



Belmont Trust

Minutes

Tuesday 21 June 2022

BELMONT
CITY OF OPPORTUNITY



CITY OF BELMONT

Belmont Trust

Minutes

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Minutes from the Special Belmont Trust Meeting held in the Council Chamber, City of Belmont Civic Centre, 215 Wright Street, Cloverdale on Tuesday 21 June 2022 commencing at 6.30pm.

Minutes

Present

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr M Bass	East Ward
Cr B Ryan	East Ward
Cr N Carter	South Ward
Cr J Davis (arr 6.36 pm)	South Ward
Cr S Wolff	South Ward
Cr G Sekulla, JP	West Ward
Cr D Sessions	West Ward

In attendance

Ms J Gillan	Acting Chief Executive Officer
Ms M Reid	Director Infrastructure Services
Mr W Loh	Acting Director Corporate and Governance
Ms N Griggs	Acting Director Development and Communities
Ms V Govender	Manager Finance
Ms M Lymon	Acting Manager Governance
Mr G Dally	Acting Governance and Compliance Adviser
Ms E Whiteley	Compliance Administrator

Members of the gallery

There were three members of the public in the gallery and no press representatives.

I Official Opening

6.33pm The Presiding Member welcomed all those in attendance and declared the meeting open.

The Presiding Member read aloud the Acknowledgement of Country.

Acknowledgement of Country

Before I begin, I would like to acknowledge the Noongar Whadjuk people as the Traditional Owners of this land and pay my respects to Elders past, present and emerging.

I further acknowledge their cultural heritage, beliefs, connection and relationship with this land which continues today.

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

Affirmation of Civic Duty and Responsibility

I make this affirmation in good faith and declare that I will duly, faithfully, honestly, and with integrity fulfil the duties of my office for all the people in the City of Belmont according to the best of my judgement and ability.

I will observe the City's Code of Conduct and Standing Orders to ensure efficient, effective and orderly decision making within this forum.

2 Apologies and leave of absence

Cr R Rossi, JP (apology)
Mr J Christie (apology)
Ms M Bell (apology)

West Ward
Chief Executive Officer
Director Corporate and Governance

3 Declarations of interest that might cause a conflict

3.1 Financial interests

Nil.

3.2 Disclosure of interest that may affect impartiality

Nil.

4 Confirmation of Minutes

4.1 Special Belmont Trust Meeting held 29 November 2021

Officer Recommendation

Sekulla moved, Carter seconded

That the Minutes of the Special Belmont Trust Meeting held on 29 November 2021 be confirmed as a true and accurate record.

Carried Unanimously 7 votes to 0

6.36pm Cr Davis entered the meeting.

5 Public question time

5.1 Responses to questions taken on notice

5.1.1 Ms L Hollands on behalf of Belmont Residents and Ratepayers Action Group Inc.

The following question was taken on notice at the 29 November 2021 Special Meeting of the Belmont Trust. Ms Hollands was provided with a response on 21 December 2021. The response from the City is recorded accordingly:

The below question relates to the engagement and communication plan for Belmont Trust land.

1. Why is there not a breakdown in the additional costings for the collation and preparation of the responses from the consultation?

Response

The additional costings included as Attachment 2 of the 29 November 2021 Special Belmont Trust Meeting Agenda included costings for additional elements of the consultation agreed to be included. The original quotation included the schedule of costings for the main elements of the contract.

5.1.2 Ms L Hollands, Redcliffe

The following question was taken on notice at the 29 November 2021 Special Meeting of the Belmont Trust. Ms Hollands was provided with a response on 19 January 2022. The response from the City is recorded accordingly:

1. Why is the Belmont Trust not registered as a charitable trust on the register?

Response

The Belmont Trust results from a Declaration of Trust in 1954, before the passing of the Charitable Trusts Act.

A registered charity is an entity registered under the Australian Charities and Not-for-profits Commission Act 2012 and to date it has not been considered necessary or relevant under the provisions of the Australian Charities and Not-for-profits Commission Act 2012 to seek registration. If in future there is any prospect for the Belmont Trust to seek tax exemption or collect funds from the public to promote its charitable purpose, appropriate advice will be obtained to determine the requirement for registration at that time.

5.1.3 Ms S Holt, Ascot

The following question was taken on notice at the 29 November 2021 Special Meeting of the Belmont Trust. Ms Holt was provided with a response on 21 December 2021. The response from the City is recorded accordingly:

1. Does the City intend to apply to the Supreme Court to amend the Trust Land?

Response

The outcome of the consultation process will determine if there is a requirement to apply to the Supreme Court for an amendment to the Declaration of Trust.

5.2 Questions from members of the public

6.36pm The Presiding Member drew the public gallery's attention to the rules of Public Question Time as written in the Public Question Time Form. In accordance with rule (I), the Mayor advised that he had registered 4 members of the public who had given prior notice to ask questions.

The Presiding Member invited members of the public who had yet to register their interest to ask a question to do so. No further registration/s were forthcoming.

5.2.1 Ms L Hollands, Redcliffe

1. Are there going to be any further payments to Aha Consultancies (sic) this year or is that now the end of it? With regard to the ongoing maintenance of the Trust Land there appears to be a decrease in the budget for that compared to previous years.

Response

The Acting Chief Executive Officer advised that money had been set aside for this financial year and that the project was nearing completion. The Acting Director Corporate and Governance confirmed that the payments to Aha Consulting were budgeted in the 2021-2022 Financial Year with the Acting Manager Governance advising that the work will be concluded this financial year (2021-2022) and that no further payments are provided for in the proposed budget.

In relation to the maintenance of the Trust Land, the CEO Delegate advised that ongoing maintenance is provided for in the budget. The Director Infrastructure Services advised that the difference in budgeted costs is that in previous years the Trust Land had sustained some storm damage to trees and fencing which required rectification.

2. For what purposes could the City move money into the Trust from other areas or remove money from the Trust.

Response

The Acting Chief Executive Officer advised that the Belmont Trust budget was completely separate from the City of Belmont budget. The Manager Finance advised that the funding for the Belmont Trust budget is from the Belmont Trust Reserve Fund and any monies must be expended specifically for the purposes of the Belmont Trust. Reserve accounts each have a specific purpose and any change to the purpose would require a resolution of the City of Belmont Council.

5.2.2 Ms S Carter, Ascot

1. From the Freedom of Information documents received, I have on the breakdown of income and expenditure for the Trust, \$147,768.00 in total have been spent in legal fees over the 15 years from the 06/07 accounts through to November 2021. Are the legal fees in the budget too high given that on average \$12,000 has been spent. Why is it substantially higher?

Response

The Acting Manager Governance advised that the report contained information relating to the reason for the amount of \$80,000 being included in the budget and that the amount was indicative and to allow for any possible matters that Trust may need to consider.

2. With regard to grounds maintenance of Trust Land and area B. The expenditure figure from the Freedom of Information documents for ground maintenance is \$10,000 - \$12,000 per year. The budget allows for \$6,000 - \$7,000 per year. Please explain why it is substantially lower?

Response

The Presiding Member indicated that this question had been answered previously.

3. I am aware of the storm damage however, why is it substantially lower this year as compared to previous years.

Response

The Director of Infrastructure Services indicated that there are variable costs for the management of any site such as storm damage and fencing but took the question on notice to allow a review and comparison of expenditure incurred in previous years.

4. With regard to the financial information obtained under Freedom of Information, the \$5,000 income from the Roads Alliance for the road widening is not reflected in the income and expenditure information for the Trust.

Response

The Presiding Member stated that the income referred to is from a previous financial year and not reflected in the current budget.

6 General business

6.1 Belmont Trust 2022-2023 Budget

Attachment details

Attachment No and title
Nil.

Voting Requirement	:	Absolute Majority
Subject Index	:	132/001 - Minutes and Agendas of Trustees
Location/Property Index	:	Lot 5 Stoneham Street, Lot 642 Great Eastern Highway
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	N/A
Owner	:	City of Belmont
Responsible Division	:	Corporate and Governance

Trust role

- Trust** In addition to its role as local government, the City has duties to act as Trustee of the Trust property in relation to the Belmont Trust. When making decisions in relation to the Trust property the City must be mindful of its duties as Trustee of the Belmont Trust.

Purpose of report

To present the 2022-2023 Belmont Trust Budget for consideration.

Summary and key issues

To consider the 2022-2023 Budget in the lead up to the formal adoption of the City of Belmont Budget at the Ordinary Council Meeting on 28 June 2022, for which the Belmont Trust is a component.

Location



Consultation

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

Strategic Community Plan implications

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont

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

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

Policy implications

There are no policy implications associated with this report.

Statutory environment

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

Background

The effect of the Declaration of Trust is that the City of Belmont holds the trust property (“the Trust Land”) on trust for the purposes of public recreation and enjoyment. The City of Belmont is the sole trustee of the Trust Land.

As the sole trustee, the City of Belmont is responsible for making decisions about the trust in its capacity as Trustee. This is a responsibility of the Council of the City of Belmont. The reason for this is that the Council is the overall decision-making body of the City of Belmont and as a result must make decisions for the City of Belmont in its capacity as trustee of the Trust Land.

The City of Belmont is the Trustee, and the Council can only make decisions on behalf of the City of Belmont in accordance with the *Local Government Act 1995*. On that basis the Council would need to meet in accordance with the Act to make decisions in its capacity as Trustee. This means conducting meetings to deal with Trust matters in all respects in accordance with *the Local Government Act 1995*.

The Belmont Trust is not a separate legal entity, and it cannot own property in its own name. There is no separate organisation or body called the Belmont Trust, (this name simply describes the Trust Land and dealings associated with it) instead the Trust Land is held by the City of Belmont as Trustee. The City of Belmont must deal with and account for the trust property, including its assets, liabilities, income, and expenditure in its capacity as trustee. This is reported in the Annual Financial Report in note 14.

Officer comment

The City of Belmont has sought further legal advice to ensure that it undertakes its role as both a local government and that of Trustee for the Trust Land with due diligence, transparency and accountability.

As part of the development of its Annual Budget the City is to seek endorsement from the Belmont Trust of the funding required in relation to the management of the Trust Land, prior to formal adoption of the Budget.

The City maintains a reserve known as the Belmont Trust Reserve which is restricted in usage specifically for purposes associated with the Trust Land. These funds are utilised for the maintenance of the Trust Land and other identified needs.

When preparing the City’s budget, in particular the Belmont Trust operating component, expenditure and income are transferred between the municipal budget and the Belmont Trust Reserve, resulting in a net impact of nil in the City’s municipal budget.

The following table is an extract from the draft Annual Budget scheduled for adoption by Council in June 2022. Key points of interest are:

1. Legal Costs: This is an indicative amount to cover required legal services in the management of the Belmont Trust and potentially any matters arising from the community engagement process that necessitates liaison with the State Solicitors Office or the Attorney General (\$80,000).
2. Consultant: This is an indicative amount to cover the services of a consultant / consultants if required in the development of a strategic plan, or to obtain advice on the funding determinations following the community consultation process. Services – Other Consultants (\$100,000).
3. General Maintenance: This is the cost associated with the City’s Parks, Leisure and Environment Department undertaking general mowing and maintenance (\$6,443).
4. Income Belmont Trust Reserve: This is interest from the term deposit (-\$18,131).

Account		Description	Current Budget	Proposed Budget
			2021-2022	2022-2023
Account Type: 1 - Expenditure				
Location: 921600 - Belmont Trust				
	921600-00-1270-000	Services - Legal	80,000	80,000
A	921600-00-1271-000	Services - Other Consultants	100,000	100,000
			180,000	180,000
			180,000	180,000
Account Type: 3 - Capital Expenditure				
Location: 921600 - Belmont Trust				
A	921600-00-3854-000	Belmont Trust Reserve	6,712	18,131
			6,712	18,131
			6,712	18,131
Account Type: 4 - Income				
Location: 921600 - Belmont Trust				
A	921600-00-4854-000	Belmont Trust Reserve	(6,712)	(18,131)
			(6,712)	(18,131)
			(6,712)	(18,131)
Account Type: 6 - Capital Income				
Location: 921600 - Belmont Trust				
A	921600-00-6854-000	Belmont Trust Reserve	(187,224)	(186,443)

	(187,224)	(186,443)
	(187,224)	(186,443)
P14300 - Belmont Trust - Gen Mtce		
Total 1 - Expenditure	7,224	6,443
	7,224	6,443
	7,224	6,443
TOTAL Belmont Trust	0	0

Following the outcome of the community consultation and Belmont Trust Land Deliberative Panel, any required changes to the budget will be considered at a future Belmont Trust Meeting before presentation to Council as proposed adjustments during the Budget review process.

Financial implications

The Belmont Trust Reserve is budgeted to have a balance of \$1,331,335 as at 30 June 2022. Based on the 2022-2023 budget the balance is estimated to decrease to \$1,144,892. If there are any unspent budgeted funds in 2021-2022 or 2022-2023 these will remain in the reserve.

There is no impact on the City of Belmont municipal budget as all funds are accessed from the Belmont Trust Reserve.

Environmental implications

There are no environmental implications associated with this report.

Social implications

There are no social implications associated with this report.

7 Urgent business approved by the Chair or by decision

Nil.

8 Closure

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 6.55pm.

Minutes confirmation certification

The undersigned certifies that these Minutes of the Special Belmont Trust Meeting held on 21 June 2022 were confirmed as a true and accurate record at the Special Belmont Trust Meeting held 21 February 2023:

Signed by the Person Presiding:  _____

PRINT name of the Person Presiding: **PHILIP MARKS**