



City of Belmont

ORDINARY COUNCIL MEETING

MINUTES

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23 November 2021

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MINUTES OF THE ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBER, CITY OF BELMONT CIVIC CENTRE, 215 WRIGHT STREET, CLOVERDALE ON TUESDAY, 23 NOVEMBER 2021 COMMENCING AT 7.00PM.

MINUTES

PRESENT

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

IN ATTENDANCE

Ms M Reid	Acting Chief Executive Officer
Ms M Bell	Director Corporate and Governance
Ms J Gillan	Director Development and Communities
Mr S Morrison	Acting Director Infrastructure Services
Mr D Boylan (<i>dep 7.36pm</i>)	Manager City Facilities and Property
Mrs M Lymon	Acting Manager Governance
Ms D Morton	Media and Communications Adviser
Mrs J Cherry-Murphy	Senior Governance Officer
Mrs H Mark	Governance Officer

MEMBERS OF THE GALLERY

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

1. OFFICIAL OPENING

7.00pm 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 Noongar Whadjuk people as the Traditional Owners of this land and pay my respects to Elders past, present and emerging. I further acknowledge their cultural heritage, beliefs, connection and relationship with this land which continues today.

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

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

2. APOLOGIES AND LEAVE OF ABSENCE

Mr J Christie (Apology)

Chief Executive Officer

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) AND DECLARATIONS BY MEMBERS

4.1 ANNOUNCEMENTS

Nil.

4.2 DISCLAIMER

7.02pm The Presiding Member drew the public gallery's attention to the Disclaimer.

The Presiding Member advised the following:

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

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

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

Nil.

5. PUBLIC QUESTION TIME

5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

5.1.1 MS L HOLLANDS ON BEHALF OF BELMONT RESIDENT AND RATEPAYER ACTION GROUP (BRRAG)

The following questions were taken on notice at the 26 October 2021 Ordinary Council Meeting. Ms Hollands was provided with a response on 10 November 2021. The response from the City is recorded accordingly:

1. In this month's budget review, there is an overall rating revenue surplus, which has increased by \$2,953,413, some of which was the FOGO grant of \$1.7m. As a result of increased surplus, was there any payment of the debt on the Belmont Hub loan? If not, what is the total amount of the loan, the interest rate, and terms of the loan?

Response

The additional forecasted surplus has not been used to pay off the debt for Belmont Hub. The surplus of \$2.9m is mainly broken down as follows:

- Transfer of \$750K to Miscellaneous Entitlement Reserve for employee entitlement costs
 - Transfer of \$413K to Property Development Reserve
 - Waste Management Reserve - \$622K as Eastern Metropolitan Regional Council (EMRC) dividend transferred to this reserve
 - Various carry over projects - \$1,026K.
2. If the Belmont Hub debt was not repaid, why was a large portion of the surplus income directed into the reserves, such as the property development fund reserve?

Item 5.1.1 Continued

Response

In the 2021-2022 budget \$581K is planned to be taken out of the Property Development Reserve, as such the transfer of \$413K to this Reserve was to replenish this reserve.

3. In February, I asked how much was paid for the gratuity and the response was \$1.7m. In this budget review there is an amount of \$750,000 transferred to reserves for unforeseen employee entitlements. Can you advise what these entitlements might be?

Response

As per the budget information released, \$750,000 was transferred in the budget review to allow for contractual employment costs. These employment costs may cover legislative entitlements such as severance, annual leave, gratuity, and long service leave entitlements.

4. Does that mean that adding in the \$750,000, the gratuity now is potentially \$2.5m?

Response

No.

5. Cr Davis indicated last week that the City of Belmont employment contracts were no longer federal, but state Enterprise Bargaining Agreement's (EBA). Can you confirm if the gratuity clause now complies with the state regulations and if it is capped at \$5,000 per leaving staff member? If not, why not, and does it now comply? When can we expect the policy to be updated accordingly?

Response

As previously advised, it is intended that the Gratuity Policy will be reviewed as part of new Enterprise Agreement discussions that will form part of the transfer to the state industrial system.

Any action to amend the current Enterprise Agreements would necessitate full consultation and negotiation with affected employees and their representatives with approval by employee ballot to be achieved before it can be sent for approval by the Fair Work Commission. The City does not have approval under the Act to amend the Agreements at will.

5.1.2 MR D SMITH, 87 TOORAK ROAD, RIVERVALE

The following question was taken on notice at the 26 October 2021 Ordinary Council Meeting. Mr Smith was provided with a response on 10 November 2021. The response from the City is recorded accordingly:

1. I was contacted by the Chairperson of BRRAG shortly after nominating for the recent Local Government Elections. Several issues were raised, including the possibility of supporting myself as a candidate for election. It is a matter of public record that other candidates were similarly contacted. It is also a matter of public record that BRRAG supported candidates in this election which included statements on its own and other Facebook pages and direct canvassing of electors. It is also likely that BRRAG via its office holders engaged in additional electoral conduct in the form of the Facebook page Time for Change WA and by various accounts commenting on social media. A reasonable person would consider the services provided by BRRAG as both a gift in excess of \$200 and electoral conduct within the meaning of the *Local Government (Elections) Regulations 1997* and the *Local Government Act 1995* respectively. Is the City able to provide an explanation why the aforementioned gift has not been declared by donor or candidate and how would a possible breach of Section 4.85(1) of the *Local Government Act 1995* be raised by concerned electors and addressed by the City?

Response

All Candidates in the City of Belmont 2021 Local Government Elections were provided information outlining the requirements for disclosure of gifts in accordance with the *Local Government Act 1995*, s.4.59 and *Local Government (Elections) Regulations 1997*, r.30D, and provided a copy of Form 9A. It is the responsibility of the Candidate and Donor to disclose the required detail if a gift is made.

Section 4.85(1) of the *Local Government Act 1995* sets out electoral offences of bribery and undue influence. If a breach of Section 4.85(1) is alleged in the course of an election, a complaint can be made to the WA Electoral Commission along with the relevant evidence and the complaint will be investigated accordingly. If it is alleged that there was influence over the outcome of an election, a complaint can be made through the Court of Disputed Returns in accordance with Schedule 2.3, Division 3 of the *Local Government Act 1995*.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

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

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

5.2.1 Ms L HOLLANDS ON BEHALF OF BELMONT RESIDENT AND RATEPAYER ACTION GROUP (BRRAG)

1. I asked about the new Gratuity Policy recently and was told the changeover to State awards was still being done. How many new staff have joined the City of Belmont since 1 July 2021 and are they still being signed up on the Federal Agreement or have they been signed up on a State Agreement. If it is a State Agreement, has the City of Belmont amended the gratuity component to reflect the regulations of the payment limit to be \$5,000?

Response

The Acting Chief Executive Officer stated the question would be taken on notice.

2. I was an observer at a meeting between a resident, three managers and an interpreter last week. It was stated that the operational costs of the Belmont Hub (the Hub) were around \$700,000 per year. The Manager then went on to say the cleaning costs amounted to around \$400,000 a year.

There is a lot of glass in the Hub, not to mention high ceilings, does this figure include cleaning them, or is that an additional cost when needed and did the City put the cleaning out to tender or how was the cleaning company appointed?

Response

The Manager City Facilities and Property stated the cleaning costs include periodical cleaning of glass and high-level cleaning. The City went through a competitive tender process for the contract.

3. What areas of the Hub are covered under the cleaning costs?

Response

The Manager City Facilities and Property stated all areas of the Hub are covered under the cleaning costs, including the library, the museum, and the common areas in use for the Seniors and the Not-for-Profit area on the second floor, these tenants also pay a contribution towards the variable outgoings of the building.

4. Would they contribute to the cleaning of their particular area, not the common area?

Response

The Manager City Facilities and Property stated the contract does not include cleaning of individual private tenancies, just the common areas that are shared use.

5. Who pays for the cleaning of the café?

Response

The Manager City Facilities and Property stated the café owner would pay for their own cleaning.

Item 5.2.1 Continued

6. The Belmont City Bowling Club (BCBC) told me that last weekend and the weekend before they had to go and do their own greens before they could use them. Cr Janet Powell raised a motion, supported by Council to do something about the situation. When is it intended to bring this matter before Council as per the motion of former Councillor Powell?

Response

The Acting Chief Executive Officer stated that it is anticipated the item will come to the February 2022 Ordinary Council Meeting.

7. What will be happening to the Seniors if they keep maintaining their greens in the meantime?

Response

The Acting Chief Executive Officer stated the understanding is that the greens are being maintained to a playable standard.

The Manager Facilities and Property further stated, the Belmont Sport and Recreation Club (BSRC) confirm the greens are being maintained. They are not maintained to the Pennant Standards, as there is no sub-lease or agreement with a third party.

8. The Chief Executive Officer previously did state that the greens would be used to the standard, whether or not the agreement was signed, so why has that changed?

Response

The Acting Chief Executive Officer stated the question would be taken on notice.

9. Cassie Rowe gave a significant grant to the BCBC for new synthetic turf. As the City of Belmont owns the right to the land, what is preventing the City moving forward and allowing this turf to be installed so that the grant is not withdrawn for not being completed. If its withdrawn, is the City of Belmont going to replace the money with ratepayer funds in the event they are partially responsible for the delay?

Response

The Acting Chief Executive Officer stated the grant to install a synthetic green is subject to a contribution from the BCBC. It is understood that the Bowling Club are not willing to contribute those funds until there is a formal agreement in place with the BSRC for the use of the greens by the BCBC.

10. Would it be appropriate for the Bowling Club to write to you directly to explain their position?

Response

The Manager City Facilities and Property stated the BCBC are seeking a longer tenure over the land. The City is awaiting a formal response to a proposal that has been made to them, giving them tenure that will run concurrently with the BSRC lease.

5.2.2 MR L ROSOLIN, 355 SYDENHAM STREET, BELMONT

1. My question is in relation to Item 12.5 on the Agenda. Are we still charging them rubbish, now that they are not paying rates?

Response

The Acting Director Infrastructure Services stated all properties pay a waste sanitation fee, which is a separate charge, however, the question will be taken on notice to confirm the response.

2. There was an expense on the accounts of \$21,808.56 for catering for the Mayoral Dinner on the 22 October. What does this cost relate to?

Response

The Director Corporate and Governance stated the cost would relate to the catering for the Mayoral Dinner function.

3. How many people attended this function?

Response

The Director Corporate and Governance stated the question would be taken on notice.

4. The total outstanding Creditor account as at 31 October 2021 is \$793,660.97, what is that referring to?

Response

The Presiding Member stated the question would be taken on notice.

5.2.3 MR P HITT, 14 MCLACHLAN WAY, BELMONT

1. Can the Acting Chief Executive Officer please inform the ratepayers why the Elected Member's Contact Details and Membership Register has not been updated on the Council website yet?

Response

The Acting Chief Executive Officer stated the question would be taken on notice.

2. The Council recently increased the fines for abandoned shopping trollies(*sic*) in its local By Laws. From my observations and those of other members of the public, the abandonment of shopping trollies(*sic*) has not decreased one iota.

Will it take the City of Belmont being sued before it takes action on this long running issue?

Response

The Director Development and Communities stated the City has been taking action against the trolleys since the increase in the fines, which did have an immediate impact. The City is aware of the recent spike in the number of abandoned shopping trolleys and the City's Rangers are following up on this. If there is an abandoned shopping trolley, please ensure it is reported.

Item 5.2.3 Continued

3. To enable the reduction of shopping trollies (*sic*) dumped on the streets of Belmont, do you agree that for the City's By-Laws to work, they need to be policed?

Response

The Director Development and Communities stated they are policed.

4. When is this going to happen?

Response

The Presiding Member stated, as the Director has just said, they are being policed.

5.2.4 MS J GEE, 2/97 GABRIEL STREET, CLOVERDALE

1. This year at a full Council Meeting, a deputation by Mr Paul Hitt was refused. The ratepayer was unable to present it because it was late notice of an item on the Council website. Recently, a deputation was presented at an Agenda Briefing Forum (ABF) but was also refused. Is this Council pursuing a policy of ignoring or cutting back feedback from its ratepayers on items concerning its residents and ratepayers?

Response

The Presiding Member stated the City allows people to ask questions at an Ordinary Council Meeting (OCM) and anyone directly involved in an item can make submissions and deputations at an ABF. Statements and deputations at Public Question Time are not permitted.

2. My question related to the fact that it seems that some deputations are not being allowed at an ABF.

Response

The Presiding Member stated Mr Hitt, attended an Ordinary Council Meeting wishing to make a statement. I do not allow statements at Public Question Time.

3. Can Council tell me how many employees, who worked for the City of Belmont for five years or more, have left within the last two years and can this please be broken down to departments? Out of those how many were of retirement age?

Response

The Presiding Member stated the question would be taken on notice.

4. Do City Officers visit the Bowling Club and look at the property including BSRC. Are they looking to see what is happening?

Response

The Manager City Facilities and Property stated the City undertook a building audit two weeks ago and had a building condition report commissioned, which is expected to be reported on shortly. The greens are being mowed and maintained.

5.2.5 Ms L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE

1. Section 8.12(1) (a) of the *City of Belmont Standing Orders Local Law 2017* refers to Point of Order under conduct of Members. Section 9.2 and 9.3 refer to Point of Order under the heading "Preserving order during a debate". Where does it state in the Standing Orders that a Point of Order can be called by a Councillor during Public Question Time because they don't like the question and how is this complying with the *Local Government Act 1995*?

Response

The Acting Manager Governance stated at any time during the meeting, a Member can call a Point of Order.

2. Where does it say that it can be called during Public Question Time?

Response

The Presiding Member stated, the Standing Orders state that a Point of Order can be called at any time during the meeting.

Ms Hollands asked a further question at this point which was ruled out of order in accordance with the Rules for Council Meeting Public Question Time Rule (e) being:

'Questions which are considered inappropriate; offensive or otherwise not in good faith; duplicates or variations of earlier questions; relating to the personal affairs or actions of Council members or employees; legal advice; legal proceedings or other legal processes; or would otherwise impose an unreasonable resource impost on the City; will be refused by the Presiding Member as 'out of order' and will not be recorded in the minutes'; and

City of Belmont Standing Orders 2017, Section 9.5 (2)(a) being:

'A ruling by the Presiding Member on a point of order –

- (a) is not to be the subject of debate or comment; and*
- (b) is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling'*

3. Why are Councillors raising Points of Order during Public Question Time, and where does it specifically say that this can be done?

Response

The Presiding Member stated the question would be taken on notice.

4. In terms of the Standards Panel, if this behaviour is allowed and is incorrect, who is the guilty party, the Mayor who allowed it, or the Councillor who called the Point of Order?

Response

The Presiding Member stated the question would be taken on notice.

5. At the last Council Meeting, a candidate at the election made unfounded allegations that it was a matter of public record that BRRAG supported candidates in the election. The response was taken on notice to provide a comprehensive answer in respect of all components of the question asked. How is the City of Belmont going to give details regarding BRRAG or myself, given the allegations were the main components of the question?

Item 5.2.5 Continued

Response

The Presiding Member stated a response was provided to Mr Smith and was included in the Agenda.

6. I previously asked what percentage of members in the Belmont area made up the list of members of the BSRC and the Minutes indicate more than 50%. Could the City of Belmont please provide the specific percentage, as we, the Belmont ratepayer have funded this club significantly over the years?

Response

The Presiding Member stated the question would be taken on notice.

7.36pm As there were no further questions, the Presiding Member declared Public Question Time closed.

7.37pm The Manager City Facilities and Property departed the meeting and did not return.

6. CONFIRMATION OF MINUTES/RECEIPT OF MATRIX

**6.1 SPECIAL COUNCIL MEETING HELD 18 OCTOBER 2021
(Circulated under separate cover)**

OFFICER RECOMMENDATION

SEKULLA MOVED, CARTER SECONDED

That the Minutes of the Special Council Meeting held on 18 October 2021 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 9 VOTES TO 0

**6.2 ORDINARY COUNCIL MEETING HELD 26 OCTOBER 2021
(Circulated under separate cover)**

OFFICER RECOMMENDATION

DAVIS MOVED, BASS SECONDED

That the Minutes of the Ordinary Council Meeting held on 26 October 2021 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 9 VOTES TO 0

**6.3 MATRIX FOR THE AGENDA BRIEFING FORUM HELD 16 NOVEMBER 2021
(Circulated under separate cover)**

OFFICER RECOMMENDATION

SESSIONS MOVED, DAVIS SECONDED

That the Matrix for the Agenda Briefing Forum held on 16 November 2021 as printed and circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

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

Nil.

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

Nil.

8.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

Nil.

8.2 QUESTIONS BY MEMBERS WITHOUT NOTICE

Nil.

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

Nil.

10. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

11. REPORTS OF COMMITTEES

Nil.

12. REPORTS OF ADMINISTRATION

WITHDRAWN ITEMS

Item 12.2 was withdrawn at the request of Cr Davis
Item 12.7 was withdrawn at the request of Cr Rossi

SEKULLA MOVED, BASS SECONDED

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

CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0

12.1 CHANGE OF USE – ANIMAL CARE SERVICES (USE NOT LISTED) – ST LOT 3 SP 58377 (3/39) LEAKE STREET, BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 1 – Item 12.1 refers	Development Plans
Attachment 2 – Item 12.2 refers	Applicant's Cover Letter

Voting Requirement : Simple Majority
Subject Index : 115/001-Development/Subdivision/Strata-
Applications and Application Correspondence
Location / Property Index : St Lot 3 SP 58377 (Unit 3 / 39) Leake Street, Belmont
Application Index : 366/2021/DA
Disclosure of any Interest : Nil
Previous Items : N/A
Applicant : Altus Planning
Owner : Rasa Hanssen
Responsible Division : Development and Communities Division

COUNCIL ROLE

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

Item 12.1 Continued

PURPOSE OF REPORT

For Council to consider an application for a change of use from 'Showroom' to a 'Animal Care Services' (Use Not Listed) and associated signage at Unit 3/39 Leake Street, Belmont (refer [Attachment 1](#) and [Attachment 2](#)).

SUMMARY AND KEY ISSUES

- The City has historically classified dog grooming services as a 'Shop'. This approach was appropriate in the context of the previous applications and their location in the Commercial Zone.
- The applicant proposes to establish a dog grooming service at Unit 3/39 Leake Street which is in the Mixed Use Zone.
- A 'Shop' land use is not permitted in the Mixed Use Zone. Adhering to the historical approach of classifying the proposed dog grooming service as a Shop would mean that the proposal could not be approved at the subject property. Such a decision is questionable as the Local Planning Scheme provides that other land uses such as Pet Day Care, Veterinary Centre, Vet Consulting Rooms and Vet Hospital may be supported in the Mixed Use Zone.
- It is noted that an approved Veterinary Hospital is operating at the neighbouring Unit 4/39 Leake Street.
- In thoroughly assessing the nature of the use within the context of this application, it is now considered appropriate to apply a specific 'Animal Care Services' land use definition to the proposed dog grooming salon.
- It is considered appropriate to define 'Animal Care Services' so as to capture businesses of a similar nature which may also provide care for a variety of domestic animals.
- As 'Animal Care Services' is a use not listed in Table 1 – Zoning Table of Local Planning Scheme No. 15 (LPS15), the application was advertised to property owners and occupiers within 200m of the site for comment. One submission was received which raised concerns in respect to car parking.
- The subject strata lot has exclusive use of three car parking spaces, and shared access to two visitor car parking spaces. It is considered that the on-site car parking provision is adequate and the change of use will not result in undue traffic and parking difficulties at the site.
- The use is considered consistent with the objectives of the Mixed Use Zone. The implementation of a Management Plan will ensure that any impact on the amenity of the locality is mitigated and car parking is appropriately managed. It is recommended that the Council approves the application subject to conditions.
- It is also recommended that Council determine that the 'Animal Care Services' as a Use Not Listed may be permitted subject to advertising in the Town Centre, Commercial, Mixed Use, Mixed Business, Industrial and Residential and Stables Zones, and that it is not permitted in the Residential and Special Development Precinct Zones.

Item 12.1 Continued

LOCATION

The parent site is 2,100m² in area and is located at the corner of Leake Street and Great Eastern Highway (refer **Figure 1**). The subject tenancy is 108m² in area and is located within the north-east of the site facing Great Eastern Highway (refer **Figure 2**).



Figure 1 – Aerial of Subject Site

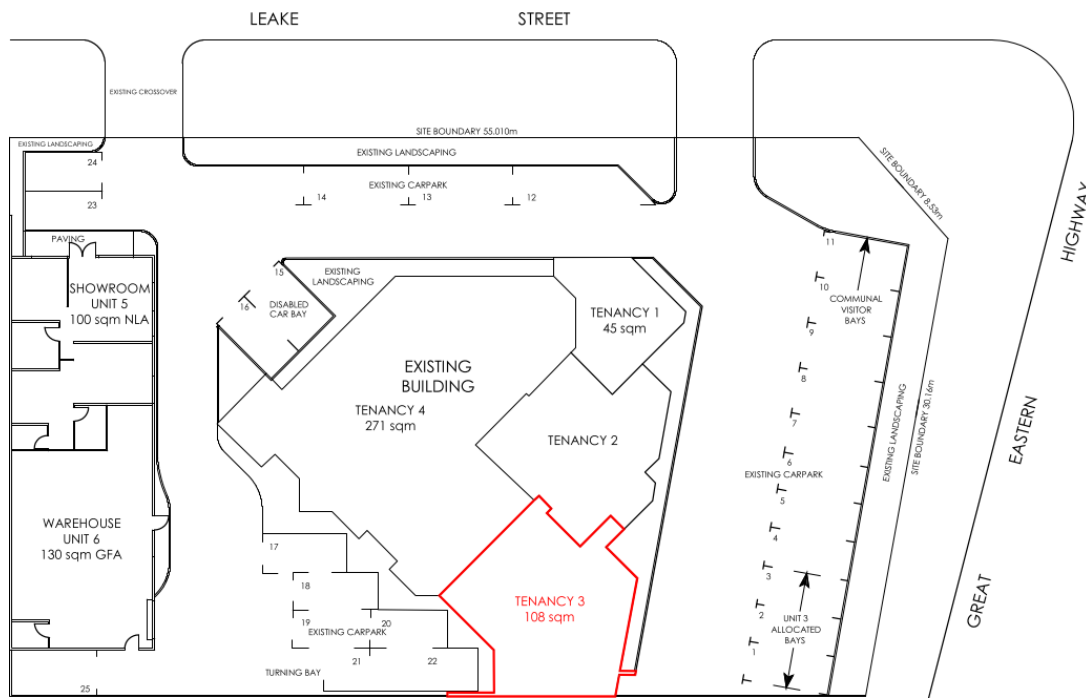


Figure 2 – Site plan showing subject tenancy (outlined in red)

Item 12.1 Continued

CONSULTATION

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

'Animal Care Services' is a use not listed in the Zoning Table of LPS15. As such, advertising is required in accordance with Clause 64(1)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 2 – *Deemed Provisions for Local Planning Schemes* (the Deemed Provisions). The application was advertised to all landowners and occupiers within a 200m radius and a sign was erected on the site from 15 September 2021 to 13 October 2021 inclusive.

At the conclusion of advertising, one submission was received. The submission raised concerns in relation to car parking. The matter of car parking is discussed within the Officer Comment section of this report.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal: Responsible Belmont

Strategy:

- 5.5 Engage and consult the community in decision-making.
- 5.6 Deliver effective, fair and transparent leadership and decision-making, reflective of community needs and aspirations.

POLICY IMPLICATIONS

Local Planning Policy No. 12 – Advertisement Signs

The proposal includes associated signage comprising a Wall Sign and Window Signs. Local Planning Policy No. 12 – Advertisement Signs (LPP12) sets out the development requirements for all signage applications within the City. The following 'Policy Objectives' under Part 3 and 'General Requirements' under Part 6.1 of LPP12 are of relevance to this application:

- 3.1 *Ensure that advertisement signs are appropriate for their location, related to the land and/or buildings for which they are placed, and do not adversely impact on the amenity of the surrounding area.*
- 3.3 *Ensure the advertisement signs only advertise services offered and/or products produced, sold and/or manufactured on the land or building/s relating to the approved use/s taking place.*
- 3.4 *To ensure advertisement signs do not pose an unnecessary risk to the safety of people and vehicle by virtue of their location, design, use and function.*

Item 12.1 Continued

6.1.1 Advertisement signs shall only advertise services and products available on the premises to which it relates. Third party advertising is not permitted.

6.1.3 Advertisement signs that will or are likely to cause interference with or be hazardous to vehicular traffic and pedestrians, are prohibited.

STATUTORY ENVIRONMENT

Local Planning Scheme No. 15

Land Use Definition

In accordance with Schedule No. 1 – Land Use Definitions of LPS15, it is relevant to consider the following land use definitions:

Dog Kennels:	Means any land and building used for the boarding or breeding of dogs where such premises are registered or required to be registered by the local government under any written law; and may include the sale of dogs where such use is incidental to the predominant use.
Pet Day Care:	Involves the use of any land or building for the day time care of pet animals, but does not involve the boarding of animals overnight, or the provision of substantial meals. The term may include limited and incidental provision of food by way of “treats” as part of play or training, or as an adjunct to the administration of an animal’s requirement for medication. The term does not include a use that involves injury or risk of injury or prejudicial impact upon the amenity of the relevant locality by reason of the emission noise, smell, waste water or other waste products.
Shop:	Means premises other than a bulky goods showroom, a liquor store — large or a liquor store — small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.
Vet Consulting Room:	Means any land and/or building where a veterinary surgeon or veterinarian treats the minor ailments of domestic animals and household pets as patients but in which animals or pets do not remain overnight, and may include a dispensary of medications incidental thereto.
Veterinary Centre:	Means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases or disorders.
Veterinary Hospital:	Means any land and/or building used in connection with the treatment of animal injuries and ailments, and includes the care and accommodation of animals during or after such treatment.

Item 12.1 Continued

Mixed Use Zone Objectives

The subject site is zoned 'Mixed Use' under LPS15. The objectives of the zone as set out in Clause 3.2 of LPS15 are:

The Mixed Use Zone is intended to allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads.

Use Not Listed

Clause 3.4 of LPS 15 sets out the interpretation of the Zoning Table and the process for assessing a Use Not Listed, as follows:

3.4.1. *Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*

3.4.2. *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may:*

- a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b) *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures contained in Clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2; or*
- c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 Part 9 Clause 67(2) of the Planning Regulations states the matters to be considered by local government in determining a development application. In summary, the following matters are of particular relevance to this application:

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area.*
- (b) *The requirements of orderly and proper planning.*
- (g) *Any local planning policy for the Scheme area.*
- (s) *The adequacy of –*
 - i. *The proposed means of access to and egress from the site; and*

Item 12.1 Continued

- ii. *Arrangements for the loading, unloading, manoeuvring and parking of vehicles.*
- (x) *The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals.*
- (y) *Any submissions received on the application.*

Deemed Refusal

Under Clause 75 of the Deemed Provisions, the local government is taken to have refused to grant development approval if an application is not determined within 90 days from lodgment.

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

The deemed refusal date for this application passed on 18 October 2021 and the applicant already has deemed refusal rights.

Right of Review

Is there a right of review? Yes No

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

BACKGROUND

Lodgement Date:	20 July 2021	Use Class:	Animal Care Services (Use Not Listed)
Lot Area:	Parent lot: 2,100m ² Strata lot: 140m ²	LPS Zoning:	Mixed Use
Estimated Cost of Development:	\$15,000	MRS:	Urban

Existing Development

The subject site contains two commercial buildings comprising five strata lots and a total of 26 car parking spaces. The approved land uses of the tenancies are as follows:

- Strata Lot 1 – ‘Showroom’
- Strata Lot 2 – ‘Massage Parlour’
- Strata Lot 3 (subject site) – ‘Showroom’
- Strata Lot 4 – ‘Veterinary Hospital’
- Strata Lot 5 – ‘Showroom’ and ‘Warehouse’.

Item 12.1 Continued

The subject tenancy is currently vacant. It appears that the former tenant vacated the premises in 2019 – 2020.

Land Use

The key aspects of the proposed 'Animal Care Services' use are as follows:

- The proposal is for a business known as Pink Paws Mobile Dog Washing and Grooming. The business currently offers a mobile service as well as an in-house drop off service to its clients.
- The business will operate on an appointment only basis, operating between 9.00am – 5.00pm Monday to Saturday, and 12.00pm – 4.00pm Sunday.
- The business anticipates serving up to 15 dogs per day, with a maximum of six dogs onsite at any one time. The business is to schedule appointments in such a way that a maximum of two clients may be onsite at any one time.
- A maximum of two employees will be onsite at any one time.
- The business expects deliveries by a small commercial vehicle once a month.
- An internal fit-out of the tenancy is proposed, however no structural or external works are proposed with the exception of signage.
- The application also proposes a non-illuminated wall sign and two window signs to the existing building.

OFFICER COMMENT

The key planning considerations relating to the application are discussed below.

Land Use

Land Use Definition

The City has previously determined two applications for dog grooming services as 'Shop'. The most recent decision was in 2007. It is noted that the decision to classify dog grooming as a Shop is consistent with the rationale that hairdressing or beauty therapy services are also grooming services and the activities could be considered similar in nature.

The subject site is located in the Mixed Use Zone, and 'Shop' is an 'X' use and is not permitted. However, it is acknowledged that the parent lot is currently occupied by a Veterinary Hospital which is an 'A' use in the Mixed Use Zone. While dog grooming is not considered to fall within the definition of 'Veterinary Hospital', both are uses associated with animal care. Notably, dog grooming entails fewer onsite activities in comparison to a Veterinary Hospital and is considered less likely to adversely impact on the amenity of the locality. This application therefore raises question of whether classifying dog grooming services as 'Shop' is appropriate.

Item 12.1 Continued

'Shop' is defined in LPS15 as:

'premises other than a bulky goods showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services'.

Notwithstanding the previous decisions, the applicant contends that the suitability of the 'Shop' classification is also dependent on the services provided being of a 'personal nature'. The term 'personal nature' is taken to mean that recipient of the service is a person. It is on this basis that the hairdressing and beauty therapy services are used in the definition, as in both examples, the recipient of the service are persons. It can therefore be argued that dog grooming services cannot be appropriately classified as a service of a personal nature and should not be categorised as a 'Shop'.

It is noted that there are a number of land uses associated with animal care defined in LPS 15, including 'Pet Day Care', 'Veterinary Centre', 'Vet Consulting Rooms' and 'Veterinary Hospital'. While some of these uses might provide dog grooming as an incidental service, it is not the primary activity. On this basis, it would be inappropriate to categorise a dedicated dog grooming service under any of the above uses. It is therefore considered appropriate to classify the proposal as a Use Not Listed.

While future applications for the same land use would require approval as a Use Not Listed, it is beneficial for Council to establish clear parameters for considering such applications in order to facilitate orderly and proper planning.

It is recommended that Council contemplates an 'Animal Care Services' land use so as to capture businesses of a similar nature which may also provide care for other domestic animals. This land use can be defined as follows:

Animal Care Services:	Means premises used for the caring and grooming of domestic animals and household pets, where the use does not cause the emission of noise, smell or waste products that adversely impact on the amenity of the locality. The term does not include premises used to diagnose or treat animal injuries and ailments.
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Objectives of the Zones and Land Use Permissibility

Further to contemplating the 'Animal Care Services' use, it is necessary to consider the suitability of the land use against the objectives of the Mixed Use zone in the case of this application, as well as other zones within the City's Local Planning Scheme for future proposals that the City might receive.

Local Planning Scheme No. 15 outlines the objectives of the Mixed Use Zone as follows:

The Mixed Use Zone is intended to allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, amusement centres, eating establishments and appropriate industrial activities which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents. Buildings should be of a high standard of architectural design set in pleasant garden surrounds with limited vehicular access from properties to primary roads.

Item 12.1 Continued

The proposed 'Animal Care Services' use is a service activity that is considered to align with the objectives and will not generate nuisances detrimental to the amenity of the locality. The use is also proposed to use the existing building and access arrangement, which means that the building and access criteria of the objectives are unaffected.

When determining the suitability of a Use Not Listed, it is beneficial to consider similar uses capable of approval within the zone. The following table outlines the permissibility of animal related uses in the respective zones.

Use Class	Residential	Town Centre	Commercial	Mixed Use	Mixed Business	Industrial	Residential and Stables	Special Development Precinct
Dog Kennels	X	X	X	X	X	X	X	X
Pet Day Care	X	A	X	A	A	D	A	X
Veterinary Centre	X	X	A	A	D	D	A	X
Vet Consulting Rooms	X	D	D	D	D	D	D	X
Vet Hospital	X	X	X	A	D	D	A	X

It is considered that the nature of the proposed use is similar to the above examples and has equal or reduced amenity impacts. As the above uses may be considered to be consistent with the objectives of the zone, the proposed Animal Care Services use can also be acceptable, subject to meeting the site development requirements.

Having regard for the above, it is recommended that Council also determines that 'Animal Care Services' as a Use Not Listed in the Scheme may also be permissible subject to advertising ('A' use) in the Town Centre, Commercial, Mixed Use, Mixed Business, Industrial, and Residential and Stables Zones given the 'D' or 'A' use classification of the other low impact animal related uses.

As with the prohibition of animal related land uses in the Residential and Special Development Precinct Zones, it is recommended that Council determines that the 'Animal Care Services' as a Use Not Listed in the Scheme is not permitted ('X' use) in the Residential and Special Development Precinct Zones.

Impact of the proposed Animal Care Services land use on the amenity of the locality

As the development site adjoins a residential property it is necessary to consider the potential amenity impacts of the use. The main amenity impact in this case would be the potential for dogs to bark. It is considered that the following factors mitigate this issue:

- The dogs are always kept indoors and all grooming occurs indoors.
- The application does not propose for dogs to be kept at the premises overnight or unsupervised. Staffing arrangements provide that dogs would be monitored and controlled.
- It is anticipated that there will be a maximum of six dogs on site at any time.
- The operating hours are between 9.00am – 5.00pm Monday to Saturday, and 12.00pm – 4.00pm Sunday.

Item 12.1 Continued

- The adjoining residential property at 41 Leake Street is largely screened by the Warehouse/Showroom building at the rear of the subject site. This building includes a 28m long concrete boundary wall that provides a significant level of screening.

Should Council determine to approve the application, it is recommended that a condition is imposed to require the submission and ongoing implementation of a Management Plan to address matters including but not limited to:

- The maximum number of animals permitted on the premises at any one time
- Control measures to mitigate noise
- Appointment scheduling
- Staff and customer parking arrangements
- Complaint response procedure.

The implementation of the Management Plan will ensure amenity impacts on adjoining residential properties are managed to a level consistent with the expectations of the Mixed Use Zone.

Car Parking

In terms of a car parking standard, LPS 15 does not specify a standard for an 'Animal Care Services' use. In lieu of this, Clause 4.16.4(1) states:

"The number of spaces to be provided in respect of any particular site shall be determined by the local government, having regard to the nature of the use and the known or likely volume of goods, material or people moving to and from the site..."

The subject strata lot has exclusive rights to three car parking spaces. The complex also contains two shared visitor car parking spaces within common property.

As noted earlier, the proposal would comprise a maximum of two employees onsite at any one time. Services are by appointment only, and would be booked in such a way that a maximum of two clients would be onsite to drop off and/or pick up their dogs at any one time. Being a pick up and drop off service, clients are not expected to stay more than five minutes.

Based on the above, it is expected that a maximum of four car parking spaces may be required at any one time, constituting two parking spaces for staff and two parking spaces for clients. It is noted that this result is similar to the car parking standard of 'Vet Hospital', for which Table 2 of LPS15 requires two spaces for every employee. The two employees and one client may occupy the three parking spaces allocated to the tenancy, and one client may occupy a shared visitor space. As clients' expected length of stay is short, this will ensure turnover of visitor parking.

To determine the likely usage of the shared visitor spaces, car parking requirements have been calculated in the table below based on the previous development approvals.

Item 12.1 Continued

Strata Lot	Land Use	Parking Standard	Required Parking	Parking Allocation
1	Showroom	1 per 40m ² NLA	1 space	1 space
2	Massage Parlour	3 per massage room	3 spaces	2 spaces
3	Proposed Animal Care Services	N/A	4 spaces	3 spaces
4	Veterinary Hospital	2 spaces per employee	10 spaces	12 spaces
5	Showroom	1 per 40m ² NLA	4 spaces	6 spaces
	Warehouse	1 per 100m ² GFA		
Common property	-	-	N/A	2 visitor spaces
Total			22 spaces	26 spaces

As outlined in the table above, there is a surplus of four car parking spaces based on the current approved land uses. It is noted that the Massage Parlour was approved on the similar basis that it had access to the visitor parking spaces.

The existing onsite car parking provision is considered to be sufficient for the proposed use. Should Council determine to approve the application, it is recommended that conditions are imposed to limit the number of employees to ensure the intensity of the use is commensurate with the number of parking spaces available, car parking bays be marked for use by staff or customers as appropriate, and a management plan be submitted and implemented as previously outlined.

Signage

The application proposes the erection of a Wall Sign and two Window Signs to the façade of the existing building on the north-west elevation facing Great Eastern Highway. The proposed signs are fully compliant with Column B – Deemed to Comply criteria of Table 1 of LPP12.

The proposed signs relate to the subject premises, are wholly located within the lot boundaries, will not cause hazards to traffic or pedestrians, and are not illuminated, thereby meeting the Development Requirements of Part 6 of LPP 12.

FINANCIAL IMPLICATIONS

Should Council determine to refuse the application, the applicant may seek to exercise their right to review by the SAT. There would be costs associated with the City addressing the review.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

Item 12.1 Continued

CONCLUSION

The proposed 'Animal Care Services' facility is considered to be compatible with the objectives of the Mixed Use Zone. It is considered that the existing onsite car parking provision is adequate for the proposed use, and the associated signage satisfies the relevant assessment criteria.

On this basis, it is considered appropriate to approve the Change of Use application subject to conditions.

OFFICER RECOMMENDATION

A. That Council determine 'Animal Care Services' as a Use Not Listed in Local Planning Scheme No. 15:

- 1. Is consistent with the objectives of the Town Centre, Commercial, Mixed Use, Mixed Business, Industrial, and Residential and Stables Zones, and may be permissible subject to advertising in accordance with the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015.**
- 2. Is not consistent with the objectives of the Residential and Special Development Precinct Zones, is not permissible and should be treated as a use prohibited by the Scheme.**

B. That Council approve planning application 365/2021 as detailed in plans dated received 19 July 2021 (Floor Plan), 20 July 2021 (Site Plan) and 15 October 2021 (Elevation and Signage Plan) submitted by Altus Planning on behalf of Rasa Hanssen for Change of Use – Animal Care Services (Use Not Listed) at Unit 3 / 39 Leake Street, Belmont subject to the following conditions:

- 1. Development/land use shall be in accordance with the attached approved plans dated received 19 July 2021 (Floor Plan), 20 July 2021 (Site Plan) and 15 October 2021 (Elevation and Signage Plan), and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the City.**
- 2. There shall be no more than two employees on the site at any given time.**
- 3. Prior to commencement of the use, two of the car parking bays allocated to the subject property under the Strata Plan are to be individually marked on site as 'Staff Bays' and one as 'Short Term Customer Bays' and made available for use by staff members and visitors, respectively, at all times.**

Item 12.1 Continued

- 4. Prior to commencement of the use, a Management Plan for the facility shall be submitted for approval and implemented to the satisfaction of the City. The Management Plan shall include (but not be limited to):**
 - (a) The maximum number of animals permitted on the premises at any one time**
 - (b) Control measures to mitigate noise**
 - (c) Appointment scheduling**
 - (d) Staff and customer parking arrangements**
 - (e) Complaint response procedure.**
- 5. Signage shall only advertise the businesses operating on the subject lot.**
- 6. The signs must not contain fluorescent, reflective or retro reflective colours or materials.**
- 7. All wastewater must discharge to the Water Corporation sewer.**

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

12.2 AMENDMENT NO. 17 TO LOCAL PLANNING SCHEME NO. 15 – RE-CODING A PORTION OF DEVELOPMENT AREA 7 PRECINCT FROM R20 TO R20/40

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 3 – Item 12.2 refers	Development Area 7 Endorsed Local Structure Plan
Attachment 4 – Item 12.2 refers	Plan of Amendment No. 17
Attachment 5 – Item 12.2 refers	Bushfire Attack Level Contour Map

Voting Requirement : Simple Majority
Subject Index : LPS15/017 – Scheme Amendment 17
Location / Property Index : Lots 47 – 51 on P2252 and Lots 1 – 4 on SP43890
Application Index : N/A
Disclosure of any Interest : Nil
Previous Items : Nil
Applicant : Urbanista Town Planning
Owner : Various
Responsible Division : Development and Communities Division

COUNCIL ROLE

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

PURPOSE OF REPORT

For Council to consider initiating Amendment No. 17 to Local Planning Scheme No. 15 (LPS15) for the purposes of recoding lots from R20 to R20/40 within the Development Area 7 (DA7) precinct.

Item 12.2 Continued

SUMMARY AND KEY ISSUES

- In April 2013 the Western Australian Planning Commission (WAPC) endorsed the Ascot DA7 Local Structure Plan (LSP) (refer [Attachment 3](#)).
- The lots subject to the amendment are shown in the LSP as being 'Residential' with an R20/40 density code.
- The LSP designation of R20/40 has not been reflected in the zoning of the land under LPS15. The land is zoned R20 under LPS15.
- The subject amendment proposes rezoning the land from R20 to R20/40 to align with the coding prescribed by the LSP.
- The amendment is supported for the purpose of public advertising on the basis that the proposed R20/40 density coding is consistent with the endorsed LSP.
- It is recommended that Amendment No. 17 to LPS15 be dealt with as a 'standard' amendment.

LOCATION

The subject amendment relates to a portion of the DA7 precinct that comprises nine properties that have a total area of 7,126m².

The location of the properties is shown in Figure 1 and the existing zoning of the subject lots is illustrated in Figure 2.



Figure 1: Location plan (Source: IntraMaps)

Item 12.2 Continued

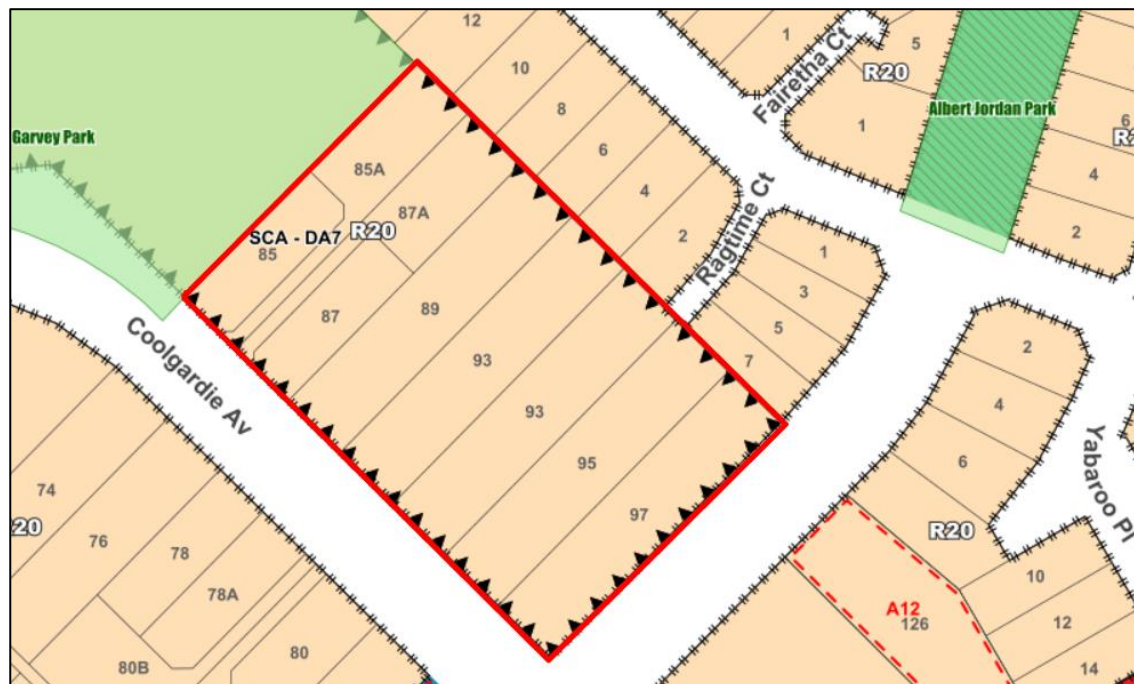


Figure 2: Existing zoning and reservation of land (Source: IntraMaps)

CONSULTATION

The *Planning and Development Act 2005* requires scheme amendments to be advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). The details of this statutory consultation process are outlined in the 'Statutory Environment' section of this report.

It should be noted that the LSP including the R20/40 designation of the subject land was advertised in early 2010. The R20/40 designation of the land was accepted in the final adoption of the LSP in 2013.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal: Responsible Belmont

Strategy:

- 5.4 Advocate and provide for affordable and diverse housing choices.
- 5.5 Engage and consult the community in decision-making.
- 5.6 Deliver effective, fair and transparent leadership and decision-making, reflective of community needs and aspirations.
- 5.7 Engage in strategic planning and implement innovative solutions to manage growth in our City.

Item 12.2 Continued

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

Section 75 of the *Planning and Development Act 2005* provides for an amendment to be made to a local planning scheme. The procedures for amending a local planning scheme are set out within Part 5 of the Regulations.

The Regulations specify three different types of Scheme amendments, being 'basic', 'standard' and 'complex'. The main differences between the amendment classifications are the differing advertising requirements, with a 'basic' amendment not having any advertising requirement unless otherwise required by the WAPC. Clause 35(2) of the Regulations requires a resolution of the local government specifying the type of amendment and the reasons for the classification.

Irrespective of the classification of the amendment, where a responsible authority (being the local government) has resolved to amend a Scheme, it shall be forwarded to the Environmental Protection Authority (EPA) to determine whether the amendment requires an environmental assessment. Where no environmental assessment is required, the responsible authority shall advertise the amendment for a period of 42 days, by way of:

- Publishing a notice in the newspaper circulating the Scheme area.
- Displaying a copy of the notice in the offices of the local government for the period of making submissions set out in the notice.
- Giving a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment.
- Publishing a copy of the notice and the amendment on the website of the local government.
- Advertising the amendment as directed by the WAPC and in any other way the local government considers appropriate.

After the conclusion of the advertising period, Council is required to consider the submissions and pass a resolution on the amendment. After passing a resolution, the amendment is to be forwarded to the WAPC to review and provide a recommendation to the Minister for Planning.

BACKGROUND

Proposed Amendment

Amendment No. 17 proposes to replace the R20 residential density coding for the properties at Lots 1-4 on Strata Plan 43890 and Lots 47-51 on P2252 Coolgardie Avenue, Ascot with a R20/40 coding. A plan showing the change in density proposed forms [Attachment 4](#).

Item 12.2 Continued

Local Planning Scheme No. 15

The subject site is zoned Residential with a density code of R20 under LPS15 and is located within the DA7 Special Control Area.

Part 5 of LPS15 sets out particular provisions that apply to land, referred to as a 'Special Control Area', that are in addition to any usual zoning and/or development requirements. Part 5 and Schedule No. 9 of LPS 15 establish a type of Special Control Area, referred to as a 'Development Area', which requires a local structure plan to be approved to guide subdivision and development.

The subject site is located in DA7, which is one of eight Development Area precincts identified in Schedule No. 9 of LPS 15, and is subject to the following provisions:

- “1. An approved Structure Plan together with all approved amendments shall apply to land in order to guide subdivision and development.
2. To provide for residential development.”

The Ascot DA7 LSP was endorsed by the WAPC on 4 April 2013 to guide future subdivision and development within DA7.

Development Area 7

The key elements of the Ascot DA7 LSP include:

- A Conservation Category Wetland that was identified during the advertising process.
- The Conservation Category Wetland does not impact upon the existing lots along Coolgardie Avenue (the subject of this Scheme Amendment) and this area has been designated as R20/40 in the Structure Plan.

Figure 3 below depicts the adopted LSP and the R20/40 density coding.

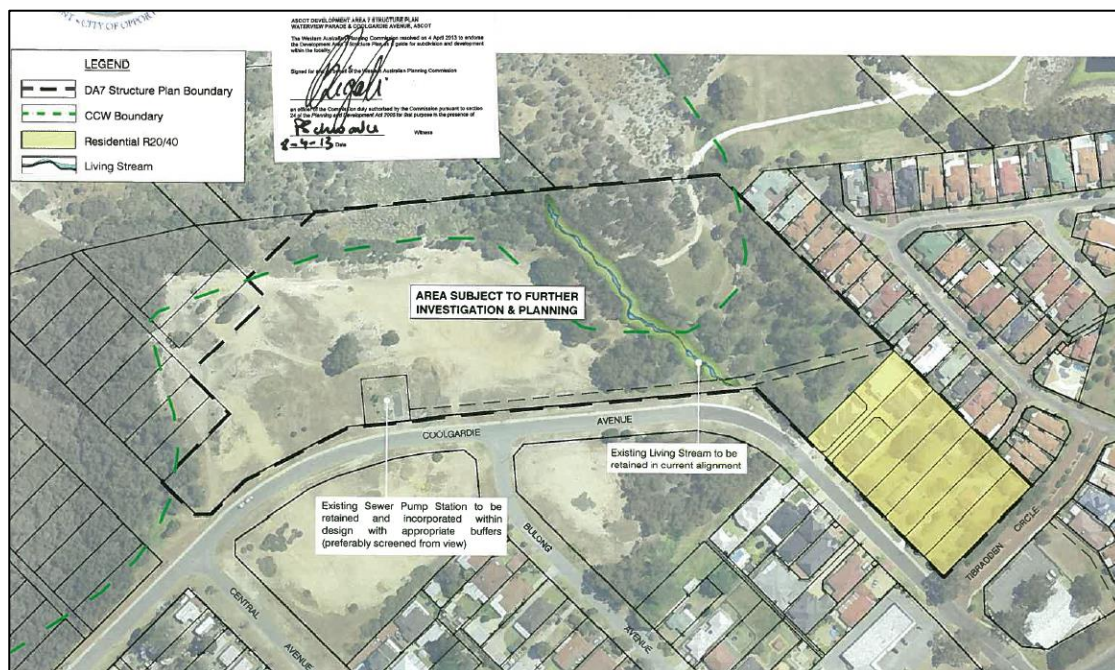


Figure 3: Adopted DA7 Structure Plan – R20/40 shaded yellow

Item 12.2 Continued

OFFICER COMMENT

In considering whether to initiate Amendment No. 17 to LPS15, Council should have regard for the adopted LSP and any changes in the planning framework since the adoption of the LSP. While matters such as soils and geotechnical capability, traffic, and service infrastructure have been investigated and resolved as part of the adopted LSP, updated requirements for planning in bushfire prone areas (State Planning Policy 3.7) as well as the impact of road and rail noise (State Planning Policy 5.4) need to be considered. These matters are discussed in further detail below.

Local Structure Plan

The lots the subject of this proposed amendment are identified as being capable of a density increase and improving the built form outcomes through allocating a flexible coding of R20/40. This will ultimately provide a transition from the existing residential area into future medium density development envisaged within the DA7 area.

Each of these existing R20 lots are approximately 1,000m² in size. As identified in LSP, an R20/40 coding would provide for a flexible neighbourhood structure capable of adapting over time to community changes and provide for a variety of residential densities, lot sizes and choice of contemporary housing options for flexible living and community diversity. The proposed Scheme Amendment enables development to occur in accordance with the WAPC endorsed Structure Plan.

Bushfire Hazard

State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP 3.7) was first implemented in December 2015, approximately two years after the adoption of the LSP. Land within DA7 is identified as being bushfire prone due to vegetation within the adjacent Garvey Park reserve (Figure 4).



Figure 4: Bushfire Prone Areas shaded pink (subject site bordered blue)

Item 12.2 Continued

The provisions of SPP 3.7 stipulates that any amendment associated with land that is designated as 'Bushfire Prone' must be accompanied by:

1. A Bushfire Attack Level (BAL) assessment and/or contour map that provides a detailed assessment of the risk and assigns a BAL rating to land based on its risk from bushfires; and/or
2. A Bushfire Management Plan (BMP) which identifies any bushfire hazard issues and clearly demonstrates that compliance with the WAPC's Guidelines for Planning in Bushfire Prone Areas (the Guidelines) can be achieved.

In accordance with the Point 1 above, the applicant has prepared a BAL Contour Map ([Attachment 5](#)). While the BAL contour map indicates that the currently vacant lots will be subject to an acceptable Bushfire Attack Level of BAL-29 or lower, several of the existing developed lots will be subject to a rating up to BAL-FZ which means a BMP should be prepared.

The requirement for a BMP was discussed further with Department of Planning, Lands and Heritage (DPLH). It was advised that a BMP is not warranted in all situations, particularly when a desktop assessment shows that compliance with the bushfire protection criteria can be achieved.

A desktop analysis demonstrates that future development of Lots 48-51 Coolgardie Avenue can meet the Bushfire Protection Criteria. In this case, future development will be located in BAL 29 or lower, provided suitable access, connected to reticulated water and constructed to an appropriate BAL level.

It is noted that western most lots abutting the source of the bushfire prone area associated with Garvey Park will be subject to the BAL-40 and BAL-FZ rating. While SPP 3.7 does not generally support the introduction of development such at these levels, these lots already contain dwellings that were developed at the R20 density prior to the introduction of the bushfire framework.

Scheme Amendment No. 17 can be supported on the basis that future development of the subject land can comply with the Bushfire Protection Criteria contained within the WAPC's Guidelines for Planning in Bushfire Prone Areas.

Transport Noise

State Planning Policy 5.4 – Road and Rail Noise (SPP 5.4) first became operational in 2009 (prior to the endorsement of the LSP), however, changes were made that became operational in September 2019. Given this, it is necessary to review compliance with the requirements of SPP 5.4.

All of the subject properties are within the area impacted by traffic noise from Great Eastern Highway. State Planning Policy 5.4 aims to protect major transport corridors from incompatible urban encroachment and protect people from unreasonable levels of transport noise by establishing a standardised set of criteria to be used in the assessment of proposals.

An assessment against the Noise Exposure Forecast Table of SPP 5.4 shows that future dwellings within the precinct will be required to be implement Quiet House Design measures during development. There are no additional requirements that need to be considered at this Scheme Amendment stage.

Item 12.2 Continued

Amendment Type

The Regulations specify three different types of Scheme Amendments, being 'basic', 'standard' and 'complex'. Clause 35(2) of the Regulations requires a resolution of the local government specifying the type of amendment and the reasons for the classification.

A standard amendment is identified by the Regulations as:

- “(a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.*
- (b) An amendment that is consistent with a local planning strategy for the Scheme that has been endorsed by the Commission.*
- (c) An amendment to the Scheme so that is consistent with a Region Planning Scheme that applies to the Scheme area, other than an amendment that is a basic amendment.*
- (d) An amendment to the Scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the Scheme for the land to which the amendment relates if the Scheme does not currently include zones of all the types that are outlined in the plan.*
- (e) An amendment that would have minimal impact on land in the Scheme area that is not the subject of the amendment.*
- (f) An amendment that does not result in any significant environmental, social, economic or government impacts on land in the Scheme area.*
- (g) Any other amendment that is not a complex or basic amendment.”*

The proposed amendment is considered to be a 'standard' amendment for the following reasons:

- The proposed amendment relates to a Residential zone and is consistent with the objectives of that zone under LPS15.
- The proposed amendment is consistent with the MRS zoning that applies to the area.
- The proposed amendment will not negatively impact on any land of the Scheme area.
- The proposed amendment will not result in any significant negative environmental, social, or economic impacts on land in the Scheme area.
- The proposed amendment is consistent with the density provided for in the LSP for DA7 endorsed by the WAPC on 4 April 2013.
- The proposed amendment will facilitate development and subdivision of this area.

Item 12.2 Continued

Impact of Amendment on Local Structure Plan

The *Planning and Development (Local Planning Schemes) Regulations 2015* requires that amendments subject to a Structure Plan include a statement detailing what will happen to the Structure Plan when the amendment takes effect. In this case, as planning for a portion of land within the Ascot DA7 LSP remains unresolved, it is considered appropriate for the approval of the Ascot DA7 LSP to remain.

Removal from Development Area 7

The DPLH have advised that as the amendment reflects the density of the adopted Structure Plan, it is no longer necessary for the subject lots to remain a part of Special Control Area DA7. On this basis, the Scheme map, and Schedule No. 9 – Special Control Areas is proposed to be amended to remove the lots subject to this amendment.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

Any environmental implications associated with subdivision and development within the DA7 precinct, such as bushfire hazard and site conditions and transport noise, will be addressed through the subsequent stages of planning.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

7.44pm **Cr Bass departed the meeting.**

7.48pm **Cr Bass returned to the meeting.**

OFFICER RECOMMENDATION

DAVIS MOVED, SEKULLA SECONDED

That Council:

- A Pursuant to Section 75 of the *Planning and Development Act 2005*, adopts for advertising the following amendment to Local Planning Scheme No. 15:**
- (i) Amending the City of Belmont Local Planning Scheme No. 15 — Map 2 of 6 Redcliffe Locality Map by replacing the R20 Residential Density Coding for the properties at Lots 47–51 on P2252 and Lots 1–4 on SP43890 with a R20/40 Split Residential Density Coding, as illustrated in the attached Scheme Amendment Map.**
 - (ii) Amending the City of Belmont Local Planning Scheme No. 15 — Map 2 of 6 Redcliffe Locality Map by removing the ‘Development Area 7’ border from Lots 47–51 on P2252 and Lots 1–4 on SP43890, as illustrated in the attached Scheme Amendment Map.**

Item 12.2 Continued

- (iii) Amend Schedule No. 9 – Special Control Areas – Development Areas as follows:

REF NO.	AREA	PROVISIONS
SCA-DA 7	Land bounded by Tibbradden Circle, Coolgardie Parade, Central Avenue, Garvey Park, and the back of lots 57 to 75 Fernridge Cove. Lot 602 (No. 55) Fauntleroy Avenue, Ascot and Lot 1 Coolgardie Avenue, Ascot	1. An approved Structure Plan together with all approved amendments shall apply to the land in order to guide subdivision and development. 2. To provide for residential development.

- B Pursuant to Clause 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, determines that Amendment No. 17 to Local Planning Scheme No. 15 is a ‘standard’ amendment, for the following reasons:

- (i) The amendment is consistent with the objectives of the Residential zone.
- (ii) The amendment is consistent with the City’s adopted Local Planning Strategy.
- (iii) The amendment is consistent with and does not have any implications for the Metropolitan Region Scheme.
- (iv) The proposed amendment will not negatively impact on any land within the Scheme area as it is consistent with an adopted planning instrument.
- (v) The proposed amendment will not result in any significant negative environmental, social or economic impacts on land within the Scheme area.
- (vi) The amendment is not a complex or basic amendment.

- C Forwards Amendment No. 17 to Local Planning Scheme No. 15 to the Environmental Protection Agency for comment, pursuant to Section 81 the *Planning and Development Act 2005*, and subject to no objection being received from the Environmental Protection Agency, advertise the amendment for public comment for a period of 42 days in accordance with Clause 47 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

CARRIED 6 VOTES TO 3

For: Bass, Marks, Rossi, Ryan, Sessions, Wolff
Against: Carter, Davis, Sekulla

12.3 SURRENDER OF DRAINAGE EASEMENT – LOT 25 (375) DALY STREET, CLOVERDALE

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 6 – Item 12.3 refers	<u>Porter Consulting Engineers - Site Investigation Report for Extinguishment of Drainage Easement</u>
Attachment 7 – Item 12.3 refers	<u>Landgate Transfer of Land - Easement Document</u>
Attachment 8 – Item 12.3 refers	<u>OCM 5 July 2005 Item 11.2.1 – Report</u>

Voting Requirement	:	Simple Majority
Subject Index	:	70/008 – Easements 115/001 – Development/Subdivision/Strata – Applications and Application Correspondence
Location / Property Index	:	Lot 25 (375) Daly Street, Cloverdale 6105 (Certificate of Title Volume 501 Folio 894)
Application Index	:	196/2021
Disclosure of any Interest	:	Nil
Previous Items	:	Item 11.2.1 - 5 July 2005 Ordinary Council Meeting
Applicant	:	Mark Anthony Design
Owner	:	Apex Development (Aus) PTY LTD
Responsible Division	:	Infrastructure Services

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider the surrender of a stormwater drainage easement at Lot 25 (375) Daly Street, Cloverdale (Certificate of Title Volume 501 Folio 894).

Item 12.3 Continued

SUMMARY AND KEY ISSUES

- In 1968 a drainage easement in favour of the City was registered on the Certificate of Title of the subject property. Several properties on the street/block are also subject to similar drainage easements.
- City engineering records indicate that there is no drainage infrastructure located within the easement.
- The owner of the site has plans to develop the property and has requested the City remove the drainage easement located at the rear of the lot.
- The owner commissioned an engineering report through Porter Consulting Engineers, which included an onsite excavation to investigate drainage infrastructure within the easement. The report found no evidence of drainage infrastructure.
- The site and adjoining properties can be adequately served by onsite drainage systems and the drainage easement is considered redundant.
- Council made the decision to surrender the adjoining easement at Lots 98 (150), 99 (148A), 9 (152) & 202 (154) Williamson Avenue at the 5 July 2005 Ordinary Council Meeting (OCM).
- As the easement is no longer required and the easement on adjoining properties has already been extinguished, it is recommended that the City surrenders the drainage easement on the property.

LOCATION

The subject site is 1,934m² in area and is located across from Miles Park (refer Figure 1 below). The landowner seeks to demolish the existing single house on the property and develop eight group dwellings.



Figure 1 – Aerial of Subject Site, easement shown in red.

CONSULTATION

There are no advertising or consultation requirements associated with the surrender of an easement.

Item 12.3 Continued

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal: Responsible Belmont

Strategy:

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

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

The *Transfer of Land Act 1893* sets out that a Local Government benefitting from an easement may surrender the easement.

Right of Review

Is there a right of review? Yes No

While there are no specific rights of review associated with the Council decision, the owner has the right to apply to the Supreme Court to have the easement extinguished.

BACKGROUND

The subject land was subdivided in the 1960's. As part of this subdivision there was a requirement for a drainage easement to be registered along the rear of the lots.

In 2005, the City received a request from Lots 99, 98, 9 and 202 Williamson Avenue to surrender the easement over the properties. The location of the easement on these properties is shown in Figure 2 below, with the subject sites outlined in red. At the time of the report being prepared in 2005, an investigation was also undertaken which confirmed there was no drainage infrastructure within the easement.

Item 12.3 Continued

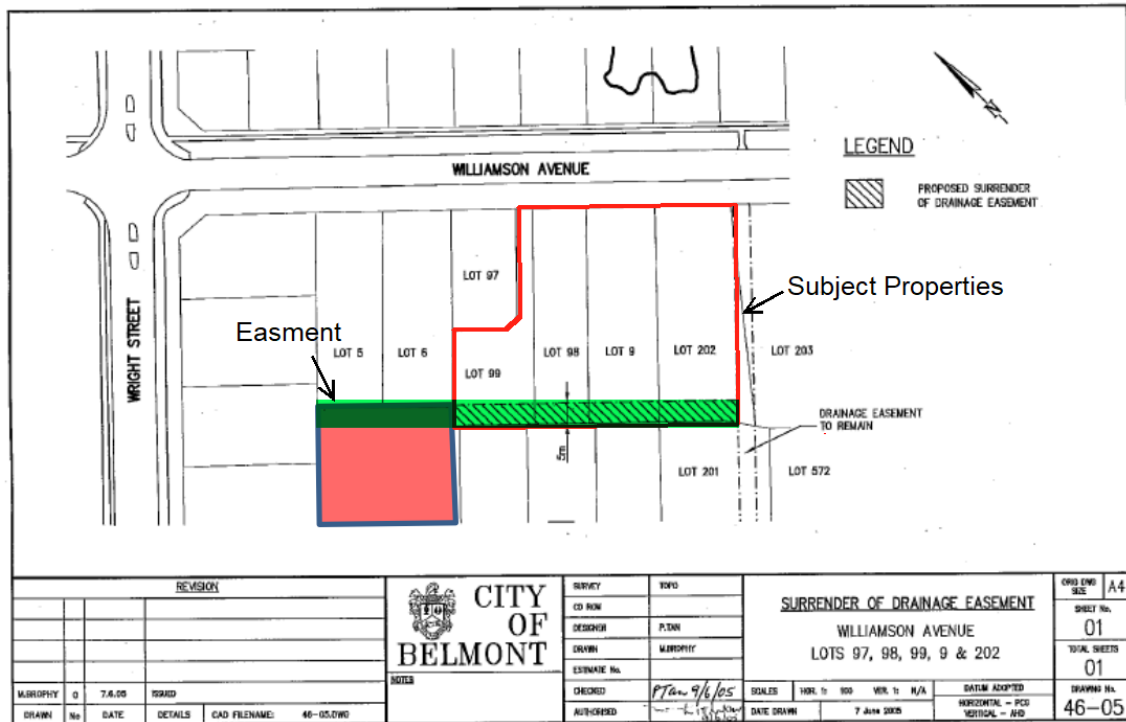


Figure 2 – Easement Plan from 2005 Item

The decision to surrender the easement on these properties was made at the 5 July 2005 OCM (refer [Attachment 8](#)) on the basis that there was no evidence of any drainage infrastructure within the easement.

375 Daly Street, Cloverdale was not included in the 5 July 2005 OCM decision and still contains the easement (refer Figure 3 below).



Figure 3 – Easement on 375 Daly Street.

Item 12.3 Continued

The owner is now seeking to develop the property and is requesting that the easement be removed to facilitate the development of the site.

Despite being included in the 5 July 2005 OCM resolution, the easement still remains on 152 Williamson Avenue (refer Figure 3 above). While the previous Council resolution for the surrender of the easement on this property still stands, it is recommended that officers write to the owner to finalise the surrender of easement on the site.

OFFICER COMMENT

Prior to surrendering the easement, it was necessary to conduct a site investigation to determine if there was any infrastructure within the drainage easement.

Porter Consulting Engineers undertook an assessment which involved both a desktop review and onsite excavation (refer [Attachment 6](#)). As drainage infrastructure is typically at a depth less than 1m, the onsite excavation involved digging to a depth of 1m and probing an additional 300mm. The assessment concluded that there was no evidence of drainage infrastructure within the easement, which is further supported by investigations undertaken in 2005.

City Officers have reviewed the assessment and consider that the conclusion is consistent with the City's drainage records, which do not indicate any infrastructure in the easement. An extract of the City's infrastructure mapping is provided in Figure 4 below. It is noted that while the easement is shown in red, it does not contain a blue line indicating infrastructure.



Figure 4 – City Infrastructure Mapping

The surrender of the easement on the site is also consistent with the 5 July 2005 OCM decision made on the adjoining properties. As shown in Figure 4 above, the easement no longer connects to other easements and does not serve its original purpose.

The drainage easement is also not required as the soil conditions for the area enable on-site stormwater drainage for existing and future development.

Item 12.3 Continued

Existing properties have been developed using on-site storm water disposal and will enable the development of the subject site to be done in the same manner.

FINANCIAL IMPLICATIONS

There will be fees charged by the City's solicitor for the removal of the easement and associated documentation. It is common practice for the owners of lots to bear the costs of removing encumbrances. In this case, as the owner has requested the removal of the easement and the easement does not stipulate otherwise, it is considered appropriate for these fees to be borne by the owner.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

CONCLUSION

An onsite investigation and a review of City records indicates that the subject easement has not been utilised and does not contain drainage infrastructure.

The removal of the easement is consistent with the 5 July 2005 OCM decision to surrender the drainage easement on adjoining properties. The subject easement has no function in the absence of easements on the adjoining properties.

On this basis, it is recommended that Council resolve to surrender the drainage easement.

OFFICER RECOMMENDATION

That Council:

- 1. Agree to surrender the drainage easement A011805 on Lot 25 (375) Daly Street, Cloverdale (Certificate of Title Volume 501 Folio 894), subject to all costs associated with the preparation and lodgement of the surrender being borne by the owner.***
- 2. Direct the Chief Executive Officer to write to the owners of Lot 9 (152) Williamson Avenue, Cloverdale (Certificate of Title Volume 1598 Folio 407) to finalise the removal of the drainage easement, subject to all costs associated with the preparation and lodgement of the surrender being borne by the owner.***

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

12.4 REQUEST FOR RATE EXEMPTION – HOUSING CHOICES WA FOR 1/8 STANLEY STREET, BELMONT

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	98/008 Rate Exemption
Location/Property Index	:	1/8 Stanley Street, Belmont
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	OCM 27 August 2019 Item No 12.7 OCM 24 March 2020 Item No 12.4
Applicant	:	Housing Choices WA
Owner	:	Department of Communities
Responsible Division	:	Corporate and Governance

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider a request for rate exemption for 1/8 Stanley Street, Belmont.

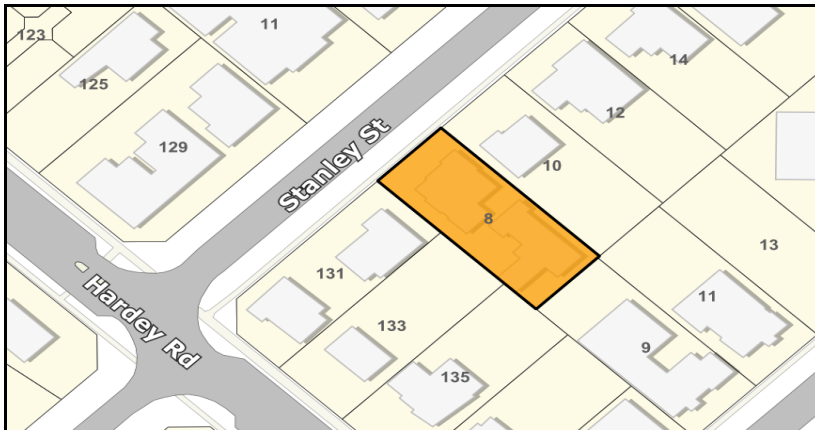
SUMMARY AND KEY ISSUES

Housing Choices WA have made an objection against the rate book as per section 6.76 of the *Local Government Act 1995*. Documentation has been provided to show that the property is being used for charitable purposes.

Item 12.4 Continued

LOCATION

Lot 196 on Plan 6262 (Front unit only) known as 1/8 Stanley Street, Belmont



CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

5.2 Manage the City’s assets and financial resources in a responsible manner and provide the best possible services for the Community.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

‘6.26. *Rateable land*

- (1) *Except as provided in this section all land within a district is rateable land.*
- (2) *The following land is not rateable land — ..*
 - (g) *land used exclusively for charitable purposes;”**and ..’*

‘6.53. *Land becoming or ceasing to be rateable land*

Item 12.4 Continued

Where during a financial year —

- (a) land that was not rateable becomes rateable land; or*
- (b) rateable land becomes land that is not liable to rates,*

the owner of that land —

- (c) is liable for rates proportionate to the portion of the year during which the land is rateable land; or*
- (d) is entitled to a refund of an amount proportionate to the portion of the year during which the land is not rateable land,*

as the case requires.'

'6.76. Grounds of objection

- (1) A person may, in accordance with this section, object to the rate record of a local government on the ground —*
 - (a) that there is an error in the rate record —*
 - (i) with respect to the identity of the owner or occupier of any land; or*
 - (ii) on the basis that the land or part of the land is not rateable land; or*
 - (b) if the local government imposes a differential general rate, that the characteristics of the land recorded in the rate record as the basis for imposing that rate should be deleted and other characteristics substituted.*
- (2) An objection under subsection (1) is to —*
 - (a) be made to the local government in writing within 42 days of the service of a rate notice under section 6.41; and*
 - (b) identify the relevant land; and*
 - (c) set out fully and in detail the grounds of objection.*
- (3) An objection under subsection (1) may be made by the person named in the rate record as the owner of land or by the agent or attorney of that person.'*

BACKGROUND

Housing Choices WA was previously known as Access Housing Australia Ltd. The organisation is one of Western Australia's largest non-government social housing/property managers, with more than 1,800 properties across the Perth metropolitan area, Peel and South West regions under management. The tenants include seniors, people living with a disability or mental illness and families and singles.

In the Defined Terms and Interpretation of the lease, Community Housing subsidise rental housing for eligible persons on a low or low to moderate income or for people with additional needs that is provided by non-government organisations in accordance with any relevant Policy. As required, the current weekly rent being paid at this property is below market rent.

In accordance with the Constitution, the Objects and Purposes of the Company is to provide affordable housing and related support to people in Australia who are disadvantaged through homelessness, disability, mental illness, ageing, low income or other factors.

Item 12.4 Continued

Based on the operation of the property remaining consistent and meets the criteria of being a single family/household or single person only; no provision of onsite social/care services and is for the sole purpose of permanent living, then it meets the required planning approvals.

Currently the City has endorsed rate exemptions for Housing Choices WA on 26 residential assessments which equates to 51 housing "units" (being a single house or a unit in a complex or a complete complex) and their Head Office. Of the residential assessments, they have Head Leases with the Department of Communities for 21 and they own five residential assessments. With the exclusion of the Head Office, these were approved at the Ordinary Council Meeting (OCM) on 24 March 2020 back dated to take effect from 1 July 2018. The Head Office was approved at the OCM on 27 August 2019 and also effective from 1 July 2018.

OFFICER COMMENT

Housing Choices WA provided a letter requesting rate exemption under section 6.26(2)(g) of the *Local Government Act 1995* and have supplied the following supporting documentation:

- The Rates and Charitable Land Use Exemptions Application has been completed. This document was created jointly by the WA Rates Officers Association and the Western Australian Local Government Association to ensure consistency with exemption requests.
- Current lease document showing leased from 10 December 2019.
- Statutory Declaration confirming the use of the property.
- Constitution.
- Notice of Endorsement for Charity Tax Concessions with the Australian Taxation Office.
- Copy of the Certificate of registration under the Australian Charities and Not-for-profits Commission (ACNC).
- Letter from Department of Communities in support of Housing Choices WA rate exemption application.

FINANCIAL IMPLICATIONS

The property is currently rated as Residential with a Gross Rental Valuation (GRV) of \$29,900. Whilst Council will require separate GRV's for each side of the property, based on the GRV being split evenly, the new GRV for each unit would be \$14,950. This would then indicate a loss of revenue for 2021-2022 of \$997.66.

The Emergency Services Levy is still applicable to the property and is required to be paid in full and the payment forwarded to the Department of Fire and Emergency Services as per the current legislative requirements.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

Item 12.4 Continued

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That Council endorse the rate exemption for the property known as 1/8 Stanley Street, Belmont, under section 6.26 (2)(g) and Section 6.53 of the Local Government Act 1995 effective from 1 July 2021.

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

12.5 REQUEST FOR RATE EXEMPTION – STELLAR LIVING LTD FOR 1/272 HARDEY ROAD, CLOVERDALE

ATTACHMENT DETAILS

Nil.

Voting Requirement	: Simple Majority
Subject Index	: 98/008 Rate Exemption
Location/Property Index	: 1/272 Hardey Road, Cloverdale
Application Index	: N/A
Disclosure of any Interest	: Nil
Previous Items	: OCM 26 March 2019 – Item 12.3
Applicant	: Stellar Living Ltd
Owner	: Department of Housing
Responsible Division	: Corporate and Governance

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider a request for rate exemption for 1/272 Hardey Road, Cloverdale.

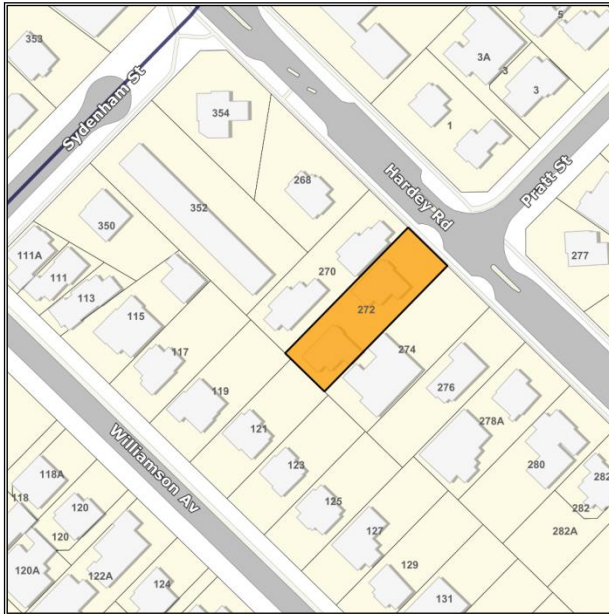
SUMMARY AND KEY ISSUES

Stellar Living Ltd have made an objection against the rate book as per section 6.76 of the *Local Government Act 1995*. Documentation has been provided to show that the property is being used for charitable purposes.

Item 12.5 Continued

LOCATION

Lot 608 on Diagram 22652 (Front unit only) known as 1/272 Hardey Road, Cloverdale



CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

5.2 Manage the City’s assets and financial resources in a responsible manner and provide the best possible services for the Community.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

‘6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.*
- (2) The following land is not rateable land — ..*
 - (g) land used exclusively for charitable purposes;”*
 - and ..’*

Item 12.5 Continued

'6.53. Land becoming or ceasing to be rateable land

Where during a financial year —

- (a) land that was not rateable becomes rateable land; or*
- (b) rateable land becomes land that is not liable to rates,*

the owner of that land —

- (c) is liable for rates proportionate to the portion of the year during which the land is rateable land; or*
- (d) is entitled to a refund of an amount proportionate to the portion of the year during which the land is not rateable land,*

as the case requires.'

'6.76. Grounds of objection

- (1) A person may, in accordance with this section, object to the rate record of a local government on the ground —*
 - (a) that there is an error in the rate record —*
 - (i) with respect to the identity of the owner or occupier of any land; or*
 - (ii) on the basis that the land or part of the land is not rateable land; or*
 - (b) if the local government imposes a differential general rate, that the characteristics of the land recorded in the rate record as the basis for imposing that rate should be deleted and other characteristics substituted.*
- (2) An objection under subsection (1) is to —*
 - (a) be made to the local government in writing within 42 days of the service of a rate notice under section 6.41; and*
 - (b) identify the relevant land; and*
 - (c) set out fully and in detail the grounds of objection.*
- (3) An objection under subsection (1) may be made by the person named in the rate record as the owner of land or by the agent or attorney of that person.'*

BACKGROUND

A "Lease of Premises for Residential Purposes to a Non-Government Organisation or Community Housing Organisation for the Justice Adult Re-Integration Program" was signed between the Department of Communities and Stellar Living Ltd dated 22 September 2020.

For the rate exemption purposes, Council has received copies of the relevant pages of the lease for the periods 25 September 2020 to 24 September 2021 and 25 September 2021 to 30 June 2022. The lease is renewed each year for an additional one-year term.

In the Defined Terms and Interpretation of the lease, Community Housing subsidise rental housing for eligible persons on a low or low to moderate income or for people with additional needs that is provided by non-government organisations in accordance with any relevant Policy. As required, the current weekly rent being paid at this property is below market rent.

Item 12.5 Continued

Some of their main objectives written into their Constitution are:

- to provide for the direct relief of poverty, suffering, destitution, misfortune, helplessness and distress through the provision of low cost and affordable housing;
- Acquire, construct and provide low cost and affordable housing stock for people in poverty, with low income, who are homeless, socially marginalised, inadequately housed or otherwise disadvantaged;
- Provide property and tenancy management services for the provision of low-cost rental housing;
- Respond to changing client and community needs and maintain high quality client and housing services;
- Grow the accommodation and housing program by identifying new expansion opportunities in keeping sound governance, managerial capacities and local housing needs; and
- Work in partnership with the community to ensure that tenants have access to the support services they require.

OFFICER COMMENT

Stellar Living Ltd provided a letter requesting rate exemption under Section 6.26(2)(g) of the *Local Government Act 1995* and have supplied the following supporting documentation:

- The Rates and Charitable Land Use Exemptions Application has been completed. This document was created jointly by the WA Rates Officers Association and the Western Australian Local Government Association to ensure consistency with exemption requests.
- Copy of relevant sections of the previous lease September 2020 to September 2021 and the continuation of that lease from September 2021 to September 2022.
- Statutory Declaration confirming the use of the property.
- Constitution.
- Notice of Endorsement for Charity Tax Concessions with the Australian Taxation Office.
- Copy of the Certificate of registration under the Australian Charities and Not-for-profits Commission (ACNC).

This property is being used as part of the Justice Program called ReSet which provides supported transitional residential accommodation for released prisoners under the Justice Services Rehabilitation and Reintegration programme provided through the Department of Justice.

The transitional short-term accommodation is usually for a period of three to 12 months. The property is used exclusively for the programme and is dependent on suitable applicants coming out of the prison system. The tenant is allowed to have some family members stay with them over the term of the lease but not permanently. This programme is initiated through the Department of Justice.

Stellar Living have been granted a rate exemption at the Ordinary Council Meeting on 26 October 2021 under the same Justice Programme for the property at 90A Leake Street, Belmont.

Item 12.5 Continued

With the information provided by Stellar Living Ltd, the use of this strata unit for this purpose is not considered to alter the use from a dwelling to a 'community home' under LPS15 given that only one person occupies the dwelling at a time. Should that situation change an application for a change of use will be required from the operator.

Based on the operation of the property remaining consistent and meets the criteria of being a single family/household or single person only; no provision of onsite social/care services and is for the sole purpose of permanent living then no additional planning approval is required. Any change to the operation of a property may require a Change of Use application.

FINANCIAL IMPLICATIONS

The property is currently rated as Residential with a Gross Rental Valuation (GRV) of \$28,080. Whilst Council will require separate GRV's for each side of the property, based on the GRV being split evenly, the new GRV for each unit would be \$14,040. This would then indicate a loss of revenue for 2021-2022 of \$936.93.

The Emergency Services Levy is still applicable to the property and is required to be paid in full and the payment forwarded to the Department of Fire and Emergency Services as per the current legislative requirements.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That Council endorse the rate exemption for the property known as 1/272 Hardey Road, Cloverdale, under section 6.26 (2)(g) and Section 6.53 of the Local Government Act 1995 effective from 1 July 2021.

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

12.6 REQUEST FOR RATE EXEMPTION – FOUNDATION HOUSING LTD FOR VARIOUS PROPERTIES

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	98/008 Rate Exemption
Location/Property Index	:	Various properties listed below
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	OCM 22 November 2019 – Item 12.3
Applicant	:	Foundation Housing Limited
Owner	:	Foundation Housing Limited / Department of Communities
Responsible Division	:	Corporate and Governance

COUNCIL ROLE

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

PURPOSE OF REPORT

To consider a request for rate exemption for various properties either owned by Foundation Housing Limited or under a Head Lease from Department of Communities and Foundation Housing Limited.

SUMMARY AND KEY ISSUES

Foundation Housing Limited have made an objection against the rate book as per section 6.76 of the *Local Government Act 1995*. Documentation has been provided to show that the properties are being used for charitable purposes.

Item 12.6 Continued

LOCATION

Table 1 – Properties listed below requesting rate exemption -

Assess No	Property Address	Residential Type	Owner	Rate levy 2021/22
107273	55 Courtland Crescent, REDCLIFFE	House	Department of Housing	\$1,127.79
113370	35 Gardiner Street, BELMONT	Complex of 9 non strata units	Department of Housing	\$7,079.04
113420	3/41 Gardiner Street, BELMONT	Strata Unit	Department of Housing	\$855.00
343316	15/9 Hawksburn Road, RIVERVALE	Strata Unit	Foundation Housing	\$1,214.54
343324	16/9 Hawksburn Road, RIVERVALE	Strata Unit	Foundation Housing	\$1,214.54
343332	17/9 Hawksburn Road, RIVERVALE	Strata Unit	Foundation Housing	\$1,214.54
343399	23/9 Hawksburn Road, RIVERVALE	Strata Unit	Foundation Housing	\$1,231.89
343753	56/9 Hawksburn Road, RIVERVALE	Strata Unit	Foundation Housing	\$936.93
192135	17a Keane Street, KEWDALE **	Strata Unit	Department of Housing	\$936.93
192127	17 Keane Street, KEWDALE **	Strata Unit	Department of Housing	\$936.93
123692	3/148 Leake Street, BELMONT	Strata Unit	Department of Housing	\$855.00
222759	125 Roberts Road, RIVERVALE **	House	Department of Housing	\$1,370.70
			2021/22 RATES LEVIED	\$18,973.83

** These three properties have had a Change of Use to “Community Homes” approved by the City. Refer below under “Background” for more information.

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

5.2 Manage the City’s assets and financial resources in a responsible manner and provide the best possible services for the Community.

Item 12.6 Continued

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

‘6.26. Rateable land

- (1) Except as provided in this section all land within a district is rateable land.*
- (2) The following land is not rateable land — ..
(g) land used exclusively for charitable purposes..’*

‘6.53. Land becoming or ceasing to be rateable land

Where during a financial year —

- (a) land that was not rateable becomes rateable land; or*
- (b) rateable land becomes land that is not liable to rates,*

the owner of that land —

- (c) is liable for rates proportionate to the portion of the year during which the land is rateable land; or*
- (d) is entitled to a refund of an amount proportionate to the portion of the year during which the land is not rateable land,*

as the case requires.’

‘6.76. Grounds of objection

- (1) A person may, in accordance with this section, object to the rate record of a local government on the ground —
(a) that there is an error in the rate record —
(i) with respect to the identity of the owner or occupier of any land;
or
(ii) on the basis that the land or part of the land is not rateable land;
or
(b) if the local government imposes a differential general rate, that the characteristics of the land recorded in the rate record as the basis for imposing that rate should be deleted and other characteristics substituted.*
- (2) An objection under subsection (1) is to —
(a) be made to the local government in writing within 42 days of the service of a rate notice under section 6.41; and
(b) identify the relevant land; and
(c) set out fully and in detail the grounds of objection.*
- (3) An objection under subsection (1) may be made by the person named in the rate record as the owner of land or by the agent or attorney of that person.’*

Item 12.6 Continued

BACKGROUND

Foundation Housing Limited was established in 2005 and is a Registered Tier 1 Community housing provider, a registered charity and public benevolent institution. As reported in their 2020-2021 Financial Report, they service 2,154 Units of accommodation.

All the leased properties come under the Community Housing Agreement Head Lease with the Department of Communities. In the Defined Terms and Interpretation of the Head Lease, community housing simply means social housing and/or affordable housing owned or otherwise under the legal control of a Community Housing Organisation (CHO). Under the Background in the lease, it confirms that Department of Communities wish to partner with Community Housing organisations to:

- Increase the supply of Community Housing in WA
- Create opportunities for CHO to fulfil a greater role in the delivery of Community Housing including as property developers, property owners and managers of substantial CHO portfolios
- Manage the risk and optimise the benefit to the wider community associated with the proposed devolution of management and / or ownership of Community housing.

Based on the Community Housing agreements, tenants are taken from the Department of Communities Joint Wait List and as required, the current weekly rent being paid at each property is subsidised.

Foundation Housing has confirmed that each property is tenanted by either an individual or a family unit regardless of that being a one or two parent family.

The Community Housing agreement includes some of the following as the Objects of the Company:

- To acquire, construct and provide low cost and affordable housing stock for people in poverty, with low income, who are homeless, socially marginalised, inadequately housed or otherwise disadvantaged;
- To own and manage a portfolio of housing stock for rental to people on low income in housing need; and
- To work in partnership in the community to ensure that tenants have access to the support services they require.

Based on the operation of the property remaining consistent and meets the criteria of being a single family/household or single person only; no provision of onsite social/care services and is for the sole purpose of permanent living, then it meets the required planning approvals.

At the Ordinary Council meeting of 22 November 2016, the City approved four residential properties for Foundation Housing Limited. These properties to date are still being utilised by Foundation Housing Limited.

This request is for an additional 12 properties that Foundation Housing Limited either own or head lease from the Department of Communities.

Item 12.6 Continued

OFFICER COMMENT

Foundation Housing Limited have provided a letter requesting rate exemption under Section 6.26(2)(g) of the *Local Government Act 1995* and have supplied the following supporting documentation:

- The Rates and Charitable Land Use Exemptions Application has been completed. This document was created jointly by the WA Rates Officers Association and the Western Australian Local Government Association to ensure consistency with exemption requests.
- Statutory Declaration confirming the use of each of the properties
- Constitution
- Financial statement year ending June 2020
- Notice of Endorsement for Charity Tax Concessions with the Australian Taxation Office.
- ACNC Charity Register

** Table 1 –

Under LPS15, a Community Home means “*a building used primarily for living purposes by a group of physically or intellectually handicapped or socially disadvantaged persons living together with or without paid supervision or care by a constituted community-based organisation, a recognised voluntary charitable or religious organisation, a government department or an agency or instrumentality of the State or a local government body*”.

17 and 17A Keane Street, Kewdale – Change of use to a Community Home - Approved by OCM on 25 November 2014.

125 Roberts Road, Rivervale - Planning approval for change of use to a Community Home was granted 14 March 2016.

It should be noted that the Housing Authority currently pay rates on properties owned and managed by themselves, however their strategy of divesting responsibilities for these properties to charitable entities through their Community Housing Agreements directly results in the loss of rates payable to local government for the effective management of their community’s facilities and services. The impact of this strategy by the State Government has a significant and growing impact on local government as is demonstrated in the loss of income for the current financial year.

FINANCIAL IMPLICATIONS

All properties are rated residential. The loss of income for the 2021-2022 rating year if approved for exemption will be \$18,973.83.

The Emergency Services Levy is still applicable to the property and is required to be paid in full and the payment forwarded to the Department of Fire and Emergency Services as per the current legislative requirements.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

Item 12.6 Continued

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That Council endorse the rate exemption for the properties listed shown in Table 1 under section 6.26 (2)(g) and section 6.53 of the Local Government Act 1995 effective from 1 July 2021.

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

12.7 ELECTED MEMBER REPRESENTATIVES ON OTHER GROUPS

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	35/004 Committee Representation
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	10.6 and 10.12 SCM 18 October 2021
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Corporate and Governance

COUNCIL ROLE

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

PURPOSE OF REPORT

To appoint Council representatives to the Belmont Retirement Villages Board of Management (Inc) and remove the requirement to nominate a representative to attend the Swan River Trust Board Meetings.

SUMMARY AND KEY ISSUES

- To appoint Council representatives to the Belmont Retirement Villages Board of Management (Inc); and
- Following investigation into representative requirements, dissolve the requirement to nominate a representative to the Swan River Trust.

LOCATION

Not applicable.

Item 12.7 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

5.1 Support collaboration and partnerships to deliver key outcomes for our City.

POLICY IMPLICATIONS

Policy BEXB1.4 – Appointment as Committee Members, Representatives and Delegates outlines the terms of office of members of committees and other groups.

STATUTORY ENVIRONMENT

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

BACKGROUND

At the Special Council Meeting on 18 October 2021 the appointments to the Belmont Retirement Villages Board of Management (Inc) and the Swan River Trust were deferred to confirm Council representation requirements.

OFFICER COMMENT

Following deferral of appointments at the Special Council Meeting on 18 October 2021, investigations have been undertaken with regard to the representation requirements of the Belmont Retirement Villages Board of Management (Inc) and the Swan River Trust and these are set out below:

Belmont Retirement Villages Board of Management (Inc)

The Rules of Association (2018) state the Voting appointed members can be any councillor:

'8. Classes of Membership

The Appointed voting members are the primary members and they are (2) councillors and the CEO.

The other three conditional members are (2) councillors and one Officer – and these members are only voting members when directed to attend by the primary members.'

If the Mayor wishes to be on the Board, he should be given first opportunity to nominate. There is no requirement for the proxy to the Mayor to be the Deputy Mayor.

Item 12.7 Continued

Swan River Trust

The Swan River Trust is a non-decision-making advisory body providing independent, high level strategic advice to the Minister for Environment and Director General of the Department of Biodiversity, Conservation and Attractions (DBCA). The Trust is vested with the care, control, and management of the river reserve with various responsibilities including developing policies and preparing and reporting on strategic documents relating to the management of the Swan Canning Riverpark. Day-to-day management of the Swan Canning Riverpark is a function of the DBCA.

The Swan River Trust Board is appointed by the Minister for Environment under the *Swan and Canning Rivers Management Act 2006*. The composition of the Swan River Trust Board does not include a City of Belmont Elected Member representative making it inappropriate for Council to make an appointment. Representatives of the City of Belmont may attend or may be invited to attend a Board meeting at such a time that an item is being presented to the Board for advice to the Minister/Director General (e.g. Development Application or Permit Application).

Given the above, appointment of any elected member or staff member to the Swan River Trust Board is not appropriate. Notwithstanding, where representation is required, the Mayor, Chief Executive Officer, respective Director or applicable Officer may represent the City during a meeting of the Swan River Trust Board.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

Council representation on community groups, boards or trusts is a long-established tradition to provide support and enhance a sense of community within the City of Belmont.

Meeting Notes

The Presiding Member declared his wish to nominate for the position of Belmont Retirement Villages Board of Management Member and was duly appointed.

The Presiding Member called for nominations for the remaining position of Belmont Retirement Villages Board of Management. The following nominations were received.

- Cr Rossi – West Ward
- Cr Sekulla – West Ward

An election was conducted, and ballot papers were distributed to all Elected Members to cast their vote.

The Presiding Member declared the successful candidate as Cr Rossi, who was duly elected.

Item 12.7 Continued

The Presiding Member called for nominations for the two positions of Proxy Belmont Retirement Villages Board of Management. The following nominations were received.

- Cr Sekulla – West Ward
- Cr Sessions – West Ward

The Presiding Member declared Cr Sessions and Cr Sekulla duly appointed.

OFFICER RECOMMENDATION

ROSSI MOVED, WOLFF SECONDED

1. ***That Cr Marks be appointed to the position of Belmont Retirement Villages Board of Management Member.***
2. ***That Cr Rossi be elected to the position of Belmont Retirement Villages Board of Management Member.***
3. ***That the Chief Executive Officer be appointed to the position of Belmont Retirement Villages Board of Management Member.***
4. ***That Cr Sessions be elected to the position of Proxy Belmont Retirement Villages Board of Management Member.***
5. ***That Cr Sekulla be elected to the position of Proxy Belmont Retirement Villages Board of Management Member.***
6. ***That the Director Corporate and Governance be appointed to the position of Proxy Belmont Retirement Villages Board of Management Member.***
7. ***That Council endorse that the Swan River Trust no longer be considered a Board to which nominations are required.***

CARRIED 9 VOTES TO 0

12.8 ACCOUNTS FOR PAYMENT – OCTOBER 2021

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 9 – Item 12.8 refers	<u>Accounts for Payment – October 2021</u>

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

COUNCIL ROLE

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

PURPOSE OF REPORT

Confirmation of accounts paid and authority to pay unpaid accounts.

SUMMARY AND KEY ISSUES

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

LOCATION

Not applicable.

Item 12.8 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

- 5.2 Manage the City's assets and financial resources in a responsible manner and provide the best possible services for the community.
- 5.6 Deliver effective, fair and transparent leadership and decision-making, reflective of community needs and aspirations.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

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

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

BACKGROUND

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

OFFICER COMMENT

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

Municipal Fund Cheques	788730 to 788736	\$30,999.95
Municipal Fund EFTs	EF075751 to EF076220	\$8,176,953.02
Municipal Fund Payroll	October 2021	\$1,955,642.22
Trust Fund EFTs	EF075779 to EF075781	<u>\$13,519.19</u>
Total Payments for October 2021		\$10,177,114.38

Item 12.8 Continued

A copy of the Authorised Payment Listing is included as [Attachment 9](#) to this report.

FINANCIAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That the Authorised Payment Listing for October 2021 as provided under [Attachment 9](#) be received.

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

12.9 MONTHLY ACTIVITY STATEMENT AS AT 31 OCTOBER 2021

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 10 – Item 12.9 refers	<u>Monthly Activity Statement as at 31 October 2021</u>

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

COUNCIL ROLE

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

PURPOSE OF REPORT

To provide Council with relevant monthly financial information for the 2021-2022 financial year.

SUMMARY AND KEY ISSUES

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

LOCATION

Not applicable.

Item 12.9 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

In accordance with the 2020 – 2040 Strategic Community Plan:

Goal 5: Responsible Belmont.

Strategy:

- 5.2 Manage the City's assets and financial resources in a responsible manner and provide the best possible services for the Community.
- 5.6 Deliver effective, fair, and transparent leadership and decision-making, reflective of community needs and aspirations.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

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

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

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* requires that financial statements are presented on a monthly basis to Council. Council has adopted 10% of the budgeted closing balance as the materiality threshold.

OFFICER COMMENT

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

- Annual budget estimates
- Budget estimates to the end of the reporting month
- Actual amounts to the end of the reporting month

Item 12.9 Continued

- Material variances between comparable amounts
- Net current assets as at the end of the reporting month.

The monthly financial report is to be accompanied by:

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

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

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

***Based on a materiality threshold of 10%.

In order to provide more details regarding significant variations as included in [Attachment 10](#) the following summary is provided.

Report Section	Budget YTD	Actual YTD	Comment
Expenditure - Capital			
Computing	216,667	18,446	Timing issue regarding the payment of business applications and equipment.
Crime Prevention & Community Safety	74,478	Nil	Variance relates to the purchase of fleet and equipment which has not yet occurred.
Grounds Operations	422,813	275,599	Mainly relates to various irrigation projects still to commence.
Road Works	936,808	704,594	Variance due to timing of various projects and delay in receipt of outstanding invoices.
Operations Centre	173,730	3,892	Variance due to timing of replacement of plant.
Building Operations	833,363	613,028	Variance due to budget timing of Glass House Project and Oasis Leisure centre renewal work.
Expenditure - Operating			
Finance Department	685,164	773,684	Employment entitlement costs due to retirement not included in budget and ABC cost allocations are above budget.
Computing	1,083,770	1,176,429	Business application licensing paid earlier than budgeted.
Marketing & Communications	775,982	605,343	A number of items are below budget with no specific items having a material variance.

Item 12.9 Continued

Report Section	Budget YTD	Actual YTD	Comment
Rates	2,086,173	1,555,512	Variance relates to the timing of the take-up of rates discount for Perth Airport (Pty Ltd). Invoicing for Perth Airport is scheduled for November 2021.
Engagement Strategies	563,621	507,273	Favourable variance for donations and salaries.
Faulkner Park Retirement Village	23,000	74,227	Additional contribution for insurance, to be included in March budget review
Town Planning	1,073,492	977,890	Favourable variance for agency staff costs and ABC Cost Allocations.
Sanitation Charges	1,547,637	1,261,567	Timing issue relating to the spread of Rubbish services costs.
Ruth Faulkner Library	885,666	1,085,605	Timing variance regarding the spread of internal allocations
Community Development	278,161	136,812	Favourable variance regarding the spread of project management costs and donations.
Grounds Operations	1,842,707	1,754,830	Favourable timing difference relates to numerous line items that are individually immaterial
Streetscapes	769,057	336,693	Street tree maintenance programs are currently below budget.
Building Operations	456,447	383,074	Variance due to timing of general property ESL levy payment
Technical Services	884,736	1,014,443	Employee entitlement costs and Internal allocations are above budget.
Other Public Works	280,680	222,120	Street lighting costs are paid one month in arrears.
Revenue - Capital			
Human Resources	(106,202)	(33,975)	Miscellaneous Entitlements Reserve are below budget spread.
Grounds Operations	Nil	(53,650)	Grant Income for Gerry Archer Turf was received ahead of budget.
Road Works	(529,989)	(143,867)	Timing variance of grant income correlate to timing of capital works.

Item 12.9 Continued

Report Section	Budget YTD	Actual YTD	Comment
City Projects	(228,250)	Nil	Timing variance regarding grant income for Wilson Park project.
Revenue - Operating			
Finance Department	(712,883)	(773,684)	Activity Based Costing (ABC's) recoveries are above budget
Computing	(1,075,165)	(1,176,429)	Activity Based Costing (ABC's) recoveries are above budget.
Insurance	(860,459)	(930,206)	Variance due to timing of insurance allocation recoveries and insurance reimbursement claims being higher than anticipated.
Human Resources	(503,122)	(730,891)	ABC recoveries are above budget.
Rates	(52,413,504)	(40,278,518)	Rates revenue for Perth Airport Pty Ltd is in the process of being finalised and will be raised in November 2021.
Financing Activities	(157,945)	(68,783)	Bank interest is lower than anticipated.
Crime Prevention & Community Safety	(37,333)	(98,410)	Grant income for Safer Schools Project was received ahead of budget.
Faulkner Park Retirement Village	(50,000)	(127,731)	Faulkner Park Retirement Village proceeds received ahead of budget.
Streetscapes	(60,000)	Nil	Income is expected to be received later in the financial year.
Customer Service	(179,813)	(271,583)	ABC recoveries are above budget.
Public Works Overheads	(421,840)	(354,875)	Overhead recoveries are below budget.

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

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 31 October 2021	\$	Comment
Cash and investments	78,776,565	Includes municipal and reserves
- less non rate setting cash	(51,135,124)	Reserves
Receivables	16,550,070	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(2,861,506)	ESL Receivable
Stock on hand	225,070	

Item 12.9 Continued

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Total Current Assets	41,555,075	
Current Liabilities		
Creditors and provisions	(12,194,557)	Includes ESL and deposits
- less non rate setting creditors & provisions	6,064,444	Cash Backed LSL, current loans & ESL
Total Current Liabilities	(6,130,113)	
Nett Current Assets 31 October 2021	35,424,962	
<hr/>		
Nett Current Assets as Per Financial Activity Report	35,424,962	
Less Committed Assets	(34,924,962)	All other budgeted expenditure
Estimated Closing Balance	500,000	

FINANCIAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That the Monthly Financial Reports as at 31 October 2021 as included in [Attachment 10](#) be received.

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

13. REPORTS BY THE CHIEF EXECUTIVE OFFICER

13.1 REQUESTS FOR LEAVE OF ABSENCE

Nil.

13.2 NOTICE OF MOTION

Nil.

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

Nil.

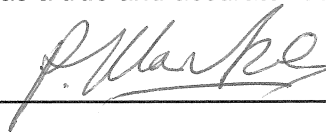
15. CLOSURE

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 8.25pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these Minutes of the Ordinary Council Meeting held on 23 November 2021 were confirmed as a true and accurate record at the Ordinary Council Meeting held 14 December 2021:

Signed by the Person Presiding: _____



PRINT name of the Person Presiding:

PHILIP MARKS
