



**City of Belmont**  
**STANDING COMMITTEE (AUDIT AND RISK)**  
**MINUTES**  
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28 October 2019

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**CONFIDENTIAL ATTACHMENTS INDEX**

- Confidential Attachment 1 – Item 11.1 refers

**MINUTES OF THE STANDING COMMITTEE (AUDIT AND RISK) MEETING HELD IN THE RIVERVALE ROOM, CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON MONDAY, 28 OCTOBER 2019 COMMENCING AT 6.30PM.**

---

**MINUTES**

**COMMITTEE MEMBERSHIP**

|                              |                    |
|------------------------------|--------------------|
| Cr M Bass (Presiding Member) | East Ward          |
| Cr P Marks (Ex-Officio)      | Mayor              |
| Mr R Back                    | Independent Member |

**IN ATTENDANCE**

|                                  |  |
|----------------------------------|--|
| Ms J Gillan                      | Acting Chief Executive Officer           |
| Mr J Olynyk, <i>JP</i>           | Acting Director Corporate and Governance |
| Mr S Monks                       | Manager Finance                          |
| Ms M Lymon                       | Acting Manager Governance                |
| Mr D Locke ( <i>dep 6.42pm</i> ) | Systems Administrator                    |
| Ms E Whiteley                    | Compliance Administrator                 |
| Ms J Barnes                      | Senior Governance Officer                |

**GUESTS**

|                  |  |
|------------------|--|
| Ms R Venkatraman | Engagement Leader, Office of the Auditor General |
|------------------|--|

## 1. OFFICIAL OPENING

6.30pm The Presiding Member welcomed all those in attendance and declared the meeting open.

The Presiding Member read aloud the Acknowledgement of Country.

*Before I begin I would like to acknowledge the 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.*

## 2. APOLOGIES AND LEAVE OF ABSENCE

Cr J Davis (Absent)

South Ward

Cr G Sekulla (Absent)

West Ward

Mr J Christie (Apology)

Chief Executive Officer

Mr R Garrett (Apology)

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. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

### 4.1 ANNOUNCEMENTS

Nil.

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

Nil.

**5. CONFIRMATION OF MINUTES**

**5.1 STANDING COMMITTEE (AUDIT AND RISK) MEETING HELD 21 OCTOBER 2019  
(Circulated under separate cover)**

**OFFICER RECOMMENDATION**

**MARKS MOVED, BACK SECONDED**

That the Minutes of the Standing Committee (Audit and Risk) Meeting held 21 October 2019 be confirmed as a true and accurate record.

**CARRIED 3 VOTES TO 0**

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

Nil.

**7. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON  
PRESIDING OR BY DISCUSSION**

Nil.

**8. QUESTION BY MEMBERS WITHOUT NOTICE**

Nil.

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

Nil.

**10. INFORMATION ITEMS**

Nil.

## 11. ITEMS REQUIRING RECOMMENDATION TO COUNCIL

### 11.1 OFFICE OF THE AUDITOR GENERAL INFORMATION SYSTEMS AUDIT REPORT

## BUSINESS EXCELLENCE BELMONT

### ATTACHMENT DETAILS

| <u>Attachment No</u>                         | <u>Details</u>                               |
|--|--|
| Confidential Attachment 1 – Item 11.1 refers | <a href="#">Interim Audit Results Report</a> |

|                            |   |                          |
|----------------------------|---|--------------------------|
| Voting Requirement         | : | Simple Majority          |
| Subject Index              | : | 19/005                   |
| 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 affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include 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 provides Council feedback from the City's auditors as a result of their information systems audit conducted in June 2019.

*Item 11.1 Continued*

## **SUMMARY AND KEY ISSUES**

The information system audit was performed by the Office of the Auditor General (OAG) to obtain an understanding of the key business processes, risks and internal controls relevant to the audit of the annual financial report. The Information Systems Audit supports the Interim Financial Audit that was presented to the Standing Committee (Audit & Risk) on 22 July 2019 and is a key factor in the audit of the Annual Financial Report.

Results of the OAG Interim Audit can be found in [Confidential Attachment 1](#).

## **LOCATION**

Not applicable.

## **CONSULTATION**

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

## **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the Strategic 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

## **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time.

## **STATUTORY ENVIRONMENT**

Section 7.2 of the *Local Government Act 1995* requires that “the accounts and Annual Financial Report of a local government for each financial year are audited by an auditor appointed by the local government.”

Section 7.3 of the *Local Government Act 1995* only allows for the appointment of an auditor by the local government if the appointment occurs by the commencement date being the day on which the *Local Government Amendment (Auditing) Act 2018* section 10 came into operation.

## **BACKGROUND**

During May and June 2019, the OAG undertook an information systems audit for the purposes of assessing the key business processes, risks and internal controls and compliance aspects of the City’s operations of the information systems. This provides the auditors with an indication of the extent to which they can rely on the City’s systems and controls in determining the risks, internal controls and compliances of the City’s Annual Financial Report as at 30 June of the year in question.

Item 11.1 Continued

**OFFICER COMMENT**

The Information Systems Audit Management Letter from the OAG, dated 5 August 2019 (refers [Confidential Attachment 1](#)) details findings identified during the audit including a Management response to each item. The table below summarises these findings.

| INDEX OF FINDINGS                            | RATING      |          |       |
|--|-------------|----------|-------|
|  | Significant | Moderate | Minor |
| <b>Findings identified during this audit</b> |             |          |       |
| 1. Password Controls for Key IT Systems      |             | ✓        |       |
| 2. Database Security                         |             | ✓        |       |
| 3. Technical Vulnerability Management        |             | ✓        |       |
| 4. Change Management                         |             | ✓        |       |
| 5. Server Room Management                    |             | ✓        |       |
| 6. Unauthorised Devices Management           |             | ✓        |       |
| 7. Information Security Governance           |             |          | ✓     |
| 8. ICT Vendor Performance Monitoring         |             |          | ✓     |
| 9. User Access Management                    |             |          | ✓     |

- Significant** - Those findings where there is potentially a significant risk to the entity should the finding not be addressed by the entity promptly.
- Moderate** - Those findings which are of sufficient concern to warrant action being taken by the entity as soon as practicable.
- Minor** - Those findings that are not of primary concern but still warrant action being taken.

The management responses to details findings identified during the audit are included in the attached confidential report. The report is confidential as public exposure may compromise security of the City's information systems. The actions to all the findings would be completed by 30 June 2020.

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications at this time.

**SOCIAL IMPLICATIONS**

There are no social implications at this time.



*Item 11.1 Continued*

**OFFICER RECOMMENDATION**

**MARKS MOVED, BACK SECONDED**

*That the Standing Committee (Audit and Risk) note the results of the Information System Interim Audit Report for the year ending 30 June 2019 as detailed in [Confidential Attachment 1](#).*

**CARRIED 3 VOTES TO 0**

6.42pm The Systems Administrator departed the meeting and did not return.

## 11.2 AUDIT PLAN - 2020

### BUSINESS EXCELLENCE BELMONT

#### ATTACHMENT DETAILS

| <u>Attachment No</u>            | <u>Details</u>                             |
|---------------------------------|--|
| Attachment 1 – Item 11.2 refers | <a href="#">Proposed Audit Plan - 2020</a> |

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| Voting Requirement         | : | Simple Majority                 |
| Subject Index              | : | 19/003 Audit and Risk Committee |
| Location/Property Index    | : | N/A                             |
| Application Index          | : | N/A                             |
| Disclosure of any Interest | : | Nil                             |
| Previous Items             | : | OCM 20 November 2018            |
| 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.*
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#### PURPOSE OF REPORT

To seek Council endorsement of the City's 2020 Audit Plan (refer Attachment 1).

#### SUMMARY AND KEY ISSUES

The City of Belmont conducts and undertakes a range of audit activities.

The City has developed a coordinated approach to these audit activities, managed year to year by an Audit Plan. This report is for Council endorsement of the Audit Plan for the forthcoming year – 2020.

*Item 11.2 Continued*

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

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

**Strategy:** Ensure that the organisation's capacity and capability meets strategic, customer and operational needs.

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

Section 7.2 of the *Local Government Act 1995* requires the City to conduct annual financial audits.

Regulation 14 of the *Local Government (Audit) Regulations 1996* requires that a compliance audit for the period 1 January to 31 December is completed each year in a form approved by the Minister.

Under the International Standard of ISO 9001:2015 Quality Management Systems, the City is required to conduct an annual program of internal and external audits to maintain certification of the ISO Standards.

### **BACKGROUND**

The 2020 Audit Plan is presented to the Standing Committee (Audit and Risk) for endorsement prior to consideration by Council.

*Item 11.2 Continued*

### **OFFICER COMMENT**

The 2020 Audit Plan is based on:

- Internal control and legislative compliance
- Statutory audit requirements
- The Integrated Management System (IMS) Audits approach of integrating the Quality, Environment and Occupational Health & Safety management systems with other initiatives implemented by the City (such as Risk, Compliance and Records Management)
- The need to support the City's chosen governance approach
- The requirement to provide a comprehensive solution that can be undertaken with existing resources.

There are a number of focus audits that any area of the City can potentially be subject to each year, these could be conducted as internal audits, operational comparison reports, or by external third parties, the Department of Local Government, Sport and Cultural Industries, the Corruption and Crime Commission, Public Sector Commission or the Western Australian Auditor General.

As these audits are carried out as required, they are not identified on the Audit Plan. An outline of the actual audits undertaken in 2019 will be reported to the February 2020 Standing Committee (Audit and Risk).

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **COMMITTEE NOTES**

A question was asked and responded to as follows:

- The Executive Leadership Team are working on the scope for the position of Internal Auditor. There are 11 areas that have been identified as the initial focus areas for the internal audit.

Ms Venkatraman from the Office of the Auditor General mentioned that it is the OAG's view that it is best practice for the audit function to report direct to the Audit Committee and not to the Chief Executive Officer. Officers pointed out that the relationship between the Internal Auditor and the Audit & Risk Committee is yet to be discussed and determined.

*Item 11.2 Continued*

**OFFICER RECOMMENDATION**

**MARKS MOVED, BACK SECONDED**

That the Standing Committee (Audit and Risk) recommend that Council endorse the City of Belmont 2020 Audit Plan as outlined in [Attachment 1](#).

**CARRIED 3 VOTES TO 0**

## 11.3 2018-2019 ANNUAL FINANCIAL REPORT AND ANNUAL AUDIT REPORT

### BUSINESS EXCELLENCE BELMONT

#### ATTACHMENT DETAILS

| <u>Attachment No</u>           | <u>Details</u>                                       |
|--------------------------------|--|
| Attachment 2 –Item 11.3 refers | <a href="#"><u>Draft Annual Financial Report</u></a> |

|                            |   |                                |
|----------------------------|---|--------------------------------|
| Voting Requirement         | : | Simple Majority                |
| Subject Index              | : | 19/001–Report of Council Audit |
| 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

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#### PURPOSE OF REPORT

To provide the Standing Committee (Audit and Risk) with details of the outcomes of the 30 June 2019 year end process and present the draft Annual Financial Report and Audit Report for the period ended 30 June 2019.

*Item 11.3 Continued*

### **SUMMARY AND KEY ISSUES**

The *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* requires the preparation and audit of an Annual Financial Report for inclusion in the City's Annual Report each year.

This Report presents the City's Draft Annual Financial Report and associated Draft Audit Report for consideration and acceptance. Following Standing Committee (Audit and Risk) acceptance the respective reports will be signed and finalised and then presented to Council for inclusion in the Annual Report as part of the November Council meeting process.

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC PLAN IMPLICATIONS**

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

### **POLICY IMPLICATIONS**

There are no significant policy implications evident at this time other than the need to ensure that the Principal Accounting Policies detailed in the Annual Financial Report comply with legislative and Australian Accounting Standards requirements.

### **STATUTORY ENVIRONMENT**

Section 6.4 of the *Local Government Act 1995* requires that –

- “(1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- (2) The financial report is to -*
- (a) be prepared and presented in the manner and form prescribed; and*
  - (b) contain the prescribed information.*
- (3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor -*
- (a) the accounts of the local government, balanced up to the last day of the preceding financial year; and*
  - (b) the annual financial report of the local government for the preceding financial year.”*

The *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards determine the format of the annual financial report.

*Item 11.3 Continued*

## **BACKGROUND**

The Annual Financial Report is prepared and presented to the auditor for audit by 30 September each year in accordance with the requirements of the *Local Government Act 1995*.

Regarding the 2018-2019 financial year the Audit Letter (opinion) will be provided by the Office of the Auditor General (OAG) who have directly audited the City for the first time having contracted the audit in the previous financial year.

## **OFFICER COMMENT**

The City has an equity interest in the Eastern Metropolitan Regional Council (EMRC) which requires an accounting adjustment in the City's accounts each year. Unfortunately there have been delays with the finalisation of the EMRC's accounts which might impact on the timing of the City's audit report. If there are further adjustments resulting from the EMRC audit or the final OAG review they will be updated in the City's Annual Financial Report and depending on the level of materiality reported to the Committee.

Once again the City was presented with an unqualified audit report (opinion), which is to be signed by the auditors following the Annual Financial Report being accepted by the Committee and the Statement by CEO to be signed by the Chief Executive Officer (CEO) (refer [Attachment 2](#)).

A presentation highlighting some key aspects of the report, specifically the ratios, will be provided at the meeting.

## **FINANCIAL IMPLICATIONS**

The preparation, audit and distribution of the Annual Financial Statements are a statutory obligation. Audit fees are determined by the OAG on a cost recovery basis and are expected to be \$55,000 exclusive of GST.

## **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

## **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

## **COMMITTEE NOTES**

The Manager Finance gave a summary of the draft Annual Financial Report.

Concern was raised regarding the one-off payment to Western Power for underground power which will cause a decrease in the City's surplus ratio from 6% to -0.39% and how this was going to be presented in the statement. This also impacts on the Financial Health Indicator which will drop from 94 to 72. It was suggested that as the amount was a contribution to a State asset (underground power), it should be shown "below the line" and not within the operating expenses on the Statement of Comprehensive Account.



*Item 11.3 Continued*

Ms Venkatraman undertook to consult with the Technical Director at the Office of the Auditor General on how best to address this matter and inform Standing Committee Members on the outcome.

Ms Venkatraman advised the Committee that the Eastern Metropolitan Regional Council (EMRC) are not in a position to have their accounts signed off. The EMRC have provided all six member Councils with new Financial Statements, but these still require to be audited and reviewed. Results will be known on 31 October 2019 and will be included in the report to Council.

Ms Venkatraman advised the Committee that there were no material items identified and that the only item to be reported on the Management Representation Letter is prepaid rates that are recognised as a liability rather than income.

**OFFICER RECOMMENDATION**

**MARKS MOVED, BACK SECONDED**

***That the Standing Committee (Audit and Risk) recommend that Council accept the draft Annual Financial Report for the period ending 30 June 2019 (as detailed in [Attachment 2](#)) which will be signed by the CEO for inclusion in the City of Belmont's 2018-2019 Annual Report.***

**CARRIED 3 VOTES TO 0**

## 11.4 OPERATIONAL COMPARISON – WESTERN AUSTRALIAN AUDITOR GENERAL’S REPORT – LOCAL GOVERNMENT BUILDING APPROVALS

### BUSINESS EXCELLENCE BELMONT

#### ATTACHMENT DETAILS

| <u>Attachment No</u>            | <u>Details</u>  |
|---------------------------------|---|
| Attachment 3 – Item 11.4 refers | <a href="#">OAG Report 28: June 2018-19 Local Government Building Approvals</a> |

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| Voting Requirement         | : | Simple Majority                       |
| Subject Index              | : | 32/001 Operational/Strategic Planning |
| Location/Property Index    | : | N/A                                   |
| Application Index          | : | N/A                                   |
| Disclosure of any Interest | : | N/A                                   |
| 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 e.g. 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 (e.g. 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 presents an assessment of the City of Belmont’s (the City) operations in comparison with findings from the recent Auditor General’s Report ‘Local Government Building Approvals’ (refer [Attachment 3](#)).

The report seeks the Committee’s recommendation to Council to receive the Auditor General’s Report ‘Local Government Building Approvals’.

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

*Item 11.4 Continued*

### **SUMMARY AND KEY ISSUES**

The Office of the Auditor General found that although Local Government permit authorities followed processes and only issued permits when applications contained the required documentation, there was evidence of control weaknesses which may result in preferential treatment, bias or permits not being properly authorised.

The City has detailed procedures relating to the Building Approvals process. Although, the City allows both electronic and hard copy (either over the counter or via mail) lodgement of building applications, the process used to assess is consistent with all applications being lodged into the City's Pathway system.

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

In accordance with the Strategic Community Plan Key Result Area:

#### **Business Excellence Belmont**

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

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

#### **Built Belmont**

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

Item 11.4 Continued

## **STATUTORY ENVIRONMENT**

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

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

#### **23. Time for deciding application for building or demolition permit**

- (1) *The permit authority to which an uncertified application is made must decide whether or not to grant the building permit —*
  - (a) *if there is no requirement under section 18(1), before the expiration of the period —*
    - (i) *that is prescribed for the purposes of this subsection for the classification of the building that is the subject of the application; and*
    - (ii) *starting on the day after the application is made;*
  - or
  - (b) *if there is a requirement under section 18(1) that is complied with within the specified time, before the expiration of the balance of the period mentioned in paragraph (a)(i) starting on the day after the compliance.*
- (2) *The permit authority to which a certified application or an application for a demolition permit is made must decide whether or not to grant the building permit or demolition permit —*
  - (a) *if there is no requirement under section 18(1), before the expiration of the period —*
    - (i) *that is prescribed for the purposes of this subsection for the classification of the building that is the subject of the application; and*
    - (ii) *starting on the day after the application is made;*
  - or
  - (b) *if there is a requirement under section 18(1) that is complied with within the specified time, before the expiration of the balance of the period mentioned in paragraph (a)(i) starting on the day after the compliance.*
- (3) *If the permit authority has not made a decision in the time mentioned in subsection (1) or (2) the permit authority is to be taken to have refused to grant the building permit or demolition permit.*
- (4) *If the permit authority has not made a decision within the time mentioned in subsection (1) or (2) —*
  - (a) *the permit authority must refund to the applicant the fee mentioned in section 16(l) that accompanied the application; and*
  - (b) *the amount of the fee paid is recoverable in any court of competent jurisdiction as a debt due to the applicant.*
- (5) *Subsection (4) does not apply —*
  - (a) *if the permit authority refuses to consider the application because the applicant has not complied with a requirement under section 18(1) within the specified time; or*
  - (b) *if the permit authority has referred the application in accordance with the Heritage Act 2018 but the Heritage Council has not provided its advice within the time mentioned in subsection (1) or (2).*

*Item 11.4 Continued*

- (6) *Despite subsection (3) and section 18(2), the permit authority may decide whether or not to grant the building permit or demolition permit, and may give the applicant written notice of its decision, after the period applicable under subsection (1) or (2), or the time specified under section 18(1), has expired, and the validity of the decision is not affected by the expiry.*

*[Section 23 amended: No. 37 of 2012 s. 8; No. 22 of 2018 s. 183(4).]*

**Building Regulations 2012**

**20.** Time for deciding application for building or demolition permit (s. 23)

- (1) *For the purposes of section 23(1)(a), the period for buildings of all classifications is —*
- (a) *if the application relates to development as defined in the Planning and Development Act 2005 section 4 and a planning scheme or interim development order that has effect under that Act provides that the development is not to be commenced or carried out without an approval being obtained upon the making of a development application —*
- (i) *25 business days, excluding any day that is after the day on which the development application is made and before the day on which that application is determined; or*
- (ii) *such longer period as is agreed in writing between the applicant and the permit authority;*
- and*
- (b) *otherwise, 25 business days, or such longer period as is agreed in writing between the applicant and the permit authority.*
- (2) *For the purposes of section 23(2)(a), the period for buildings of all classifications is 10 business days, or such longer period as is agreed in writing between the applicant and the permit authority.*

*[Regulation 20 amended: Gazette 15 Jun 2012 p. 2514-15.]*

**BACKGROUND**

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

Four Local Governments and the Building and the Department of Mines, Industry Regulation and Safety's Building and Energy Division were recently the subject of a focus audit by the Office of the Auditor General (OAG). The findings from the audit are outlined within the Western Australian Auditor General's Report 28: June 2018-19 – Local Government Building Approvals.

Item 11.4 Continued

### **OFFICER COMMENT**

This comparison report represents an assessment of the Building Approvals process at the City of Belmont (the City) against the findings from the recent audit conducted by the OAG as outlined in its report.

The methodology used to determine the City's rating against the findings raised was through completion of an interview with the relevant City officer based on the OAG report. Verification of the information provided was then carried out by Compliance officers in conjunction with the relevant officers. The issuance of building permits is heavily regulated in relation to the processes undertaken and the information that is to be contained within the building application. The City has a number of documented procedures covering the various types of building applications and approvals processes.

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

1. Does the City have procedures and key controls to promote accountable decision making?
2. Were permits issued on time?
3. Monitoring and enforcement of compliance with permits.

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

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

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

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

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

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

*Item 11.4 Continued*

**1.1 Does the City have procedures and key controls to promote accountable decision making?**

The City has clearly documented procedures for the issuance of building permits. Only officers with the required qualifications and with the appropriate delegation are designated to issue permits.

It is standard process that if further information is required in relation to an application, a request is formally made in writing to the applicant. The letter advises that the timeframe for processing the application has been stopped pending the receipt of the required information. The request also advises of the statutory timeframe that the information must be received in and the process flowing from that point should the information not be received. Applicants are then contacted during this period to again remind them of the information required and the timeframe.

Conflicts of interest are managed at the Business Unit level at this point in time. The process of the management of conflicts of interest is being reviewed at an organisational level at the time of writing of this report.

The City provides detailed information on the building applications process and associated planning processes on the City's website and fact sheets. The website links directly to the Building and Energy Divisions website for required forms and other key information.

**Overall Assessment** 4

**1.2 Permits issued on Time.**

In 2018-2019 there were 519 BA01 Certified and BA02 Uncertified applications determined by the Building section. The breakdown is as follows:

Certified Building Applications (BA01) Received: 308  
Determined within the required 10 days: 298 (96%)

Uncertified Building Applications (BA02) Received: 211  
Determined within the required 25 days: 191 (90%)

Of the 519 applications received, 190 applications were the subject of further information requests.

The City at present is looking to improve the level of reporting of permit information to stakeholders and the community and working on reporting methods to implement this improvement.

**Overall Assessment** 4

Item 11.4 Continued

### 1.3 Monitoring and Enforcement of Permit Conditions

At present the City does not have a formalised inspection or monitoring process in place regarding building permits. There is currently no inspection requirement under legislation. Staff actively monitor the Business and Energy Division's website in relation to compliance proceedings undertaken by the regulator.

The Business Unit does carry out site inspections when information is received from the public or if, in the professional opinion of the Business Unit staff, an inspection regime is deemed appropriate for a development. If required, the City carries out enforcement procedures. Officers who carry out the required inspections are suitably qualified in accordance with the regulatory framework.

Current resourcing of the Business Unit does not allow for the implementation of a full scale formal monitoring and inspection programme.

|                           |          |
|---------------------------|----------|
| <b>Overall Assessment</b> | <b>3</b> |
|---------------------------|----------|

## 2 Conclusion

The comparison report findings have found that the City has a number of well established procedures relating to management of building permits. These areas mostly comply with the expectations outlined within the OAG report.

| Score        | Number Assessed at |
|--------------|--------------------|
| 5            | 0                  |
| 4            | 2                  |
| 3            | 1                  |
| 2            | 0                  |
| 1            | 0                  |
| <b>Total</b> | <b>3</b>           |

As mentioned previously the management of conflicts of interest is being looked at the organisational level to ensure consistency and transparency across the organisation.

The City continues to provide over the counter assistance and a variety of means through which applicants are able to lodge building applications.

The City is in the process of adapting the reporting framework to suit the Department of Mines, Industry Regulation and Safety's Building and Energy Division requirements for the online permit database.

The Building and Energy Division has released a Consultation Regulatory Impact Statement regarding reforms to the building approvals process for single residential buildings which includes the introduction of mandatory inspections during construction. This is in line with other States. The City will consider and contribute to the consultation. Any changes to the current process will be from a regulatory perspective and the City may need to undertake a further review at that time.



*Item 11.4 Continued*

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **COMMITTEE NOTES**

A series of questions were asked and responded to as follows:

- There are no proposed changes to our current process.
- The issue of no formal inspection or monitoring of building permits has been flagged with the Building Commission.
- The Median age for Building Surveyors is approx. 56 and there is no Building Surveying course available in Western Australia. This increases the risk exposure across the entire industry as there are no newly qualified surveyors.

### **OFFICER RECOMMENDATION**

#### **MARKS MOVED, BACK SECONDED**

*That the Standing Committee (Audit and Risk) recommend that Council:*

1. *Receive the Western Australian Auditor General's Report 28: June 2018-19 – Local Government Building Approvals ([Attachment 3](#)).*
2. *Request the Chief Executive Officer to consider the inclusion of the Building Compliance process on the City's risk registers.*

**CARRIED 3 VOTES TO 0**

**11.5 OPERATIONAL COMPARISON – WESTERN AUSTRALIAN AUDITOR GENERAL’S REPORT –  
VERIFYING EMPLOYEE IDENTITY AND CREDENTIALS**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

| <b><u>Attachment No</u></b>     | <b><u>Details</u></b>  |
|---------------------------------|--|
| Attachment 4 – Item 11.5 refers | <a href="#"><u>OAG Report 24: June 2018-19 - Verifying Employee Identity and Credentials</u></a> |

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| Voting Requirement         | : | Simple Majority                       |
| Subject Index              | : | 32/001 Operational/Strategic Planning |
| Location/Property Index    | : | N/A                                   |
| Application Index          | : | N/A                                   |
| Disclosure of any Interest | : | N/A                                   |
| 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 e.g. 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 (e.g. 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 presents an assessment of the City of Belmont’s operations in comparison with findings from the recent Auditor General’s Report 24: ‘*Verifying Employee Identity and Credentials*’ (refer [Attachment 4](#)).

The report seeks the Committee’s recommendation to Council to receive the Auditor General’s Report 24: ‘*Verifying Employee Identity and Credentials*’.

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

*Item 11.5 Continued*

### **SUMMARY AND KEY ISSUES**

The operational comparison has highlighted some areas where the City needs to continue to be vigilant and proactive in reviewing recruitment procedures together with the ongoing monitoring of employee credentials.

### **LOCATION**

Not applicable.

### **CONSULTATION**

Consultation has been undertaken with the Human Resource Manager.

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

#### ***s5.37 Local government employees***

*(3) A person is not to be employed by a local government in any other position unless the CEO –*

*(a) believes that the person is suitably qualified for the position, and*

*(b) is satisfied with the proposed arrangements relating to the person's employment.*

Item 11.5 Continued

## **BACKGROUND**

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

The OAG have been conducting a number of focus audits across Local Government to check management controls, policies and practices on various areas of administration. Eight Local Governments were chosen for the focus audits both metropolitan and regionally based and of varying sizes. A similar audit was conducted on State Government entities in 2015.

## **OFFICER COMMENT**

This comparison report represents an assessment of the practices at the City of Belmont (the City) against the recommendations from the OAG as outlined in its report '*Verifying Employee Identity and Credentials*'.

The methodology used to determine the City's rating against the findings raised was through completion of a review of the City's documented policies and procedures by Compliance Officers and verification of process from the Human Resources Section. Independent verification was not possible due to confidentiality provisions applied to personnel files.

The following areas were the subject of internal review questions:

- The City's policies and practices regarding recruitment and associated human resource processes.
- Qualification verification process.
- Proof of right to work.
- How are recruitment records maintained on personnel files?
- Processes in place to verify continuing validity of qualifications and licences.

The Officers believe that the responses presented by the Human Resources Department are an accurate indication of the City's current practices, though the inability to verify the responses provided have resulted in the indicative, unqualified scores against the areas below.

The City of Belmont responses and assessment scores have been compiled as a result of the internal review, reflecting consideration of the findings of the OAG's Report.

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

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

*Item 11.5 Continued*

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

The City of Belmont's current practices were reviewed against the report.

The OAG found that:

- Only three of the eight entities subject to the focus audit had policies in place for verifying employee identity and credentials.
- In the sample of 306 employee files that in a number of instances, across all entities, there was no evidence of identity being checked (81 instances) or not meeting the requirements for the 100 point identity check (196).
- 89% of the files indicated that the eligibility of the applicant to work in Australia was not checked.
- 54 instances at major metropolitan Councils where qualifications were not checked.
- Referee checks were not undertaken.
- Only two of the eight entities had procedures in place to monitor existing employees for change in status.

### **1.1. City Policies and Practices**

The City has a Human Resources Policy (policy) in place with supporting documented procedures regarding the recruitment and selection process. Recruitment at the City is managed electronically through the human resource software programme, My Aurion.

The policy also outlines the requirement for pre-employment checks to be undertaken. All staff are required to provide a National Police clearance prior to appointment being confirmed. For those staff working in high risk areas such as aged care, production of an ongoing satisfactory police clearance is a requirement. Similarly, those working with children must have a valid Working with Children clearance.

Procedures are detailed with Human Resources managing recruitment to ensure that referee checks are undertaken and documented. Originals of submitted qualifications and licences must be provided prior to confirmation of appointment.

There is a Work Instruction and Process Map in place as part of the City's process detailing identity and credential requirements including:

- At application stage the applicant must acknowledge the identity and credential requirements and confirm they comply.
- Interviewed applicants verbally acknowledge they can comply.
- Follow up email sent to preferred applicants regarding identity and credential requirements.
- Offer letter confirms original documentation must be produced. Requirement for a National Police clearance, qualification/s, licence/s and Working with Children clearance are listed in the relevant Job Description Form. Also acknowledged as part of the application process and then confirmed at interview as noted above.

Without the ability to verify that the above practices are being adhered to, this has been assessed with a score of 4.

|                           |          |
|---------------------------|----------|
| <b>Overall Assessment</b> | <b>4</b> |
|---------------------------|----------|

*Item 11.5 Continued*

## **1.2 Qualification Verification**

All qualifications, if an essential requirement of the position, are verified prior to an offer being made. A copy is made and placed on the personnel file upon commencement.

Without the ability to verify that the above practices are being adhered to, this has been assessed with a score of 4.

|                           |          |
|---------------------------|----------|
| <b>Overall Assessment</b> | <b>4</b> |
|---------------------------|----------|

## **1.3 Proof of Right to Work**

As part of the recruitment process the preferred applicants are required to provide evidence of their right to work in Australia such as an Australian or New Zealand passport, Australian Birth Certificate, Certificate of Australian Citizenship, evidence of permanent residency or Visa Grant Letter and current foreign passport. Again, all appointments are subject to the provision of original documentation to the Human Resources Section on commencement and copies placed on the personal file.

Without the ability to verify that the above practices are being adhered to, this has been assessed with a score of 4.

|                           |          |
|---------------------------|----------|
| <b>Overall Assessment</b> | <b>4</b> |
|---------------------------|----------|

## **1.4 Monitoring of employees validity of qualifications and licences**

It was found on reviewing the processes that there was a minor gap in this process.

The Code of Conduct, Human Resources Policy and the Offer Letter require the employee to advise of any change of status to their employment, any required licences and National Police clearance.

Human Resources follow up on any position that requires a National Police clearance to be produced every three (3) years and Working with Children clearances to ensure these are renewed and kept up to date.

Occupational Safety and Health follow up on expired licences and endorsements for identified high risk positions.

All employees at the City are subject to an annual performance review in which the reviewer verifies the ongoing validity of any licences or qualifications listed as an essential requirement of the position. To enhance this process further a change will be implemented in the 2020 Annual Staff Development Review cycle where an employee will declare there is no significant change in their circumstances in regards to their qualification/s, licence/s and/or clearances as listed in their job description form.

With the improvement identified and the inability to verify that the above practices are being adhered to, this has been assessed with a score of 4.

|                           |          |
|---------------------------|----------|
| <b>Overall Assessment</b> | <b>4</b> |
|---------------------------|----------|

Item 11.5 Continued

## 2 Conclusion

Of the areas identified through the report, the City of Belmont complies or has substantial compliance with all of the findings. This is being assessed using the compliance rate adopted.

| Score        | Number Assessed at |
|--------------|--------------------|
| 5            | 0                  |
| 4            | 4                  |
| 3            | 0                  |
| 2            | 0                  |
| 1            | 0                  |
| <b>Total</b> | <b>4</b>           |

Recruitment requirements are an area of ongoing change in response to changes in industry practice. The Human Resources and OSH areas of the City therefore have explained that review mechanisms are in place to ensure that the City remains up to date and compliant with legislative and legal expectations. As a result the recommendations outlined in the OAG report will continue to be considered and acted on as appropriate.

Any actions requiring further remediation will be undertaken in consultation with relevant process owners and recorded in the Business Management System.

### **FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

### **SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

### **OFFICER RECOMMENDATION**

### **BACK MOVED, MARKS SECONDED**

***That the Standing Committee (Audit and Risk) receive the above report and recommend that Council receive the report from the Office of the Auditor General Report 24: June 2018-19 Verifying Employee Identity and Credentials ([Attachment 4](#)).***

**CARRIED 3 VOTES TO 0**

**11.6 OPERATIONAL COMPARISON – DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES: REPORT OF THE INQUIRY INTO THE CITY OF MELVILLE**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

| <b><u>Attachment No</u></b>            | <b><u>Details</u></b>  |
|--|--|
| <b>Attachment 5 – Item 11.6 refers</b> | <a href="#"><b>Report of the Inquiry into the City of Melville</b></a> |

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| Voting Requirement         | : | Simple Majority                       |
| Subject Index              | : | 32/001 Operational/Strategic Planning |
| Location/Property Index    | : | N/A                                   |
| Application Index          | : | N/A                                   |
| Disclosure of any Interest | : | N/A                                   |
| 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 e.g. 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 (e.g. 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 presents an assessment of the City of Belmont's operations in comparison with findings from the recent Authorised Inquiry of the Department of Local Government, Sport and Cultural Industries (DLGSCI) into the City of Melville.

The report seeks the Committee's recommendation to Council to receive the DLGSCI's *Report of the Inquiry into the City of Melville* (the Inquiry Report) ([Attachment 5](#)).

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



*Item 11.6 Continued*

### **SUMMARY AND KEY ISSUES**

The operational comparison has reinforced the need to be vigilant and proactive in matters regarding how the City and Council interact with members of the public.

The City of Melville Inquiry Report demonstrates the need for awareness of Elected Members and administration staff of their responsibilities in relation to the Code of Conduct, statutory requirements and adherence with written policies.

It also highlights the requirement for local government to be professional, open, transparent and consistent in its dealings with the public and to communicate changes to policies or processes effectively to affected parties.

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

### **POLICY IMPLICATIONS**

The following City policies refer to matters raised within the Report.

- BEXB3 Correspondence from members of the public
- BEXB27 Financial Management Major Land Transactions
- BEXB32 Decision Making Policy

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

The Inquiry Report covers numerous sections of the *Local Government Act 1995* and associated regulations. The Inquiry Report includes comprehensive extracts of the key sections of legislation (refer section 2 Statutory Framework of the Inquiry Report ([Attachment 5](#))).

*Item 11.6 Continued*

In summary, the key elements of this comparison report are governed by the following legislation:

**Local Government Act 1995**

- *S2.7 Role of Council*
- *S2.8 Role of mayor or president*
- *S2.10 Role of Councillors*
- *S5.41 Functions of CEO*
- *S3.59 Commercial enterprises by local governments*
- *S5.94 Public can inspect certain local government information*
- *S5.95 Limits on right to inspect local government information*
- *S5.96 Copies of information to be available*
- *S5.24 Question time for public*

**Local Government (Administration) Regulations 1996**

- *5 Question time for public, meetings that require prescribed (Acts5.24)*
- *6. Question time for public, minimum time for (Act s5.24(2))*
- *7. Question time for public, procedure for (Act s5.24(2))*

Extracts of the relevant legislation are included in the section of the Inquiry Report 'Statutory framework'.

**City of Belmont Standing Orders Local Law 2017**

6.2 Other Procedures for Question Time for the Public

- (1) *A member of the public who wishes to ask a question during question time is to –*
  - (a) *first state his or her name and address;*
  - (b) *direct the question to the Presiding Member;*
  - (c) *ask the question as briefly and concisely as possible;*
  - (d) *limit any preamble to matters directly relevant to the question;*
  - (e) *ensure that the question is not accompanied by any argument, expression of opinion, statement of fact or other comment, except insofar as it may be necessary to explain the question; and*
  - (f) *where possible provide a written copy of the question prior to question time.*
- (2) *Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.*
- (3) *A member of the public is to have up to 2 minutes to ask his or her question or questions.*
- (4) *A member of the public may give written prior notice to the CEO of the text or substance of the question that he or she wishes to ask at a meeting.*
- (5) *Unless the Presiding Member determines otherwise, a question of which prior written notice has been given to the CEO is to be given priority in question time.*

*Item 11.6 Continued*

- (6) *Where a member of the public gives written notice of a question, the Presiding Member may determine that the question is to be responded to as normal business correspondence.*
- (7) *A question may be taken on notice by the Council for later response.*
- (8) *When a question is taken on notice, the CEO is to ensure that –*
  - (a) *a written response is given to the person who asked the question; and*
  - (b) *a summary of the response is included in the agenda of the next meeting of the Council.*
- (9) *Where a question relating to a matter in which a person has an interest is directed to that person, that person is to –*
  - (a) *declare that he or she has an interest in the matter; and*
  - (b) *allow another person to respond to the question.*
- (10) *The Presiding Member may decide that a question is not to be responded to where –*
  - (a) *the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;*
  - (a) *it is in the form of a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to rephrase the statement as a question; or*
  - (b) *the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.*
- (11) *The Council, by resolution, may agree to extend public question time.*
- (12) *Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.*
- (13) *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.*

*[Section 6.2 amended in Gazette 20 March 2018 p.993.]*

## **BACKGROUND**

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

In November 2017 the Director General of DLGSCI authorised an inquiry under section 8.3(2) of the *Local Government Act 1995* into aspects of the City of Melville. The findings from the Inquiry are outlined within the DLGSCI's *Report of the Inquiry into the City of Melville* which was released in June 2019 ([Attachment 5](#)).

## **OFFICER COMMENT**

This comparison report represents an assessment of the practices at the City of Belmont against the findings from the Departmental Inquiry as outlined in the *Report of the Inquiry into the City of Melville* which was released in June 2019 ([Attachment 5](#)).

*Item 11.6 Continued*

The methodology used to determine the City's rating against the findings raised was through completion of a review of the City's documented policies and procedures by Compliance officers and verification of the following of these documented processes. Random sampling of Council Minutes and documentation contained within the City's record keeping system was undertaken.

The areas of comparison are in line with the Terms of reference of the Inquiry:

- the Management of Public Question Time
- provision of access to information to the public
- complaints management policies and processes
- land acquisition.

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

The City of Belmont responses and assessment scores have been compiled as a result of the internal review, reflecting consideration of the findings of the Inquiry Report.

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

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

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

The City of Belmont's current practices were audited against the findings of the Inquiry Panel.

### **1.2. Public Question Time**

The Inquiry looked at the adequacy of the City of Melville's policies and procedures relating to Question Time. It was found that the City's Policy CP-014 relating to Question Time at Committee and Council Meetings was not readily understandable by members of the public, Council and the City.

The timeframe for the Inquiry investigation was from 2015. It was found that the City of Melville's 2003 Standing Orders did not address procedures for question time. This was rectified with the commencement of the City of Melville's Meeting Procedures Local Law 2017 which provided more guidance relating to question time.

The Inquiry also found that as a result of the increased numbers of questions submitted to Council, the City of Melville obtained legal advice and instigated a change in the management of submitted public questions for Council meetings, with a determination being made prior to the Council meeting as to whether the question was to Council or administrative in nature. If it was administrative, the question, although answered, did not appear in the relevant Council meeting minutes.

*Item 11.6 Continued*

The City of Melville did not update its policy, website or work instructions relating to the change of practice and it was found that the response to the issue when raised directly by a community member was insufficient. The Inquiry also found that the City of Melville was not open and transparent as to the management of Question Time by failing to advise the community of a change to the policy.

The City of Belmont does not have a policy in relation to Public Question Time. The management of public question time is governed by the City of Belmont's *Standing Orders Local Law 2017* (the Standing Orders) and its Rules of Public Question Time which clearly outlines the requirements for public meeting participation. The City also follows the Departmental Operational Guideline '*Managing Public Question Time*' in conjunction with the Standing Orders during meetings.

The Standing Orders are summarised in common language as the Rules of Question Time on the Public Question Time form used by the public wishing to ask a question at a Council meeting. Information is also available on the City's website. Council Policy BEXB3 - Correspondence from Members of the Public provides guidance to the public on how certain types of correspondence shall be dealt with.

As part of the verification process, random sampling of Council minutes was undertaken. It was found that the minutes of Ordinary Council Meetings at Item 5.2 contain reference to the rules of Public Question Time as written in the Agenda. Subsequent referral to the Agenda found no reference to the rules. Further checking found that the last time the Agenda contained the rules was in May 2008. This is being corrected for future meetings.

It was also found that the FAQ section of the website incorrectly stated that no recording of meetings took place. This has since been updated to reflect that public question time is recorded in line with Policy BEXB45 that was endorsed by Council in October 2018. Although the assessment of this area has been scored as a '4' the improvements have already been implemented.

|                    |   |
|--------------------|---|
| Overall Assessment | 4 |
|--------------------|---|

## **1.2 Provision of access to information by the Public**

Under the *Local Government Act 1995* (the Act) the City is required to provide access to the public to a number of documents. Since the publication of the Inquiry Report s.5.94 of the Act has been amended. The amendments require the City to make available on the website a number of publications that previously only had to be made available in hardcopy. The City has been proactive in this area and already provides a number of these publications on the website such as the Disclosure of Interests Register, Elected Member Functions and Events Attendance even though there was previously no statutory requirement.

Following the amendments to the Act some information that was previously able to be viewed by the public, is no longer required to be provided.

The City is in the process of updating the information and quality of maps available on the website.

|                    |   |
|--------------------|---|
| Overall Assessment | 4 |
|--------------------|---|

Item 11.6 Continued

### 1.3 Complaints Management Process

The Inquiry found that although the City of Melville had adequate frameworks in place for managing complaints it was found that Officers need to be mindful of treating all complaints in a professional manner abiding by process regardless of who the complainant is. The Inquiry Report recommends a more robust complaints handling policy including the different avenues a person could take if they are unsatisfied with the Local Governments response.

The City of Belmont has a detailed Customer Complaint Management Procedure which is currently under review as part of normal business practice. Complaints must be acknowledged by the City within 5 days and managed in line with the organisational procedure. Complaints are monitored by the Business Improvement Team external to the relevant Business Unit to ensure that approved processes are followed consistently and professionally. The City provides information through the website and hardcopy on avenues of review of decisions for customers.

**Overall Assessment** 4

### 1.4 Land Acquisition

The CEO currently has delegated authority from Council to acquire and dispose of real property on behalf of the City up to the value of \$1,000,000, provided that the property has been identified in the budget process.

A review of the City's records show that acquisition of land has been undertaken with Council approval. Acquisition of property is in the main reactionary in nature as it is dependent on the property becoming available and has been well below the statutory prescribed amount constituting a major land transaction. Some instances have occurred where the Offer and Acceptance has been signed prior to Council approval being given (eg: 232 Fulham Street and 117 Epsom Avenue) as a budget amendment was required. In these instances the offer was conditional on Council approval being given and deposits not being paid until Council had approved the transaction.

**Overall Assessment** 5

## 2 Conclusion

Of the areas identified through the Reports, the City of Belmont complies or has substantial compliance with all of the findings. This is being assessed using the compliance rate adopted.

| Score        | Number Assessed at |
|--------------|--------------------|
| 5            | 1                  |
| 4            | 3                  |
| 3            | 0                  |
| 2            | 0                  |
| 1            | 0                  |
| <b>Total</b> | <b>4</b>           |

Several areas of the Inquiry Report are based on how Council interact with the public and are key to the way Council is perceived to be open, transparent and accountable to the public. It is recommended that Council consider all the areas as an opportunity for improvement and that the actions noted are currently in hand and being dealt with by relevant process owners.

*Item 11.6 Continued*

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

**BACK MOVED, MARKS SECONDED**

***That the Standing Committee (Audit and Risk) receive the above report and recommend that Council:***

- 1. Receive the report from the Department of Local Government Sporting and Cultural Industries 'Report of the Inquiry into the City of Melville' ([Attachment 5](#)).***
- 2. Forward a copy of the 'Operational Comparison – Department of Local Government, Sport and Cultural Industries: Report of the Inquiry into the City of Melville' to the Minister for Local Government.***

**CARRIED 3 VOTES TO 0**

**11.7 OPERATIONAL COMPARISON – DEPARTMENT OF LOCAL GOVERNMENT, SPORT AND CULTURAL INDUSTRIES: REPORT OF THE INQUIRY INTO THE SHIRE OF PERENJORI**

**BUSINESS EXCELLENCE BELMONT**

**ATTACHMENT DETAILS**

| <b><u>Attachment No</u></b>            | <b><u>Details</u></b>  |
|--|--|
| <b>Attachment 6 – Item 11.7 refers</b> | <a href="#"><u>Report of the Inquiry into the Shire of Perenjori</u></a> |

|                            |   |                                       |
|----------------------------|---|---------------------------------------|
| Voting Requirement         | : | Simple Majority                       |
| Subject Index              | : | 32/001 Operational/Strategic Planning |
| Location/Property Index    | : | N/A                                   |
| Application Index          | : | N/A                                   |
| Disclosure of any Interest | : | N/A                                   |
| 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 e.g. 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 (e.g. 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 presents an assessment of the City of Belmont's (the City's) operations in comparison with findings from the recent authorised Inquiry of the Department of Local Government, Sport and Cultural Industries (DLGSCI) into the Shire of Perenjori.

The report seeks the Committee's recommendation to Council to receive the DLGSCI's *Report of the Inquiry into the Shire of Perenjori* (the Inquiry Report) ([Attachment 6](#)).

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



*Item 11.7 Continued*

### **SUMMARY AND KEY ISSUES**

The operational comparison has reinforced the need to be vigilant and proactive in matters regarding tendering and procurement functions.

The findings also demonstrate the need for awareness of Elected Members and administration staff toward their responsibilities in relation to the Code of Conduct, statutory requirements and compliance with written policies.

### **LOCATION**

Not applicable.

### **CONSULTATION**

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

### **STRATEGIC COMMUNITY PLAN IMPLICATIONS**

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

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

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

### **POLICY IMPLICATIONS**

There are no policy implications associated with this report.

### **STATUTORY ENVIRONMENT**

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

The *Local Government Act 1995* –

#### **2.7 Role of Council**

- (1) *The Council –*
  - (a) *governs the Local Government's affairs; and*
  - (b) *is responsible for the performance of the Local Government's functions.*
- (2) *Without limiting subsection (1), the Council is to –*
  - (a) *oversee the allocation of the Local Government's finances and resources;*  
*and*
  - (b) *determine the Local Government's policies.*

*Item 11.7 Continued*

**2.8. Role of Mayor or President**

- (1) *The Mayor or President —*
  - (a) *presides at meetings in accordance with this Act; and*
  - (b) *provides leadership and guidance to the community in the district; and*
  - (c) *carries out civic and ceremonial duties on behalf of the Local Government; and*
  - (d) *speaks on behalf of the Local Government; and*
  - (e) *performs such other functions as are given to the Mayor or President by this Act or any other written law; and*
  - (f) *liaises with the CEO on the Local Government's affairs and the performance of its functions.*
- (2) *Section 2.10 applies to a Councillor who is also the Mayor or President and extends to a Mayor or President who is not a Councillor.*

**2.10 Role of Councillors**

- (1) *A Councillor –*
  - (a) *represents the interests of electors, ratepayers and residents of the district; and*
  - (b) *provides leadership and guidance to the community in the district; and*
  - (c) *facilitates communication between the community and the Council; and*
  - (d) *participates in the Local Government's decision-making processes at Council and Committee meetings; and*
  - (e) *performs such other functions as are given to a Councillor by this Act or any other written law.*

**S.5.41 Functions of the CEO**

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

Item 11.7 Continued

**5.60. When Person has an Interest**

*For the purposes of this Subdivision, a relevant person has an interest in a matter if either —*

- (a) the relevant person; or*
- (b) a person with whom the relevant person is closely associated, has —*
- (c) a direct or indirect financial interest in the matter; or*
- (d) a proximity interest in the matter.*

*[Section 5.60 inserted: No. 64 of 1998 s.30]*

**5.60A Financial Interest**

*For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the Local Government, or an employee or Committee of the Local Government or member of the Council of the Local Government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.*

*[Section 5.60A inserted: No. 64 of 1998 s. 30; amended: No. 49 of 2004 s. 50]*

**5.60B Proximity Interest**

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —*
  - (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or*
  - (b) a proposed change to the zoning or use of land that adjoins the person's land; or*
  - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.*
- (2) In this section, land (the **proposal land**) adjoins a person's land if —*
  - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; or*
  - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or*
  - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.*
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.*

*[Section 5.60B inserted: No. 64 of 1998 s. 30]*

**5.62 Closely Associated Persons**

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —*
  - (a) the person is in partnership with the relevant person; or*
  - (b) the person is an employer of the relevant person; or*
  - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or*
  - (ca) the person belongs to a class of persons that is prescribed; or*

*Item 11.7 Continued*

- (d) *the person is a body corporate —*
  - (i) *of which the relevant person is a director, secretary or executive officer; or*
  - (ii) *in which the relevant person holds shares having a total value exceeding —*
    - (1) *the prescribed amount; or*
    - (2) *the prescribed percentage of the total value of the issued share capital of the company, whichever is less;*
- Or*
- (e) *the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or*
- (ea) *the relevant person is a Council member and the person —*
  - (i) *gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or*
  - (ii) *has given a notifiable gift to the relevant person since the relevant person was last elected;*
- or*
- (eb) *the relevant person is a Council member and since the relevant person was last elected the person —*
  - (i) *gave to the relevant person a gift that section 5.82 requires the relevant person to disclose; or*
  - (ii) *made a contribution to travel undertaken by the relevant person that section 5.83 requires the relevant person to disclose;*
- or*
- (f) *the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.*

**5.68. Councils and Committees may allow members disclosing interests to participate etc. in meetings**

- (1) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —*
  - (a) *may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
  - (b) *may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —*
    - (i) *the disclosing member also discloses the extent of the interest; and*
    - (ii) *those members decide that the interest —*
      - (1) *is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or*
      - (2) *is common to a significant number of electors or ratepayers.*
- (2) *A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the Council or committee.*

Local Government (Functions and General) Regulations 1996

*Item 11.7 Continued*

**11.** When tenders have to be publicly invited

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a Local Government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.*
- (2) *Tenders do not have to be publicly invited according to the requirements of this Division if —*
  - (a) *the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act; or*
  - (b) *the supply of the goods or services is to be obtained through the WALGA Preferred Supplier Program; or*
  - (c) *within the last 6 months —*
    - (i) *the Local Government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications or satisfied the value for money assessment; or*
    - (ii) *the Local Government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;*

*or*

- (d) *the contract is to be entered into by auction after being expressly authorised by a resolution of the Council of the Local Government; or*
- (e) *the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a Local Government or a regional Local Government; or*
- (ea) *the goods or services are to be supplied —*
  - (i) *in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and*
  - (ii) *by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the Local Government of the district referred to in that subparagraph;*

*or*
- (f) *the Local Government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or*
- (g) *the goods to be supplied under the contract are —*
  - (i) *petrol or oil; or*
  - (ii) *any other liquid, or any gas, used for internal combustion engines;*

*or*

Item 11.7 Continued

(h) *the following apply —*

- (i) the goods or services are to be supplied by a person registered on the Aboriginal Business Directory WA published by the Small Business Development Corporation established under the Small Business Development Corporation Act 1983; and*
- (ii) the consideration under the contract is \$250 000 or less, or worth \$250 000 or less; and*
- (iii) the Local Government is satisfied that the contract represents value for money;*

*or*

- (i) the goods or services are to be supplied by an Australian Disability Enterprise; or*
- (j) the contract is a renewal or extension of the term of a contract (the **original contract**) where —*
  - (i) the original contract was entered into after the Local Government, according to the requirements of this Division, publicly invited tenders for the supply of goods or services; and*
  - (ii) the invitation for tenders contained provision for the renewal or extension of a contract entered into with a successful tenderer; and*
  - (iii) the original contract contains an option to renew or extend its term; and*
  - (iv) the supplier's tender included a requirement for such an option and specified the consideration payable, or the method by which the consideration is to be calculated, if the option were exercised;*

*or*

- (k) the goods or services are to be supplied by a pre-qualified supplier under Division 3.*

*[Regulation 11 amended: Gazette 29 Apr 1997 p. 2145; 26 Jun 1998 p. 3447; 25 Feb 2000 p. 970-1; 29 Jun 2001 p. 3130; 31 Mar 2005 p. 1054-5; 2 Feb 2007 p. 245-6; 18 Sep 2015 p. 3804-6.]*

**12.** Anti-Avoidance Provision for r. 11(1)

- (1) This regulation applies if a Local Government intends to enter into two or more contracts (the **contracts**) in circumstances such that the desire to avoid the requirements of regulation 11(1) is a significant reason for not dealing with the matter in a single contract.*
- (2) If this regulation applies, tenders are to be publicly invited according to the requirements of this Division before the Local Government enters into any of the contracts regardless of the consideration.*

Item 11.7 Continued

### **Local Government (Administration) Regulations 1996**

#### **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: Gazette 23 Apr 1999 p. 1717.]*

### **BACKGROUND**

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

The DLGSCI authorised the Inquiry into the Shire of Perenjori following a number of complaints received from electors and as a result of a departmental Probity Audit in 2017.

The terms of reference for the inquiry were quite broad covering the operations and affairs of the Shire of Perenjori for potential regulatory breaches together with the procurement and tendering processes of the Shire.

As a result of the Inquiry a total of 30 findings were made with:

- Multiple breaches by Council of the *Local Government (Administration) Regulations 1996* relating to the content of minutes.
- Multiple possible breaches of the *Local Government Act 1995* by Council members regarding non-declaration of interests.
- Multiple breaches of the *Local Government (Functions and General) Regulations 1996* by the CEO, Council and the Shire in relation to the procurement, tendering and contract obligations of the regulations.
- Breaches by the CEO in relation to keeping of records and misuse of confidential information.

*Item 11.7 Continued*

During the finalisation of the report a Show Cause notice was issued to the Shire of Perenjori by the Minister for Local Government resulting in the resignation of a number of Councillors. As a consequence a Commissioner was appointed to the Shire of Perenjori until elections are held in 2020. The appointment of a Commissioner effectively made the recommendations of the report redundant apart from those addressing the record keeping practices.

### **OFFICER COMMENT**

This comparison report represents an assessment of the Council minute process and content, and procurement practices by the City of Belmont. It should be noted that a number of areas in the Inquiry Report have been the subject of recent operational comparison reports into audits conducted by the Office of the Auditor General (OAG) (eg: record keeping), or CCC reports into tendering practices.

The City of Belmont has also been the subject of direct OAG financial audits and an independent review of procurement practices. Changes to purchasing policies and processes have been undertaken as a result to further strengthen the City's practices.

These areas have not been compared as part of this operational assessment.

The methodology used to determine the City's rating against the findings raised was through verification of the Minute contents in line with regulatory requirements and cross referencing of disclosure information.

The City of Belmont responses and assessment scores have been compiled as a result of the internal review.

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

| <b>Score</b> | <b>Assessment Criterion</b>   |
|--------------|---|
| <b>5</b>     | Fully complies with DLGSCI expectations                                   |
| <b>4</b>     | Mostly complies with DLGSCI expectations – good process in place          |
| <b>3</b>     | Partially complies with DLGSCI expectations – reasonable process in place |
| <b>2</b>     | Some compliance with DGLSCI expectations – requires review of process     |
| <b>1</b>     | Does not comply with DGLSCI expectations                                  |

#### **1. Issues arising from the Inquiry Report**

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



Item 11.7 Continued

### 1.3. Procurement and Tendering

The Inquiry Report found that the Shire of Perenjori CEO and Council failed to comply with the requirements of the *Local Government (Functions and General) Regulations 1996* in relation to the maintenance and content of the tenders register, the calling of tenders and confidentiality provisions for the tender process. It was also found that the Shire of Perenjori did not comply with the provisions of its purchasing policy.

A review of the City's Tender register found that it was current and contained all required information as per the regulations. The City has recently amended procurement procedures to ensure that the purchasing policy is adhered to following an internal review which indicated some potential areas of weakness. The recommendations from the internal review are currently being implemented.

**Overall Assessment** 4

### 1.2 Content of Minutes

The regulatory requirements pertaining to the content and structure of Council Meetings and minutes are very clear. A random sampling of various Council Meetings over a five year period found that the content of the minutes was as per the regulatory requirements and departmental guidelines.

Further a cross reference of disclosures contained in Annual Returns and the Disclosure Register found that appropriate disclosures had been made by members and recorded in the Minutes.

**Overall Assessment** 5

## 2. Conclusion

Of the areas identified above through the Inquiry Report, the City of Belmont complies with all of the findings. This is being assessed using the compliance rate adopted.

| Score        | Number Assessed at |
|--------------|--------------------|
| 5            | 1                  |
| 4            | 1                  |
| 3            | 0                  |
| 2            | 0                  |
| 1            | 0                  |
| <b>Total</b> | <b>2</b>           |

Previous recent comparison reports have also indicated compliance with the other areas contained in the report such as record keeping, tendering and conflict of interest.

Given that these areas of tendering, procurement, conflict of interest and recordkeeping are consistently being identified as areas of risk of misconduct in local government by the CCC and the DLGSCI, it is recommended that Council continue to consider these areas where identified, as an opportunity for improvement.

There are no actions requiring remediation as a result of this comparison report.

*Item 11.7 Continued*

**FINANCIAL IMPLICATIONS**

There are no financial implications evident at this time.

**ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications associated with this report.

**SOCIAL IMPLICATIONS**

There are no social implications associated with this report.

**OFFICER RECOMMENDATION**

**BACK MOVED, MARKS SECONDED**

***That the Standing Committee (Audit and Risk) receive the above report and recommend that Council:***

- 1. Receive the report from the Department of Local Government Sporting and Cultural Industries 'Report of the Inquiry into the Shire of Perenjori' ([Attachment 6](#)), and***
- 2. Forward a copy of the 'Operational Comparison – Department of Local Government, Sport and Cultural Industries: Report of the Inquiry into the Shire of Perenjori' to the Minister for Local Government.***

**CARRIED 3 VOTES TO 0**

**12. NEXT MEETING**

The next meeting of the Standing Committee (Audit and Risk) will be advised.

**13. CLOSURE**

**There being no further business the Presiding Member thanked everyone for their attendance and closed the meeting at 7.43 pm.**

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**MINUTES CONFIRMATION CERTIFICATION**

The undersigned certifies that these minutes of the Standing Committee (Audit and Risk) Meeting held on 28 October 2019 were confirmed as a true and accurate record at the Standing Committee (Audit and Risk) Meeting held 24 February 2020:

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

PRINT name of the Person Presiding: **JENNY DAVIS**

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