



BRRAG

Belmont Resident and Ratepayer Action Group Inc.

“To provide an effective voice for the people of Belmont”

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18 January 2020

The Honourable Lisa Saffioti, MLA
Minister for Transport; Planning
9th Floor Dumas House
2 Havelock Street
WEST PERTH WA 6005

Via Minister.Saffioti@dpc.wa.gov.au

The Honourable Minister for Transport; Planning

Re City of Belmont and WA Planning Commission - Hay Road Ascot Development

We ask for your enquiry and reconsideration of the approval decisions made pertaining to Hay Road, Ascot – City of Belmont Development Plan 9, and a subsequent Structure Plan as we believe these documents are based on outdated inaccurate, incomplete and misleading information.

The matter is urgent as the City of Belmont has started rezoning of the DA9.

The WA Planning Commission has started preliminary land clearing based on this information.

History of plan and land ownership

A Structure Plan (SP) for Development Area 9 (DA9) was approved by the City of Belmont Council on 21 December 2010 and endorsed by the Western Australian Planning Commission on 4 April 2013. The SP was advertised from 6 January 2010 until 5 February 2010. Both the DA9 and the SP include a number of lots reserved as Parks and Recreation under the Metropolitan Region Scheme (MRS).

The ownership of the lots is shown in the following table set out in the SP provided by the City of Belmont:

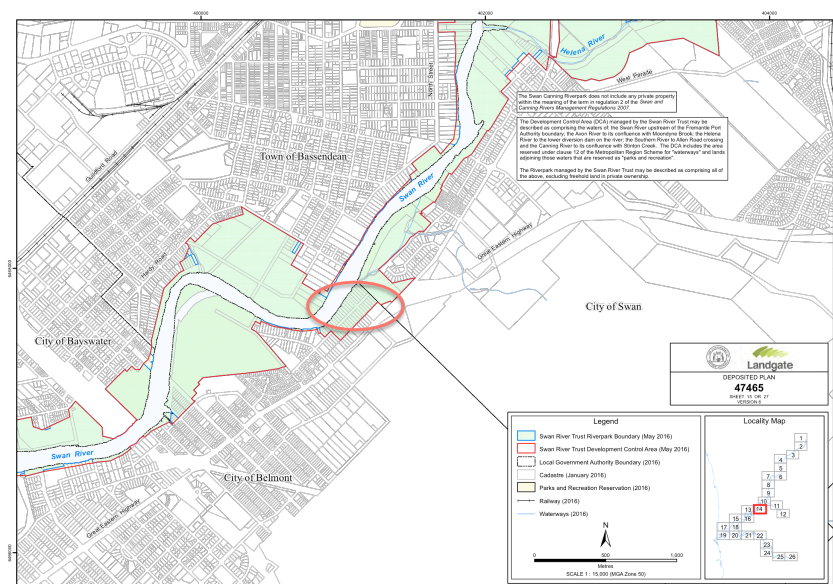
Table 1 – Land Ownership Details

Lot Details	Ownership	Land Area (ha)
Lot 1 Hay Road	Commonwealth of Australia	0.2994
Lot 177 Hay Road	JW & HA Farquhar	0.1497
Lot 180 Hay Road	TA Ropata & CL Ropata	0.1497
Lot 181 Hay Road	RT Gibbs	0.1497
Lot 182 Hay Road	B & G Ralph	0.1497
Lot 183 Hay Road	DA Ransome	0.1497
Lot 184 Hay Road	Western Australian Planning Commission	0.1497
Lot 185 Hay Road	Western Australian Planning Commission	0.1497
Lot 186 Hay Road	Western Australian Planning Commission	0.1497
Lot 187 Hay Road	Western Australian Planning Commission	0.1497
Lot 188 Hay Road	Western Australian Planning Commission	0.1497
Lot 189 Hay Road	Western Australian Planning Commission	0.1497
Lot 190 Hay Road	Western Australian Planning Commission	0.1497
Lot 191 Hay Road	Western Australian Planning Commission	0.1497
Lot 192 Hay Road	Western Australian Planning Commission	0.1497
Lot 193 Hay Road	Western Australian Planning Commission	0.1497
Lot 194 Hay Road	Western Australian Planning Commission	0.1497
Lot 195 Hay Road	Western Australian Planning Commission	0.1497
Lot 196 Hay Road	Western Australian Planning Commission	0.1497
	TOTAL	2.9940 ha

Fig 1: Ownership of land - Source DA9 Structure Plan (endorsed by WA Planning Commission 2013), p2

When the table at Figure 1 is compared to similar data provided on Landgate cadastre maps it becomes clear that all the lots owned by the Western Australian Planning Commission bordering Hay Road at the moment will in future be the subject of modifications. It appears that in the future Hay Road and cycle path along it, will be moved closer to the Swan River. If this was not the case it would be expected the titles would have been altered and those titles registered with Landgate.

The modifications will result in the removal of an area of significant wetlands which form part of the Swan River Development Control and River Park as per Figure 2 below:



Development Control Area and Riverpark Map 14

Fig 2: Landgate deposited plan 47465 – Map 14 (marked up)

Of particular concern is the area on the River Park Map at Figure 2 above is identified in BIO21b, ID 75 report, as wetlands where there are the following species at risk:

CONSERVATION_DEPENDENT	1
CRITICALLY_ENDANGERED	16
ENDANGERED	66
VULNERABLE	43

Neither the DA9 nor the SP report have recognised the environmental significance of the wetland and the impact of the plans on this wetland area.

The DA and SP plans did make a reference to the need for a further report ie a geotechnical report, and further Swan River Trust (now River Planning) discussion.

The omission of the environmental significance of the wetland and the reference to the requirement for further reports was misleading and inaccurate reporting to the public and should not in any way be considered as local government fulfilling its environmental reporting obligations. Specifically the DA9 report only says:

- Given the unknown nature of the site and the proximity to the Swan River, a detailed Geotechnical report is required to be undertaken prior to development.

Fig 3: Source DA 9 Structure Plan, p26

The DA9 and Structure plans lacked adequate consideration of the wetlands environment it proposes to destroy evident from the text below in Fig 4 provided by the City of Belmont which advised the adjoining owners and various State Government authorities that initial arboriculturalist's advice was sufficient instead. According to the arboriculturalist one tree was considered of significant value because it had nesting birds. That tree was valued at \$78,000.

The City of Belmont has not appointed an Environmental Consultant to advise on this project; however, an internal Arboriculturalist acting on behalf of the City has surveyed the trees and provided advice in regard to the significance of each tree found on site (refer Appendix 2).

The Arboriculturalist surveyed approximately 15 trees on site of which 14 were of the species *Eucalyptus Rudis* (flooded gum) and one was of the species *Eucalyptus Rudis X E.robusta*. All trees were semi-mature to mature in age with eight of the trees ranging in height from 15 to 20 metres.

The flooded gum, of which 17% remains within the metropolitan region, is an important species providing food and habitat for native fauna.

The Arboriculturalist has stated that all trees surveyed within the subject site are in 'good' condition and one tree in particular should be retained (if possible) as it is mature in age, approximately 19 metres in height and has the ability to house native fauna within existing hollows (Tree 205).

Fig 4: Source, DA9 Structure Plan, p16

The majority of those flooded gum identified were felled, with only 2-3 retained and the significance of the wetland adjoining Hay Road was not referred to. This action and omission

by the City of Belmont is misleading and is also in conflict with its tree policies upon which the public relies.

What is of most concern to adjoining land owners and local residents of Belmont is that it is not clear to any reasonable person reading the DA9 and SP plans is that Hay Road is intended to be modified at a future stage as per the cadastral boundaries of the WA Planning Commission lots.

The future modification would occur in favour of the Western Australian Planning Commission (WAPC) and to the detriment of the Swan River wetlands.

The benefit to the WA Planning Commission will result in a larger area for development purposes

The detriment to the public is forfeiture of land which is currently designated parks and reserves, public open space (POS) a beautiful, irreplaceable wetland.

We have obtained an aerial map from Landgate which shows the trees, woodland and wetland areas of the DA9 (Figure 5 refers). It can be seen that Hay Road is currently curved along the Swan River and is not a straight road going through to Ivy Street.

The aerial map also shows the WA Planning Commission land between Hay Road and Great Eastern Highway, which is zoned parks and reserves, has already been cleared.



Fig 5: Source Landgate Map Viewer of Hay Road adjacent to already cleared lots POS – Dec 2020

The land was cleared some 18-20 months ago, presumably for drainage purposes for future development, but enquiries with the City of Belmont indicate, clearing permit requirements were waived.

We are concerned because clearing of the land has occurred without consultation or advertisement to the community despite the land being zoned ‘parks and reserves’.

Also of concern, is that the land is fenced off with a solid fence on all boundaries. The front facing portion of the fence is not permeable, which is inconsistent with local planning requirements. We are most concerned that the action already taken in respect of WA Planning Commission land, zoned parks and reserves, is not transparent to the community.

A more accurate representation of the plans and land in question would have been for the City of Belmont to have used a Landgate Aerial map as a reference tool in its DA9 SP. This would have more clearly indicated that the land to be acquired into the WA Planning Commission lots is marked as ‘66’ and ‘76’ Hay Road and from the map it is easy to see the parks and reserves zoning, spreading over some 12 lots. The total distance of the width of those lots is over 100 metres of river land frontage measured from west to east of varying depths from the Landgate cadastre marked ‘Hay’ Road.

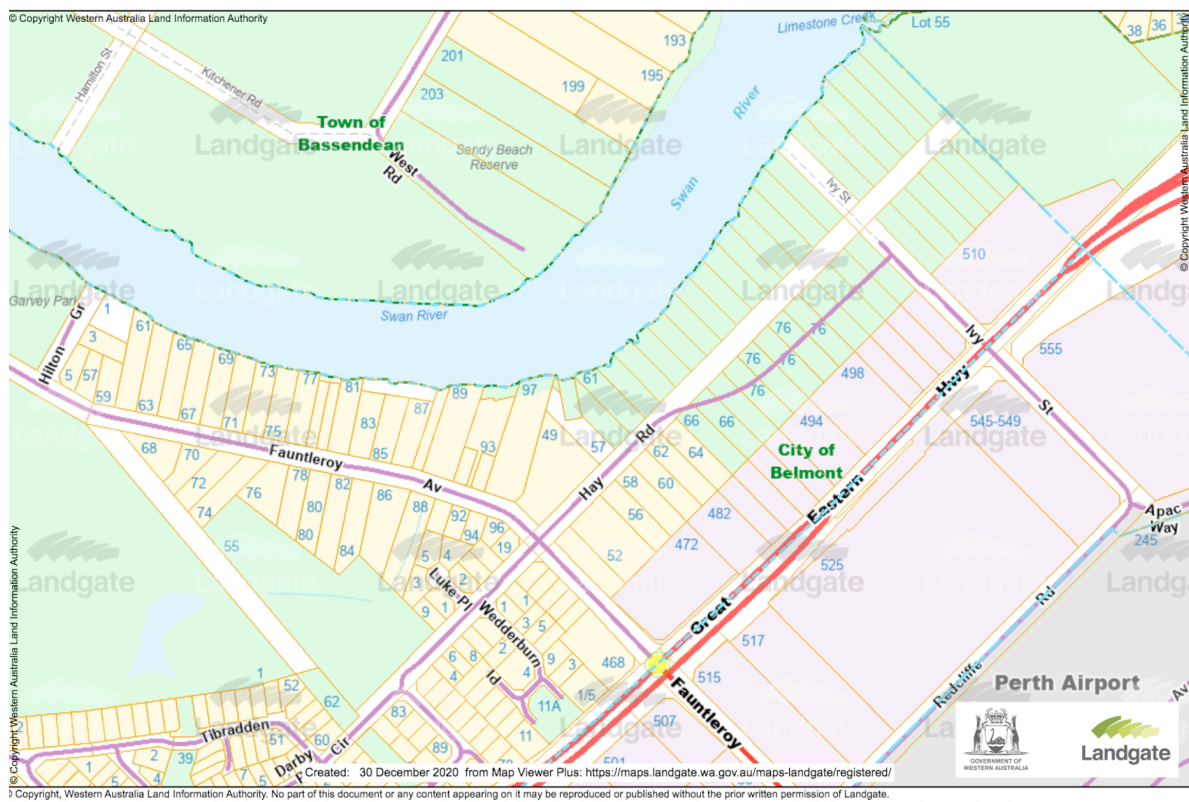


Fig 6: Source Landgate Aerial View Map depicting Hay Road flowing around the wetland (purple line)

Figure 6 aerial above, shows the Landgate cadastre Hay Road **in white** in comparison to the existing road which curves around in line with the river and is indicated **in purple**.

The area between the purple and white is wetlands. The white road cuts through and separates tracts of wetlands.

Environmental significance

When the proposed SP rezoning was opened to public comment in November 2020 our group noted the plans were lacking in substance and detail of environmental significance to not only

the community but also the Department of Conservation and Biodiversity Attractions or River Planning. We believe this is a failure of the City of Belmont to exercise due diligence and care to the adjoining landowners, the residents of Belmont in general, the public at large and the authorities.

Some of the concerns we hold are outlined:

1. The SP is now 9 years old and relies on old data captures from 2010 or prior which is now out of date as mapping and recording capabilities have improved over time.
2. The SP is based only on a simple assessment by the City's aboriculturalist in 2010 which recommended the removal of 15-16 Flood Gum species but the true number of the species for removal will be over 30.
3. Since 2010 trees that may have been identified as semi-mature are now mature.
4. Development of the area means water will be directed away from natural catchment areas and a large construction footprint will be imprinted on a 100-year flood plain. Both the river and the flood plain have important implications for biodiversity of species and their continuity. Such action negatively impacts the river eco system in the long-term by diverting flood water and rain water run off to other adjacent areas and that eco-system is affected too. This may result in valuable species becoming extinct.
5. Increased flooding, or alternatively drying, is a likely effect of climate change and ground works on the river floodplain is not likely to benefit the community in the long-term or the residents' of multi-storey apartment blocks thereon.
6. The City of Belmont and the WA State Planning Commission have relied on a singular environmental report commissioned by PHB01 Pty Ltd, which is a proprietary limited company and according to recent correspondence from the City of Belmont the company is a landholder and entitled to put in a development application. We note PHB is not identified in Figure 1. Is it legal and transparent to withhold further information about a developer?
7. PHB01 Pty Ltd has no public profile on the internet and therefore no presence to the public with regard to building experience and environmental management. Is this not irregular? Is it in the best interests of the WA Statement Planning Commission and Rivers Planning to deal with a somewhat obscure pty ltd company? What provisions if any are there for the ongoing river catchment area management as a result of this large scale urban development (In asking this we make reference to a media release of an expenditure of \$4.5 million by the State Government following land slips along Tanunda Drive foreshore which followed multi-storey high rise development Attachment 1 refers).
8. The government database, BIO21a, records a number of conservation critical, endangered and protected species under the EPBC Act 1998 (IBRA region) at that location.
9. A 2019 report produced by the EMRC on behalf of the Town of Bassendean, the City of Bayswater and the City of Belmont Endorsed identifies the Swan River area around Hay Road as of particular significance and describes it as a **Swan River Precinct bushland reserve** with regional linkage and a wetland "**protected under EP Act 1986 and Clearing Regulations 2004**. Defined by the DEC geomorphic dataset." Why was this

information not updated for the DA9 and SP? Is it because development area would be lost?

10. The Hay Road wetland area to be excised and/or to be disrupted by 24-30 months of construction, is registered as a significant migratory bird habitat containing endangered species. It is across the water from Sandy Bay Reserve in Bassendean which has been designated a high priority area. At the very least a full report from an independent organisation such as BirdLife.org.au could have been sought as a requirement before any rezoning approval was furthered.
11. Desktop research also shows the area being subject to an Aboriginal Heritage Survey as per the Aboriginal Heritage Inquiry System as 21088 (1) and 104379 (1) and others. Why was this information not provided in the DA9 and SP?
12. The City of Belmont has obligations under its Urban Forest Canopy Strategy 2019-2024 (and similar strategies of earlier dates) to reassess the significance of the trees and wetlands. There is no mention of Urban Forest Canopy Strategy in the plans. Is this a variance of policy?
13. Destruction of flooded plains cannot be consistent with policies that maintain representation, diversity, viability and ecological function of flora and vegetation. We rely on accurate representations. In this regard, the City of Belmont's documents and the PHB01 Pty Ltd reports have downplayed the importance of the biodiversity aspects of the area and the impact that disturbance would have on these areas. Is this legal?
14. Also, complaints about noise coming from the adjacent industrial businesses which front onto Great Eastern Highway have been omitted and there is no reference to airport noise, which we believe are important elements of transparency and accountability to any party involved and we wonder why this has not been mentioned?

Current situation

The City of Belmont is considering public submissions it has received in relation to the intended rezoning of land included in the DA9 being Lots 177 to 185 (refer Fig 1) from R20 to R60.

Individual residents and groups have been alerted to the impact of this rezoning and the overall DA9's impact on the environment of the Swan River Development Park and we draw your urgent attention to the need to revoke the outdated and non-current approvals in respect of these plans as they involve pristine and valuable river wetland habitat.

In December 2020, the Belmont Resident and Ratepayers Action Group (BRRAG) conducted a physical survey of trees, with camera in hand, and we identified over 30 mature trees and woodland clusters the subject of this letter. We have made over 30 individual tree reports to the City of Belmont requesting the photographed trees are placed on the significant tree register of the City. We have not yet received a response.

At the December 2020 Ordinary Council meeting we asked the City of Belmont to reconsider the zoning plans and we questioned their dealings with private developers who commission incomplete reports upon which the authorities rely. The City's planning department response was not satisfactory.

We have lobbied elected Councillors to revoke the approvals given and to oppose giving of further approvals subject to detailed environmental reconsideration.

Our groups have appealed to the Environmental Protection Authority and the Department of Biodiversity, Conservation and Attractions for reconsideration of this development proposal and rezoning because it is so close to the Swan River and impacts on our pristine protected river environment. We have put forward arguments in relation to the *Environmental Protection Act 1986*, the *Aboriginal Heritage Act 1972* and the *Swan and Canning River Management Act 2006*. We have notified Members of the Legislative Assembly urging they make inquiries.

We are further approaching independent wildlife organisations such as Conservation Council of WA, Urban Bushland Council Perth, Swan River Sanctuary Action Group and Birdlife Australia as we feel they are specialists and have far superior knowledge of our native flora and fauna habitats in river wetlands such as that existing on Hay Road.

We want our foreshore fully protected for the enjoyment of future generations of humans, flora and fauna species. We want our unique rare and threatened flora and fauna protected. We want proper and orderly planning. We want a climate vulnerability assessment and we want the area to be reassessed as a complex amendment to the local planning scheme if not a full revocation of the approved Structure Plan.

Other matters for consideration

We further make comment that community sentiment has changed regarding the importance of environment and climate change impacts over the last 10 years for example the success of the 'Containers for Change' scheme. The changes in community views are reflected in multiple strategic policy and planning documents published by all local governments. An example of this is the City of Belmont Urban Forest Canopy Plan 2019-2024 (and the canopy plans which preceded it) stating ALL trees in the City are of significance.

Now, more than ever, the community wants Government to protect strategic ecological corridors. The community no longer finds it acceptable to develop land on the river foreshore as it has been done in the past and the mistakes of earlier Government land development strategies such as dividing foreshore into freehold titles has had long-term negative impacts on the development of public amenity such as boardwalks, cycle ways and simply access to the river for recreational purposes.

We also understand our Government acts as a custodian of the land. It recognises our Aboriginal elders, past, present and future on all official correspondence and at meetings, yet these values apparently do not count in the excising of this particular stretch of river foreshore wetlands.

We further understand that our Western Australian Parliament has a dedicated Standing Committee for the environment with its terms of reference the minimisation of damage where it is not preventable. However, the excision of the river wetlands for development in the DA9 is entirely preventable damage.

In support of our contentions, we further add our opinion that over the last 10 years we have witnessed a number of developments in our local government district that have neither conformed with the State Government Residential Design Codes nor our local government's own planning policy resulting in multiple development applications approved that allow for

multiple variations such as no setbacks, building heights exceeded, zoning approvals in excess of the zoning accepted by the community, insufficient plot ratios, out of character with neighbourhood building styles, visual overlooking, lack of privacy, sterile buildings cramping onto narrow streets, gifts to the developer in the form of airspace easements, infrastructure problems and much more.

To this extent we have become very wary of our local government decision-makers resulting in a vote of NO CONFIDENCE in our elected members at the December 2020 City of Belmont Electors meeting. Local Government officers, the voices behind our elected members are excusing their actions under an apparent populate or perish type economic principle of ‘Perth and Peel @ 3.5 million’ growth.

We further draw your attention to a number of other developments in our local government supporting our no confidence motion. These developments have had the approval of the City of Belmont, namely “the Springs” in Rivervale, “Hill 60” in Rivervale, “Hardey Park’ land swaps, ‘Assured Ascot Quays Hotel and Apartments’ developments and the ‘16 Marina East’, Ascot Waters development. The City of Belmont has approved multiple high-rise residential developments resulting in the distance between the foreshore and privately owned land being reduced to approximately 4.5 meters. Once large foreshore reserves in Belmont, designated for public use and recreation, are reduced to narrow strips.

We do not understand how the public in general benefits from this freehold title encroachment on our Swan River. Does our *Parks and Reserves Act 1895* not protect us from this?

We request your assistance in instructing the City of Belmont to delay further approvals in respect of the DA9 until matters are thoroughly researched and resolved. We offer to participate in committees to further the protection of our wetlands.

In the interests of now and future public river foreshore, we remain,

Kindest regards

Committee
Belmont Resident and Ratepayer Action Group Inc

Attachment 1: Media Release