



City of Belmont
ORDINARY COUNCIL MEETING
MINUTES
TABLE OF CONTENTS

29 October 2019

ITEM	SUBJECT HEADING	PAGE
1.	OFFICIAL OPENING	2
2.	APOLOGIES AND LEAVE OF ABSENCE	2
3.	DECLARATIONS OF INTEREST THAT MIGHT CAUSE A CONFLICT	2
3.1	FINANCIAL INTERESTS	2
3.2	DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY	2
4.	ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS	2
4.1	ANNOUNCEMENTS.....	2
4.2	DISCLAIMER.....	3
4.3	DECLARATIONS BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTLY BEFORE THE MEETING	3
5.	PUBLIC QUESTION TIME.....	3
5.1	RESPONSES TO QUESTIONS TAKEN ON NOTICE	3
5.1.1	MR S QUINN, 15 DURBAN STREET, BELMONT	3
5.1.2	MR D SMITH, 87 TOORAK ROAD, RIVERVALE	4
5.1.3	MS J GEE, 97 GABRIEL STREET, CLOVERDALE	4
5.2	QUESTIONS FROM MEMBERS OF THE PUBLIC.....	5
5.2.1	MS B SCHARFENSTEIN, 140 COOLGARDIE AVENUE, REDCLIFFE	6
5.2.2	MR R FOSTER, 140 COOLGARDIE AVENUE, REDCLIFFE	7
5.2.3	MS L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE, ON BEHALF OF BELMONT RESIDENTS AND RATEPAYERS ACTION GROUP (BRRAG)	8
5.2.4	MS J GEE, 97 GABRIEL STREET, CLOVERDALE	9
5.2.5	MR P HITT, 14 MCLACHLAN WAY, BELMONT	10
5.2.6	MR R BIRCH, 195 KNUTSFORD AVENUE, KEWDALE	11
6.	CONFIRMATION OF MINUTES/RECEIPT OF MATRIX.....	12
6.1	ORDINARY COUNCIL MEETING HELD 24 SEPTEMBER 2019.....	12
6.2	MATRIX FOR THE AGENDA BRIEFING FORUM HELD 22 OCTOBER 2019.....	12
7.	QUESTIONS BY MEMBERS ON WHICH DUE NOTICE HAS BEEN GIVEN (WITHOUT DISCUSSION).....	12

ITEM	SUBJECT HEADING	PAGE
8.	QUESTIONS BY MEMBERS WITHOUT NOTICE	12
8.1	RESPONSES TO QUESTIONS TAKEN ON NOTICE	12
8.2	QUESTIONS BY MEMBERS WITHOUT NOTICE.....	12
9.	NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY DECISION	12
10.	BUSINESS ADJOURNED FROM A PREVIOUS MEETING	13
11.	REPORTS OF COMMITTEES	13
11.1	STANDING COMMITTEE (AUDIT AND RISK) HELD 21 OCTOBER 2019.....	13
11.2	STANDING COMMITTEE (COMMUNITY VISION) HELD 21 OCTOBER 2019	13
11.3	STANDING COMMITTEE (ENVIRONMENTAL) HELD 21 OCTOBER 2019	13
12.	REPORTS OF ADMINISTRATION	14
12.1	STATE ADMINISTRATIVE TRIBUNAL MATTER – RETROSPECTIVE APPLICATION FOR APPROVAL OF STRUCTURES AND LAND USE – LOT 22 (159) McDOWELL STREET, KEWDALE	15
12.2	TENDER 10/2019 – MIDDLETON PARK CLUBROOMS ALTERATIONS AND ADDITIONS	40
12.3	2019 COMMUNITY SERVICE AWARDS.....	45
12.4	SPECIAL ELECTORS’ MEETING MINUTES – 16 SEPTEMBER 2019: LIVE STREAMING OF COUNCIL MEETINGS AND ACCESS TO THE CHIEF EXECUTIVE OFFICER’S CONTRACT	49
12.5	WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) STATE COUNCIL AND ZONE STRUCTURE AND PROCESS REVIEW.....	58
12.6	2019-2020 OCTOBER BUDGET REVIEW	64
12.7	ACCOUNTS FOR PAYMENT – SEPTEMBER 2019	68
12.8	MONTHLY ACTIVITY STATEMENT AS AT 30 SEPTEMBER 2019.....	71
13.	REPORTS BY THE CHIEF EXECUTIVE OFFICER.....	76
13.1	REQUESTS FOR LEAVE OF ABSENCE	76
13.2	NOTICE OF MOTION (CR CAYOUN) - AUDIO AND VIDEO RECORDING OF COUNCIL MEETINGS.....	76
14.	MATTERS FOR WHICH THE MEETING MAY BE CLOSED.....	86
15.	CLOSURE	86

ATTACHMENTS INDEX

Attachment 1 – Item 12.1 refers
Attachment 2 – Item 12.1 refers
Attachment 3 – Item 12.1 refers
Attachment 4 – Item 12.1 refers
Attachment 5 – Item 12.1 refers
Attachment 6 – Item 12.3 refers
Attachment 7 – Item 12.4 refers
Attachment 8 – Item 12.4 refers
Attachment 9 – Item 12.5 refers
Attachment 10 – Item 12.6 refers
Attachment 11 – Item 12.6 refers
Attachment 12 – Item 12.7 refers
Attachment 13 – Item 12.8 refers
Attachment 14 – Item 13.2 refers

CONFIDENTIAL ATTACHMENTS INDEX

Confidential Attachment 1 – Item 12.2 refers
Confidential Attachment 2 – Item 12.2 refers
Confidential Attachment 3 – Item 12.3 refers
Confidential Attachment 4 – Item 12.3 refers

MINUTES

PRESENT

Cr P Marks, Mayor (Presiding Member)	East Ward
Cr G Sekulla, JP, Deputy Mayor	West Ward
Cr M Bass	East Ward
Cr B Ryan	East Ward
Cr J Davis	South Ward
Cr J Powell	South Ward
Cr S Wolff	South Ward
Cr L Cayoun	West Ward
Cr R Rossi, JP	West Ward

IN ATTENDANCE

Ms J Gillan	Acting Chief Executive Officer
Mr J Olynyk, JP	Acting Director Corporate and Governance
Mr W Loh	Acting Director Development and Communities
Mr M Ralph	Acting Director Infrastructure Services
Ms A-M Forte	Executive Manager, People and Organisational Development
Mrs M Lymon	Acting Manager Governance
Ms D Morton	Acting Coordinator Marketing and Communications
Ms J Barnes	Senior Governance Officer
Mrs S Bartley	Governance Officer

MEMBERS OF THE GALLERY

There were 7 members of the public in the gallery and no press representative.

1. OFFICIAL OPENING

7.02pm The Presiding Member welcomed all those in attendance and declared the meeting open.

The Presiding Member read aloud the Acknowledgement of Country.

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

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

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

2. APOLOGIES AND LEAVE OF ABSENCE

Mr J Christie (Apology)
Mr R Garrett (Apology)

Chief Executive Officer
Director Corporate and Governance

3. DECLARATIONS OF INTEREST THAT MIGHT CAUSE A CONFLICT

3.1 FINANCIAL INTERESTS

Nil.

3.2 DISCLOSURE OF INTEREST THAT MAY AFFECT IMPARTIALITY

Nil.

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

4.1 ANNOUNCEMENTS

Nil.

4.2 DISCLAIMER

7.04 pm 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 MR S QUINN, 15 DURBAN STREET, BELMONT

The following questions were taken on notice at the 24 September 2019 Ordinary Council Meeting. Mr Quinn was provided with a response on 16 October 2019. The response from the City is recorded accordingly:

1. In the recent Southern Gazette (19 September 2019) the City of Belmont placed an advertisement stating that there was a '3.1% increase in tree canopy' for the City. It also stated that the 'Council is dedicated to urban forestry, with strong targets to replace lost canopy'. Was this increase in tree canopy for the past 12 months and what is the current tree canopy cover percentage for the City of Belmont?

Response

The 3.1% increase reported by the 2020 Vision occurred between 2011 and 2016 and was an increase in shrub and tree canopy.

The tree canopy cover in 2015 as measured by the City of Belmont was 12.52% inclusive of Perth Airport lands or 15.31% excluding Perth Airport lands.

2. As the Urban Forest Canopy Plan has not been released to the public, can you advise of the future tree canopy target (and any other strong targets) that have been set for the City?

Response

The original Urban Forest Strategy target was to 'return canopy cover to 2001 equivalent' (12.05%). However, as the 2015 data indicated an increase (likely due to improved data quality), the Canopy Plan 2019-2024 has included actions to model future canopy cover incorporation and increase and to identify and set specific and measurable canopy targets. This action is expected to be completed in 2022.

5.1.2 MR D SMITH, 87 TOORAK ROAD, RIVERVALE

The following questions were taken on notice at the 24 September 2019 Ordinary Council Meeting. Mr Smith was provided with a response on 18 October 2019. The response from the City is recorded accordingly:

1. How much has Council spent on advertising during the election period?

Response

The City has placed a variety of advertisements since the opening of nominations on 5 September 2019. These include public notices for whitegoods disposal days, asbestos disposal days and the Volcano Park closure, election related notices and general advertising. The known expenditure on advertising during the election period to date is \$14,689.15.

2. So did the City of Belmont score eighth out of 16 metropolitan Councils?

Response

The City of Belmont came equal seventh out of 16 metropolitan councils.

5.1.3 Ms J GEE, 97 GABRIEL STREET, CLOVERDALE

The following questions were taken on notice at the 24 September 2019 Ordinary Council Meeting. Ms Gee was provided with a response on 17 October 2019. The response from the City is recorded accordingly:

Regarding the Community Building:

1. What is the original cost?

Response

The original estimated project cost excluding fitouts (2016) was \$29,500,871 plus GST. This estimate was based on a very preliminary Concept Plan.

2. What is the current cost to fitout?

Response

The current estimated cost to fitout the building is \$3,797,843 plus GST.

3. What is the cost of the fitout?

Response

The cost of the fitout is subject to complete procurement (tenders/purchases) for multiple components of the fitout.

4. What is the original contract cost?

Item 5.1.3 Continued

Response

The original construction contract amount is \$37,734,520 plus GST (excluding fitout).

5. What grants were obtained from whom and for how much?

Response

A Commonwealth grant of \$9,675,081 was obtained via the Department of Infrastructure, Regional Development and Cities, and a State grant of \$3,837,557 via Lotterywest.

6. How much are the ratepayers going to be paying when you take the grants out?

Response

The Centre is fully funded by way of grants, reserves and the loan, with grants comprising \$13.5M.

<i>Grants:</i>	\$13,512,638
<i>\$15M Loan (as used):</i>	\$15,000,000
<i>Property Dev. Reserve (PDR):</i>	\$ 9,776,741
<u>Total Funding:</u>	<u>\$38,289,379</u>

\$24,776,741 funded by the City.

7. Who will be paying interest on any loans?

Response

The City will be paying the interest on the loan. The interest repayments will be budgeted for through the normal budget process as per other expenditure items.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

The Presiding Member advised that Public Question Time during Council meetings is audio recorded for minute verification purposes and requested that the Senior Governance Officer commence recording.

7.05pm The Presiding Member drew the public gallery's attention to the rules of Public Question Time as written in the Agenda. In accordance with rule (I), the Mayor advised that he had registered two 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. Four further registrations were forthcoming.

5.2.1 Ms B SCHARFENSTEIN, 140 COOLGARDIE AVENUE, REDCLIFFE

1. The Epsom Avenue shops streetscape has recently undergone considerable upgrade to infrastructure and landscaping – with excellent results. Did the City of Belmont initiate and undertake these upgrade works, what was the total cost of the complete upgrade and did the City receive any financial assistance or contributions to fund the upgrade and if so from what agency or agencies?

Response

The Acting Director Infrastructure Services advised that the question would be taken on notice.

2. What is preventing the City of Belmont installing better street lighting in Belvidere Street, and in the cross streets of Keymer, Leake and Gardiner Streets? I note this matter was raised a few years ago when a City representative proffered that residents of side streets liked the darkness and didn't want better lighting, does the City still hold this view?

Response

The Acting Director Infrastructure Services advised that the question would be taken on notice.

3. Why did the upgrade of Epsom Avenue street lighting take precedence over the Belvidere shopping precinct when business proprietors of Belvidere Street have for some time requested the City install better street lighting as this would assist to address the antisocial behaviour problems?

Response

The Acting Director Infrastructure Services advised that the question would be taken on notice.

4. Could you please confirm that Belvidere Street is a City of Belmont road?

Response

The Acting Director Infrastructure Services advised that Belvidere Street is a City of Belmont road.

5. Would any upgrades be completely the responsibility of the City of Belmont or would infrastructure of any type like lighting towers then be deferred to Main Roads?

Response

The Acting Director Infrastructure Services advised that the works would be undertaken by the City.

6. I heard a comment today that the City of Belmont advised that no upgrades had been undertaken because MRWA were not going to be doing the upgrade of the lighting, so could they be misinformed?

Item 5.2.1 Continued

Response

The Acting Director Infrastructure Services advised that would be the case, Main Roads have no jurisdiction over the lights at all, Western Power have jurisdiction over lighting.

7. Does City of Belmont or Western Power have the responsibility for installing the lighting in Belvidere Street?

Response

The Acting Director Infrastructure Services advised that any relevant upgrades need to be of a particular standard because Western Power ultimately take that over as an asset. Any upgrades would be done in conjunction with Western Power, but how it is actually upgraded is for the City to determine.

5.2.2 MR R FOSTER, 140 COOLGARDIE AVENUE, REDCLIFFE

1. In the Ascot Golden Gateway project, what percentage component of 3,000 dwellings will be community housing and how does this percentage compare to the community housing in the Redcliffe DA6 and the Greater Redcliffe currently at 13% without development?

Response

The Acting Director Development and Communities advised that the Department of Communities does not have any land holdings in the Golden Gateway precinct. The Golden Gateway draft local structure plan does not actually propose development as such; it's up to the commercial land owners to decide ultimately what they want to develop.

2. While I am impressed with the 3.1% increase in tree canopy within the City of Belmont, 331 saplings have been planted and will add to the canopy over the next 15-20 years. Would someone be able to tell me where the mature trees have been planted to make up this 3.1% increase in tree canopy?

Response

The Acting Director Infrastructure Services advised the question would be taken on notice.

5.2.3 Ms L HOLLANDS, 2 MILLER AVENUE, REDCLIFFE, ON BEHALF OF BELMONT RESIDENTS AND RATEPAYERS ACTION GROUP (BRRAG)

1. Recently BRRAG lodged an application to be a third party in the State Administrative Tribunal matter for the Youth Centre at 49 Hardey Road. They discovered the adjacent property, which now has the Comfort Inn Motel on it, is under investigation for potential contamination from PFAS, the site previously had the Belmont Fire Station on it. When was the City of Belmont first notified by the department regarding the potential PFAS?

Response

The Acting Director Development and Communities advised the question would be taken on notice.

2. So, once you did find out, when did you advise Councillors of this notification, given that under Section 67 n(1) of the Planning and Development Regulations it requires they need to be satisfied there will be no impact on the environment with the construction of the development?

Response

The Acting Director Development and Communities advised the notification of a potential contamination was over the next door property. There is no notification over the subject property so, on that basis, the planning assessment does not require that information.

3. Given that PFAS travels some distance and in soil and underground and everything, why did you think it was not significant to notify the Councillors?

Response

The Acting Director Development and Communities advised that the Planning Regulations quite clearly define what matters are to be considered in the Development Application. In the context of the site and the notification of the neighbouring site, it is clear that there is no notification registered over the subject site for PFAS. If a development application was occurring on the site that had a notification on it, then that would be a relevant planning condition.

4. So you didn't think it was relevant to even tell them that next door was under contamination suspect?

Response

The Acting Director Development and Communities replied no.

5. Is the City of Belmont going to ask for an environmental report given this, or are they going to do anything such as a Form 1 Contamination Site?

Response

The Acting Director Development and Communities advised the question would be taken on notice.

Item 5.2.3 Continued

6. In the event that there is no Environmental Report and it is later discovered, after completion of the development, that the site is contaminated, could there be any legal liability on the City of Belmont or the Councillors personally given they were aware of the problem but did nothing about it?

Response

The Acting Director Development and Communities advised that the matter is currently before the tribunal. The tribunal have invited the Council to reconsider the application and the matter will be taken to a future Council Meeting.

7. Is there going to be something done about it because the Councillors have to vote if there is going to be environmental impact?

Response

The Acting Director Development and Communities advised the question would be taken on notice.

5.2.4 MS J GEE, 97 GABRIEL STREET, CLOVERDALE

1. During the last election some posters, some 30 odd posters belonging to one candidate, were taken away. Why was the candidate not told to remove them themselves in the first instance?

Response

The Mayor advised the question would be taken on notice.

2. Who authorised the rangers to go around and remove them?

Response

The Acting Chief Executive Officer replied that, not responding to a specific incident, a number of signs were removed during the recent elections. That was done on the basis of compliance with the City's signage requirements and is standard practice. That would happen if it was an election or not.

3. Why was the rate payer's money wasted in this way when you could have just contacted the candidate and just asked them to remove them himself, or herself?

Response

The Mayor advised the question would be taken on notice.

4. One would like to know why it seems like one candidate was singled out more than others?

Response

The Mayor stated he would defy that to be the case, however; the question would be taken on notice.

Item 5.2.4 Continued

5. BRRAG has sent a letter regarding this issue to the CEO and I was just wondering when Council intends to send its response?

Response

The Mayor advised the question would be taken on notice.

5.2.5 MR P HITT, 14 MCLACHLAN WAY, BELMONT

During the recent Local Government Elections on the 7-8 October, it was noted by a number of residents that a Facebook post by Cr Ryan presented a graphic of the present Mayor Marks on an election flyer. It has also been noted that the present CEO John Christie posted a 'like' below the presentation.

The Mayor commented that the Council has no evidence that supports the allegation of bias by the CEO and has recently endorsed his performance and achievements over the past 12 months and has confidence in what has to be achieved in the future nevertheless the question would be taken on notice.

1. As the question of bias/ nepotism may now be raised in the future as to any decisions made by the CEO towards the present Mayor and Councillors. Will the CEO resign from his current position?

Response

The Mayor advised he would not answer this question.

2. As the present Mayor Mr Marks was illustrated in this Facebook presentation and the comment (like) was directed at him, will he resign from his current position?

Response

The Mayor replied no.

3. The question in the community may be raised; what is the relationship between the two individuals?

Response

The Mayor replied quite simply that he is the CEO and I am the Mayor. I speak to him every day and that is how it should be.

4. Has the current CEO been interviewed by Government officials in relation to this Facebook post and what was/is the outcome?

Response

The Mayor advised the question would be taken on notice.

5.2.6 MR R BIRCH, 195 KNUTSFORD AVENUE, KEWDALE

1. What steps must be taken by electors to second motion the calling of a Special Electors' Meeting?

Response

The Mayor advised that 100 signatures are required.

2. How many signed for that last meeting?

Response

The Mayor replied that he presumed 100.

3. Is it a requirement for attendees to be electors in the City of Belmont?

Response

The Acting Manager Governance advised that to be counted as a signatory on the request for a Special Electors Meeting the definition refers to being eligible to be an elector in the district.

4. If the attendees are not City of Belmont electors are such persons entitled to speak at the Electors Meeting for electors in the City of Belmont?

Response

The Mayor replied no; however he was aware of what Mr Birch was referring to and that he allowed non-electors to ask a question as a medium to go forward with the meeting.

5. Can anything be done to make sure these petitions are genuine?

Response

The Mayor advised that if anyone is eligible to be an elector in the City of Belmont they can sign. As far as people who are not electors in the City of Belmont attending these meetings, they will in future be asked to leave.

6. Can anything be done regarding the constant questioning of the Council?

Response

The Mayor stated no, people are allowed to ask questions in a decent matter and the City will take the questions and answer them to the best of their ability.

7.30pm As there were no further questions, the Presiding Member declared Public Question Time closed and requested that the Senior Governance Officer cease audio recording.

6. CONFIRMATION OF MINUTES/RECEIPT OF MATRIX

**6.1 ORDINARY COUNCIL MEETING HELD 24 SEPTEMBER 2019
(Circulated under separate cover)**

OFFICER RECOMMENDATION

DAVIS MOVED, SEKULLA SECONDED

That the Minutes of the Ordinary Council Meeting held on 24 September 2019 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 9 VOTES TO 0

**6.2 MATRIX FOR THE AGENDA BRIEFING FORUM HELD 22 OCTOBER 2019
(Circulated under separate cover)**

OFFICER RECOMMENDATION

POWELL MOVED, DAVIS SECONDED

That the Matrix of the Agenda Briefing Forum, held on 22 October 2019 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 9 VOTES TO 0

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

Nil.

8. QUESTIONS BY MEMBERS WITHOUT NOTICE

8.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

Nil.

8.2 QUESTIONS BY MEMBERS WITHOUT NOTICE

Nil

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

Nil.

10. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

11. REPORTS OF COMMITTEES

11.1 STANDING COMMITTEE (AUDIT AND RISK) HELD 21 OCTOBER 2019
(Circulated under separate cover)

OFFICER RECOMMENDATION

BASS MOVED, POWELL SECONDED

That the Minutes of the Standing Committee (Audit and Risk) meeting held on 21 October 2019, as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

11.2 STANDING COMMITTEE (COMMUNITY VISION) HELD 21 OCTOBER 2019
(Circulated under separate cover)

OFFICER RECOMMENDATION

DAVIS MOVED, RYAN SECONDED

That the Minutes of the Standing Committee (Community Vision) meeting held on 21 October 2019, as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

11.3 STANDING COMMITTEE (ENVIRONMENTAL) HELD 21 OCTOBER 2019
(Circulated under separate cover)

OFFICER RECOMMENDATION

WOLFF MOVED, BASS SECONDED,

That the Minutes of the Standing Committee (Environmental) meeting held on 21 October 2019, as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

12. REPORTS OF ADMINISTRATION

WITHDRAWN ITEMS

Item 12.1 was withdrawn at the request of Cr Davis.

DAVIS MOVED, SEKULLA SECONDED

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

CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0

12.1 STATE ADMINISTRATIVE TRIBUNAL MATTER – RETROSPECTIVE APPLICATION FOR APPROVAL OF STRUCTURES AND LAND USE – LOT 22 (159) McDOWELL STREET, KEWDALE

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item 12.1 refers	<u>Development Plans – Lot 22 (159) McDowell Street, Kewdale</u>
Attachment 2 – Item 12.1 refers	<u>Schedule of Submissions – Lot 22 (159) McDowell Street, Kewdale</u>
Attachment 3 – Item 12.1 refers	<u>Assessment Against Local Planning Scheme No. 15 Development Controls</u>
Attachment 4 – Item 12.1 refers	<u>Existing Development Approval for Lot 8 (159) McDowell Street, Kewdale (1988)</u>
Attachment 5 – Item 12.1 refers	<u>Site Photos – Lot 22 (159) McDowell Street, Kewdale</u>

Voting Requirement : Simple Majority
 Subject Index : 115/001–Development/Subdivision/Strata – Applications and Application Correspondence
 Location / Property Index : Lot 22 (159) McDowell Street, Kewdale
 Application Index : 567/2014/SAT
 Disclosure of any Interest : Nil
 Previous Items : N/A
 Applicant : Urbanista Town Planning
 Owner : Franco Bros Pty Ltd
 Responsible Division : Development and Communities

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 a development application, currently before the State Administrative Tribunal (SAT), by reconsidering a deemed refusal of a retrospective application for structures and activities associated with an 'Industry-General' land use, and an additional 'Industry-Noxious' land use at Lot 22 (159) McDowell Street, Kewdale.

SUMMARY AND KEY ISSUES

- On 29 August 2014, the City received a development application for existing structures and activities associated with an 'Industry-General' land use, and an additional land use of 'Industry-Noxious' at Lot 22 (159) McDowell Street, Kewdale.
- The application was 'deemed to be refused' on 27 November 2014, after the 90 day statutory determination period lapsed. This was due to the substantial time it took for the proponent to provide the requested information.
- In light of the deemed refusal, the proponent lodged an application for review with the SAT.
- The Tribunal ordered that the applicant submit an amended site plan and has invited the City to reconsider the proposal. A copy of the development plans are contained as [Attachment 1](#).
- The application proposes a number of variations to the specified standards under the City of Belmont Local Planning Scheme No. 15 (LPS 15).
- With the exception of landscaping within the primary street setback area, the variations proposed to LPS 15 are considered to satisfy the objectives of the Scheme.
- It is recommended that Council, pursuant to Section 31 of the *State Administrative Tribunal Act 2004*, set aside the 'deemed refusal' decision and approve the application subject to conditions.

Item 12.1 Continued

LOCATION

The subject site is approximately 2.62ha (26,198 square metres) in area and is bound by McDowell Street, Tonkin Highway, Daddow Road and a Water Corporation drainage basin in Kewdale (refer to Figure 1).



Figure 1 – Location Plan (Source: IntraMaps)

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.

In accordance with Table 1 of LPS 15, the 'Industry-General' and 'Industry-Noxious' land uses are 'D' and 'A' land uses in the Industrial zone respectively. This means that they are not permitted unless the local government exercises its discretion by granting development approval. The 'A' use designation means that advertising of the application is required in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015-Schedule 2-Deemed Provisions*. The application was therefore advertised for 22 days (from 11 December 2018 to 2 January 2019), during which no submissions were received. A map identifying the consultation area follows.

Item 12.1 Continued

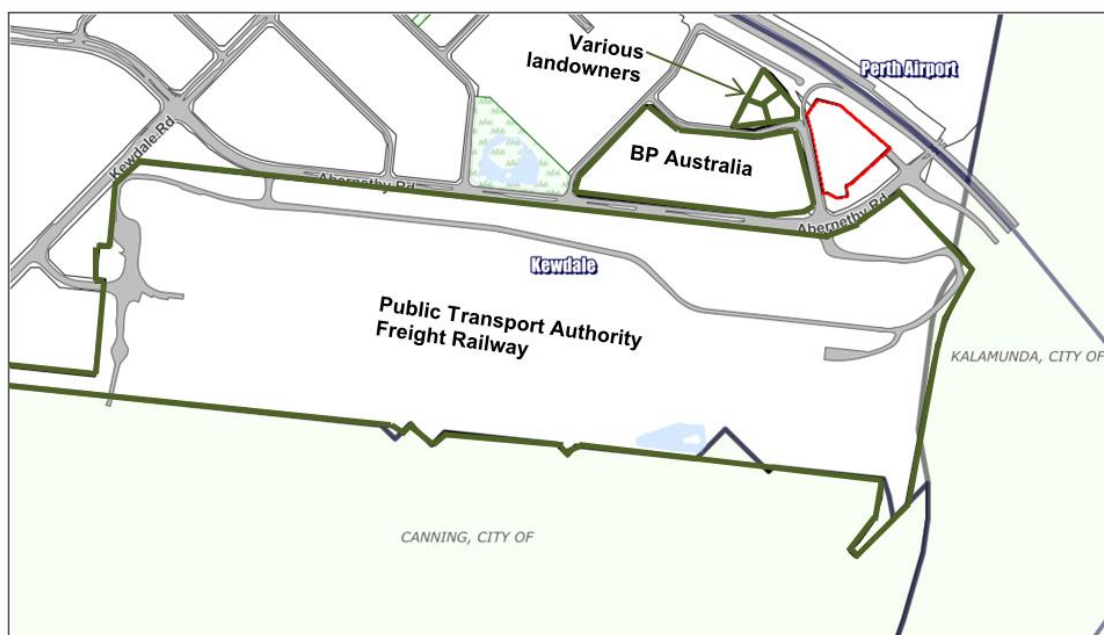


Figure 2: Referral Area (Owners and Occupiers – Subject Site in RED)

The application was also referred for comment to external agencies including:

- Perth Airport
- The Department of Water and Environmental Regulation
- ATCO Gas Australia
- Main Roads Western Australia (MRWA).

There were no objections from external agencies in relation to the subject application. Notwithstanding, MRWA advised that subject to a bond and the landowner entering into a legal agreement, they would consent to the de-gas bay structure and land use operating over the existing drainage pipe easement. In addition, ATCO Gas Australia outlined that they must be notified of any works within 15 metres of High Pressure gas infrastructure before those works begin. ATCO also require their consent to be obtained prior to any pavements being constructed over the pipeline.

A summary of the submissions received from these agencies is provided in [Attachment 2](#).

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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

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

Corporate Key Action: Implement LPS 15.

Item 12.1 Continued

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

State Administrative Tribunal Act 2004

Section 31 of the *State Administrative Tribunal Act 2004* provides for the SAT to invite the decision maker to reconsider its decision. In doing so, the decision maker may:

- (a) Affirm its decision; or
- (b) Vary its decision; or
- (c) Set aside its decision and substitute it with a new decision.

Metropolitan Region Scheme

The subject site abuts land reserved for 'Primary Regional Roads' (Tonkin Highway) under the Metropolitan Region Scheme (MRS). In accordance with Clause 29 of the MRS, applications proposing development on land abutting areas reserved under the MRS shall be forwarded to the Western Australian Planning Commission (WAPC) for determination, unless delegated to another authority pursuant to Section 16 of the *Planning and Development Act 2005*.

The WAPC's Delegation 2017/02 provides for local governments to determine applications for development abutting land that is reserved for a regional road under the MRS. In these instances, a referral to MRWA may be required prior to a decision being made by the local government.

In this case, the subject application seeks to formalise additions to an existing industrial development and it does not encroach onto the road reservation or alter existing access arrangements. As a result, a referral to MRWA was not required under Delegation 2017/02. Notwithstanding, due to MRWA's interest in existing drainage infrastructure located on the property, the application was referred to MRWA as outlined in the consultation section of this report.

Local Planning Scheme No. 15

The subject site is partially zoned 'Industrial' and partially reserved for 'Local Roads' under LPS 15.

Item 12.1 Continued

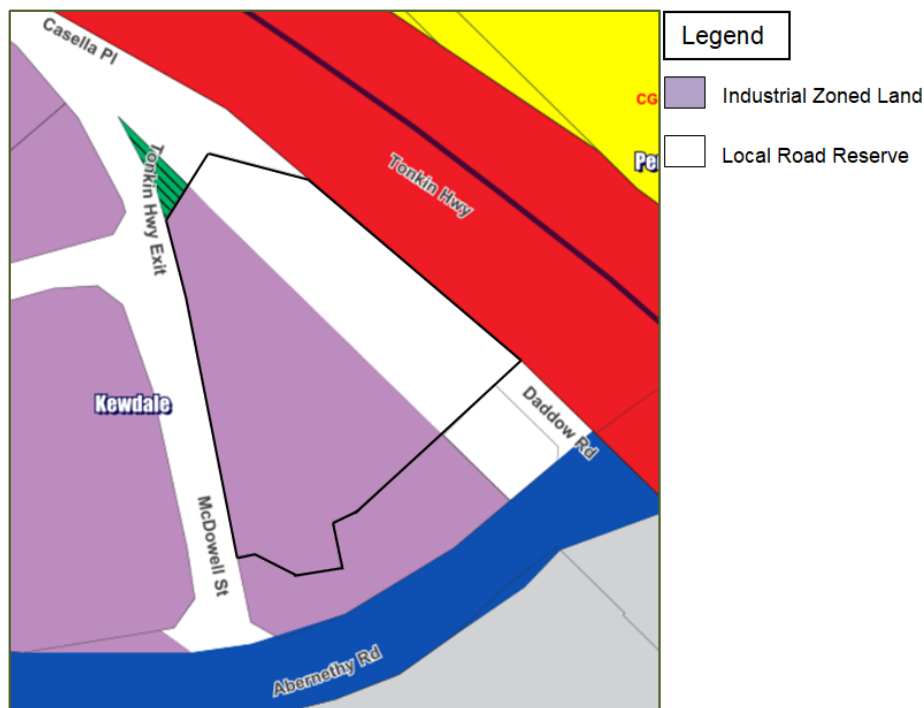


Figure 3: Diagram Outlining Zoned/Reserved Land

In terms of the 'Industrial' zoning applicable to the site, the purpose and intent of the zone is to:

"...provide for the industrial development of the Kewdale Industrial Estate and the Redcliffe Industrial Estate. The significance of the Kewdale Industrial Estate as a transport and logistics hub as part of the Kewdale-Hazelmere Integrated Masterplan is acknowledged. The City may approve a wide range of industrial activities within this zone subject to conditions designed to achieve a high standard of industrial environment."

Clause 5.13 of LPS 15 sets out development standards that apply specifically to the 'Industrial' zone. It includes standards relating to the design and siting of development such as building height, site cover, setbacks, parking, landscaping and fencing requirements, amongst other requirements.

Clause 5.5.1 of LPS 15 stipulates that where a development does not comply with a standard or requirement under LPS 15, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

Clause 5.5.3 of LPS 15 sets out that the power of Clause 5.5.1 may only be conferred where:

"(a) approval of the proposed development would be appropriate having regard to the criteria set out in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015; and

Item 12.1 Continued

- (b) *the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”*

In terms of the ‘Local Roads’ reserve that applies to a portion of the site, 3.4.2 of LPS 15 stipulates that in considering an application for development approval on a Local Reserve, the local government is to have regard to:

1. The matters set out in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*–Schedule 2–Deemed Provisions; and
2. The ultimate purpose intended for the reserve.

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*–Schedule 2–Deemed Provisions outlines the matters to be considered by the local government in determining an application for development approval. In summary, the following matters are of 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...*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following –*
- (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (s) *the adequacy of –*
- (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.”*

Item 12.1 Continued

Environmental Protection Act 1986

Industrial premises with potential to cause emissions and discharges to air, land or water require licencing as a 'prescribed premises' under Part V of the *Environmental Protection Act 1986 (EP Act)*. Schedule 1 of the *Environmental Protection Regulations 1987* lists the categories of prescribed premises and establishes their approval thresholds.

The subject site is used to design and manufacture road trailing equipment which involves steel fabrication, spray painting, sand blasting and pressure testing activities. A component of the sites operation is consistent with the 'Category 81' prescribed premises classification for "*Metal coating: premises on which metal products (excluding vehicles) are spray painted, powder coated or enamelled*", and is therefore subject to licencing under Part V of the *EP Act*. It should be noted that the site is operating without approval, and therefore the occupier is currently committing an offence under the *EP Act*.

Draft Development Control Policy 4.3 – Planning for High-Pressure Gas Pipelines

To provide for the protection of people from unacceptable levels of risk associated with high-pressure gas pipelines, the WAPC's draft Development Control Policy 4.3– Planning for High-Pressure Gas Pipelines (DC 4.3) establishes requirements for planning proposals in the vicinity of high-pressure gas pipelines.

Development Control Policy 4.3 requires all subdivision and development applications affecting land intersected by a high-pressure gas pipeline to be referred to the relevant pipeline owner/operator for comment. As outlined in the consultation section of this report, the subject application was referred to ATCO Gas Australia for comment.

Right of Review

Under Clause 75 of the *Regulations*, an application is 'deemed to be refused' if it is not determined within a 60 or 90 day period, the latter of which applies where LPS 15 requires advertising to be undertaken.

The development application was 'deemed to be refused' as it was not determined within the applicable 90 day period. As outlined in the summary and key issues section of this report, this delay was due to the complex nature of the application and the substantial time it took for the proponent to provide requested information.

An application to review the deemed refusal was subsequently lodged with the SAT. Following a mediation meeting, the applicant has provided additional information and Council has been subsequently invited to reconsider its decision in light of this additional information.

If the applicant is not satisfied with the outcome of Council's reconsidered decision, they may seek for the matter to be referred for further mediation at the Tribunal, or seek to proceed to a hearing which allows the Tribunal to ultimately determine the application.

Item 12.1 Continued

BACKGROUND

Lodgement Date:	29 August 2014	Use Class:	Industry–General Industry–Noxious
Lot Area:	2.62ha	LPS Zoning:	Industrial Local Road
Estimated Value:	\$80,000	MRS:	Industrial

Site Description

The subject site is zoned 'Industrial' and abuts land reserved for 'Primary Regional Roads' (Tonkin Highway) under the MRS. Under LPS 15, the property is partly zoned 'Industrial' and partly reserved for 'Local Roads' (Figure 4). The portion of the site reserved for 'Local Roads' represents the former Daddow Road alignment which was closed as part of Tonkin Highway upgrades and subsequently amalgamated into the subject site in 2008.

The property is constrained by an existing high-pressure gas main owned and operated by ATCO Gas Australia and a drainage pipe and associated easement (benefit to MRWA and the City of Belmont), illustrated in Figure 4.

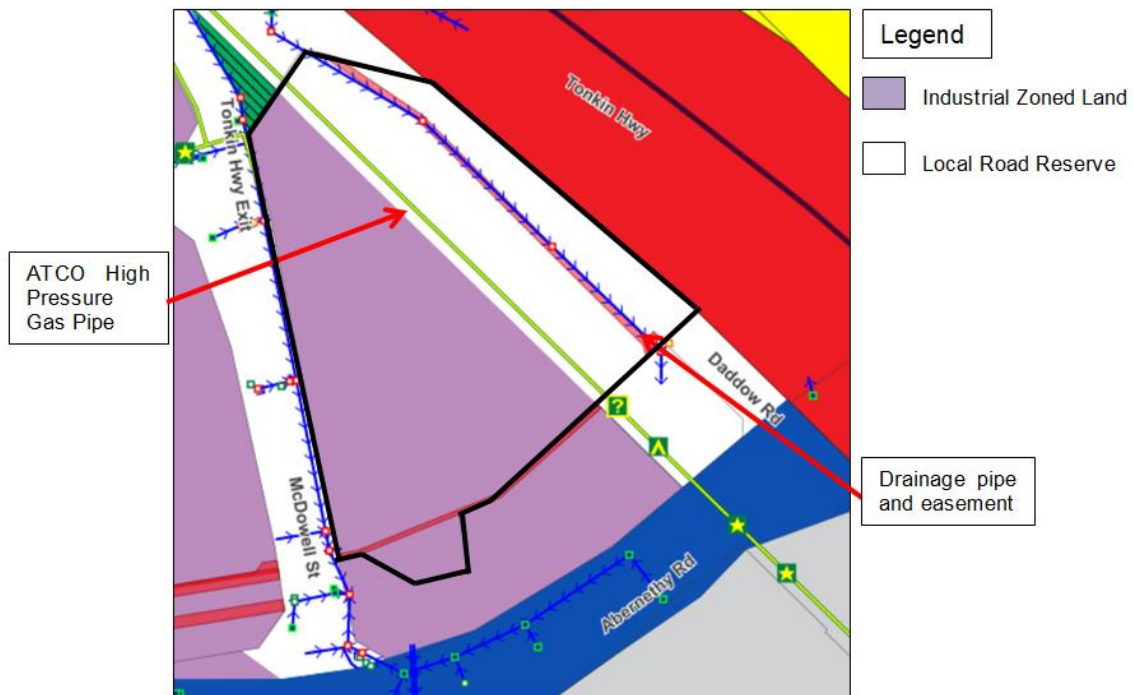


Figure 4 – Site Zoning Under LPS 15

The property contains an existing large workshop and office building that fronts McDowell Street, and an open yard to the rear of the site which abuts Tonkin Highway. Access to the site is provided from McDowell Street and Daddow Road, both of which provide direct access to Abernethy Road, with the Daddow Road access accommodating truck access and being via signalised intersection. Cars predominantly park within the primary street setback area of McDowell Street, in front of the existing workshop and office building.

Item 12.1 Continued



Figure 5 – Site Access Points and Existing Road Network (Source: Nearmaps)

Site History

The site is currently occupied by 'CIMC Trailers' who design and manufacture road trailing equipment (semi-trailers and tankers). The activities undertaken on site include steel fabrication, spray painting, sand blasting, pressure testing and office administration.

In May 2014, a complaint was received regarding extensions being made to the existing workshop building on site. An investigation of the property found that approval had not been obtained for two extensions to the existing workshop building. It also found that unapproved industrial activities were being undertaken in the open yard to the rear of the property, which included the erection of several structures and the storage of goods and sea containers.

The City wrote to the landowner in June 2014 advising of the non-compliances and requested that an application for development approval be submitted. The subject application was subsequently submitted in August 2014.

Proposal

The design and manufacturing of road trailing equipment (semi-trailers and tankers) aligns with an 'Industry-General' land use classification under LPS 15.

Item 12.1 Continued

The application includes the following:

- Extensions to the approved workshop building as annotated on the development plans:
 - **Structure 1:** A 553 square metre extension to the south of the existing workshop building used for storage and industrial purposes.
 - **Structure 2:** A 354 square metre extension to the north of the existing workshop building used for vehicle servicing and repairs.
 - **Structure 7:** A 171 square metre extension to the east of the existing workshop building used for repairs.
 - **Structure 8:** A 31 square metre extension to the east of the existing workshop building used for storage purposes.
 - **Structure 9:** A 60 square metre extension to the east of the existing workshop building used for storage purposes.
- Structures, activities and outdoor storage within the open yard area at the rear of the subject site as follows:
 - The use of portions of the open yard area as a trailer transition area that will occupy a total area of 2,921 square metres. Trucks deliver trailers to the subject site for maintenance and repairs. Trailers are unhitched within the trailer transition area, where they are then moved to the relevant area around the site for maintenance and repair works.
 - The use of a 349 square metre portion of the open yard area for outdoor storage.
 - **Structure 3:** A 197 square metre sand-blasting bay, constructed of five sea containers, a metal frame and a tarpaulin dome roof. The sand-blasting bay is used for sand blasting of new trailers using mineral garnet.
 - **Structure 4:** A 162 square metre de-gas bay, constructed of two sea containers, a metal frame and a tarpaulin dome roof. The de-gas bay is used to clean tankers.
 - **Structure 5:** A 193 square metre hydro bay, constructed of two sea containers, a metal frame, metal sheeting and a tarpaulin dome roof. The hydro bay is used to pump recycled water into tankers for the purposes of pressure testing the integrity of tanker repairs.
 - **Structure 6:** A 66 square metre covered area to be utilised as a staff breakout area.
 - The placement of 17 sea containers (annotated as 'SC' on the plans) with a total area of 412 square metres for the purposes of storage.

Item 12.1 Continued

- A 396 square metre spray paint booth, located within the existing workshop building, used for the spray painting of trailers. This area is classified as 'Industry–Noxious under LPS 15, due to its requirement to obtain a prescribed premises licence under Part V of the *EP Act*.
- A landscaping strip along the McDowell Street frontage that varies in width from 1.5 metres to 3 metres.
- A total of 54 car parking bays located along the McDowell Street frontage and south-eastern lot boundary of the subject site. Space for a further 60 car parking bays is also provided along the north-eastern lot boundary of the site to accommodate future car parking demand if required.
- **Structure 10:** A 42 square metre office area to the east of the staff breakout area.
- **Structure 11:** A 20 square metre office area to the north of the staff breakout area.
- **Structure 12:** A 18 square metre office area located within the repair station structure to the east of the existing workshop building.
- A maximum of 40 employees and seven visitors being located at the premises at any one time.

The site plan and elevation drawings are appended as [Attachment 1](#). It should be noted, however, that the applicant has not provided elevation drawings of Structures 8 and 9. It is necessary for these elevation drawings to be submitted for documentation as part of an approval, however as the structures do not alter the assessment of this application, it is considered acceptable in this instance for the plans to be provided after a decision has been made on the application. It is therefore recommended that a condition be imposed requiring the submission of these plans (Condition 2).

OFFICER COMMENT

Land Use Permissibility

The subject site is used for industrial activities associated with a business that designs and manufactures road trailing equipment. The activities undertaken on site include:

- Steel fabrication
- Spray painting
- Sand blasting
- Pressure testing
- Repairs
- Storage
- Manufacturing
- Ancillary office administration.

It is considered that these activities are consistent with the 'Industry–General' land use definition, with the exception of spray painting which would be an 'Industry–Noxious' use. Subject to appropriate management of spray painting activities, the 'Industry–Noxious' land use is considered acceptable on this site.

Item 12.1 Continued

Local Road Reserve

A portion of the subject site, comprising approximately 1.146 hectares, is reserved for 'Local Roads' under LPS 15. This reservation aligns with the former cadastre of a section of Daddow Road which in 2008, was formally closed and amalgamated with the subject site. Given that the reserved portion of the site is no longer required for road purposes, it is expected that it will be rezoned to 'Industrial' through a future administrative amendment to LPS 15. This would be in line with the zoning of surrounding properties. As such, it is considered that the use of the reserved portion of the site for industrial purposes is acceptable.

Vehicle Access

The use involves trucks delivering trailers to the subject site for maintenance and repairs, with access and egress to and from the site occurring directly from the Daddow/Abernethy Road signalised intersection. The surrounding road network serves industrial traffic from the wider area and is capable of accommodating trucks from the subject use. Vehicles are also able to enter, exit and manoeuvre on the site in forward gear, which is demonstrated by turning templates shown on the site plan (refer [Attachment 1](#)). On this basis, vehicle access arrangements for the site are adequate.

Car Parking

The following table details the LPS 15 car parking requirements for the site and the proposal.

Development /Land Use	Car Parking Standard	Car Parking Requirement
Existing Workshop and Office	N/A	The previous development approval for the site dated 8 August 1988 required 114 car parking bays to be provided on site.
Industry/ Workshop/ Factory	1 space for every 50m ² of open space used for industrial purposes, plus 1 space for every 50m ² gross floor area; or 1 space for each employee, whichever is the greater.	The application proposes 1,721m ² of additional gross floor area (Structures 1–9) and 3,682.2m ² of additional open space areas used for industrial purposes (storage and trailer transition areas). A total of 5403.2m ² of the site is used for industrial purposes, which equates to a parking requirement of 108 bays. A maximum of 40 employees are accommodated on site at any one time. This equates to a parking requirement of 40 bays, which is less than the number of bays generated from the gross floor area and open space calculation, and is therefore not applicable.
Office	1 space for every 30m ² net lettable area; or 1 space for each employee, whichever is the greater.	The application provides for an additional 80m ² of net lettable area in the form of transportable buildings used for staff offices (Structures 10, 11 and 12). This equates to a parking requirement of 3 bays (rounded up from 2.6). N/A – Employee numbers associated with the use are captured through the industrial car parking standards.
TOTAL		A total of 225 car parking bays are required.

Item 12.1 Continued

As indicated above, the existing development approval and the LPS 15 (combined) generate a requirement for 225 car parking bays on site. The application is proposing to provide 54 bays, and set aside space for an additional 60 bays to be constructed should they be required in the future (i.e. a total of 114 bays). This represents a total shortfall of 171 bays, or 111 bays including the space set aside for future bays on site.

Whilst the shortfall is significant, there is scope to consider a variation to the parking requirements under Clause 5.13.2(1) of LPS 15 which states:

“...In those cases where the City is satisfied that a number of spaces less than those stipulated in Table 2 is appropriate, it may grant approval, subject to the number of spaces required being not less than 50 percent of the requirements of Table 2 and then only on the condition that adequate space is reserved to meet the full parking requirement should it be needed at any future time.”

Based on the above, should Council consider varying the applicable parking requirement, the application would still need to provide at least 113 bays on site (rounded up from 112.5), and set aside space for another 113 bays (rounded up from 112.5). Notwithstanding, Clause 5.5.3 of LPS 15 also provides for variations to the site and development standards and requirements of LPS 15 where the local government is satisfied that:

- “(a) approval of the proposed development would be appropriate having regard to the criteria set out in Clause 10.2; and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”*

It should be noted that Clause 10.2 of LPS 15 has been superseded by Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015–Schedule 2–Deemed Provisions*. Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* lists matters to be considered by the local government in considering an application for development approval. In terms of parking, Clause 67(s)(ii) requires consideration of the adequacy of arrangements for the parking of vehicles.

In considering the parking variation, the following points are relevant:

- The site is expected to accommodate a maximum of 40 employees and seven visitors at any one time. If each employee and visitor were to drive themselves to the site, this would result in a maximum of 47 bays being occupied, and seven bays being free for use.
- Between January 2017 and July 2019, aerial photography indicated that the maximum number of cars parked on the site, on a week day ranged between 19 and 50. The subject application proposes to provide 54 car parking bays, and set aside space for a further 60 bays to be constructed should they be required in the future (i.e. a total of 114 bays). The amount of car parking bays proposed still exceeds the maximum number of vehicles observed parking on the site over the past two and a half years.
- The nature of the use is such that it requires large areas to store and manoeuvre trailers, which in turn contributes to a greater car parking requirement under LPS 15, irrespective of the fact that they do not increase demand for car parking.

Item 12.1 Continued

• The site has capacity to accommodate overflow parking if required. Based on the above reasons, the proposed car parking provision of 54 bays and variation of 171 bays is considered acceptable. Notwithstanding, to accommodate any future demand, it is considered appropriate to 'secure' the additional 60 bays proposed to be set aside, through the imposition of appropriate conditions. More specifically, it is recommended that a condition be imposed requiring the landowner to:

- (i) Reserve space on site for the 60 bays;
- (ii) If notified by the City, within 90 days, seal, drain and line mark the additional bays that have been determined by the City to be necessary; and
- (iii) Thereafter maintain the additional bays.

Development Controls

Most aspects of the proposed development comply with the prescribed standards under Clause 5.13 (Industrial development standards) of LPS 15. It is recommended that Council exercises discretion to accept that the following aspects satisfy the objectives of the Scheme:

- The activities undertaken in the open yard area are visible from McDowell and Baldwin Streets and Tonkin Highway (including the off-ramp), in lieu of being screened from view by a wall or fence. The existing workshop building screens majority of the open yard area from McDowell and Baldwin Streets. Where the existing workshop building does not screen the open yard area, a 3 metre wide landscape strip is proposed along the front boundary. As the subject site topography is significantly lower than Tonkin Highway, there is no adverse impact on visual amenity from that aspect of the site.
- The de-gas bay and hydro-bay are proposed within the Tonkin Highway setback area with a nil setback to the northern boundary of the site. Local Planning Scheme No. 15 does not permit the use of setback areas for any purpose other than for planting, pedestrian and vehicular circulation, and parking, and stipulates a building setback of 9 metres for secondary streets. The reduced setbacks are setback approximately 20 metres from the Tonkin Highway off-ramp carriageway due to the size of the adjacent verge area. In addition to the width of the verge, the off-ramp curves which mean that the structure is located in a position that is not visually obtrusive.
- The de-gas bay, hydro-bay and southern building extension are all proposing parapet walls constructed in either metal sheeting or tarpaulin in lieu of brick or concrete panels. It is considered that the parapet walls do not detract from the existing streetscape and are therefore supported.
- In addition, the application also proposes a variation to Clause 5.17 of LPS 15 pertaining to bicycle parking. The application proposes additional structures and outdoor industrial activities that are ancillary to the established development. It is therefore not considered reasonable to require bicycle parking or end of trip facilities as part of this application.
- The application is proposing no landscaping to the secondary street frontage, in lieu of the LPS 15 stipulated 2 metre requirement. Due to the subject site being significantly lower than Tonkin Highway, landscaping in this location would not be visible, and it is therefore considered unreasonable to require landscaping in this location.

Item 12.1 Continued

A detailed assessment of the rest of the development against the Scheme standards is provided in [Attachment 3](#).

The application proposes landscaping to the primary street frontage with a varying width of 1.5 metres to 3 metres. Local Planning Scheme No. 15 requires a 3 metre wide landscaping strip to the primary street frontage. The reduced landscaping along the primary street frontage (McDowell Street) is not supported for the following reasons:

- There is sufficient room within the primary street setback area for a 3 metre wide landscaping strip to be accommodated.
- A 3 metre wide landscaping strip could accommodate substantial, high quality vegetation that will facilitate in improving the amenity of the area. This landscaping would be in addition to any landscaping that could also be accommodated within the verge area.
- Previous development approvals dating back to 1988 ([Attachment 4](#)) for the subject site have reflected a 3 metre wide landscaping strip within the primary street setback area.
- The provision of a 3 metre landscaping strip is a widely adopted planning requirement for industrial precincts across the Perth Metropolitan area. A departure from this requirement would establish an undesirable precedent for the Kewdale Industrial area.

It is recommended that a condition be imposed requiring a 3 metre wide landscaping strip along the McDowell Street frontage.

Item 12.1 Continued

Outdoor Storage

The rear of the subject site, which aligns with the former boundary of a section of Daddow Road, is predominantly utilised for outdoor storage, general industrial activities and vehicle manoeuvring. This section of the site currently contains both paved and unpaved areas. It is considered necessary for both vehicle manoeuvring and outdoor storage areas to be paved, sealed and drained in line with the City's Engineering Requirements and Design Guidelines.

The applicant does not wish to pave the subject site due to the costs involved in undertaking the works. Notwithstanding, it is considered necessary for the entire area to be paved, sealed and drained for the following reasons:

- The movements of trucks and trailers on unpaved surfaces can result in sediment runoff into stormwater drains, which can negatively impact on the City's drainage network.
- Uncontrolled releases of dust can occur from truck and trailer movements on surfaces which are unpaved and there are no dust suppression or mitigation measures proposed by this application.
- It is evident from both aerial photography (Figure 6) and site photos ([Attachment 5](#)) that the site has not been maintained and is degraded, making it unsightly and detrimental to the amenity of the area.
- There is a clear ongoing maintenance issue associated with the hardstand on the subject site, with evidence of erosion from stormwater pooling in various locations.
- The subject proposal is not unique from other developments in the Kewdale Industrial zone to justify a departure from the requirement to pave, seal and drain the area.



Figure 6 – Aerial of Subject Site

Item 12.1 Continued

For the reasons mentioned above, it is considered that this area should be paved, sealed and drained in accordance with the City's Engineering Requirements and Design Guidelines. A condition is recommended requiring vehicle access ways, parking areas, storage areas and areas used for industrial activities to be constructed, upgraded (where necessary), and maintained.

Wastewater Management

The subject site is not connected to reticulated sewerage and therefore all wastewater generated on site is required to be managed by an effluent disposal system. It is important to note that there is existing leach drains located on the site that service the previously approved office, and workshop extension (contains a lunch room, toilets, kitchen and lockers). The leach drains that service the previously approved workshop extension are located in the open yard area towards the rear of the subject site. This area is located in close proximity to the proposed trailer transition area, therefore to ensure that these leach drains are protected, a condition is recommended requiring the installation of bollards around the leach drains.

The site contains an existing grassed area to the south of the hydro-bay which could potentially accommodate an effluent disposal system. In order for the hydro-bay and de-gas bay to lawfully operate, the applicant will need to lodge an application to construct and install an apparatus to the City of Belmont Health Services Section. A condition is recommended, outlining that the on-site storage, treatment and disposal of trade wastewater is not permitted except where an apparatus has been approved.

Main Roads WA Drainage Easement

The application proposes to locate the de-gas bay (Structure 4) and undertake activities over the existing drainage pipe and easement. Main Roads Western Australia advised that they would consent to the de-gas bay structure and use operating over the easement subject to the landowner entering into a legal agreement with MRWA. The legal agreement would likely address matters relating to the removal of structures for access to the easement (in the event of repairs) and liability surrounding any damage occurring to the drainage pipe located within the easement area.

If the application is approved by Council, the applicant will be advised through a footnote that the owner needs to:

- Make suitable arrangements with MRWA for the placement and removal of structures over the existing drainage easement on the land; and
- Not dispose of stormwater into MRWA drainage infrastructure.

Condition Timeframes

Should Council resolve to approve the subject application, several conditions are recommended which require further information to be provided and works to be undertaken. Given that the use is currently operating, it is necessary for conditions to include timeframes for when they are required to be satisfied. In this regard, it is considered that a 90 day timeframe represents a reasonable period for information to be provided, approved and works undertaken as required by the condition.

Item 12.1 Continued

Conclusion

The proposal is consistent with development within the 'Industrial' zone and is generally compliant with the requirements of LPS 15. Where the proposal does not meet the deemed-to-comply requirements of LPS 15, the variations are considered to meet the objectives of LPS 15 and are considered acceptable or a condition is recommended to achieve compliance.

It is therefore recommended that Council resolves to set aside the 'deemed refusal' and approve the application, subject to appropriate conditions as listed in the Officer Recommendation.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That Council pursuant to Section 31 of the *State Administrative Tribunal Act 2004*, set aside the deemed refusal for existing structures and activities associated with an 'Industry-General' land use and an additional use of 'Industry-Noxious' at Lot 22 (159) McDowell Street, Kewdale and substitute it with an approval subject to the following conditions:

1. Development/land use shall be in accordance with the attached approved plan(s) dated 10 September 2019 (Building 1 – Southern Building Enclosure), 19 September 2019 (Site Plan – Land Use and Parking), 12 September 2019 (Building 2 – Northern Building Enclosure, Structure 5 – Hydro Bay), 29 August 2014 (Structure 3 – Sand Blasting Bay, Structure 4 – De-Gas Bay, Structure 6 – Staff Area), and 12 November 2018 (Structure 7 – Repair Station) and subject to any modifications required as a consequence of any condition(s) of this approval, including the provision of additional plans. The endorsed plans shall not be modified or altered without the prior written approval of the City.
2. The applicant/landowner shall submit elevation drawings within 90 days of the date of this approval for Structures 8 (31 square metre store area) and 9 (60 square metre store area), to the satisfaction of the City.
3. A 3 metre wide landscaping strip along the McDowell Street frontage shall be provided as marked and annotated on the approved plans.
4. Within 90 days of the date of this approval, the applicant/landowner shall submit a landscaping and irrigation plan for the subject development site and street verge to the City for approval.

Item 12.1 Continued

5. Within 90 days of the date of the landscaping and irrigation plan approval, landscaping, plants, verge treatment and/or irrigation are to be installed and thereafter maintained in accordance with the approved landscaping and irrigation plan for the duration of the approved development to the satisfaction of the City.
6. Within 90 days of the date of this approval, a minimum of 54 car parking spaces shall be provided and clearly line marked on site in accordance with the approved plan, the City's engineering requirements and design guidelines and the City of Belmont Local Planning Scheme No. 15, to the satisfaction of the City.
7. The landowner shall reserve space for a further 60 car parking spaces to be provided on site to cater for potential future car parking demand, in the location(s) shown on the approved plan (car bays (future if required)).

In the event the City determines that the demand for car parking on the land requires some or all of the further spaces to be used, the City may after first consulting with the land owner give a written notice to the land owner setting out the number and location of additional bays required, following which the landowner must:

- (a) Within 90 days seal, drain, and line mark the additional bays required, to the City's satisfaction;
 - (b) Thereafter maintain the additional bays.
8. The loading and/or unloading of vehicles is to occur on site and in a manner that does not interfere with the parking of vehicles in the car park. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
 9. Provision to be made so that all commercial vehicles and trucks can ingress and egress the site in forward gear. No reversing of vehicles and trucks to or from the site via a public road is permitted.
 10. All vehicular access ways, parking areas, storage areas and areas used for industrial activities shall be constructed, upgraded (where necessary) and maintained in accordance with the City's engineering requirements and design guidelines and/or to the satisfaction of the City in consultation with ATCO Gas Australia.
 11. All stormwater from roofed and paved areas shall be collected and disposed of via piped connection to the existing system on the site in accordance with the City's engineering requirements and design guidelines. Any existing drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction.
 12. A wastewater apparatus shall be provided and maintained in accordance with the *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*, to the satisfaction of the City.
 13. Within 90 days of the date of this approval, bollards shall be installed and maintained around the leach drains in the rear of the yard of the subject site, as annotated on the approved plans, to ensure a minimum setback of 1.2 metres between the leach drains and surrounding vehicular traffic. The installation shall be to the satisfaction of the City.

Item 12.1 Continued

14. The carrying out of vehicle servicing and repairs shall only be undertaken within areas designated on the approved plans to be used for such purposes, subject to:
- (a) All areas must be fully enclosed and covered unless otherwise approved;
 - (b) All areas must have an impervious floor which is graded or bunded so as to exclude the ingress or egress of surface water;
 - (c) Work areas must not drain to an outdoor area or to a stormwater drain;
 - (d) Tanks being degassed and any associated vehicle must be located entirely within the graded de-gas bay at all times during the de-gassing process; and
 - (e) Tanks being hydro-tested and the associated vehicle must be located entirely within the graded hydro-bay at all times during the process.

Note: Cr Davis put forward an Alternative Councillor Motion.

ALTERNATIVE COUNCILLOR MOTION

DAVIS MOVED, SEKULLA SECONDED

That Council pursuant to Section 31 of the *State Administrative Tribunal Act 2004*, set aside the deemed refusal for existing structures and activities associated with an 'Industry-General' land use and an additional use of 'Industry-Noxious' at Lot 22 (159) McDowell Street, Kewdale and substitute it with an approval subject to the following conditions:

1. Development/land use shall be in accordance with the attached approved plan(s) dated 10 September 2019 (Building 1 – Southern Building Enclosure), 19 September 2019 (Site Plan – Land Use and Parking), 12 September 2019 (Building 2 – Northern Building Enclosure, Structure 5 – Hydro Bay), 29 August 2014 (Structure 3 – Sand Blasting Bay, Structure 4 – De-Gas Bay, Structure 6 – Staff Area), and 12 November 2018 (Structure 7 – Repair Station) and subject to any modifications required as a consequence of any condition(s) of this approval, including the provision of additional plans. The endorsed plans shall not be modified or altered without the prior written approval of the City.
2. The applicant/landowner shall submit elevation drawings within 90 days of the date of this approval for Structures 8 (31 square metre store area) and 9 (60 square metre store area), to the satisfaction of the City.
- ~~3. A 3 metre wide landscaping strip along the McDowell Street frontage shall be provided as marked and annotated on the approved plans.~~
3. Within 90 days of the date of this approval, the applicant/landowner shall submit a landscaping and irrigation plan for the subject development site and street verge to the City for approval.

Item 12.1 Continued

4. Within 90 days of the date of the landscaping and irrigation plan approval, landscaping, plants, verge treatment and/or irrigation are to be installed and thereafter maintained in accordance with the approved landscaping and irrigation plan for the duration of the approved development to the satisfaction of the City.
5. Within 90 days of the date of this approval, a minimum of 54 car parking spaces shall be provided and clearly line marked on site in accordance with the approved plan, the City's engineering requirements and design guidelines and the City of Belmont Local Planning Scheme No. 15, to the satisfaction of the City.
6. The landowner shall reserve space for a further 60 car parking spaces to be provided on site to cater for potential future car parking demand, in the location(s) shown on the approved plan (car bays (future if required)).

In the event the City determines that the demand for car parking on the land requires some or all of the further spaces to be used, the City may after first consulting with the land owner give a written notice to the land owner setting out the number and location of additional bays required, following which the landowner must:

- (a) Within 90 days seal, drain, and line mark the additional bays required, to the City's satisfaction;
 - (b) Thereafter maintain the additional bays.
7. The loading and/or unloading of vehicles is to occur on site and in a manner that does not interfere with the parking of vehicles in the car park. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.
 8. Provision to be made so that all commercial vehicles and trucks can ingress and egress the site in forward gear. No reversing of vehicles and trucks to or from the site via a public road is permitted.
 - ~~10. All vehicular access ways, parking areas, storage areas and areas used for industrial activities shall be constructed, upgraded (where necessary) and maintained in accordance with the City's engineering requirements and design guidelines and/or to the satisfaction of the City in consultation with ATCO Gas Australia.~~
 9. All stormwater from roofed and paved areas shall be collected and disposed of via piped connection to the existing system on the site in accordance with the City's engineering requirements and design guidelines. Any existing drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction.
 10. A wastewater apparatus shall be provided and maintained in accordance with the *Health (Miscellaneous Provisions) Act 1911* and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*, to the satisfaction of the City.
 11. Within 90 days of the date of this approval, bollards shall be installed and maintained around the leach drains in the rear of the yard of the subject site, as annotated on the approved plans, to ensure a minimum setback of 1.2 metres between the leach drains and surrounding vehicular traffic. The installation shall be to the satisfaction of the City.

Item 12.1 Continued

12. The carrying out of vehicle servicing and repairs shall only be undertaken within areas designated on the approved plans to be used for such purposes, subject to:
- (a) All areas must be fully enclosed and covered unless otherwise approved;
 - (b) All areas must have an impervious floor which is graded or bunded so as to exclude the ingress or egress of surface water;
 - (c) Work areas must not drain to an outdoor area or to a stormwater drain;
 - (d) Tanks being degassed and any associated vehicle must be located entirely within the graded de-gas bay at all times during the de-gassing process; and
 - (e) Tanks being hydro-tested and the associated vehicle must be located entirely within the graded hydro-bay at all times during the process.

LOST 3 VOTES TO 6

For: Davis, Bass Sekulla

Against: Cayoun, Marks, Powell, Rossi, Ryan, Wolff

Note: Cr Powell put forward the following Foreshadowed Councillor Motion.

FORESHADOWED COUNCILLOR MOTION

POWELL MOVED, WOLFF SECONDED,

That Council pursuant to Section 31 of the State Administrative Tribunal Act 2004, set aside the deemed refusal for existing structures and activities associated with an 'Industry-General' land use and an additional use of 'Industry-Noxious' at Lot 22 (159) McDowell Street, Kewdale and substitute it with an approval subject to the following conditions:

- 1. Development/land use shall be in accordance with the attached approved plan(s) dated 10 September 2019 (Building 1 – Southern Building Enclosure), 19 September 2019 (Site Plan – Land Use and Parking), 12 September 2019 (Building 2 – Northern Building Enclosure, Structure 5 – Hydro Bay), 29 August 2014 (Structure 3 – Sand Blasting Bay, Structure 4 – De-Gas Bay, Structure 6 – Staff Area), and 12 November 2018 (Structure 7 – Repair Station) and subject to any modifications required as a consequence of any condition(s) of this approval, including the provision of additional plans. The endorsed plans shall not be modified or altered without the prior written approval of the City.***
- 2. The applicant/landowner shall submit elevation drawings within 90 days of the date of this approval for Structures 8 (31 square metre store area) and 9 (60 square metre store area), to the satisfaction of the City.***
- 3. A 3 metre wide landscaping strip along the McDowell Street frontage shall be provided as marked and annotated on the approved plans.***
- 4. Within 90 days of the date of this approval, the applicant/landowner shall submit a landscaping and irrigation plan for the subject development site and street verge to the City for approval.***

Item 12.1 Continued

5. ***Within 90 days of the date of the landscaping and irrigation plan approval, landscaping, plants, verge treatment and/or irrigation are to be installed and thereafter maintained in accordance with the approved landscaping and irrigation plan for the duration of the approved development to the satisfaction of the City.***
6. ***Within 90 days of the date of this approval, a minimum of 54 car parking spaces shall be provided and clearly line marked on site in accordance with the approved plan, the City's engineering requirements and design guidelines and the City of Belmont Local Planning Scheme No. 15, to the satisfaction of the City.***
7. ***The landowner shall reserve space for a further 60 car parking spaces to be provided on site to cater for potential future car parking demand, in the location(s) shown on the approved plan (car bays (future if required)).***

In the event the City determines that the demand for car parking on the land requires some or all of the further spaces to be used, the City may after first consulting with the land owner give a written notice to the land owner setting out the number and location of additional bays required, following which the landowner must:

- (a) ***Within 90 days seal, drain, and line mark the additional bays required, to the City's satisfaction;***
 - (b) ***Thereafter maintain the additional bays.***
8. ***The loading and/or unloading of vehicles is to occur on site and in a manner that does not interfere with the parking of vehicles in the car park. All car parking bays in the car park are to be made available at all times for the parking of vehicles by visitors and employees.***
 9. ***Provision to be made so that all commercial vehicles and trucks can ingress and egress the site in forward gear. No reversing of vehicles and trucks to or from the site via a public road is permitted.***
 10. ***All vehicular access ways, parking areas, storage areas and areas used for industrial activities shall be constructed, upgraded (where necessary) and maintained in accordance with the City's engineering requirements and design guidelines and/or to the satisfaction of the City in consultation with ATCO Gas Australia within 18 months.***
 11. ***All stormwater from roofed and paved areas shall be collected and disposed of via piped connection to the existing system on the site in accordance with the City's engineering requirements and design guidelines. Any existing drains, drainage pits and soakwells shall be maintained in a clean and clear condition free of obstruction.***
 12. ***A wastewater apparatus shall be provided and maintained in accordance with the Health (Miscellaneous Provisions) Act 1911 and Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974, to the satisfaction of the City.***

Item 12.1 Continued

- 13. Within 90 days of the date of this approval, bollards shall be installed and maintained around the leach drains in the rear of the yard of the subject site, as annotated on the approved plans, to ensure a minimum setback of 1.2 metres between the leach drains and surrounding vehicular traffic. The installation shall be to the satisfaction of the City.**

- 14. The carrying out of vehicle servicing and repairs shall only be undertaken within areas designated on the approved plans to be used for such purposes, subject to:**
 - (a) All areas must be fully enclosed and covered unless otherwise approved;**
 - (b) All areas must have an impervious floor which is graded or bunded so as to exclude the ingress or egress of surface water;**
 - (c) Work areas must not drain to an outdoor area or to a stormwater drain;**
 - (d) Tanks being degassed and any associated vehicle must be located entirely within the graded de-gas bay at all times during the de-gassing process; and**
 - (e) Tanks being hydro-tested and the associated vehicle must be located entirely within the graded hydro-bay at all times during the process.**

CARRIED 6 VOTES TO 3

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

12.2 TENDER 10/2019 – MIDDLETON PARK CLUBROOMS ALTERATIONS AND ADDITIONS

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Confidential Attachment 1 – Item 12.2 refers	<u>Tender 10/2019 - Evaluation Matrix</u>
Confidential Attachment 2 – Item 12.2 refers	<u>Tender 10/2019 - Price Schedule</u>

Voting Requirement : Simple Majority
Subject Index : 114/2019-10
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 : Infrastructure 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

To seek Council approval to award Tender 10/2019 – Middleton Park Clubrooms Alterations and Additions.

SUMMARY AND KEY ISSUES

This report outlines the process undertaken to invite and evaluate the tenders received and includes a recommendation to award Tender 10/2019 to BE Projects (WA) Pty Ltd in accordance with the requirements of the *Local Government Act 1995*.

The scope of works includes the provision of new unisex umpire change rooms, the upgrade of male and female change rooms, construction of a new storage room, enlargement and upgrade of the kitchen and relocation of external fixtures to accommodate the extensions.

Item 12.2 Continued

LOCATION

Middleton Park Clubrooms, corner Middleton Street and Garvey Street, Cloverdale.



CONSULTATION

The City's Recreation Officer, Coordinator Building Operations and a Project Architect from Paterson Group Architects met and consulted with all Middleton Park Community Centre stakeholder groups prior to finalising the design for the upgrade to the Community Centre. Where practicable, the Architect has incorporated the stakeholder requests into the final design.

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Objective: Maintain public infrastructure in accordance with sound asset management practices.

Strategy: Manage the City's infrastructure and other assets to ensure that an appropriate level of service is provided to the community.

Corporate Key Action: Maintain assets in accordance with the Asset Management Strategy and associated plans.

POLICY IMPLICATIONS

BEXB28–Purchasing

POLICY OBJECTIVE

This policy aims to deliver a high level of accountability whilst providing a flexible, efficient and effective procurement framework.

Item 12.2 Continued

STATUTORY ENVIRONMENT

This issue is governed in the main by the *Local Government Act 1995*, in particular Section 3.57 which states that 'a local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services'.

BACKGROUND

An invitation to tender for Middleton Park Clubrooms Alterations and Additions was advertised in the West Australian on Saturday 27 July 2019, closing on Tuesday 20 August 2019 at 2pm.

Thirty nine prospective tenderers downloaded the tender documents from the City's eTendering portal with twenty attending a compulsory site meeting held on Tuesday 6 August 2019 at the Middleton Park Community Centre. Twelve responses were received from:

- AE Hoskins Building Services
- BE Projects (WA) Pty Ltd
- Classic Contractors Pty Ltd
- Construct360 Pty Ltd
- Enviro Infrastructure Pty Ltd
- Geared Construction Pty Ltd
- LKS Constructions (WA) Pty Ltd
- M Construction (WA)
- Palace Construction
- Rivett Construction
- Solution 4 Building Pty Ltd
- Vera Builders Pty Ltd.

OFFICER COMMENT

The Evaluation Panel consisted of Coordinator Building Operations, Coordinator Procurement and Procurement Administrator. Each panel member has signed a Declaration of Confidentiality and Impartiality Form confirming that they have no known conflict of interest to disclose.

The responses received were assessed on the same selection criteria included with the invitation to tender, being:

	CRITERIA	WEIGHTING
1	Company Profile	10%
2	Experience	20%
3	Company Capacity	20%
4	Methodology	20%
5	Safety	10%
6	Price	20%
	TOTAL	100%

All the tenders demonstrated that they had at some time performed similar works, with the most of them having undertaken alterations and extensions to other community facilities for either State or Local Governments.

Item 12.2 Continued

BE Projects submission represented the best value for money and was considered the most advantageous as they demonstrated that they have the experience and capacity to deliver the services, together with a full understanding of the contract requirements while submitting a competitive price.

BE Projects has carried out building works for the City in the past and were the successful tenderer that built the Harman Park Community Centre. Their work was of a high standard and the project was completed on time and within budget.

BE Projects indicated in their submission that they have recently completed similar construction projects for other local governments. A reference check was undertaken with those Councils and the response received was positive with referees confirming BE Projects completed the scope of works to a high standard, in a timely manner and within budget.

A Dun and Bradstreet report has been received and shows that BE Projects has no financial issues and poses a low risk to the City.

FINANCIAL IMPLICATIONS

The City was the recipient of a \$500,000 grant from the Australian Sports Commission to contribute to the funding of the alterations and additions at the Middleton Park Community Centre.

The City engaged Paterson Group Architects to review and finalise the design, liaise with stakeholder groups and to administrate the construction works for the Middleton Park Community Centre project at a cost of \$43,641. An amount of \$19,097.50 was already expended on architectural fees in the 2018-2019 financial year with a further amount of \$2,230 paid for the relocation of services and survey fees. Therefore a balance of \$478,672.50 is available from the grant funds to complete the project in the 2019-2020 financial year.

The remaining architectural fees owing (\$24,543.50) will be paid this financial year and the balance of grant funds available after that payment is \$454,129. If Council awards the construction contract to the preferred tenderer, BE Project for \$370,478.93, this will leave an amount of \$83,650.07 which will be available as a project contingency, plus allocations for turf reinstatement, reticulation repairs, white goods and signage which are part of the grant funding and will be necessary to complete the project.

It is anticipated that the entire project will be fully funded from the grant received from the Australian Sports Commission. Nevertheless, as with any construction project, often variations arise, if this is the case, these will be managed appropriately.

ENVIRONMENTAL IMPLICATIONS

The building specifications include energy efficient fittings and fixtures throughout, including the external security lighting. Plumbing fixtures and fittings will meet Water Efficiency Labelling and Standards.

Item 12.2 Continued

SOCIAL IMPLICATIONS

The main objective of this project was to upgrade the Middleton Park Community Centre to make it more accessible, safe and inclusive and be a sustainable sport and physical activity facility well into the future. When the work is completed, the facility will be more user friendly for both men and women sporting groups.

This project contributes to the City's objective to take a key leadership role in the development of services for the benefit of the community as follows:

- The City will create a facility that the community has access to and that will be able to provide a range of services
- Supports community groups by providing additional space for the use of the Community, and;
- Enhances a sense of community and the image of Belmont by developing a new facility that will service the community for many years to come.

OFFICER RECOMMENDATION

1. ***Accepts the tender submitted by BE Projects (WA) Pty Ltd, in response to Tender 10/2019 – Middleton Park Clubrooms Alterations and Additions as specified for the lump sum of \$370,478.93 excluding GST, as the most advantageous; and***
2. ***Authorise the Chief Executive Officer to approve any minor variations within the budget allocation for this project.***

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

12.3 2019 COMMUNITY SERVICE AWARDS

SOCIAL BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 6 – Item 12.3 refers	<u>Community Service Awards – List of Previous Recipients</u>
Confidential Attachment 3 – Item 12.3 refers	<u>2019 Community Service Awards Nominations</u>
Confidential Attachment 4 – Item 12.3 refers	<u>2019 Community Service Awards Selection Panel – Scoring Matrix</u>

Voting Requirement	:	Simple Majority
Subject Index	:	52/013–Community Services Award
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil.
Previous Items	:	17 September 2019 SC(CV) – Item 10.1 25 September 2018 OCM - Item 12.2 26 September 2017 OCM – Item 12.1 27 September 2016 OCM – Item 10.7
Applicant	:	N/A
Owner	:	N/A
Responsible Division	:	Development and Communities 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

To receive the nominations for the 2019 Community Service Awards and for Council to endorse the Standing Community (Community Vision) choice of recipients.

Item 12.3 Continued

SUMMARY AND KEY ISSUES

Council's consideration of nominations and recommended recipients for the 2019 Community Service Awards.

LOCATION

Not applicable.

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

Objective: Develop community capacity and self-reliance.

Strategy: A 'whole of community' inclusive approach is adopted emphasising the intrinsic value of committing time and resources to relationship building amongst the City and the community.

Corporate Key Action: Operational activities which support predominantly this 'whole of community' strategy.

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

BACKGROUND

The Community Service Award was initiated in 1977 to recognise and acknowledge services performed by community members and organisations, with five people receiving the inaugural award. From 1977 to 2018, there have been 107 awards presented with four recipients receiving the award twice.

The majority of the awards have been presented to individuals with only two organisations receiving the Award, those being Nulsen Haven (1982) and Belmont Community Food Centre (2000).

Item 12.3 Continued

The following Award categories have been defined to include people working in the separate areas of:

- **Aged:** This category applies to an individual/community group who contributes within the aged sector (i.e. pensioner groups, activities and services for seniors).
- **Community Service:** This category applies to an individual/community group who contributes within the community (i.e. emergency service volunteer, support personnel, religious organisations, culturally diverse communities, charity groups, schools).
- **People Who Make a Difference:** This category applies to an individual/community group who has made an exceptional impact, by going above and beyond their duties, and making a significant difference in their local community by assisting another or others.
- **Sport and Recreation (Including Arts and Culture):** This category applies to an individual/community group who contributes to organisations such as sporting and recreational clubs as well as arts and culture clubs and organisations.
- **Youth:** This category applies to an individual/community group who supports organisations such as girl guides, scouts, youth clubs, youth centre(s), schools etc.

The Awards are intended to acknowledge the outstanding service given to the community by individual persons and community groups using the following selection criteria:

1. The contribution made should be of benefit to the citizens of the City of Belmont (must have provided services to the residents of the City of Belmont).
2. Remuneration of an incidental nature will not exclude a nominee from eligibility.
3. Nominations can be made in more than one category for any one nominee. Each nomination has to be specific to the category for which the nomination has been submitted.
4. The nomination must be submitted on the provided nomination form.

OFFICER COMMENT

The 2019 Community Service Awards were conducted using the selection criteria as resolved by the Council at its 28 July 2015 Ordinary Council Meeting (Item 10.2).

The Selection Panel comprised of the Mayor, the Chief Executive Officer, Director Development and Communities and the Acting Manager Community Development. The panel convened on Monday, 12 August 2019 to review and assess all applications.

A list of previous recipients is provided under [Attachment 6](#). Copies of nominations received are provided under [Confidential Attachment 3](#).

The Selection Panel's recommendations for the 2019 Community Service Awards was discussed and endorsed at the Standing Committee (Community Vision) meeting on Tuesday, 17 September 2019 and is provided under [Confidential Attachment 4](#).

Item 12.3 Continued

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

The Community Service Awards recognise those who assist and develop community capacity and support community groups within the City of Belmont.

COMMITTEE RECOMMENDATION

1. ***Endorse recipients of the 2019 Community Service Awards as detailed in [Confidential Attachment 4](#).***
2. ***Ensure the recipients of the 2019 Community Service Awards remain confidential until presented at the 2019 Annual Civic Dinner.***
3. ***Invite the recipients of the 2019 Community Service Awards and their respective guest to the 2019 Annual Civic Dinner.***

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

12.4 SPECIAL ELECTORS' MEETING MINUTES – 16 SEPTEMBER 2019: LIVE STREAMING OF COUNCIL MEETINGS AND ACCESS TO THE CHIEF EXECUTIVE OFFICER'S CONTRACT

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 7 – Item 12.4 refers	Request for Special Meeting of Electors
Attachment 8 – Item 12.4 refers	Special Electors' Meeting Minutes – 16 September 2019

Voting Requirement	:	Simple Majority
Subject Index	:	32/012
Location/Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil.
Previous Items	:	24 February 2009 OCM – Item 13.2 14 June 2014 OCM – Item 13.5 22 March 2016 OCM – Item 12.4 25 October 2016 OCM – Item 13.2 28 February 2017 OCM – Item 12.2 23 October 2018 OCM – Item 12.1
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

For Council to consider the resolutions passed at the Special Electors' Meeting held on Monday 16 September 2019 (refer [Attachment 8](#)).

Item 12.4 Continued

SUMMARY AND KEY ISSUES

In accordance with section 5.33 of the *Local Government Act 1995*, Council are to consider the resolutions passed at an electors' meeting.

The following decisions were made at the Special Electors' Meeting held on Monday, 16 September 2019.

MS LISA HOLLANDS MOVED, MS JANET GEE SECONDED,

- (1) That Council agrees to the audio livestreaming of all public meetings of Council including the Agenda Briefing Forum, the Ordinary Council Meeting and any Special Meetings or Electors' Meetings.
- (2) The recordings are to commence within three months of the motion being carried.
- (3) That these recordings are made available to the residents of Belmont free of charge on the City of Belmont website.
- (4) The BEXB45 Policy to be amended removing the copyright on the recordings of meetings including any reference to the Elected Members and supervision.

CARRIED 23 VOTES TO 2

MS LISA HOLLANDS MOVED, MS JANET GEE SECONDED,

That Council direct that the CEO provides a copy of his contract, on the same terms as the requirement prior to the amendment of s5.94(t) of the *Local Government Act 1995* (the Act) as it was requested on 30th April 2019, before the amendment to the Act.

CARRIED 19 VOTES TO 2

LOCATION

Not applicable.

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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

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

Item 12.4 Continued

POLICY IMPLICATIONS

Policy BEXB45 – Council Meetings – Audio Recording Public Question Time will require amendment should Council decide to change the current audio recording arrangements.

STATUTORY ENVIRONMENT

Section 5.28 of the *Local Government Act 1995* requires that a special meeting of electors be held on the request of 100 electors, no more than 35 days after the day on which the request was received.

5.28. Electors' special meetings

- (1) A special meeting of the electors of a district is to be held on the request of not less than —
 - (a) *100 electors or 5% of the number of electors—whichever is the lesser number; or*
 - (b) *1/3 of the number of council members.*
- (2) The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance with regulations.
- (3) The request is to be sent to the mayor or president.
- (4) A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.

Section 5.32 of the *Local Government Act 1995* requires that the minutes of the Special Electors' Meeting be kept and made available for public inspection before the Council Meeting at which decisions made at the electors' meeting are first considered.

Section 5.33 of the *Local Government Act 1995* requires all decisions made at electors' meetings be considered at the next available Ordinary Council Meeting or, if not possible, at a Special Council Meeting called for that purpose, whichever happens first. The reasons for a decision made at a Council Meeting in response to a decision made at an electors' meeting are to be recorded in the minutes of the Council Meeting.

Item 12.4 Continued

BACKGROUND

A request for a special meeting of electors was provided to the Mayor on Monday, 12 August 2019 (refer [Attachment 7](#)).

Public notice of the Special Electors' Meeting was placed in the Southern Gazette on Thursday, 29 August 2019, Thursday, 5 September 2019 and Thursday, 12 September 2019 and the West Australian on Saturday, 14 September 2019.

Public notice was also placed on the Notice Board of the Ruth Faulkner Public Library, the City of Belmont Administration Building Notice Board and on the City of Belmont website, in accordance with the *Local Government Act 1995* in addition to advertising through the City's social media platforms.

In accordance with section 5.33 of the *Local Government Act 1995*, all decisions made at an electors' meeting are to be considered at the next Ordinary Council Meeting, or should this not be possible, at a Special Meeting called for that purpose.

The Special Electors' Meeting was held on Monday, 16 September 2019 at the City of Belmont Civic Centre, 215 Wright Street, Cloverdale.

There were 32 members of the public in attendance being:

Electors

- Mr R Birch
- Ms J Bousfield
- Mr D Burke
- Mr C Evers
- Mr R Foster
- Ms J Gee
- Mr I Glading
- Mr R Greenwood
- Ms Y Harris
- Ms H Hawke
- Ms L Hitt
- Mr P Hitt
- Ms L Hollands
- Mr R Jordan
- Ms D Irons
- Mr N Irons
- Mr P Kelly
- Mr M Lee
- Ms S Lee
- Mr R Mayne
- Ms E Newton-Faas
- Mr P Oggelsby
- Mr S Quinn
- Ms M Saldanha
- Mr D Smith
- Mr E Spini
- Mr E Teasdale

Non Electors

- Mr G Ferstat
- Mr M McLerie
- Mr V Maxwell
- Mr S Wallace
- Mr S Zammit

Councillor and Officer attendance at this Special Electors' Meeting is listed within the attached meeting minutes (see [Attachment 8](#)).

Item 12.4 Continued

The following decisions were made:

Motion 1

MS LISA HOLLANDS MOVED, MS JANET GEE SECONDED,

- (1) That Council agrees to the audio livestreaming of all public meetings of Council including the Agenda Briefing Forum, the Ordinary Council Meeting and any Special Meetings or Electors' Meetings.
- (2) The recordings are to commence within three months of the motion being carried.
- (3) That these recordings are made available to the residents of Belmont free of charge on the City of Belmont website.
- (4) The BEXB45 Policy to be amended removing the copyright on the recordings of meetings including any reference to the Elected Members and supervision.

CARRIED 23 VOTES TO 2

Motion 2

MS LISA HOLLANDS MOVED, MS JANET GEE SECONDED,

That Council direct that the CEO provides a copy of his contract, on the same terms as the requirement prior to the amendment of s5.94(t) of the *Local Government Act 1995* (the Act) as it was requested on 30th April 2019, before the amendment to the Act.

CARRIED 19 VOTES TO 2

Electors were invited to make comment and ask questions on the purpose of the meeting only. Approximately nine people present spoke for and against the motion, made comment and asked questions.

At the conclusion of the meeting, the Mayor advised that in accordance with the *Local Government Act 1995*, all decisions made at the Special Electors' Meeting would be considered by Council at the 29 October 2019 Ordinary Council Meeting.

Item 12.4 Continued

OFFICER COMMENT

Motion 1

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

Meeting	Recommendation Summary	Outcome
24 February 2009	Notice of Motion (Cr Dornford) – Council shall in each and every Ordinary Council Meeting and Special Council Meeting provide for electronic recordings of all debates, discussions and deliberations of a non-confidential nature, and shall be made available for reference by any Councillor or any member of the public if and when so required at any time	Lost 3 votes to 8
24 June 2014 - Ordinary Council Meeting	Notice of Motion (Cr Cayoun) – Proposal be prepared for consideration by Council for immediate implementation of voice recording	Lost 4 votes to 5
15 February 2016 - Special Information Forum	Draft Policy for discussion – Recording and Access to Recorded Information	Not applicable
22 March 2016 - Ordinary Council Meeting	Officer Recommendation – Adopt Policy – Council Meetings – Recording and Access to Recorded Information – adopt a fee of \$55 per provision of access to audio recording	Alternative Councillor Motion put
	Alternative Councillor Recommendation – Adopt Policy – Recording and Access to recorded information with an amendment to allow for open access to twelve months of recordings via the City of Belmont website – to occur once all systems and processes are in place	Lost 4 votes to 5
25 October 2016 - Ordinary Council Meeting	Notice of Motion (Cr Hitt) – To adopt a policy relating to audio recording meetings and that audio record/recordings of all Council Meetings be kept and these records be made available to all Councillors and the public on request	Lost 4 votes to 5
	Foreshadowed Motion (Cr Powell) – That the matter of audio recording of Council meetings be referred to an Information Forum	Carried 5 votes to 4
5 December 2016 - Workshop	Discussion of Audio Recording of Council Meeting with Denis McLeod, the City's Solicitor in attendance to provide comment	Not applicable
28 February 2017 – Ordinary Council Meeting	Officer Recommendation – That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings	Carried 4 votes to 3
10 April 2018 – Information Forum	Council Meetings – Audio Recording (Draft Policy and Draft Council Report)	Not applicable

Item 12.4 Continued

Meeting	Recommendation Summary	Outcome
31 July 2018 – Special Information Forum	Presentation by David Nicholson, McLeods Barristers and Solicitors - Council Meetings – Audio Recording	Not applicable
23 October 2018	<p>Report providing options for audio or video recording.</p> <p>Options:</p> <ol style="list-style-type: none"> 1. Maintain existing practice – not recording. 2. Record Public Question time at Ordinary and Special Meetings of Council to assist with verification of the Minutes (draft Policy provided). 3. Record Ordinary and Special Council Meetings (draft Policy provided). <p><u>OFFICER RECOMMENDATION</u></p> <p>That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings.</p> <p><u>ALTERNATIVE COUNCILLOR MOTION</u></p> <p><u>SEKULLA MOVED, DAVIS SECONDED,</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> 1. <i>Endorses and implements Option 2 - Record Public Question Time at Ordinary and Special Council Meetings to assist with the verification of minutes, to be implemented as soon as practicable but in any case no later than the February 2019 Ordinary Council Meeting.</i> 2. <i>Adopt Policy BEXB45 Council Meetings – Audio Recording Public Question Time.</i> <p><u>Reason:</u></p> <ol style="list-style-type: none"> 1. Assists in the accurate recording of minutes. 2. Removes the perception of anomalies by members of the public about questions that are raised during public question time. 	Carried Unanimously

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

The current Policy BEXB45, adopted by Council at its 23 October 2018 Ordinary Council Meeting allows for audio recording of Public Question Time at Ordinary and Special Council Meetings to assist with verification of the Minutes.

Item 12.4 Continued

Matters for consideration:

- *Motion clarity* – it is essential that resolutions passed by Council are absolutely clear as to the expected outcome, how the matter is to be achieved and to include an achievable timeframe and relevant budget allocation if applicable. Motion 1 is not clear as it refers to audio livestreaming initially, and then refers to recordings which are technically different requests. There is no inclusion of Council endorsement of funds within the budget to purchase equipment and without a business case it is unknown whether the timeframe is achievable.
- *Equipment* - to implement Motion 1 it is necessary for additional equipment to be purchased and for a change to the current meeting practice. As there has been no business case prepared for audio streaming or recording it is unknown what the cost implications are, nor the timeframe required for the procurement and installation of the equipment that would provide the best solution for recording within the City of Belmont Council Chambers. The cost to purchase equipment is not included in the 2019-2020 budget and would require Council endorsement by Absolute Majority to make adjustments to the budget.
- *Copyright* - the Australian *Copyright Act 1968* applies to audio and video items and is applicable for any recordings taken at Council Meetings. If Policy BEXB45 is amended to remove the reference to copyright on the recordings as included in part (4) of Motion 1, it does not remove the application of copyright.
- *Parliamentary Privilege* - Parliamentary Privilege is legal immunity enjoyed by members of State and Federal Government which are granted protection from civil or criminal liability for actions undertaken or statements made related to one's duties. This immunity is not afforded to Local Government Elected Members or Officers in Western Australia.

Members of the public are also at risk of defamation or could be subject to legal action regarding comments made during public question time, deputations and submissions or at any time through the meeting.

Recordings could be used as evidence in any legal proceedings.

Motion 2

Prior to responding to the original request for a copy of the CEO's contract, legal advice was sought to ensure that the City took action in accordance with legislative requirements. The decision to deny access to the request was based on this legal advice as it applied **prior** to the stated amendments to the Local Government Act.

In its response to the original request the City set out in detail the reasons for the denial of access as applicable under the legislation as it existed at the time. The Act amendments that have occurred since the original request have removed the right of access in any event and therefore reinforce the original action.

Given the legal advice received and subsequent changes to the Act, Council needs to be cognisant that it is not in a position to release the CEO's contract to the public without the prior consent of the incumbent officer.

Item 12.4 Continued

FINANCIAL IMPLICATIONS

Motion 1

Additional expenditure will be associated with purchase of the necessary equipment to enable audio livestreaming of all public meetings and officer time to manage the recordings.

To implement Motion 1 additional funds would be required in the 2019-2020 Budget for the purchase of equipment. This requires an Absolute Majority decision of Council to allocate the required funds within the Budget.

Motion 2

There are no financial implications evident at this time for Motion 2. In the instance that an officer took legal action against the City in relation to contractual arrangements, financial costs would be applicable.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

SUMMARY

Due to the matters outlined in the Officer Comment above it is recommended that no further action is taken on the Elector Motions.

OFFICER RECOMMENDATION

That Council notes the Elector Motions from the 16 September 2019 Special Electors' Meeting and that no further action is required.

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

12.5 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) STATE COUNCIL AND ZONE STRUCTURE AND PROCESS REVIEW

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 9 – Item 12.5 refers	<u>State Council and Zone Structure and Process Working Group Final Report</u>

Voting Requirement : Simple Majority
Subject Index : 19/003 Standing Committee (Audit and Risk)
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

For Council to consider and endorse recommendations to the Western Australian Local Government Association on the State Council Zone Structure and Process Review.

Item 12.5 Continued

SUMMARY AND KEY ISSUES

The Western Australian Local Government Association (WALGA) has recently undertaken a review of the structural governance model for WALGA and made recommendations that aim to enhance the effectiveness of WALGA's governance processes for the benefit of members and the organisation.

WALGA State Council has endorsed a report containing a number of recommendations that would change the structural governance arrangements for the State Council and the Executive Committee and improve the efficiency of administrative matters that relate to both.

Four recommendations have been approved by the WALGA State Council for immediate implementation due to the forthcoming local government elections and subsequent election of the State Council. Member local governments have been asked for feedback on the remaining recommendations.

It is recommended that Council endorse the remaining recommendations made by the Working Group and advise WALGA accordingly.

LOCATION

Not applicable.

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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

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

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

Item 12.5 Continued

BACKGROUND

The WALGA State Council, at its 27 March 2019 meeting, endorsed a recommendation of the Executive Committee to establish a Working Group to develop options to revise State Council's structure.

The Working Group membership comprises of a number of Elected Members from the State Council and Officers from WALGA and member local governments.

The Working Group considered the review outcomes from 2011 and 2015 and other Local Government Associations, the strengths and weaknesses of the current model to develop an alternative model or models and was tasked to consider the following:

- Composition of the State Council as a representative board.
- Underpinning principle that metropolitan and country Local Governments should be equally represented on State Council.
- Role of Zones.
- Method of election of State Councillors.
- Relationship between State Council and Zones.
- Existing Zone structures and the basis for the membership of Zones.
- Method of election of the President.
- Role of the Deputy President.
- Role and membership of the Executive Committee.
- Continuing effectiveness of State Council committees such as the Selection Committee and Honours Panel.
- Membership and efficacy of State Council Policy Teams and Policy Forums.
- Ability of Zones to shape State Council decision-making through emerging issues.
- Interim submission process to meet Government deadlines.
- Format of State Council meetings and agendas.
- Continuing need to print and distribute hard-copy State Council agendas.
- Protocols for Zone delegates and Local Governments putting forward Zone agenda items.
- Any other matters relating to the existing structure or process of State Council, committees of State Council and Zones.

The Working Group submitted their final report to State Council ([Attachment 9](#)), which was endorsed for release to member local governments for feedback.

The Report made a number of recommendations, four of which have been endorsed for immediate implementation by State Council, with the balance of the recommendations included in the final consultation report that was prepared and released by the Working Group for sector consultation.

Representatives from WALGA presented information to Council at the 8 October 2019 Information Forum and responded to questions.

Item 12.5 Continued

OFFICER COMMENT

Recommendations 5, 6, 7 and 8 as included in the Final Report ([Attachment 9](#)) have been approved by the State Council for immediate implementation due to the forthcoming local government elections and subsequent election of the State Council. Accordingly member local governments have been asked to provide feedback on recommendations 1 to 4, 9 and 10.

Following discussion at the 8 October 2019 Information Forum it is recommended that Council endorse the recommendations as follows (refer [Attachment 9](#) for full details):

Recommendation 1 – State Council Composition

That the existing composition and representational arrangements of State Council be retained.

Recommendation 2 – Deputy State Councillors

That the role of Deputy State Councillor be retained.

Recommendation 3 – Term Limits for State Councillors

That no term limits be introduced for the role of State Councillor.

Recommendation 4 – Role of State Councillor

That a Panel of Member Advisors be established comprising of State Councillors and other Elected Members appointed by the President.

Note: The aim is that Member Advisors will attend an Ordinary Council Meeting of each member council once in every two year period and also be contactable via email and phone to assist individual Elected Members regarding any questions they may have in undertaking their roles on Council.

Recommendation 9 – Zone Support and Guidance

That:

1. The secretariat engage with Zones regarding the services and support that WALGA provides to Zones.
2. The secretariat continues to offer baseline Zone secretariat services to Zones as appropriate.

Recommendation 10 - State Council Agenda

That:

1. The secretariat develops templates and processes to reduce the length of State Council agenda items.
2. Following consultation with the sector, production of hard copy agendas cease beginning with the March 2020 meeting of State Council.
3. A process be implemented, in consultation with the Local Government sector, to enable Councils to consider items for decision in the State Council agenda to raise awareness of contemporary strategic advocacy and policy issues and to enable Councils to provide guidance and direction to their Zone representatives.

Item 12.5 Continued

The City has communicated with officers at WALGA and it has been agreed that due to the date of the Ordinary Council Meeting and the ability for Council endorsement of the feedback, it is acceptable for the City to provide feedback following its 29 October 2019 Ordinary Council Meeting.

The feedback received from local governments will be included in the WALGA State Council Agenda for consideration.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time. There may be less Officer time required with efficiencies associated with the proposed improved administrative arrangements.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

Item 12.5 Continued

OFFICER RECOMMENDATION

That Council endorse the following recommendations contained in the Western Australian Local Government Association (WALGA) 'Final Report – State Council and Zone Structure and Process Working Group' ([Attachment 9](#)) and advise WALGA as soon as possible:

Recommendation 1 – State Council Composition

That the existing composition and representational arrangements of State Council be retained.

Recommendation 2 – Deputy State Councillors

That the role of Deputy State Councillor be retained.

Recommendation 3 – Term Limits for State Councillors

That no term limits be introduced for the role of State Councillor.

Recommendation 4 – Role of State Councillor

That a Panel of Member Advisors be established comprising of State Councillors and other Elected Members appointed by the President.

Recommendation 9 – Zone Support and Guidance

That:

- 1. The secretariat engage with Zones regarding the services and support that WALGA provides to Zones; and***
- 2. The secretariat continues to offer baseline Zone secretariat services to Zones as appropriate.***

Recommendation 10 - State Council Agenda

That:

- 1. The secretariat develop templates and processes to reduce the length of State Council agenda items;***
- 2. Following consultation with the sector, production of hard copy agendas cease beginning with the March 2020 meeting of State Council; and***
- 3. A process be implemented, in consultation with the Local Government sector, to enable Councils to consider items for decision in the State Council agenda to raise awareness of contemporary strategic advocacy and policy issues and to enable Councils to provide guidance and direction to their Zone representatives.***

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

12.6 2019-2020 OCTOBER BUDGET REVIEW

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 10 – Item 12.6 refers	<u>2019-2020 October Budget Review</u>
Attachment 11 – Item 12.6 refers	<u>Reserve Accounts 30 June 2020</u>

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

COUNCIL ROLE

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

PURPOSE OF REPORT

This report is prepared to conduct the first review of the Budget and recommend adjustments to the 2019-2020 Adopted Budget.

SUMMARY AND KEY ISSUES

In keeping with sound financial management practices, a review of the 2019-2020 Adopted Budget has been conducted. The Budget remains in balance with all carried forward issues from 2018-2019 addressed.

LOCATION

Not applicable.

Item 12.6 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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

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

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires a local government to carry out a review of its Budget between 1 January and 31 March each year, report it to Council and then report the outcome of the review to the Department of Local Government, Sport and Cultural Industries (the Department). The City of Belmont has for many years now conducted two budget reviews, one in October and one in March. A further review will be conducted and reported to Council and also the Department in March 2020.

BACKGROUND

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

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

- Carried Forward Figure as at 30 June 2019 (to be confirmed by Council's Auditors as part of the end of year Audit).
- Decisions of Council requiring funding.
- Confirmation of various Government Grants.
- Confirmation of expenses (e.g. tenders).
- Building, Grounds and Engineering Carry Forward Works.

Item 12.6 Continued

OFFICER COMMENT

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

(brackets indicate increased income/reduced expenditure)

• Opening Balance-Surplus	(279,432)
• Chief Executive Officer Section	98,437
• Corporate and Governance Division	18,166
• Infrastructure Services Division	305,941
• Development and Communities Division	(143,112)
• Closing Balance	0
	<hr/>
	Net Cost
	0

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

The Opening Balance of \$4,404,432 exceeded the estimate of \$4,125,000. The variance predominantly relates to the carry forward of capital projects. These particular projects are noted in [Attachment 10](#).

A detailed listing of all budget adjustments can be found in [Attachment 10](#). It should be noted that the report includes only those line items that have changed during the review process, all other line items remain as per the Adopted Budget. Those noteworthy adjustments are further explained in the summary that follows:

- Following an organisational restructure there have been many reallocations of staff costs, particularly salary's and superannuation. These budget adjustments have had a negligible net impact.
- An additional \$96K has been transferred to the Public Art Reserve following the receipt of cash-in-lieu of public art.
- Take-up of the rates discount was slightly lower than expected although this budget adjustment is more than offset by a decrease in expected ex gratia rates income.
- An additional \$60K to carry out a road network condition survey using laser profiling which will enhance the asset management process.
- Budget adjustments in regard to the construction of Roads, Drains, Footpaths, Parks and Buildings predominantly relate to a carried forward of funds from 2018-2019 and the re-prioritising / re-scoping of certain projects.
- Reallocation of funds between the National Stronger Regions Fund projects resulting in a significant reduction in funds allocated for signage and bus shelters that has been redirected to Belmont Avenue road construction. As the signage and bus shelters were funded from reserve the reserve funds have also been reallocated.
- Additional \$155K to fund repairs to the Faulkner Park footbridge.
- Street tree watering costs have increased by \$59K which is due to 331 additional street trees.

Item 12.6 Continued

- The replacement of a minibus has been delayed. This has a nil impact as it is offset by a reduction in sales income and reserve transfers. The replacement of Bus05 (Toyota Coaster 21 seat) while due has been delayed until 2020-2021 pending a full review of the bus fleet and in particular the impact following the changes in HACC services. This has nil impact as it is offset by a reduction in sales income and reserve transfers.
- Parks Construction adjustments include funding for the Peachey Park investigation and new exercise equipment at Harman Park. The latter is fully funded from the Aged Community Care Reserve (i.e. surplus HAAC funds).
- Building construction includes a sizeable carry forward of both expenditure and grant income in regards to the new community centre plus \$350K to fit-out the café which is funded from reserve.
- Additional funds have been required for the museum fitout although these have been funded through other (library / museum) budget adjustments with the net impact of \$124K representing the carry forward from 2018-2019.
- Home and Community Care are including the replacement of two buses plus a new bus with the net funds made available through the Aged Community Care Reserve.

[Attachment 11](#) provides an updated estimate of reserve balances for the 2019-2020 year with reserve balances expected to decrease in 2019-2020 to \$46.2M.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

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

OFFICER RECOMMENDATION

- 1. In accordance with Local Government (Financial Management) Regulations 1996 Regulation 33A, adopt the amendments contained in the 2019-2020 Budget Review ([Attachment 10](#)), including the descriptions of variations and closing fund amendments.***
- 2. Authorise the Chief Executive Officer to amend the 2019-2020 Budget in accordance with all resolved variations.***

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

12.7 ACCOUNTS FOR PAYMENT – SEPTEMBER 2019

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 12 – Item 12.7 refers	Accounts for Payment – September 2019

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

- 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

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 12.7 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

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

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

BACKGROUND

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

OFFICER COMMENT

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

Municipal Fund Cheques	788246 to 788280	\$235,610.52
Municipal Fund EFTs	EF063828 to EF064288	\$7,372,719.42
Municipal Fund Payroll	September 2019	\$1,682,108.72
Trust Fund EFT	EF063910 to EF063912	<u>\$16,129.42</u>
Total Payments for September 2019		\$9,306,568.08

A copy of the Authorised Payment Listing is included as [Attachment 12](#) to this report.

Item 12.7 Continued

FINANCIAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

OFFICER RECOMMENDATION

That the Authorised Payment Listing for September 2019 as provided under [Attachment 12](#) be received.

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

12.8 MONTHLY ACTIVITY STATEMENT AS AT 30 SEPTEMBER 2019

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 13 – Item 12.8 refers	<u>Monthly Activity Statement as at 30 September 2019</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.

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 12.8 Continued

CONSULTATION

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

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications associated with this report.

STATUTORY ENVIRONMENT

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

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

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

BACKGROUND

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

OFFICER COMMENT

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

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

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

Item 12.8 Continued

The monthly financial report is to be accompanied by:

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

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

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

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

In order to provide more details regarding significant variations as included in [Attachment 13](#) the following summary is provided.

Report Section	Budget YTD	Actual YTD	Comment
Expenditure - Capital			
Computing	Nil	103,419	Website Design and Development commenced earlier than expected
Ruth Faulkner Library	237,500	57,439	Equipment purchases for the new library are currently on order.
Road Works	865,845	758,847	Work has now begun on the Belmont Ave project and will continue through to April.
Drainage Works	81,403	24,456	The program to convert old style stormwater collection pits to a more open side entry will begin later in the year following progress on major projects. Minor drainage project rescheduled to December.
Operations Centre	146,023	581	Equipment and Fleet purchases are currently behind budget. Rectified in the October Budget review.
Building Operations	4,962,478	4,856,181	Variance mainly relates to the New Community Centre.
Expenditure – Operating			
Finance Department	536,657	456,003	Budget spread issue with the salary budget allowing for an additional pay run.
Computing	808,040	742,407	Budget spread issue with the salary budget allowing for an additional pay run.
Marketing and Communications	539,555	418,368	Budget spread issue with the salary budget allowing for an additional pay run.
Chief Executive Officer	227,323	167,269	Budget spread issue with the salary budget allowing for an additional pay run.
Human Resources	462,505	300,903	Budget spread issue with the salary budget allowing for an additional pay run.
Governance	902,699	741,781	Activity Based Allocations (ABC's) are below budget.
Property and Economic Development	264,233	404,746	Budget spread issue with the salary budget allowing for an additional pay run.
Belmont Community Watch	335,351	224,151	Invoices outstanding for September.
Health	430,172	314,751	Budget spread issue with the salary budget allowing for an additional pay run.

Item 12.8 Continued

Report Section	Budget YTD	Actual YTD	Comment
Community Services	252,692	177,873	Budget spread issue with the salary budget allowing for an additional pay run.
Belmont HACC Services	730,439	562,791	Budget spread issue with the salary budget allowing for an additional pay run.
Town Planning	842,411	605,827	Budget spread issue with the salary budget allowing for an additional pay run.
Donations and Grants	143,000	59,216	Donations and Grants are under budget and have not yet been approved.
Ruth Faulkner Library	690,194	550,119	Budget spread issue with the salary budget allowing for an additional pay run.
Grounds Operations	1,525,853	1,325,269	Volcano Playground wages are below budget and Ascot Waters Landscaping project in progress.
Grounds Overheads	465,943	407,887	Employee costs are under budget mainly due to staff leave implications.
Road Works	275,179	205,148	Budget spread issue regarding road maintenance.
Building Control	376,017	223,615	Staff costs have been reallocated and the budget will be updated as part of the review process.
Building Operations	284,635	197,223	Employee costs are under budget mainly due to staff leave implications.
Technical Services	680,261	594,010	Budget spread issue with the salary budget allowing for an additional pay run.
Revenue - Capital			
Crime Prevention and Community Safety	(97,000)	Nil	Grant income was received earlier than expected and recognised in 2018-2019.
Road Works	(757,633)	(418,999)	Timing issue regarding receipt of grant income.
Operations Centre	(90,120)	(39,500)	Sale of Plant / Fleet is behind budget due to vehicle replacement schedule being extended
Building Operations	(1,824,839)	(1,551,262)	Timing issue regarding receipt of grant income.
Revenue - Operating			
Finance Department	(530,889)	(456,003)	ABC recoveries currently below budget.
Computing	(638,277)	(742,407)	ABC recoveries currently below budget.
Human Resources	(425,907)	(300,902)	ABC recoveries currently below budget.
Rates	(50,327,219)	(49,674,644)	Ex gratia rates currently less than budget.
Financing Activities	(498,301)	(121,134)	Budget spread does not match the timing of Term Deposit maturities.
Town Planning	(310,572)	(244,354)	ABC recoveries currently below budget.
Community Place Making	(900)	(96,742)	Funds received for Public Art from Edge Holdings at Riversdale Road, Rivervale

Item 12.8 Continued

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

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 31 July 2019	\$	Comment
Cash and investments	64,672,519	Includes municipal and reserves
- less non rate setting cash	(58,833,384)	Reserves
Receivables	56,752,365	Rates levied yet to be received and Sundry Debtors
ESL Receivable	(9,724,676)	ESL Receivable
Stock on hand	216,827	
Total Current Assets	53,083,652	
Current Liabilities		
Creditors and provisions	(19,195,270)	Includes ESL and deposits
- less non rate setting creditors and provisions	13,070,779	Cash Backed LSL, current loans and ESL
Total Current Liabilities	(6,124,491)	
Nett Current Assets 31 July 2019	46,959,161	
Nett Current Assets as Per Financial Activity Report		
Nett Current Assets as Per Financial Activity Report	46,959,161	
Less Restricted Assets	(91,815)	Unspent grants held for specific purposes
Less Committed Assets	(46,367,346)	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 30 September 2019 as included in [Attachment 13](#) 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 (CR CAYOUN) - AUDIO AND VIDEO RECORDING OF COUNCIL MEETINGS

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

Attachment No	Details
Attachment 14 – Item 13.2 refers	<u>Summary of other Local Government Practices - Audio and Video Recording of Council Meetings</u>

Voting Requirement	: Simple Majority
Subject Index	: 35/002 – Notices of Motion
Location/Property Index	: N/A
Application Index	: N/A
Disclosure of any Interest	: Nil.
Previous Items	: 24 June 2014 OCM – Item 13.5 22 March 2016 OCM – Item 12.4 25 October 2016 OCM – Item 13.2 28 February 2017 OCM – Item 12.2 23 October 2018 OCM – Item 12.1
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> |

Item 13.2 Continued

PURPOSE OF REPORT

To consider the Notice of Motion received from Cr Cayoun to agree in principle to adopt a system of electronically recording video and audio of Council Meetings, uploading recordings to the City's website, and commit to implementing this within six months to allow for time to prepare a policy and install the necessary equipment.

SUMMARY AND KEY ISSUES

A request has been received from Cr Cayoun for Council to consider the adoption of a system to video and audio record Council Meetings and upload them to the City's website.

LOCATION

Not applicable.

CONSULTATION

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

The most recent occasion was at the 23 October 2018 Ordinary Council Meeting where Council resolved the following:

'That Council:

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

CARRIED 9 VOTES TO 0

STRATEGIC COMMUNITY PLAN IMPLICATIONS

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

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

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

Strategy: Ensure community requirements drive internal policies and processes.

POLICY IMPLICATIONS

Policy BEXB45 'Council Meetings – Audio Recording of Public Question Time' will need to be reviewed and considered by Council if this recommendation is endorsed.

Item 13.2 Continued

STATUTORY ENVIRONMENT

The *Local Government Act 1995* states –

5.22. Minutes of Council and Committee Meetings

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

5.25. Regulations about Council and Committee Meetings and Committees

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to —*
 - (a) the matters to be dealt with at ordinary or at special meetings of councils; and*
 - (b) the functions of committees or types of committee; and*
 - (ba) the holding of council or committee meetings by telephone, video conference or other electronic means; and*
 - (c) the procedure to be followed at, and in respect of, council or committee meetings; and*
 - (d) methods of voting at council or committee meetings; and*
 - (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made); and*
 - (f) the content and confirmation of minutes of council or committee meetings and the keeping and preserving of the minutes and any documents relating to meetings; and*
 - (g) the giving of public notice of the date and agenda for council or committee meetings; and*
 - (h) the exclusion from meetings of persons whose conduct is not conducive to the proper conduct of the meetings and the steps to be taken in the event of persons refusing to leave meetings; and*
 - (i) the circumstances and time in which the unconfirmed minutes of council or committee meetings are to be made available for inspection by members of the public; and*
 - (j) the circumstances and time in which notice papers and agenda relating to any council or committee meeting and reports and other documents which could be —*
 - (i) tabled at a council or committee meeting; or*
 - (ii) produced by the local government or a committee for presentation at a council or committee meeting,*
are to be made available for inspection by members of the public.
- (2) Regulations providing for meetings to be held by telephone, video conference or other electronic means may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.*

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

Item 13.2 Continued

Recent amendments to the *Local Government Act 1995* set out the following; this provides protection for the local government (not individual Elected Members or Officers):

9.57A. Local government protected from liability for defamation: council proceedings on website

- (1) In this section —
- council proceedings** means proceedings at a meeting of the Council or a Committee of the Council;
- matter** has the meaning given in the *Defamation Act 2005* section 4.
- (2) A Local Government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of council proceedings.
- [Section 9.57A inserted: No. 16 of 2019 s. 69.]

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

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

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

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

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

Item 13.2 Continued

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

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

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

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

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

Members of the public are also at risk of defamation or could be subject to legal action regarding comments made during public question time, deputations and submissions or at any time through the meeting.

BACKGROUND

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

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

Item 13.2 Continued

Meeting	Recommendation Summary	Outcome
25 October 2016 - Ordinary Council Meeting	Notice of Motion (Cr Hitt) – To adopt a policy relating to audio recording meetings and that audio record/recordings of all Council Meetings be kept and these records be made available to all Councillors and the public on request	Lost 4 votes to 5
	Foreshadowed Motion (Cr Powell) – That the matter of audio recording of Council meetings be referred to an Information Forum	Carried 5 votes to 4
5 December 2016 - Workshop	Discussion of Audio Recording of Council Meeting with Denis McLeod, the City's Solicitor in attendance to provide comment	N/A
28 February 2017 – Ordinary Council Meeting	Officer Recommendation – That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings	Carried 4 votes to 3
10 April 2018 – Information Forum	Council Meetings – Audio Recording (Draft Policy and Draft Council Report)	N/A
31 July 2018 – Special Information Forum	Presentation by David Nicholson, McLeods Barristers and Solicitors - Council Meetings – Audio Recording	N/A

Item 13.2 Continued

Meeting	Recommendation Summary	Outcome
23 October 2018	<p>Report providing options for audio or video recording.</p> <p>Options:</p> <ol style="list-style-type: none"> 4. Maintain existing practice – not recording 5. Record Public Question time at Ordinary and Special Meetings of Council to assist with verification of the Minutes (draft Policy provided) 6. Record Ordinary and Special Council Meetings (draft Policy provided) <p><u>OFFICER RECOMMENDATION</u></p> <p>That Council does not implement audio recording and maintains its existing practice for minute taking at Council Meetings.</p> <p><u>ALTERNATIVE COUNCILLOR MOTION</u></p> <p><u>SEKULLA MOVED, DAVIS SECONDED,</u></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"> <i>5. Endorses and implements Option 2 - Record Public Question Time at Ordinary and Special Council Meetings to assist with the verification of minutes, to be implemented as soon as practicable but in any case no later than the February 2019 Ordinary Council Meeting.</i> <i>6. Adopt Policy BEXB45 Council Meetings – Audio Recording Public Question Time.</i> <p><u>Reason:</u></p> <ol style="list-style-type: none"> 1. Assists in the accurate recording of minutes. 2. Removes the perception of anomalies by members of the public about questions that are raised during public question time. 	Carried Unanimously

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

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

Item 13.2 Continued

OFFICER COMMENT

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

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

Contact has been made with surrounding local governments to note the practices undertaken for audio and video recording and streaming of Council Meetings. There are a variety of different processes in place. A summary of these are provided as [Attachment 14](#). Of the 29 local governments contacted the following applies:

	Total
Audio Record	23
Live Stream Video and Audio	6
Publish Audio	14
Publish Video	5

Results from the 2019 Markyt Catalyse Community Perceptions Survey indicate that the City of Belmont scored above average in comparison to Markyt Industry Standards for most areas within the ‘Leading’ and ‘Engaging’ categories, with the City achieving the industry high for ‘How the community is informed about what’s happening in the local area’ performance index score. In addition, the City’s overall performance index score which is a combined measure of the City as a ‘place to live’ and as a ‘governing organisation’ is 72 out of 100, 7 index points above the industry standard for Western Australia.

A Special Meeting of Electors was held on Monday, 16 September 2019 with 27 electors and 5 non electors in attendance. The following Motion was carried and is to be considered by Council at this meeting, the 29 October 2019 Ordinary Council Meeting.

‘MS LISA HOLLANDS MOVED, MS JANET GEE SECONDED,

- (5) *That Council agrees to the audio livestreaming of all public meetings of Council including the Agenda Briefing Forum, the Ordinary Council Meeting and any Special Meetings or Electors’ Meetings.*
- (6) *The recordings are to commence within three months of the motion being carried.*
- (7) *That these recordings are made available to the residents of Belmont free of charge on the City of Belmont website.*
- (8) *The BEXB45 Policy to be amended removing the copyright on the recordings of meetings including any reference to the Elected Members and supervision.*

CARRIED 23 VOTES TO 2’

Item 13.2 Continued

FINANCIAL IMPLICATIONS

Additional expenditure will be associated with purchase of the necessary equipment to enable video recording and officer time to manage the recordings.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

SOCIAL IMPLICATIONS

There are no social implications associated with this report.

COUNCILLOR RECOMMENDATION

That Council:

1. Agrees in principle to adopt a system of electronically recording video and audio from Ordinary Council Meetings and uploading these recordings to the City of Belmont website for public access, and
2. Commits to implementing such a system within six months, allowing time for the purchase and installation of necessary equipment in the chamber and the creation and adoption of a suitable policy to govern the use of such a system.

Reason:

Members of the public have indicated their support for electronic recording of Council meetings.

Council should introduce a system of recording Ordinary Council Meetings to capture a permanent and accurate record of proceedings and ensure greater transparency and accessibility of meetings.

Note: Cr Cayoun put forward the following Amended Councillor Recommendation.

AMENDED COUNCILLOR RECOMMENDATION

That Council:

1. Agrees in principle to adopt a system of electronically recording video and audio from Ordinary Council Meetings and uploading them to the City of Belmont website for public access;
2. Commits to implementing such a system within six months, allowing time for the purchase and installation of necessary equipment in the Chamber and the creation and adoption of a suitable policy to govern the use of such a system;
3. Requests that the Chief Executive Officer provide a report to Councillors at an Information Forum that examines the financial, legal and policy related matters surrounding video recording and live-streaming of Council meetings.

Item 13.2 Continued

4. Requests that after the system has been in place for six months, the Chief Executive Officer provides a report to Councillors at an Information Forum addressing the operation of the Policy and supporting processes.

Reason:

Members of the public have indicated their support for electronic recording of Council meetings.

Council should introduce a system of recording Ordinary Council Meetings to capture a record of meetings and ensure greater transparency and accessibility of meetings.

This motion provides Council with an opportunity to explore the financial, legal and policy matters associated with considering video recording and live-streaming.

This motion also provides for the review of an electronic recording system and policy after six months of use.

Note:

Following discussion in the Chamber, Cr Cayoun, with agreement from the seconder, put forward the following Amended Councillor Recommendation to remove the term 'video'.

AMENDED COUNCILLOR RECOMMENDATION

CAYOUN MOVED, ROSSI SECONDED

That Council:

1. ***Agrees in principle to adopt a system of electronically audio recording Ordinary Council Meetings and uploading them to the City of Belmont website for public access.***
2. ***Commits to implementing such a system within six months, allowing time for the purchase and installation of necessary equipment in the Chamber and the creation and adoption of a suitable policy to govern the use of such a system.***
3. ***Requests that the Chief Executive Officer provide a report to Councillors at an Information Forum that examines the financial, legal and policy related matters surrounding video recording and live-streaming of Council meetings.***
4. ***Requests that after the system has been in place for six months, the Chief Executive Officer provides a report to Councillors at an Information Forum addressing the operation of the Policy and supporting processes.***

Reason:

Members of the public have indicated their support for electronic recording of Council meetings.

Council should introduce a system of recording Ordinary Council Meetings to capture a record of meetings and ensure greater transparency and accessibility of meetings.

Item 13.2 Continued

This motion provides Council with an opportunity to explore the financial, legal and policy matters associated with considering video recording and live-streaming.

This motion also provides for the review of an electronic recording system and policy after six months of use.

CARRIED 9 VOTES TO 0

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

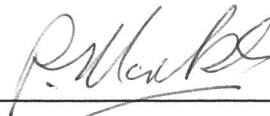
15. CLOSURE

There being no further business, the Presiding Member thanked everyone for their attendance and closed the meeting at 8.26pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these minutes of the Ordinary Council Meeting held on 29 October 2019 were confirmed as a true and accurate record at the Ordinary Council Meeting held 19 November 2019:

Signed by the Person Presiding: _____



PRINT name of the Person Presiding: _____

PHILIP MARKS
