



**BRRAG**

**Belmont Resident and Ratepayer Action Group Inc.**

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

23<sup>rd</sup> August 2019

The Mayor  
City of Belmont  
Belmont WA 6104

Dear Mayor Marks

I refer the letter dated 15<sup>th</sup> August signed by you regarding copyright of the recordings of Public Question Time. I was surprised the letter came from you as I was expecting a response from Mr Christie. He emailed me on the 30<sup>th</sup> July advising he would respond in due course. Nothing has been forthcoming so the assumption is that he has passed it to you for reply.

The letter signed by you, stated as follows:

***The City has taken its own legal advice in the preparation of Policy BEXB45, and its relationship with the Copyright Act 1968 and the Freedom of Information Act 1992, and as such stands by its decision of 26 July 2019 where it stated “the City objects and does not approve the publishing of the recording of Public Question Time on the Belmont Resident and Ratepayer Action Group website”***

It clearly states that legal advice had been taken and named both the Copyright Act 1968 and the Freedom of Information Act 1992. It also states

***“Council Policy BEXB45 Council Meeting – Audio Recording Public Question Time, was prepared in consultation with the City's lawyers”***

A special information forum for councillors was held on 31 July with a special presentation from McCleods (*see page 20 minutes 23 October 2018.*)

On page 148 of the City's Policy Manual the following is referenced:

***Local Government Act 1995***

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

***State Records Act 2000***

***Freedom of Information Act 1992***

There is no reference to the Copyright Act 1968. This is also the case in the draft policy which was attached with the documents of the OCM on the 23 October 2018. Is this another case of an omission by Officers on the documentation, or is it a case that your letter is wrong and no advice was sought specifically on the Copyright Act 1968

Our letter to Mr Christie dated the 27<sup>th</sup> July 2019 (attached) referred him to the following Copyright Act 1968 Section 103B (1)(a)

**Fair dealing for purpose of reporting news**

(1) A fair dealing with an audio-visual item does not constitute an infringement of the copyright in

the item or in any work or other audio-visual item included in the item if:

(a) it is for the purpose of, or is associated with, the reporting of news in a newspaper, magazine or similar periodical and a sufficient acknowledgement of the first-mentioned audio-visual item is made;

It is also important to note **Section 3.7 of the Local Government Act 1995 reads as follows:**

**Inconsistency with written Laws**

A local law made under this Act is inoperative to the extent that it is inconsistent with this Act or any other written law.

On the basis of Fair Dealing in the Copyright Act 1968, we believe we would not be in breach of anything by putting it on our website. My expectation was that Mr Christie was going to respond to the Copyright Act as per my reference to his response in my opening paragraph.

The City of Belmont is not able to make laws that are inconsistent with other laws and we believe this may be the case in respect of the Copyright in BEXB45.

Please be advised this letter and any response will be made available to the Residents of Belmont on the BRRAG website for transparency.

Kindest regards

Lisa Hollands  
Chairperson BRRAG