cultural Industries requirements. In addition, Elected Members in accordance with Part 13 “Minutes of Meetings” of the *Standing Orders Local Law 2017* have the opportunity to address any areas of concern in the accuracy of the minutes, during the confirmation of Minutes process.

*Item 12.1 Continued*

There are benefits and risks involved in the audio recording of Council meetings including but not limited to:

Benefits

- Verify minutes of meetings, ie: the audio recording supports minutes
- Enable review of processes and decisions
- Elected Members who are absent can access a recording of the meeting
- Full accountability for all Elected Members, Officers and public in attendance at meetings.

Risk Assessment

A preliminary risk assessment has been carried out for recording Council Meetings and Public Question Time based on the risk consequence, likelihood and risk rating.

The main risks identified are:

1. Elected Members are personally responsible for comments made at meetings; and do not enjoy the absolute privilege enjoyed by members of parliament
2. Members of the public and/or Council may be less likely to make comment when audio is recorded
3. Audio evidence can be used to question or challenge decision making
4. The Council is not protected under liability protection for libel and slander and does not cover claims arising from publication or utterance of libel and slander made by or at the direction of the member – no parliamentary privilege.

The preliminary risk assessment determined a moderate risk rating. Taking the requirements outlined in the two draft policies into consideration the risk associated with implementation of either policy is considered as low as reasonably achievable. However, there are fewer risks associated if recording of only Public Question Time at Ordinary and Special Council Meetings occurs as the controls included in the policy reduce the number and nature of the risks identified.

There is no consensus in the local government industry regarding the recording of Meetings, and a number of different practices are undertaken, these include:

- No recording of Council meetings
- Council meetings are recorded during public question time only to assist in minute taking procedures
- Council meetings are recorded only to assist in minute taking procedures
- Council meetings are recorded and recordings are made available to the public upon request
- Council meetings are recorded and recordings are made available on the local government website
- Council meetings are recorded and live-streamed via the local government's website.

*Item 12.1 Continued*

Local Government Survey

An online survey was conducted through the Local Government Governance Network to obtain feedback on audio and video recording and streaming. 25 Local Governments responded with the following responses. Note that not all Local Governments responded to all questions (refer [Attachment 4](#)):

	<b>Yes</b>	<b>No</b>
Audio Record Meetings	10	14
Live Stream Audio of Meetings	4	20
Live Stream Video of Meetings	4	21
Was Legal Advice Obtained	3	13

*Table 2: Survey Results: Governance Survey – June 2018*

Options

Currently the City of Belmont does not audio or video record any part of Council meetings, and considering the information provided and the variety of practices undertaken by other local governments, three options are proposed:

1. Option One - Maintain the existing practice for minute taking at Council Meetings – no recording

Officers hold the view that the current process delivers the required minute keeping standards. There is no demonstrable data that supports the broader community's desire to proceed down the path of audio or visual recording at this point. This is the recommended option.

2. Option Two – Record Public Question Time at Ordinary and Special Council Meetings (Meetings) to assist with the verification of minutes

Of those public members in attendance at council meetings there are a number who contend that anomalies have occurred during public question time relevant to questions asked and answers given. The balance of the deliberation process at council meetings, with the exception of confidential matters, is open to the public to observe the debate and voting process. In the past ten years there has been no challenge, that officers are aware of, relevant to this open and transparent decision process.

The draft policy (refer [Attachment 1](#)) provides for recording of only Public Question Time at Meetings, to be undertaken for minute verification purposes and that supervised access can be obtained by Elected Members through application to the Chief Executive Officer. Public access would be by way of Freedom of Information application.

The *Standing Orders Local Law 2017* under Part 6 “Public Participation” encourages members of the public to, where possible, provide a written copy of the question prior to question time. Although in many cases the entire preamble to the question is not fully recorded in the minutes, as only enough context for the question to be understood is required. However, those written questions form part of the City's record keeping requirements and are maintained in accordance with the provisions of the *State Records Act 2000*. Further, *Standing Order Local Law 2017* states that where a question is not provided in writing council minutes will only reflect a precis of what the Presiding Member understands the question to be.

*Item 12.1 Continued*

A policy has been drafted to provide guidelines for the process of audio recording Public Question Time at Meetings and to set the procedure for access to the recordings ([refer Attachment 1](#))

3. Option Three – Record Ordinary and Special Council Meetings (Meetings) to assist with the verification of minutes

The draft policy (refer [Attachment 2](#)) provides for the recording of Council Meetings, to be undertaken for minute verification purposes and that supervised access can be obtained by Elected Members through application to the Chief Executive Officer. Public access would be by way of Freedom of Information application.

Officers do not recommend the recording of the full Council Meetings as the current practice has proven to be effective.

A policy has been drafted to provide guidelines for the process of audio recording Meetings and to set the procedure for access to the recordings (refer [Attachment 2](#)).

Following the advice from McLeods and consideration of the risks and benefits associated with recording full Ordinary and Special Council Meetings it is recommended to continue with the current practice as outlined in Option One above.

### **FINANCIAL IMPLICATIONS**

Additional expenditure will be associated with officer time to manage the recordings, process access applications and supervision for access to recordings. Income will be received for any applications received to access the recordings through Freedom of Information.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings.

*Item 12.1 Continued*

**ALTERNATIVE COUNCILLOR MOTION**

**SEKULLA MOVED, DAVIS SECONDED,**

***That Council:***

- 1. Endorses and implements Option 2 - Record Public Question Time at Ordinary and Special Council Meetings to assist with the verification of minutes, to be implemented as soon as practicable but in any case no later than the February 2019 Ordinary Council Meeting.***
- 2. Adopt Policy BEXB45 Council Meetings – Audio Recording Public Question Time.***

**CARRIED 9 VOTES TO 0**

Reason:

1. Assists in the accurate recording of minutes.
2. Removes the perception of anomalies by members of the public about questions that are raised during public question time.

NOTE: Please note it will be necessary for relevant process and procedures to be developed and tested prior to implementation of audio recording.

12.2 2018-2019 OCTOBER BUDGET REVIEW

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
Attachment 5 – Item 12.2 refers	<a href="#">2018-2019 October Budget Review</a>
Attachment 6 – Item 12.2 refers	<a href="#">Statement of Budget Review</a>
Attachment 7 – Item 12.2 refers	<a href="#">Reserve Accounts 30 June 2019</a>

Voting Requirement : Absolute Majority  
Subject Index : 54/004–Budget Documentation–Council  
Location/Property Index : N/A  
Application Index : N/A  
Disclosure of any Interest : Nil.  
Previous Items : N/A  
Applicant : N/A  
Owner : N/A  
Responsible Division : Corporate and Governance

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

This report is prepared to conduct the first review of the Budget and recommend adjustments to the 2018-2019 Adopted Budget.

**SUMMARY AND KEY ISSUES**

In keeping with sound financial management practices, a review of the 2018-2019 Adopted Budget has been conducted. The Budget remains in balance with all carried forward issues from 2017-2018 addressed.

*Item 12.2 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

There has been no specific consultation undertaken in respect to this matter other than internal staff. Community consultation is not required.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires a local government to carry out a review of its Budget between 1 January and 31 March each year, report it to Council and then report the outcome of the review to the Department of Local Government, Sport and Cultural Industries (The Department). The City of Belmont has for many years now conducted two budget reviews, one in October and one in March. A further review will be conducted and reported to Council and also the Department in March 2019.

Attached is a 'Statement of Budget Review' ([Attachment 6](#)) which compares the proposed October Budget Review to the current Authorised Budget as requested by the Department.

### **BACKGROUND**

In keeping with Council's ongoing budget control and financial management, a number of adjustments are required to ensure Council's Budget continues to reflect an accurate position. As it is now some five months since the detailed Budget was prepared and the carried forward figure was estimated, many estimates can now be accurately confirmed. For statutory reporting purposes, the adopted Budget is used, however, for sound management purposes, the adjusted Budget will be used on a day to day basis in the Management Reports.



*Item 12.2 Continued*

The October Budget Review process is predominantly aimed at addressing the following issues:

- Carried Forward figure as at 30 June 2018 (to be confirmed by Council's Auditors as part of the end of year Audit)
- Decisions of Council requiring funding
- Confirmation of various Government Grants
- Confirmation of expenses (eg: tenders)
- Building, Grounds and Engineering Carry Forward Works.

**OFFICER COMMENT**

The following summary lists the Divisional adjustments from the Summary of Income and Expenditure Variances.

*(brackets indicate increased income/reduced expenditure)*

➤ Opening Balance-Surplus	(2,164,385)
➤ Chief Executive Officer Section	15,500
➤ Corporate and Governance Division	(114,848)
➤ Technical Services Division	(479,028)
➤ Community and Statutory Services Division	2,742,761
➤ Closing Balance	0
	<hr/>
	Net Cost
	0

As has been the case in previous October Budget Reviews, one of the issues to be addressed relates to the 1 July opening balance. The opening balance is predicted early in the budget process to enable budget preparation and rate modelling to proceed.

The Opening Balance of \$18,051,385 exceeded the estimate of \$15,887,000. The variance predominantly relates to the carry forward of capital projects particularly the Faulkner Civic Precinct Community Centre. These particular projects are noted in [Attachment 5](#).

A detailed listing of all budget adjustments can be found in [Attachment 5](#). It should be noted that the report includes only those line items that have changed during the review process, all other line items remain as per the Adopted Budget. Those noteworthy adjustments are further explained in the summary that follows:

- Retiring Officers that had eligible termination payments approved as at 30 June 2018 have had respective gratuities and offsetting transfers from the Miscellaneous Entitlements Reserve recognised in the 2017-2018 financial year. Hence the removal of those budgets.
- Insurance premiums were less than originally budgeted which is reflected in the updated budget.
- Take-up of the rates discount was slightly higher than expected although this budget adjustment is more than offset by an increase in expected ex gratia rates income.
- Some budgets have been transferred between City Projects, the Faulkner Civic Precinct Community Centre (BB1801) and Civic Centre Revitalisation (BB1903) with a nil net impact.

*Item 12.2 Continued*

- There have been some significant increases in anticipated grant income from the Financial Assistance Grant, Main Roads WA, National Stronger Regions Fund (NSRF) and the Department of Transport (ie: Surrey Road). The increase in NSRF funding is based on the anticipated costs reimbursable to the City in 2018-2019 with the original budget based on the expected receipt of grant income (ie: cash accounting).
- Budget adjustments in regards to Roads, Drainage, and Footpaths predominantly relate to a carried forward of funds from 2017-2018 and re-prioritising and re-scoping of certain projects. It should be noted that the Surrey Road Bike Boulevard is 100% funded.
- Two trucks ordered in 2017-2018 didn't arrive until 2018-2019 and have been re-budgeted although the net impact is nil as this is funded by the Plant Replacement Reserve.
- Parks Construction projects are generally carried forward projects with funds remaining in the Parks Development Reserve supporting the completion of various projects.
- As mentioned above \$1.2M has been carried forward for the Faulkner Civic Precinct Community Centre. There are three new building projects that are all dependent on grant funding, being further refurbishments to the Tennis Club and extensions to Middleton Park and Redcliffe Park Community Centres.
- Largely funded through a reallocation of budgets, \$66,463 has been provided to fund the Community Safety Taskforce which will be formed to address some of the community safety issues affecting the residents and business throughout the City.
- There have been a number of adjustments within the Home and Community Care (HACC) section although as this is fully funded the overall impact is nil.
- An allocation of \$60K has been allocated for the refurbishment of seven units at Wahroonga. This is funded by the Aged Persons Housing Reserve.
- The Closing Balance has increased by \$2.2M largely resulting from carried forward projects into 2018-2019. The Closing Balance also includes \$12.5M of carried forward unspent borrowings that will be used to fund the new Faulkner Civic Precinct Community Centre.

[Attachment 7](#) provides an updated estimate of reserve balances for the 2018-2019 year with reserve balances expected to decrease in 2018-2019 to \$47.9M.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

*Item 12.2 Continued*

**SOCIAL IMPLICATIONS**

The effective management of the City's Annual Budget ensures that the community has access to the services and facilities it needs now and into the future.

**OFFICER RECOMMENDATION**

***That Council:***

- 1. In accordance with Local Government (Financial Management) Regulations 1996 Regulation 33A, adopt the amendments contained in the 2018-2019 Budget Review ([Attachment 5](#) and [Attachment 6](#)), including the descriptions of variations and closing fund amendments.***
- 2. Authorise the Chief Executive Officer to amend the 2018-2019 Budget in accordance with all resolved variations.***

<b>***ABSOLUTE MAJORITY REQUIRED***</b>
---

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

**12.3 ACCOUNTS FOR PAYMENT – SEPTEMBER 2018**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b><u>Attachment No</u></b>	<b><u>Details</u></b>
<b>Attachment 8 – Item 12.3 refers</b>	<a href="#"><b>Accounts for Payment – September 2018</b></a>

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

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

Confirmation of accounts paid and authority to pay unpaid accounts.

**SUMMARY AND KEY ISSUES**

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

**LOCATION**

Not applicable.

*Item 12.3 Continued*

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

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

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

### **BACKGROUND**

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

### **OFFICER COMMENT**

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

Municipal Fund Cheques	787829 to 787866	\$192,469.13
Municipal Fund EFTs	EF057784 to EF058224	\$6,343,082.03
Municipal Fund Payroll	September 2018	\$1,602,080.67
Trust Fund EFT	EF057790 to EF057791	<u>\$14,285.84</u>
Total Payments for September 2018		<b>\$8,151,917.67</b>

A copy of the Authorised Payment Listing is included as [Attachment 8](#) to this report.

*Item 12.3 Continued*

**FINANCIAL IMPLICATIONS**

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

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

*That the Council receive the authorised payments listing as provided in [Attachment 8](#) for September 2018.*

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

**12.4 MONTHLY ACTIVITY STATEMENT AS AT 30 SEPTEMBER 2018**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

<b>Attachment No</b>	<b>Details</b>
Attachment 9 – Item 12.4 refers	<a href="#"><u>Monthly Activity Statement as at 30 September 2018</u></a>

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

**COUNCIL ROLE**

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

**PURPOSE OF REPORT**

To provide Council with relevant monthly financial information.

**SUMMARY AND KEY ISSUES**

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

**LOCATION**

Not applicable.

*Item 12.4 Continued*

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

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

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

### **BACKGROUND**

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

### **OFFICER COMMENT**

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

- Annual budget estimates
- Budget estimates to the end of the reporting month
- Actual amounts to the end of the reporting month
- Material variances between comparable amounts
- Net current assets as at the end of the reporting month.

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



*Item 12.4 Continued*

The monthly financial report is to be accompanied by:

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

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

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

*\*\*\*Based on a materiality threshold of 10 percent of the July authorised budgeted closing balance as previously adopted by Council.*

In order to provide more details regarding significant variations as included in [Attachment 9](#) the following summary is provided.

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
<b>Expenditure - Capital</b>			
Computing	99,700	Nil	Variance is largely due to web development with the tender process due to start in October.
Town Planning	95,814	42,801	Purchase of fleet has been delayed due to usage/mileage.
Grounds Operations	214,345	275,579	Relates to the carry forward of projects into 2018-2019 particularly sporting facility upgrades.
Road Works	2,448,517	1,374,522	Relates to the upgrading of Belmont Ave that will be delayed until Western Power is ready to provide support.
Operations Centre	141,384	286,198	Major plant purchases currently above budget following the carry forward of two trucks.
Building Operations	3,080,372	3,029,715	Variance relates to the New Community Centre.
<b>Expenditure – Operating</b>			
Computing	603,086	764,639	Relates to software licensing costs paid in 2017-2018 that relate to 2018-2019. These costs have been budgeted throughout the year.
Insurance	448,344	378,691	Insurance premiums are less than expected.
Property and Economic Development	288,397	226,616	Contributions and property amalgamation costs are currently under budget.
Belmont Community Watch	326,798	228,959	Contractor costs are paid one month in arrears.
Community Lifestyle and Learning	151,540	84,171	Largely due to employee costs that are currently under budget.
Youth Services General	180,854	119,900	Contractor costs are paid one month in arrears.
Town Planning	709,018	646,710	Legal and consulting costs are currently below budget.
Sanitation Charges	1,136,834	1,230,342	Although currently above budget sanitation costs will be within budget over the year.
Marketing and Communications	173,097	62,150	Event costs are currently under budget as a result of budget spread issues regarding certain events in addition to the cancellation of the Avon Descent.

Item 12.4 Continued

<b>Report Section</b>	<b>Budget YTD</b>	<b>Actual YTD</b>	<b>Comment</b>
Donations and Grants	123,661	44,226	Relates to MOU's that have yet to be paid.
Grounds Operations	1,430,763	1,324,266	Due to contractors paid one month in arrears and turf maintenance programmes currently behind schedule.
Grounds Overheads	454,434	401,544	Agency costs are paid one month in arrears.
Road Works	242,393	165,833	Maintenance expenditure is variable and budgeted evenly over the year, and varies on a monthly basis.
Drainage Works	94,458	24,209	Maintenance expenditure is variable and budgeted evenly over the year, and varies on a monthly basis.
Technical Services	764,586	588,997	Eligible Termination Payments budgeted in 2018-2019 were incurred in 2017-2018. In addition City Project costs have been reallocated directly to projects.
Other Public Works	212,955	155,229	Street lighting costs are paid one month in arrears.
<b>Revenue - Capital</b>			
Belmont Community Watch	(54,344)	Nil	Relates to the disposal of fleet that is expected to occur in October.
Road Works	(854,619)	(1,311,475)	Road grants for Surrey Rd and National Stronger Regions Funded projects have been prepaid.
<b>Revenue - Operating</b>			
Computing	(605,650)	(764,639)	Activity Based Costing (ABC) recoveries are above budget.
Rates	(48,204,175)	(48,569,056)	The initial levy of payments in lieu of rates was higher than expected.
Financing Activities	(502,804)	(156,076)	Monthly variances are expected due to the timing of term deposits maturing.
Belmont HACC Services	(762,745)	(658,965)	Budget spread issue regarding the receipt of grant income.
Marketing and Communications	(118,748)	(12,023)	Grants/sponsorship income budgeted for July is expected to be received later in the year.
Other Public Works	(12,250)	(70,522)	Private works income is above budget.

*Item 12.4 Continued*

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

<b>Reconciliation of Nett Current Assets to Statement of Financial Activity</b>		
<b>Current Assets as at 30 September 2018</b>	<b>\$</b>	<b>Comment</b>
Cash and investments	95,792,375	Includes municipal and reserves
- less non rate setting cash	(54,016,811)	Reserves
Receivables	22,631,308	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(3,298,867)	ESL Receivable
Stock on hand	224,636	
<b>Total Current Assets</b>	<b>61,332,641</b>	
<b>Current Liabilities</b>		
Creditors and provisions	(15,821,218)	Includes ESL and deposits
- less non rate setting creditors and provisions	10,811,635	Cash Backed LSL, current loans and ESL
<b>Total Current Liabilities</b>	<b>(5,009,582)</b>	
<b>Nett Current Assets 30 September 2018</b>	<b>56,323,058</b>	
<b>Nett Current Assets as Per Financial Activity Report</b>		
Nett Current Assets as Per Financial Activity Report	56,323,058	
Less Restricted Assets	(525,663)	Unspent grants held for specific purposes
Less Committed Assets	<b>(55,297,395)</b>	All other budgeted expenditure
<b>Estimated Closing Balance</b>	<b>500,000</b>	

**FINANCIAL IMPLICATIONS**

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

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

***That the Council receive the Monthly Financial Reports as at 30 September 2018 as included in [Attachment 9](#).***

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

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

**13.1 REQUESTS FOR LEAVE OF ABSENCE**

Nil.

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

Note:

Cr J Davis disclosed an indirect financial interest in Item 14.1 Belmont Sports and Recreation Club Inc. Financial Arrangements.

8.20pm Cr Davis departed the meeting and did not return.

Note:

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

8.20pm ***POWELL MOVED, SEKULLA SECONDED***, that in accordance with Section 5.23(2) of the *Local Government Act 1995*, the meeting proceed behind closed doors to discuss Confidential Item 14.1 – Belmont Sports and Recreation Club Inc. Financial Arrangements.

**CARRIED 8 VOTES TO 0**

8.20pm The members of the public gallery and one member of the press departed the meeting.

**14.1 BELMONT SPORTS AND RECREATION CLUB INC. FINANCIAL ARRANGEMENTS - CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 SECTION 5.23 (2) (C)**

**BUSINESS EXCELLENCE BELMONT**

<b><u>Attachment No.</u></b>	<b><u>Details</u></b>
Confidential Attachment 1 - Item 14.1 refers	<a href="#"><u>Report Item – Belmont Sports and Recreation Club Inc. Financial Arrangements – Confidential Matter in Accordance with Local Government Act 1995 Section 5.23 (2)(C)</u></a>

*Item 14.1 Continued*

**OFFICER RECOMMENDATION**

That Council:

1. Note that the Belmont Sports and Recreation Club's financial position has improved to the extent that loan repayments to the City should now be affordable.
2. Request the Chief Executive Officer to advise the Belmont Sports and Recreation Club that loan repayments are required to recommence on or before Wednesday 21 November 2018 or such other date as negotiated by the Chief Executive Officer should it be required.
3. Note that the Chief Executive Officer will undertake and finalise short term lease negotiations with the Belmont Sports and Recreation Club.

**ALTERNATIVE COUNCILLOR MOTION**

**ROSSI MOVED, CAYOUN SECONDED,**

That Council:

1. Note that the Belmont Sports and Recreation Club's financial position has improved.
2. Waive the repayment of the remaining loan balance of \$44,610 and write off the debt due to the City.
3. Request the Chief Executive Officer to advise the Belmont Sports and Recreation Club that the loan has been waived.
4. Note that the Chief Executive Officer will undertake and finalise short term lease negotiations with the Belmont Sports and Recreation Club.

**\*\*\*ABSOLUTE MAJORITY REQUIRED\*\*\***

**LOST 4 VOTES TO 4**

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

**Reason:**

Clearly the Belmont Sport and Recreation Club's financial position has improved as a result of improved management practices.

As an act of goodwill as the Club is actively trying to sort its finances out, and that Council expects the Belmont Sports and Recreation Club to invest the funds in offering more programmes and activities to further stimulate the club.

*Item 14.1 Continued*

**FORESHADOWED COUNCILLOR MOTION**

**SEKULLA MOVED, ROSSI SECONDED,**

***That Council:***

- 1. Note that the Belmont Sports and Recreation Club's financial position has improved.***
- 2. Defer the repayment of the remaining loan balance of \$44,610 until July 2019.***
- 3. Request the Chief Executive Officer to advise the Belmont Sports and Recreation Club that the repayments have been deferred.***
- 4. Note that the Chief Executive Officer will undertake and finalise short term lease negotiations with the Belmont Sports and Recreation Club.***

**CARRIED BY ABSOLUTE MAJORITY 8 VOTES TO 0**

Reason:

Uncertainty remains about the Club's future financial sustainability despite positive improvements in the operation of the organisation.

Enables the Club to repay other debts and focus thereafter on its financial obligations to the City of Belmont.

**15. CLOSURE**

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 8.52pm.

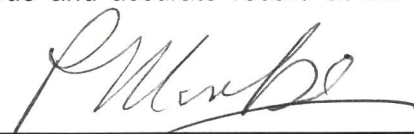
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**MINUTES CONFIRMATION CERTIFICATION**

The undersigned certifies that these minutes of the Ordinary Council Meeting held 23 October 2018 were confirmed as a true and accurate record at the Ordinary Council Meeting held 20 November 2018:

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



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

**PHILIP MARKS**