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MEDIA RELEASE



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For immediate release

Shire says not even a doctor is above the law

The Shire of Broome has always, and will always, welcome Dr Swemmer to Broome to provide medical services to the community.

Shire President Cr Graeme Campbell said that the Shire had never 'targeted' the Doctor nor asked him to leave.

"Our priority has always been public health and safety. From the start we have tried to work with Dr Swemmer to allow him to lawfully practice at his premises," Cr Campbell said.

"Before he bought the residential property in Stewart Street for his medical practice, the Shire told him that, while the property would be a suitable location for conversion to a 'Consulting Room', he would need to lodge applications for planning approval and a building licence.

"Under the Shire's current town planning scheme, a planning approval is required to change the use to 'Consulting Rooms' so that additional requirements, such as the provision of adequate car parking, are put in place. A building licence is also required to ensure the property meets the requirements of the Building Code of Australia, especially on issues such as fire safety and access for people with disabilities.

"These requirements are generally needed when residential buildings change to commercial use, as the building standards are necessarily different."

Despite being forewarned of these requirements, Dr Swemmer went ahead and bought and occupied the property in full knowledge of these issues and without applying for or obtaining any planning or building approvals.

"He did eventually apply for planning approval for a 'Consulting Room', which was granted on the basis that he would be the only qualified medical practitioner (or other health care practitioner with recognised qualifications) operating within the premises," Cr Campbell said.

"If however, more than one medical practitioner (or other health care practitioner with recognised qualifications) is operating from the premises; Dr Swemmer is in contravention of his planning approval.

"We also advised Dr Swemmer, and his architects, in the very early stages that the property would require significant alterations, in order for the Shire to be able to approve the change of the building classification from residential to commercial, and to allow him to operate his medical practice there.

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“Even after he occupied and conducted business from the property without consent, the Shire continued to work with Dr Swemmer to get a resolution, and with the Doctor’s agreement, went as far as commissioning an independent building assessment report, at the Shire’s expense, which highlighted the work required.

“The report confirmed the Shire’s assessment that the building did not comply with commercial building fire safety requirements, nor did it have the necessary access needed for people with disabilities.

“These are fairly serious concerns for public health and safety, and the Shire does not have discretion to simply overlook these.

“We recognised that it would cost money to fix the issues and helped to come up with low cost, simple solutions which would address public safety issues. But our advice and support has been ignored, with Dr Swemmer instead choosing to not address the issues and to continue to operate illegally.

“Now I know that as a doctor, he provides a valuable service to the community, but surely that does not mean he is above the rules and regulations put in place for everyone to ensure public safety?

“We have tried on a number of occasions to resolve this and it is unfortunate that we had no alternative but to take legal action given Dr Swemmer’s unwillingness to cooperate.”

Doctor Swemmer will only be operating lawfully once he addresses the public safety issues regarding his building and complies with the ‘Consulting Room’ planning approval, which he submitted to the Shire, and which states that he is the **only** legally qualified medical practitioner (or health care practitioner with legally recognised qualifications such as a dentist, physiotherapist or any other health care practitioner) operating from the premises.

Cr Campbell admitted that it was not usual practice for a Local Government to speak on matters that are before the courts for determination. However on this occasion he said it was felt that it was necessary to inform the community of the facts and dispel some of the misinformation circulating.

“This matter has become increasingly unsettling for the Shire, and in particular for the officers involved, who by all accounts have gone above and beyond to help the Doctor to allow him to operate lawfully,” Cr Campbell said.

“Shire staff have so far done an outstanding job in providing advice and attempting to work with Dr Swemmer to ensure the necessary information is provided so approvals can be issued.

“We regret that the matter has come to legal proceedings but non-compliance with building and planning regulations – which are set by Parliament, not the Shire – cannot be allowed.”

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