



City of Belmont
ORDINARY COUNCIL MEETING
MINUTES
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24 November 2009

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- Confidential Attachment 1 – Item 12.3 refers
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TABLED ATTACHMENTS INDEX

- Tabled Confidential Attachment 1 – Item 14.2 refers

<p>Councillors are reminded to retain the OCM Attachments for discussion with the Minutes</p>
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MINUTES

PRESENT

Cr G Godfrey, Presiding Member	East Ward
Cr P Marks, Deputy Presiding Member	East Ward
Cr R Rossi	West Ward
Cr P Hitt	West Ward
Cr J Powell	South Ward
Cr B Whiteley	South Ward
Cr S Wolff	South Ward
Cr J Gee	Central Ward
Cr G Dornford	Central Ward

IN ATTENDANCE

Mr S Cole	Chief Executive Officer
Mr N Deague	Director Community & Statutory Services
Mr R Lutey	Director Technical Services
Mr J Olynyk JP (<i>dep 8.43pm & did not return</i>)	Manager Governance
Mr J Hardison	Manager Property & Economic Development
Mr S Monks (<i>arr 7.26pm, dep 8.43pm & did not return</i>)	Manager Finance
Mr M Ridgwell	Principal Governance & Compliance Advisor
Ms S Johnson	Governance Officer

MEMBERS OF THE GALLERY

There were 24 members of the public in the gallery and one press representative.

1. OFFICIAL OPENING

The Presiding Member opened the meeting at 7.05pm, welcomed those in attendance and invited Cr Rossi to read aloud the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers. Cr Rossi read aloud the affirmation.

Affirmation of Civic Duty and Responsibility

I make this Affirmation in good faith on behalf of Councillors and Officers of the City of Belmont. We collectively declare that we will duly, faithfully, honestly, and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgment and ability. We 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 & LEAVE OF ABSENCE

Cr B Martin (Leave of Absence) West Ward
Cr C Hanlon (Leave of Absence) East Ward
Mr R Garrett (Apologies) Director Corporate & Governance

3. DECLARATIONS OF INTEREST

7.07pm The Manager Governance read aloud the declarations of interest.

3.1 FINANCIAL INTERESTS

Nil.

3.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Name	Item No. & Title
Cr R Rossi	12.7 Lot 3 (116) Kooyong Road, Rivervale – Liquor Store.
Cr G Dornford	14.1 Acquisition of Land – Rivervale – Confidential Matter In Accordance With Local Government Act 1995, Section 5.23 (2) (e) (iii) Closure.
Cr S Wolff	14.2 Community Service Awards 2009 Nominations - Confidential Matter in accordance with Local Government Act 1995 Section 5.23 (2) (b).

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

4.1 ANNOUNCEMENTS

The Presiding Member made the following announcements.

Announcement 1

I wish to formally advise Council that on the 30 October 2009, I had the pleasure of accepting the Worksafe Plan Gold Safety Award for the City at the official Worksafe Awards Annual Dinner.

This award was first presented to Council in 2006. It is pleasing to note that in the Auditor's Report in each category of assessment (Management Commitment, Planning, Consultation, Hazard Management and Training), the City achieved results between 95% and 100% across the categories which is an excellent achievement. This also shows an improvement across all categories of 15% since 2006.

The City of Belmont is also the only Council in Western Australia to successfully maintain the Worksafe Plan Gold Safety Award. This is a tremendous effort by all staff and a true reflection of the City's safety culture.

Announcement 2

The City of Belmont's Principal Governance and Compliance Advisor, Mark Ridgwell was recently awarded the inaugural Emerging Leader Award at the 2009 Local Government Manager Australia (LGMA) State Conference.

The Emerging Leader Award is presented to individuals working within Local Government who meet a rigid criteria list such as providing high quality professional output in their role, supporting elected members, managers and officers in their organisation as well as improving the operation of the Local Government system through their high level activities in LGMA.

Mr Ridgwell is a deserving recipient of the Award; acting in the position of Manager of Governance for some months as well as being President of the LGMA Metropolitan Branch for five years.

Congratulations Mr Ridgwell.

Announcement 3

On 27 October 2009 a petition was received bearing 17 signatures which reads as follows –

“We need to get the Council to put up a sign in the parks to warn about the magpies and when their mating season starts and ends, as well as them protecting their babies from start to end. We need to do this so our kids or anyone don’t get seriously hurt we need to protect them now and in the future.”

OFFICER RECOMMENDATION

DORNFORD MOVED, HITT SECONDED, That the petition be received by Council.

CARRIED 9 VOTES TO 0

4.2 DISCLAIMER

7.10pm 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

Nil.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.11pm 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 Presiding Member advised that she had registered ten members of the public who had given prior notice to ask questions, these being Ms P Brodie-Hall, Mr S Stretch, Ms P Hurst, Mr K Lehmann, Mr R Moore, Ms K Wheatley, Ms L Landers, Mr V Woods, Mr S Templeton, and Ms M Bass.

The Presiding Member invited the public gallery members, who had yet to register their interest to ask a question, to do so.

No further public gallery members stated their intention to ask a question.

5.2.1 Ms P Brodie-Hall, 5/152 Great Eastern Highway, Belmont (On behalf of Friends of Belmont Riverside Parks)

1. With reference to our earlier question regarding the costs of mowing the riverside recreational Belmont Trust Lands opposite Belmont Primary School (sometimes known as the Grove Farm area), is this mowing (and therefore the expense to the Trust) excessive given that there is no fire risk through most of the mown period, and that the former Parry Field section is inaccessible to the public because of fencing and uncleared debris?

Response

The Chief Executive Officer replied that the City of Belmont is not charging the Trust for maintenance of the land, it is however, capturing costs to reflect the management of the site.

The City has a responsibility to maintain Council owned land so that it does not become a fire hazard.

2. Given that the area of Belmont Trust land opposite Belmont Primary but outside the former Parry Field section is level, essentially clear of debris, and has a riverside location ideal for recreational purposes, will Council remove the low and broken down fence which partially prevents this land being used for recreation as the Trust requires?

Response

The Director Technical Services replied that significant areas of the Trust land including adjacent to the marina and on the southern end of the island are available for recreation, however, the area adjacent to 152 Great Eastern Highway has not been developed for recreation use and will remain fenced.

3. Please also note that at the Ordinary Council Meeting of 27 October 2009, in reply to our question regarding the amount of rental to be paid for the large Ascot Waters advertising sign adjacent to Great Eastern Highway on the Trust Land opposite Belmont Primary School and whether it is equal to or less than the rental valuation prepared by Valuations WA, it was replied that “Officers have been requested to provide the information that supports this resolution. This will be provided for the next Ordinary Council Meeting”. Since this information was not provided at the OCM 27 October 2009, would it be possible to provide it at a forthcoming OCM?

Response

The Presiding Member took the question on notice.

5.2.2 Mr S Stretch, Unit 33/2 Brighton Road, Rivervale

In The Springs Revised Structure Plan the precinct called the “Riversdale Road North” contains properties along the river front. In the Revised Plan these properties are shown as R160 with no specific height restrictions.

Similar circumstances nearby have resulted in white coloured high rise apartments being built. These have caused a significant visual impact when viewed from the river and from the Maylands peninsula. Their construction has also caused significant damage to the vegetation and reduced the visual appeal of the river front.

The existing buildings in the “Riversdale Road North” precinct are height limited to slightly above the existing tree line. They are primarily comprised of colours that integrate with surrounding vegetation. They do not have a significant visual impact when viewed from the river and from the Maylands peninsula.

1. Is it possible to specifically limit the building height in the “Riversdale Road North” precinct to slightly above the existing tree-line, in line with the other adjacent precincts and the existing buildings?

Response

The Director Community and Statutory Services stated that the City of Belmont has adopted Design Guidelines for The Springs under Local Planning Policy No. 31. Local Planning Policy 31 identifies a maximum building height envelope based on the topography of the land and the slope towards the Swan River.

A maximum building height of 20 metres applies at the top of the Riversdale North embankment ridgeline, which reduces as the land slopes towards the river.

The Springs Structure Plan and Local Planning Policy 31 were both advertised to the community, sometimes on multiple occasions. There is no aspiration for the Council to vary those requirements having regard to the overall development vision for The Springs as a high density inner-city urban village.

2. Is it possible to restrict building colours to reduce the visual impact when viewed from the river?

Response

Local Planning Policy 31 states that colours and materials of developments shall be complementary with the local area. These guidelines will be required to be complied with as part of the development approvals process.

3. Is it possible to consult with recreational boat users? Specifically can the Council conduct a survey of users of the Maylands peninsula boat ramp on Saturday and Sunday by asking the question – “Would you like there to be a specific height limit on buildings directly adjacent to the waterfront near the Maylands boat ramp?”

Response

As per Question One – The Springs Structure Plan and Local Planning Policy were extensively advertised and have been adopted by Council. There is no aspiration for the Council to vary those requirements having regard to the overall development vision for The Springs as a high density inner-city urban village.

4. Is it possible to consult with residents of the Maylands peninsula regarding a height limit in the “Riversdale Road North” precinct?

Response

As per Question One – The Springs Structure Plan and Local Planning Policy were extensively advertised and have been adopted by Council. There is no aspiration for the Council to vary those requirements having regard to the overall development vision for The Springs as a high density inner-city urban village.

5. Are any measures, other than Gross Pollutant Traps (GPTS), being taken to limit contaminated storm water runoff into the Swan River from the Cracknell Park outfall during the construction phase?

Response

Stormwater runoff management is given extensive environmental and engineering consideration in order to meet legislative requirements. Any mechanisms that are required to prevent stormwater from entering the Swan River will be implemented as required.

6. I was advised prior to the Agenda Briefing Forum that the details of this proposal were not available to the public prior to the Agenda Briefing Forum. This does not allow the public time to review the proposal prior to presenting a public submission. Is the Council able to change the standing rules so that the details of a proposal are available 48 hours prior to the public submission time at the Agenda Briefing Forum?

Response

The Manager Governance replied that the Agenda and Attachments were available on the Saturday morning, prior to the Tuesday meeting of the Agenda Briefing Forum, on the City of Belmont Website and in the Ruth Faulkner Public Library.

5.2.3 Mrs P Hurst, 88 Fitzroy Road, Rivervale

1. Is Council aware there are Department of Housing tenants that did not receive a letter drop in relation to the proposed liquor licence?

Response

The Director Community and Statutory Services replied that all relevant landowners were notified, however, not all home occupiers received the submission information.

2. Will Council make a submission to the Department of Racing and Gaming and Liquor raising community objection to the proposal?

Response

The Director Community and Statutory Services stated that the planning application and submission would be considered in the Agenda tonight.

3. Will Council develop an alcohol policy that would be utilised in future planning application of this nature?

Response

The Director Community and Statutory Services replied that the City is currently developing an alcohol policy.

7.26pm The Manager Finance entered the meeting.

5.2.4 Mr K Lehmann, 15d Thor Street, Innaloo (On Behalf Of Celebrate Recovery)

As Director of the above organisation for Australia and New Zealand, an organisation that deals – amongst others – with alcohol issues, I would question the wisdom of allowing another liquor outlet in an area that is at the moment – family friendly and where we run a program that helps addicts get away from alcohol. Does the Council think that adding this outlet will enhance the community values?

Response

The Director Community and Statutory Services replied that under the *Planning and Development Act 2005*, the City must by law, only make decisions based on planning guidelines. Unfortunately, community issues cannot be considered in the approval process. The Liquor Licensing Board is the appropriate body for ratepayers who are opposed to the application, to express their views.

5.2.5 Mr R Moore, 2 Maud Road, Maida Vale

Mr Moore expressed his concern and opposition to an additional liquor outlet in the area. He believed there would be a detrimental effect on the community, particularly with those in the community who had alcohol addiction problems.

Response

The Presiding Member acknowledged Mr Moore's statement.

5.2.6 Ms K Wheatley, 265 Fulham Street, Cloverdale

Ms Wheatley stated that she worked in the Fuel Up Café situated at the Kooyong Road Shopping Centre. She believed that the liquor outlet would be damaging to the progress of the clients who attend the Café with liquor issues and was not in favour of a new application for a proposed liquor licence.

Response

The Presiding Member acknowledged Ms Wheatley's statement.

5.2.7 Ms L Landers, 24b Mort Street, Rivervale

Ms Landers briefed the Council on her experience with interstate liquor stores and the restrictions that are placed on the opening hours of the stores. She stated that she

was not in favour of the proposed liquor licence and believed it would be harmful to the community.

Response

The Director Community and Statutory Services replied that the Liquor Licensing Board was the appropriate authority to take into consideration the views some residents had in opposition to the proposal. The Board was able to make decisions on the restrictions that could be placed on the Licence.

7.38pm The Presiding Member announced that the time allotted for Question time had elapsed.

WHITELEY MOVED, ROSSI SECONDED, That Question Time be extended by 10 minutes.

CARRIED 9 VOTES TO 0

5.2.8 Ms V Woods, 1 Finnan Street, Cloverdale

Ms Woods spoke of her opposition and concern of a new liquor outlet opening in the area. She believed it would be harmful for residents and a bad outcome for the community in general.

Response

The Presiding Member reiterated that the matter would be dealt with in the Agenda.

5.2.9 Mr S Templeman, 130 Acton Avenue, Rivervale

Mr Templeman reiterated the views of those in the public gallery who were opposed to the proposed liquor licence. He stated that the application should be assessed on other important issues being expressed by residents and not just planning issues. He asked if Council could seriously consider the views of residents when making a decision on the approval of the licence and not approve it.

Response

The Presiding Member acknowledged Mr Templeman's statement.

5.2.10 Ms M Bass, 77 Keymer Street, Belmont (On Behalf of Belmont Ratepayers & Residents Action Group (BRRAG))

1. How much has been allocated to the 2009/2010 Adachi Sister City budget, including administration costs?

Response

The Chief Executive Officer replied that there was approximately \$50,000 allocated to the Adachi Sister City budget, which included administration costs.

2. Can Council explain why the submission was sent and received on 19 November 2009, therefore not giving BRRAG enough time to make comment?

Response

The City decided to provide BRRAG a copy of the Council submission on Development Assessment Panels (DAPs) for their information only, in a letter dated 2 November 2009. The Council's position on DAPs was decided at the Ordinary Council Meeting of 27 October 2009. The matter of DAPs was initiated by the Western Australian Planning Commission and submissions from the public were invited through the media.

Unfortunately the letter to BRRAG was sent to the wrong address and it was returned to the City, but posted again on the 11 November 2009.

3. Ms Bass queried the procedure for assessing land rates by the Valuer General's Department and asked whether the Council would adjust its rates charges as she believed she had been overcharged?

Response

The Presiding Member took the question on notice.

7.52pm As there were no further questions, the Presiding Member declared Public Question Time closed.

6. CONFIRMATION OF MINUTES / RECEIPT OF INFORMATION MATRIX

6.1 SPECIAL COUNCIL MEETING HELD 19 OCTOBER 2009
(Circulated under separate cover)

WHITELEY MOVED, POWELL SECONDED. That the minutes of the Special Council Meeting held on 19 October 2009 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 8 VOTES TO 1

Against: Dornford

Note

Cr Dornford stated that as discussions of elected members were not recorded electronically and reflected in the minutes, it was his belief that they were not a true and accurate record.

The Chief Executive Officer stated that according to the Standing Orders, there was no legal requirement to record every word said at a meeting, as long as decisions of Council were recorded.

6.2 ORDINARY COUNCIL MEETING HELD 27 OCTOBER 2009
(Circulated under separate cover)

ROSSI MOVED, POWELL SECONDED. That the minutes of the Ordinary Council Meeting held on 27 October 2009 as printed and circulated to all Councillors, be confirmed as a true and accurate record.

CARRIED 8 VOTES TO 1

Against: Dornford

Note

Refer to Note in Item 6.1.

**6.3 INFORMATION MATRIX FOR THE AGENDA BRIEFING FORUM
HELD 17 NOVEMBER 2009**
(Circulated under separate cover)

ROSSI MOVED, WHITELEY SECONDED. That the Information Matrix for the Agenda Briefing Forum held on 17 November 2009 as printed and circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

6.4 PETITION

On 27 October 2009 a petition was received bearing 17 signatures which reads as follows –

“We need to get the Council to put up a sign in the parks to warn about the magpies and when their mating season starts and ends, as well as them protecting their babies from start to end. We need to do this so our kids or anyone don’t get seriously hurt we need to protect them now and in the future.”

OFFICER RECOMMENDATION

DORNFORD MOVED, HITT SECONDED. That the petition be received by Council.

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

Cr Hitt asked the following question.

I note in the Community Newspaper, Tuesday, 10 November 2009, that there is an advertisement for the leasing of the old Ascot Day Centre and Ascot Park Clubrooms.

As one of the main reasons given to both Councillors and residents for the vacation of these premises was that there was a risk of antisocial behaviour and possible violent assaults on staff. I would ask what steps have been taken to reduce the risk to potential leasees or their customers by Council and if the premises are leased, would Council be liable knowing that there could be a possible risk to people or staff using the premises?

Response

The Presiding Member took the question on notice.

**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 19 OCTOBER 2009
(Circulated under separate cover)

POWELL MOVED, WHITELEY SECONDED. That the Minutes for the Standing Committee Audit and Risk meeting held on 19 October 2009 as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

11.2 STANDING COMMITTEE ENVIRONMENTAL HELD 19 OCTOBER 2009
(Circulated under separate cover)

WOLFF MOVED, GEE SECONDED. That the Minutes for the Standing Committee Environmental meeting held on 19 October 2009 as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

11.3 STANDING COMMITTEE EXECUTIVE HELD 19 OCTOBER 2009
(Circulated under separate cover)

WHITELEY MOVED, GEE SECONDED. That the Minutes for the Standing Committee Executive meeting held on 19 October 2009 as previously circulated to all Councillors, be received and noted.

CARRIED 9 VOTES TO 0

11.4 STANDING COMMITTEE AUDIT AND RISK HELD 2 NOVEMBER 2009
(Circulated under separate cover)

POWELL MOVED, MARKS SECONDED. That the Minutes for the Standing Committee Audit and Risk meeting held on 2 November 2009 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 Rossi.
Item 12.6 was withdrawn at the request of Cr Wolff.
Item 12.7 was withdrawn at the request of Cr Wolff.
Item 12.8 was withdrawn at the request of Cr Hitt.
Item 12.12 was withdrawn at the request of Cr Rossi.

ROSSI MOVED, POWELL SECONDED. That with the exception of Items 12.1, 12.6, 12.7, 12.8 and 12.12 which are to be considered separately, that the Officer Recommendations specifically for Items 12.2, 12.3, 12.4, 12.5, 12.9, 12.10 and 12.11 be adopted enbloc.

CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0

12.1 LYALL STREET – ROAD CLOSURE

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Nil	

Voting Requirement : Simple Majority
Subject Index : 102/046 – Lyall Street – Proposed Closure
Location / Property Index : Lyall Street, Ascot
Application Index : N/A
Disclosure of any Interest : N/A
Previous Items : ISCF Item 6.1 – 25 September 2007
OCM Item – 12.1.10 – 11 December 2007
OCM Item 12.5 – 15 December 2008
OCM Item 12.7 – 26 May 2009
ISCF Item 6.5 – 8 September 2009
OCM Item 12.5 – 22 September 2009
Applicant : N/A
Owner : N/A
Responsible Division : Technical Services 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, town planning schemes & 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 town 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.*

12.1 Continued

PURPOSE OF REPORT

To provide a summary of the submissions received following the advertising of the indefinite closure of Lyall Street, Ascot in the Southern Gazette on 29 September 2009 and have Council resolve this closure.

SUMMARY AND KEY ISSUES

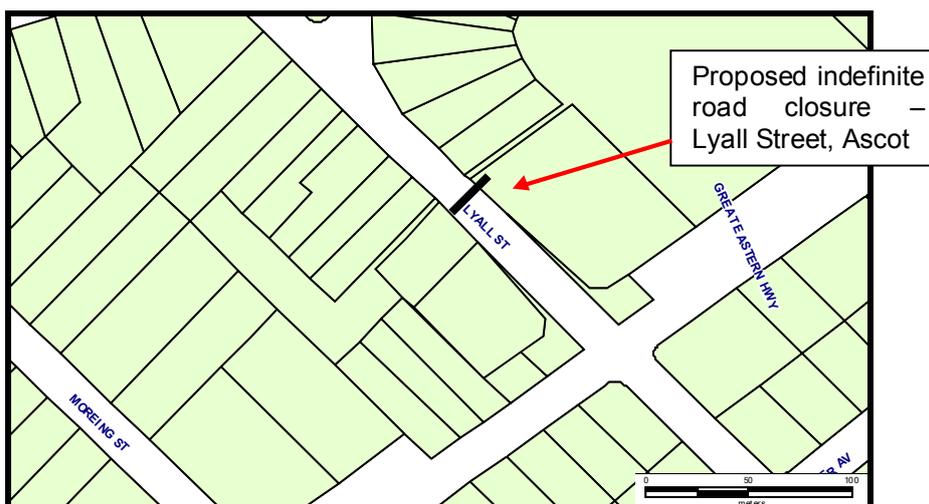
In accordance with section 3.50 of the *Local Government Act 1995* (the Act), the indefinite road closure of Lyall Street, Ascot, was advertised in the Southern Gazette on 29 September 2009 requesting that submissions be forwarded to the City by 9 October 2009. A Public Notice was also displayed at the Civic Centre, Library and on the City's website for a period of seven days.

The City received a total of 39 submissions with 38 in support of the closure and 1 requesting the re-opening.

As reported at the Ordinary Council Meeting held on 22 September 2009, investigations by the City have clarified that the road closure of Lyall Street can be considered an indefinite road closure within the terms of section 3.50 of the Act due to the nature of the road network and given that there is no resumption of the gazetted road reserve land involved. In accordance with the Act, the indefinite road closure was advertised for a minimum of seven days and is now reported to Council for final resolution on the matter.

LOCATION

Lyall Street, Ascot



12.1 Continued

STATUTORY ENVIRONMENT

Provisions of section 3.50 of the Local Government Act 1995 apply.

“3.50. Closing certain thoroughfares to vehicles

(1) A local government may close any thoroughfare that it manages to the passage of vehicles, wholly or partially, for a period not exceeding 4 weeks.

(1a) A local government may, by local public notice, order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks.

(2) The order may limit the closure to vehicles of any class, to particular times, or to such other case or class of case as may be specified in the order and may contain exceptions.

[(3) deleted

(4) Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —

(a) give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission;

*(b) give written notice to each person who —
(i) is prescribed for the purposes of this section; or
(ii) owns land that is prescribed for the purposes of this section; and*

(c) allow a reasonable time for submissions to be made and consider any submissions made.

(5) The local government is to send to the Commissioner of Main Roads appointed under the Main Roads Act 1930 a copy of the contents of the notice required by subsection (4)(a).

(6) An order under this section has effect according to its terms, but may be revoked by the local government, or by the Minister, by order of which local public notice is given.

[(7) deleted

(8) If, under subsection (1), a thoroughfare is closed without giving local public notice, the local government is to give local public notice of the closure as soon as practicable after the thoroughfare is closed.

(9) The requirement in subsection (8) ceases to apply if the thoroughfare is reopened.”

12.1 *Continued*

BACKGROUND

This matter has been considered by Council on several previous occasions, the three most recent occasions being 16 December 2008, 26 May 2009 and 22 September 2009.

OFFICER COMMENTS

A total of 39 submissions were received in response to the public notice placed in the Southern Gazette, on the City's notice boards in both the library and Civic Centre and on the City's website, for the indefinite closure of Lyall Street.

Only 1 (2.5%) submission, which was received from a resident of Worth Parade, opposed the closure while 38 (97.5%) were in support. This level of support exceeds the levels of previous support for the continuation of the closure, indicating that the more time residents have had to get used to the closure, the happier they are with it. Councillors will recall that at the time of the December 2008 report, 36 (29.5%) of the 122 respondents wanted the road re-opened straight away, while 25 (20.5%) wanted it re-opened **but** only after modifications to the Great Eastern Highway/Epsom Avenue traffic control signals and 61 (50%) wanted it to remain closed.

It is clear that the closure of Lyall Street enjoys overwhelming support from the residents and those involved in the horse industry in the Ascot area. A letter of support for the indefinite closure has been received from the WA Racing Trainers Association. McDonalds did not make a submission to the most recent closure proposal but they are on record (from earlier consultation) as opposing "any future closure of Lyall Street".

In submissions received in respect of the most recent advertisement, reasons given in support of the closure included:-

- Huge reduction in rubbish (mostly McDonalds wrappers)
- Slower traffic
- Less traffic
- Safer for horses and handlers
- Less hoons
- Increased pedestrians and cyclists

The reasons given to oppose the closure were the greater difficulty emergency services and tradesmen have in finding the property and the hazard of having to turn right into Great Eastern Highway from Lyall Street. In relation to this last point, a U-turn facility has been constructed in the Highway, east of Lyall Street so that the right turn is unnecessary.

The indefinite closure of Lyall Street is also supported by the reduced traffic speeds and volumes as detailed in the December 2008 report.

FINANCIAL IMPLICATIONS

The only direct cost is advertising and the construction of the physical barriers to close the road which is estimated to be approximately \$65,000 and which is included in the current budget.

12.1 *Continued*

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER RECOMMENDATION

ROSSI MOVED. MARKS SECONDED, That Council, in accordance with Section 3.50 of the Local Government Act 1995, indefinitely close Lyall Street, Ascot as per the plan contained within this report.

CARRIED 7 VOTES TO 2

Against: Hitt, Dornford

12.2 GRANDSTAND ROAD REALIGNMENT - ROAD CLOSURE & DEDICATION**

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 1 – Item 12.2 refers	<u>City of Belmont Drawing No: 116-04A – Resolution Drive - Land Swap Details</u>

Voting Requirement : Simple Majority
Subject Index : 102/018; 102/007
Location / Property Index : Lots 713, 237, 236 & PT 197 (#80) Grandstand Road, Ascot
Location 10487 (#90) Grandstand Road, Ascot (Crown Reserve 38783 – Water Supply)
Lot 1 (#88) Grandstand Road, Ascot
Application Index : N/A
Disclosure of any Interest : Nil
Previous Items : N/A
Applicant : Western Australian Planning Commission (WAPC)
Owner : Western Australian Planning Commission (WAPC)
Responsible Division : Technical Services

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, town planning schemes & 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 town 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.*

12.2 *Continued*

PURPOSE OF REPORT

Council to consider advertising the:

- closure of a redundant portion of Grandstand Road reserve between Raconteur Drive and Resolution Drive; and
- dedication of portions of actual road constructed on the new alignment of Grandstand Road and Resolution Drive.

The realignment of Grandstand Road and Resolution Drive is now complete and this report involves a road closure and dedication to reflect the actual road reserves. As the new alignment of Grandstand Road goes through Western Australian Planning Commission (WAPC)'s land, the actual road constructed will need to be dedicated and the redundant portions of the old Grandstand Road reserve is proposed to be closed.

In exchange for the land excised for the new Grandstand Road reserve, Western Australian Planning Commission (WAPC) is proposing to acquire the land resulting from the closure of the redundant portion of the old Grandstand Road reserve.

SUMMARY AND KEY ISSUES

- The Grandstand Road and Resolution Drive realignment project was undertaken in 2007 from Stoneham Street to Garratt Road Bridge.
- A portion of Grandstand Road from Resolution Drive to Raconteur Drive was realigned through land owned by Western Australian Planning Commission (WAPC) and a Crown Reserve (Water Supply).
- The road reserves for the actual road constructed for the realigned Grandstand Road and Resolution Drive over Western Australian Planning Commission (WAPC)-owned land and a Crown Reserve will require dedication in accordance with the provisions of Section 56 of the *Land Administration Act 1997*.
- The Western Australian Planning Commission (WAPC) has requested that a portion of redundant road reserve of Grandstand Road be closed in accordance with the provisions of Section 58 of the *Land Administration Act 1997* and the land amalgamated with the adjoining Lot 1 which is owned by Western Australian Planning Commission (WAPC).
- The road closure and dedication will be formally advertised and referred to service authorities and the Department of Planning for comments.
- Upon completion of the submission period a further report will be presented to Council for further determination.

12.2 Continued

LOCATION



CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

This matter is governed by Section 58 of the *Land Administration Act 1997* – Closure of Roads and Section 56 of the *Land Administration Act 1997* – Dedication of Roads.

BACKGROUND

The Grandstand Road and Resolution Drive were realigned in 2007 from Stoneham Street to Garratt Road Bridge.

A section of Grandstand Road from Raconteur Drive to Resolution Drive including a small section of Resolution Drive was realigned through land owned by WAPC and a Crown reserve (water supply). As all the actual road works are now complete, the WAPC is requesting that the land be excised and dedicated to reflect the actual roads constructed. In addition, a portion of redundant road reserve belonging to the old Grandstand Road will need to be closed. A copy of site plan showing the proposed road closure and land to be acquired for road reserves is attached for information.

12.2 *Continued*

WAPC is proposing a land exchange to amalgamate the area of road closure with the adjoining Lot 1 Grandstand Road, owned by WAPC.

OFFICER COMMENT

The actual road constructed for the Grandstand Road and Resolution Drive realignment is located on parts of Lots 713, 237, 236, PT Lot 197, Lot 1 Grandstand Road and the whole of Crown Reserve 38783. All the lots are owned by WAPC except for the Crown Reserve which contains a water main. The area of the WAPC- owned land required for road reserve is 3,010 square metres. The Crown Reserve 38783 required for road reserve covers an area of 1,059 square metres. A total area of 4069 square metres is required to be dedicated for public road reserve.

The realignment of Grandstand Road and Resolution Drive has also resulted in a portion of old road reserve being made redundant and this is proposed to be closed. The area of the proposed road closure is 4,010 square metres. WAPC is proposing a land exchange arrangement and intends to amalgamate the land resulting from the road closure, with the adjoining Lot 1 which is owned by WAPC. It is important to note that the redundant road reserve contains existing public utility services which may require relocation or easements to be applied. The major existing infrastructure is the Water Corporation's water main which WAPC is aware that this may pose an obstacle to the closure of the road reserve.

With the possibility of Water Corporation not allowing easement over their water main and the relocating of the water main not being a cost viable option, there is likelihood that the extent of proposed road closure may be revised to avoid the water main. Nevertheless, the road closure proposal will be referred formally to the relevant service authorities and Department of Planning for comments and approval.

The proposed road closure and dedication will be formally advertised for comments over a 35 days period, in accordance with the provisions of Section 58 and Section 56 of the *Land Administration Act 1997* respectively. Upon completion of the submission period a further report will be presented to Council for further determination.

FINANCIAL IMPLICATIONS

The City will incur all administrative costs in relation to the road closure and dedication, inclusive of advertising. WAPC has indicated that they will meet the administrative cost to facilitate the exchange of land. WAPC will be responsible for the costs involved in any service relocations or easement requirements to facilitate the road closure and land amalgamation.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

12.2 *Continued*

OFFICER RECOMMENDATION

That Council:

1. ***Advertise the closure of the redundant portion of Grandstand Road reserve between Raconteur Drive and Resolution Drive, as shown on the attached plan, for a 35 day period in accordance with the provisions of Section 58 of the Land Administration Act 1997.***
2. ***Advertise the dedication of the portions of the realigned Grandstand Road and Resolution Drive reserves, as shown on the attached plan, for a 35 day period in accordance with the provisions of Section 56 of the Land Administration Act 1997.***

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

12.3 CONSENT TO HAVE MORTGAGE OVER LEASE – 53 TIDEWATER WAY, ASCOT**

BUILT BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Confidential Attachment 1 – Item 12.3 refers	<u>Commonwealth Bank Security – Right of Entry</u>

Voting Requirement	:	Simple Majority
Subject Index	:	70/004 – Lease of Council Property
Location / Property Index	:	53 Tidewater Way, Ascot
Application Index	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	Item 11.1.6 – 17/10/06 - Stage 2 Development – Ascot Waters Marina Item 12.1.4 – 9/10/07 - Proposed Relocation of Car Parking Area for Ascot Waters Marina Stages 2 & 3 Development
Applicant	:	Ascot Fields Nominees Pty Ltd
Owner	:	City of Belmont
Responsible Division	:	Corporate & 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, town planning schemes & 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 town 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 obtain Council consent for Ascot Fields Nominees Pty Ltd to take out a mortgage over their lease of the Ascot Waters Marina from the City of Belmont.

12.3 Continued

SUMMARY AND KEY ISSUES

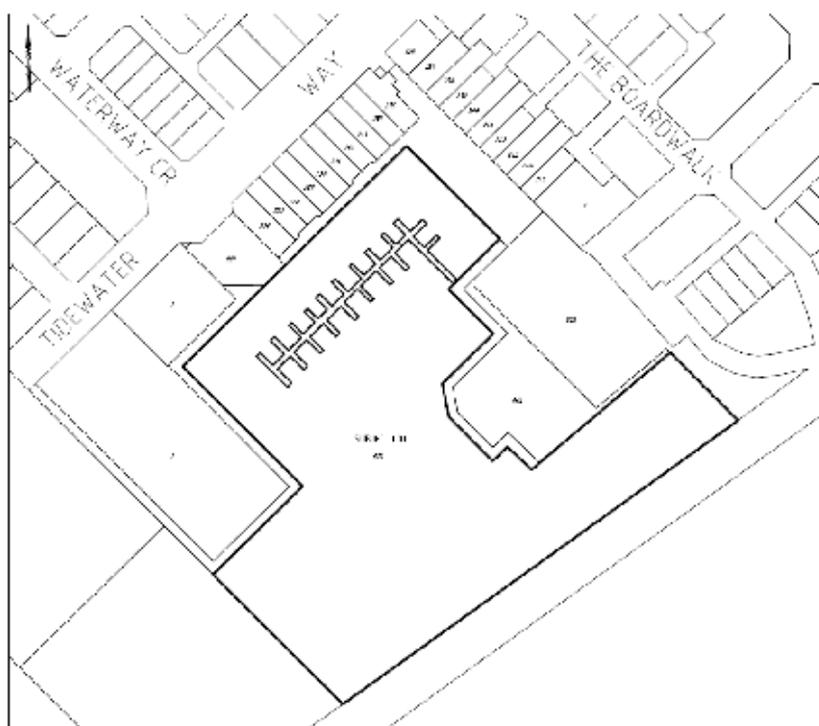
The Ascot Waters Marina has been leased to Ascot Fields Nominees Pty Ltd since 22 December 2000. Key elements of this lease include:

- Clause 5.1, which requires Ascot Fields Nominees Pty Ltd to construct a marina boating facility in accordance with agreed plans. To date, Ascot Fields Nominees have only constructed Stage 1 of the marina boating facility;
- Clause 31.1 (a), which states that Ascot Fields Nominees Pty Ltd cannot assign or mortgage the lease without the consent of the City of Belmont.
- Clause 31.7, which states that the City will not unreasonably withhold its consent to a mortgage by Ascot Fields Nominees of its leasehold interest.

Ascot Fields Nominees Pty Ltd hopes to take out a mortgage with the Commonwealth Bank to finance the development of Stage 2 of the Ascot Waters Marina and, in accordance with Clause 31.1 (a) of the lease, is seeking the consent of the City of Belmont. A Right of Entry (Business and Goods) document has been prepared by the Commonwealth Bank to provide security over the proposed mortgage. As the lessor of the property, the City of Belmont is required to sign this document if Ascot Fields Nominees Pty Ltd is to be successful in obtaining the mortgage.

LOCATION

53 Tidewater Way, Ascot – Ascot Waters Marina



12.3 *Continued*

CONSULTATION

There has been no specific consultation undertaken in respect to this matter. This report only seeks Council's endorsement for Ascot Fields Nominees Pty Ltd to enter into a mortgage with the Commonwealth Bank for the development of Stage 2 of the Ascot Waters Marina.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT - *"Encourage the upgrading and compatible redevelopment of the City."*

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

There are no specific statutory requirements in respect to this matter. Pursuant to the requirements of their lease with the City of Belmont, Ascot Fields Nominees Pty Ltd is seeking Council's endorsement for taking out a mortgage for the development of Stage 2 of the Marina.

BACKGROUND

Approval for the jetties and related marina infrastructure associated with Stage 2 of the development of the Ascot Waters Marina was endorsed by Council on 17 October 2006. There was a range of parking issues which needed to be ratified, but there was support from Council for the development of the Marina.

At the Ordinary Council Meeting of 9 October 2007 it was resolved that the Swan River Trust be advised that the number of car bays required for the Marina development be reduced to 14, with the developers paying cash-in-lieu for the remaining 14. Support for the development of the Marina was reaffirmed at that time.

The Swan River Trust approved the variation to the parking proposal on 10 February 2009. This has enabled the Stage 2 development of the Ascot Waters Marina to proceed.

The provision of support to Ascot Fields Nominees Pty Ltd in their efforts to develop the additional boat pens is consistent with the original concept for the Ascot Waters Marina as a mixed use development with facilities to cater for residents and visitors. Further, there is a requirement under the lease for Ascot Fields Nominees Pty Ltd to develop the Marina.

12.3 *Continued*

Ascot Fields Nominees Pty Ltd will be seeking a mortgage over the lease from the Commonwealth Bank to assist in financing the development of Stage 2 of the Marina. Pursuant to the requirements of the lease, the City is obliged to not unreasonably withhold its consent for Ascot Fields Nominees Pty Ltd to seek additional finance through a mortgage over the lease.

The Commonwealth Bank has prepared a Right of Entry (Business and Goods) document to provide security over the proposed mortgage. As the lessor of the property, the City is required to sign this document if Ascot Fields Nominees Pty Ltd is to be successful in obtaining the mortgage.

OFFICER COMMENT

The Ascot Waters Marina has been operating successfully for a number of years. It is anticipated that the increase in the number of boat pens will add to the vibrancy of the marina development, and encourage the development of commercial businesses within the precinct.

The establishment of a mortgage over a lease is a common business practice. Council has supported this before by agreeing on 24 July 2004 for Danvero Pty Ltd to take out a mortgage over their lease of the Belmont Community Nursing Home.

The Right of Entry (Business and Goods) document has been reviewed by the City's Legal & Compliance Officer and other relevant staff and is considered to both protect the City's interests and provide the necessary security to the Commonwealth Bank. The complete Right of Entry document is attached. Key components of the document describe what will occur if Ascot Fields Nominees Pty Ltd were to default on the mortgage. The Rights of Entry document states that:

2. *The Lessor agrees:*
- (a) *that the Bank or a controller (within the meaning of that term in the Corporations Act) appointed by the Bank or any of its agents or assigns, may:*
 - (iii) *assign, sell or transfer the Lessee's interest in the Lease pursuant to the terms of the Security subject to compliance with the terms of the Lease dealing with a transfer or assignment of the Lease;*

and

4. *The Bank agrees that, if it enters into possession of the Premises, it will:*
- (a) *pay the rental and reasonable outgoings under the Lease which accrue during the period that the Bank is in possession of the Premises; and*
 - (b) *comply with the terms of the Lease.*

It is the opinion of officers that the request from Ascot Fields Nominees Pty Ltd for consent to enter into a mortgage for Stage 2 is justified and should be supported.

12.3 *Continued*

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time. This report only seeks Council's endorsement for Ascot Fields Nominees Pty Ltd to enter into a mortgage with the Commonwealth Bank for the development of Stage 2 of the Ascot Waters Marina.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER RECOMMENDATION

That Council:

- 1. In accordance with the provisions of the lease between the City and Ascot Fields Nominees Pty Ltd consent to Ascot Fields Nominees Pty Ltd taking out a mortgage over the lease for the development of Stage 2 of the Ascot Waters Marina.***
- 2. Authorise the Chief Executive Officer to sign all documentation and take all necessary actions associated with providing consent to Ascot Fields Nominees Pty Ltd to take out a mortgage over their lease with the City of Belmont.***

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

12.4 BUILT STRATA – FORM 24 PRELIMINARY STRATA PLAN APPROVAL – 325 FULHAM STREET, CLOVERDALE (LOT 200 DP57691) & GRANTING OF DELEGATED AUTHORITY TO DETERMINE APPLICATIONS FOR PRELIMINARY & FINAL BUILT STRATA APPROVAL - ABSOLUTE MAJORITY REQUIRED**

Built Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 2 – Item 12.4 refers	<u>Built Strata Plans</u>
Attachment 3 – Item 12.4 refers	<u>DA30 – Preliminary & Final Built Strata Approval</u>

Voting Requirement : Simple & Absolute Majority
Subject Index : 115/001
11/005
Location / Property Index : 325 Fulham Street, Cloverdale
Application Index : 1/2009/F24
Disclosure of any Interest : N/A
Previous Items : Nil
Applicant : Automated Surveys
Owner : Tjandra Investments Pty Ltd
Responsible Division : Community & Statutory Services

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, town planning schemes & 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 town 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 grant preliminary approval for a built strata application at 325 Fulham Street, Cloverdale and amend the Delegation Register 2009 / 2010 to give delegation to the Director Community & Statutory Services, Manager Planning Services, Manager Building Services and Senior Planning Officer to deal with built strata subdivision proposals.

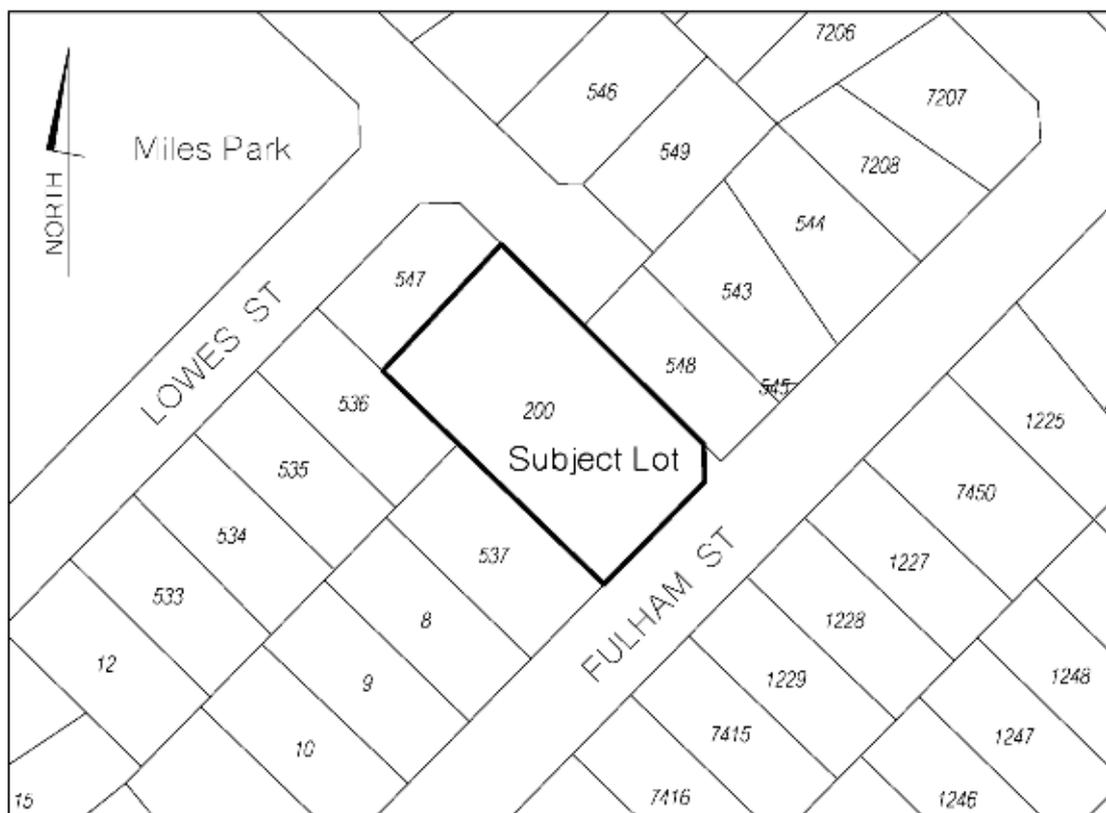
12.4 Continued

SUMMARY AND KEY ISSUES

- The Western Australian Planning Commission (WAPC) has recently delegated responsibility for built strata subdivision applications to Local Government.
- The City's Planning Department is unable to issue preliminary approval for a submitted built strata application as the Director Community & Statutory Services, Manager Planning Services, Manager Building Services and Senior Planning Officer do not have delegation to determine these types of applications.

LOCATION

The built strata proposal is at 325 Fulham Street Cloverdale (Lot 200 on Deposited Plan 57691). Attachment 2 shows the Built Strata Plans.



CONSULTATION

Not required.

12.4 *Continued*

STRATEGIC PLAN IMPLICATIONS

City of Belmont Public Open Space Local Planning Strategy

At the Special Council Meeting of 25 November 2008, Council resolved to adopt the draft City of Belmont Public Open Space Local Planning Strategy, which is a supporting document of the City of Belmont Local Planning Strategy No 15.

Part 7.5 of the Public Open Space Strategy recommends that where subdivision or strata titling of land occurs and five or more lots are created, any legislative public open space requirement should be taken as 10% cash-in-lieu. The exception to this would be unless subdivision represents a good opportunity to provide functional open space within the suburbs of Rivervale and Redcliffe only (where an existing under provision is evident).

POLICY IMPLICATIONS

WAPC Development Control Policy 2.3 (Public Open Space in Residential Areas)

The WAPC's Development Control Policy 2.3 (DC2.3) identifies that 10% of the gross subdivisible area of a residential development shall be designated for public open space where the number of lots proposed is greater than five.

DC2.3 also states that a cash payment can be made by the subdivider in lieu of providing land for open space in circumstances where:

- The land area is such that a 10 percent contribution would be too small to be of practical use;
- There may be sufficient public open space already in the locality;
- Public open space is planned in another location by way of a town planning scheme or local structure plan.

WAPC Development Control Policy 1.3 (Strata Titles)

The WAPC's Development Control Policy 1.3 (DC1.3) states that the WAPC (or delegate) will apply the following criteria to the assessment of built strata proposals:

- The development proposed for strata titles is, or will be, in accordance with all relevant provisions of the Local Government Local Planning Scheme;
- The proposed strata subdivision will not pre-empt the determination of another form of subdivision (e.g. green title) that the WAPC would not ordinarily grant the approval to;
- The division by strata of the development is consistent with long-term planning goals and objectives for the area concerned; and
- The proposal is consistent with the policies of the WAPC regarding subdivision, and in particular, the standards for roads, public open space and residential design.

12.4 Continued

STATUTORY ENVIRONMENT

Metropolitan Region Scheme

The land is zoned 'Urban' under the Metropolitan Region Scheme (MRS).

Town Planning Scheme No. 14

The land is zoned 'Residential' with a density code of 'R20 / 40' under the City of Belmont Town Planning Scheme No. 14 (TPS 14).

Right of Appeal

Is there a right of appeal? Yes No

The applicant / owner may appeal a decision of the Council to the State Administrative Tribunal (SAT) subject to s27 of the *Strata Titles Act 1985*. Appeals must be lodged with SAT within 28 days. Further information can be obtained from the SAT website – www.sat.justice.wa.gov.au.

BACKGROUND

Planning System Reform

Since the beginning of 2009, the State Government has implemented a number of initiatives that are intended to streamline and improve the planning process in Western Australia.

As part of this, the Western Australian Planning Commission (WAPC) resolved on 26 May 2009 to delegate its decision-making powers to Local Governments in relation to certain built strata applications under s25 of the *Strata Titles Act 1985*.

The term 'built strata' refers to the creation of lots on a strata plan that relate to existing dwellings or buildings (or a building which is proposed to be constructed) and where there are no vacant lots. Effectively, the strata lots relate to the external walls of individual dwellings / buildings, any exclusive areas external to the buildings and dwellings, and designated areas of common property.

In response to the WAPC's resolution, an instrument of delegation was made under s16(3)(e) of the *Planning and Development Act 2005* and gazetted on 9 June 2009.

The WAPC's delegation grants power to Local Governments to deal with built strata proposals that comprise the following:

- Residential Development with six (6) or more dwelling units;
- Commercial and industrial development; and
- Land parcel exceeding 2,500m².

Notwithstanding the above, the WAPC is required to determine any built strata proposals involving the following:

- A balcony or other building encroachment into airspace over roads and crown land;
- Creation of a vacant lot;

12.4 Continued

- Development within, abutting or affecting land reserved under a region planning scheme including road reserves, parks and recreation reserves;
- Land within a rural zone;
- Development relating to caravan parks or land zoned for tourism purposes;
- Proposed vacant air stratas in multi-storey strata scheme developments; and / or
- Where in the opinion of the WAPC, the development or land is of a special interest.

The WAPC considers that the delegation will streamline the built strata approval process by (generally) eliminating the involvement of an additional government agency.

Prior to a built strata subdivision being submitted, Local Governments generally will have issued planning approval and a building licence for the proposal under separate legislation, and it is therefore often considered that the built strata subdivision is a mere formality to allow for separate titles to be issued. For this reason, the involvement of the WAPC in the majority of built strata applications adds another layer of regulatory 'red tape' and has little value to the approval process.

Built Strata Process

Under the delegation, Local Government has assumed all duties of the WAPC in issuing a determination on a built strata subdivision application.

The process to obtain built strata subdivision approval in accordance with the *Strata Titles Act 1985* is:

- An application for preliminary built strata approval is made to the Local Government. The application is to include the necessary form (Form 24), two copies of plans and the correct application fee.
- The exception to this is where the type of development and / or property is within an area which is of state or regional significance. In this instance, the Local Government forwards the built strata application to the WAPC for determination.
- The determining authority (City of Belmont or WAPC, as the case may be) refers the built strata proposal to consulting authorities for comments. The nature of individual proposals and any factors affecting the subject land will determine which public bodies the application will be referred to. The WAPC has advised that referral to consulting authorities for a built strata application is limited and infrequent.
- The determining authority has 40 days to assess and determine the application for preliminary built strata approval. Assessment will ensure that the proposed built strata lots are in compliance with the town planning scheme, local planning policies, the R-Codes, and the approved planning approval / building licence.
- The determining authority issues a preliminary built strata decision letter.
- An applicant may appeal a preliminary built strata decision of the Local Government to the State Administrative Tribunal within 28 days of the date of determination.
- A preliminary built strata approval is valid for two years from the date of the determination.

12.4 Continued

- Following compliance with any conditions and clearance by relevant agencies, an applicant / owner must apply to the Local Government for final built strata approval. The Local Government grants final approval of the built strata application by endorsing the Form 26.
- The Local Government Building Department separately issues a Form 7 for the development, which certifies that the building has been constructed in accordance with the building licence.
- Upon receipt of the endorsed Form 26 and Form 7, the applicant / owner may then apply to Landgate for new titles.

City of Belmont Delegation Register

At present, the City of Belmont 2009 / 10 Delegated Authority Register delegates the following functions of the Council to the Director of Community & Statutory Services, Manager Planning Services and Senior Planning Officer:

- To determine development applications, applications for the amalgamation of lots and all forms of subdivision and survey strata referred to the Council by the Western Australian Planning Commission; and
- To endorse deposited plans after the conditions of subdivision / amalgamation approval for which the Council is responsible have been fulfilled.

Additionally, the Delegated Authority Register delegates the Council's function of issuing Form 7 Strata Title Local Government Certificates under Section 23(5) of the *Strata Titles Act 1985*, or issue a notice of refusal under Section 26(2) of the *Strata Titles Act 1985*, to the Director Statutory & Community Services, Manager Building Services and Senior Building Surveyor.

It is evident that the current Delegated Authority Register does not provide scope for Council staff to exercise the functions provided under the WAPC's built strata subdivision delegation. As such, all applications for built strata subdivision are required to be determined by Council until such point in time that the Delegated Authority Register is updated.

Application Background

On 16 September 2009, the City received a built strata application requesting preliminary approval for the creation of eight strata lots at Lot 200 (325) Fulham Street Cloverdale.

Previously, the City of Belmont issued planning approval for eight grouped dwellings on 5 December 2007, and building licence for the development on 9 June 2008. The built strata proposal is consistent with the development approval and building licence, and all associated conditions.

The City has a 40 day statutory timeframe to determine Form 24 built strata subdivision applications. The 40 day processing timeframe for this application expired on 26 October 2009. Whilst the application is compliant and is able to be finalised, no member of the Council's staff currently has the authority to sign off on the application.

12.4 *Continued*

OFFICER COMMENT

Application Comment

The City's Planning Department has determined that the built strata application at 325 Fulham Street, Cloverdale is in accordance with the associated planning approval issued on 5 December 2007 for eight grouped dwellings, and the subsequent building licence issued on 9 June 2008.

Having regard to the WAPC's Development Control Policy 1.3 (Strata Titles), Development Control Policy 2.3 (Public Open Space in Residential Areas) and the City of Belmont Draft Public Open Space Local Planning Strategy, it is noted that the development proposal involves more than five residential lots but has not previously made a public open space contribution.

The subject development is required to provide 215m² of public open space, representing 10% of the site area. Having regard to the Draft Public Open Space Local Planning Strategy, it is therefore considered reasonable for the Council to impose a condition on the built strata preliminary approval that requires the payment of cash-in-lieu of public open space for the 215m². In accordance with the *Planning & Development Act 2005* the value is to be determined after Council approval.

As the development has already been granted planning approval and a building licence, it is considered that all relevant conditions imposed have been satisfactorily addressed. Therefore, other than the provision of public open space, no further requirements are required on the preliminary built strata approval.

It is recommended that the Council resolve to issue preliminary approval subject to conditions inclusive of the following:

1. The applicant / owner making arrangements with the City of Belmont for the payment of cash-in-lieu for the required 215m² of public open space, representing the applicable 10 percent public open space provision for the development.

It is noted that determination of the built strata application requires a Simple Majority decision of the Council.

Built Strata Process / Delegated Authority Register

Having regard to the type of application being considered, it is reasonable for the functions of Council in regards to built strata subdivision proposals to be delegated to Council staff.

The grounds for this delegation are as follows:

- The Director Community & Statutory Services, Manager Planning Services and Senior Planning Officer currently have delegation to determine development applications, applications for the amalgamation of lots and all forms of subdivision and survey strata referred to the Council by the Western Australian Planning Commission;
- Prior to a built strata subdivision proposal being submitted for consideration, a development application and a building licence for the development will have already been issued;

12.4 Continued

- Built strata subdivision applications have limited conditions, as any significant matters of consideration are dealt with under a development application and satisfied prior to issue of a building licence.
- The City of Belmont has 40 days to determine a built strata subdivision application, including seeking referrals from external agencies where required. There is a great likelihood that this determination timeframe would be exceeded if each application is required to be referred to Council.

It is therefore recommended that the City of Belmont 2009 / 10 Delegated Authority Register be updated to allow for the functions of Council be delegated to the Director Community & Statutory Services, Manager Planning Services, Manager Building Services, and Senior Planning Officer in relation to the following:

- To determine applications for built strata subdivision, as delegated by the Western Australian Planning Commission; and
- To endorse the relevant built strata Form 26 after the conditions of built strata subdivision approval have been fulfilled.

It is noted that modification of the City of Belmont 2009 / 10 Delegated Authority Register will require an Absolute Majority decision of the Council.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

12.4 Continued

OFFICER RECOMMENDATION

That Council:

A. Issue preliminary approval for the strata plan (Form 24) application for 325 Fulham Street Cloverdale (Lot 200 DP 57691) subject to the following conditions:

- 1. The applicant / owner making arrangements with the City of Belmont for the payment of cash-in-lieu for the required 215m² of public open space, representing the applicable 10 percent public open space provision for the development.***

Footnote: The requirement for the payment of cash-in-lieu of public open space is in accordance with the City of Belmont's adopted Public Open Space Local Planning Strategy.

B. Resolve by an Absolute Majority decision to amend the City of Belmont 2009 / 2010 Delegated Authority Register (as detailed in Attachment 3) to allow for the functions of Council be delegated to the Director Community & Statutory Services, Manager Planning Services, Manager Building Services and Senior Planning Officer in relation to the following:

- To determine applications for preliminary built strata approval, as delegated by the Western Australian Planning Commission.***
- To determine applications for final built strata approval and endorse the applicable Form 26 after the conditions preliminary strata plan approval have been fulfilled, as delegated by the Western Australian Planning Commission.***

***** ABSOLUTE MAJORITY REQUIRED**

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

12.5 DEVELOPMENT AREA 7 - LOT 1 WATERVIEW PARADE AND LOTS 47, 48, 49, 50, 51, 401 AND 602 COOLGARDIE AVENUE ASCOT – PROPOSED STRUCTURE PLAN – CONSENT FOR FORMAL ADVERTISING**

Built Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 4 – Item 12.5 refers	<u>Land Ownership Plan</u>
Attachment 5 – Item 12.5 refers	<u>Opportunities & Constraints Plan</u>
Attachment 6 – Item 12.5 refers	<u>Proposed Structure Plan – Option 1</u>
Attachment 7 – Item 12.5 refers	<u>Proposed Structure Plan – Option 2</u>

Voting Requirement	:	Simple Majority
Subject Index	:	116/115
Location / Property Index	:	Lot 1 (25) Waterview Parade and Lots 47 (89), 48 (91), 49 (91), 50 (95), 51 (95), 401 (85-87) and 602 Coolgardie Avenue Ascot.
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	12.1.1 of 28 July 2009 12.1.3 of 20 February 2007
Applicant	:	N/A
Owner	:	Water Corporation, D J Dalgairns, R E & A Shaw, K Carter, B F & M S Yeldon, J M Jeffreys, R Wong and Western Australian Planning Commission
Responsible Division	:	Community & Statutory Services

COUNCIL ROLE

- | | | |
|-------------------------------------|-----------------------|---|
| <input type="checkbox"/> | Advocacy | <i>When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.</i> |
| <input 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 checked="" type="checkbox"/> | Legislative | <i>Includes adopting local laws, town planning schemes & 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 town 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> |

12.5 Continued

PURPOSE OF REPORT

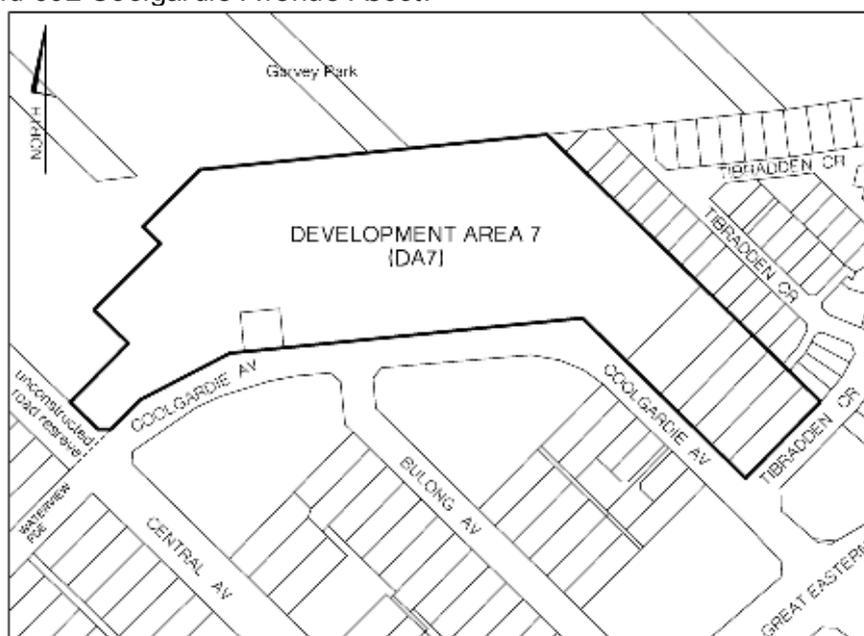
To consider adoption of two proposed structure plan concepts for Development Area 7 (DA7) for the purpose of advertising.

SUMMARY AND KEY ISSUES

- A structure plan has been prepared for DA7. A structure plan is required prior to development and subdivision.
- The WAPC owns a large proportion of the land area within DA7.
- The WAPC has identified that the preparation of a structure plan for this land is low priority. The City of Belmont has therefore initiated the preparation of a structure plan by engaging the services of a town planning consultant.
- The proposed structure plan has two concept options for the site, which provide alternative design and built form outcomes.
- Option 1 is in accordance with Item 12.1.1 of the Ordinary Council Meeting of 28 July 2009. Option 2 responds to the deferral resolution of Council at that meeting.
- The main difference between structure plan Option 1 and Option 2 relates to the central portion of the site, having regard to the specific environmental features.
- It is recommended that the both Option 1 and Option 2 be adopted for the purposes of formal advertising.

LOCATION

Lot 1 (25) Waterview Parade and Lots 47 (89), 48 (91), 49 (91), 50 (95), 51 (95), 401 (85-87) and 602 Coolgardie Avenue Ascot.



12.5 Continued

CONSULTATION

A proposed structure plan(s) must be advertised in accordance with Clause 10.17.9 of Town Planning Scheme No. 14 (TPS 14), for a period of 21 days.

STRATEGIC PLAN IMPLICATIONS

City of Belmont Strategic Plan

BUILT BELMONT – *“Encourage the upgrading and compatible redevelopment of the City.”*

NATURAL BELMONT – *“Protect and enhance the quality and amenity of our natural environment”.*

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Metropolitan Region Scheme (MRS)

The land is zoned ‘Urban’ under the MRS, and abuts an area of land reserved for ‘Parks & Recreation’ (Garvey Park).

City of Belmont Town Planning Scheme No. 14 (TPS 14)

The land is identified as ‘Development Area (DA7)’ under TPS 14, with the majority of the land having an underlying zoning of ‘Residential (R20)’. Lot 1 is reserved under TPS 14 for ‘Parks & Recreation (Water Supply Sewerage and Drainage)’.

Clause 10.18.5 of TPS 14 states that the City of Belmont is not to consider recommending subdivision and / or approve development of land within a Development Area without a structure plan being in place. A structure plan shall be prepared having regard to Clause 10.18.7 of TPS 14 and generally include information relating to the location of roads, utilities, density of development and lot layout. A structure plan will ensure that the subdivision and development of land is undertaken in a coordinated manner, however does not obligate landowners to develop concurrently.

Should Council resolve to adopt a proposed structure plan and release it for public comment, such advertising must be undertaken in accordance with the Scheme requirements. Any submissions received within the public advertising period must be considered by the City of Belmont Planning Department and tabled in a report to Council. Should Council resolve to adopt a Structure Plan, the documentation must then be referred to the WAPC for endorsement within seven (7) days of adoption.

Should the WAPC endorse a proposed structure plan with no modifications, the structure plan will take effect from the date of endorsement.

12.5 Continued

If the WAPC requires minor modifications to be made to the proposed structure plan as part of its endorsement, the City of Belmont will liaise with the WAPC in making the required changes. Any substantial changes to the proposed structure plan will need to be re-advertised in accordance with the Scheme requirements. In this instance, a report to Council will then be made detailing any changes and submissions, and consideration of adoption. Once adopted, the proposed structure plan is forwarded to the WAPC for its endorsement.

Deemed Refusal

Is there a right of appeal? Yes No

Clause 10.18.17 of Scheme 14 details that an owner who has submitted a proposed structure plan under clause 10.17.8.1 may appeal against a failure to advertise or determine a structure plan. Council is not an owner, and accordingly no right of appeal exists.

BACKGROUND

History

Coordinated Redevelopment

The City of Belmont's previous approach of encouraging coordinated redevelopment of specific sites proved effective where there were a limited number of landowners and where the development was on a small scale (i.e. the requirement for amalgamation of two to three lots only). Coordinated redevelopment was relatively easy to achieve in these instances through the preparation of Local Planning Policies. However, where there were a large number of landowners (or landowners in dispute) and there were no specific controls incorporated within the Town Planning Scheme, coordination was slow and / or problematic.

Amendment 43

Amendment No. 43 to TPS No. 14 introduced provisions for the operation of special control areas. As part of this amendment, four development areas were included in TPS 14 (Item 10.4.1 PDC 20/09/2004 refers).

Amendment 49

Amendment No. 49 (Item 12.1.3 OCM 20/02/07 refers) proposed the introduction of a further seven development areas into the TPS 14 in addition to the existing four which were implemented as part of Amendment No. 43. All of the development sites required the preparation of structure plans.

A large portion of land area within DA7 is owned by the Western Australian Planning Commission (WAPC), with a number of smaller parcels being in private ownership. DA7 was therefore included as part of Amendment 49 to promote a coordinated approach to subdivision and development, so as to avoid a proliferation of battleaxe lots.

12.5 Continued

At the time Amendment 49 was adopted for final approval, Council resolved to “*liaise with the WAPC in regard to their landholding in DA7 and DA8 to ascertain their future intentions for the land*”. The corresponding advice received from WAPC was that the preparation of structure plans for DA7 and Development Area 8 (DA8) were low priority. As such the City of Belmont has initiated the structure planning process by engaging the services of a private town planning consultancy to prepare local structure plans for these development areas.

Development Area 7

DA7 is 4.6732ha in area and is comprised of 11 freehold lots in multiple ownership. The largest land parcel within DA7 is Lot 602, which is 3.8980ha and owned by the WAPC (refer to Attachment 4).

The majority of the land within DA7 is undeveloped. Lot 401 has been subdivided to create four strata-titled dwellings in a battleaxe configuration, and Lots 47-51 are currently developed with single dwellings that appear to straddle the boundary in some cases. Attachment 5 is an analysis of opportunities and constraints for the area.

Council Resolution

At the Ordinary Council Meeting of 28 July 2009, Council resolved to defer consideration of a proposed structure plan concept (Option 1) for Development Area 7. The deferral resolution was made to allow for the preparation of an environmental plan that retains the Coolgardie Living Stream in its current location.

Option 2 has been prepared in response to the 28 July 2009 resolution of Council.

Proposed Structure Plan

A structure plan that incorporates two development concepts has been prepared for DA7 (refer to Attachment 6 and 7).

The common aspects between Option 1 and Option 2 are summarised as follows:

- R20 / 40 precinct to the south-east of the site, representing existing residential development.
- Long-term development precinct in the western portion of the site. Further engineering consideration is required to ascertain the type development outcomes that may be feasible due to the presence of unstable soils.
- Proposed north-south access road in the centre of the site, which provides an opportunity for future road connections between Coolgardie Avenue and Garvey Park.

The differences between Option 1 and Option 2 relates primarily to the central portion of the site (Precinct 2).

Option 1

The fundamental component of Option 1 that differs from Option 2 is the provision of an area of public open space to the east of the existing Coolgardie Living Stream. Option 1 proposes to realign the Living Stream through this area of public open space to allow for residential development in its present location.

12.5 Continued

Further details in relation to Option 1 have been discussed previously by Council at the Ordinary Council Meeting of 28 July 2009. A copy of this information can be provided to Councillors upon request.

Option 2

The fundamental component of Option 2 relates to the retention of the Coolgardie Living Stream in its current alignment. Accordingly, development has been located towards the eastern and western side of the existing stream.

The eastern cell of Option 2 proposes residential development at a density of R40, with 18 freehold lots and 4 grouped housing sites. Access is provided by a 12.0 metre wide access road that terminates with a cul-de-sac head abutting Garvey Park.

Thirteen freehold lots are proposed in the western portion of Precinct 2, with frontage to Coolgardie Avenue and a proposed north-south access road forming the western boundary. The rear portion of each lot abuts the proposed area of public open space associated with the Coolgardie Living Stream.

In order to retain the Coolgardie Living Stream, Option 2 proposes a 3983m² area of public open space, which equates to 8.6% of the net developable area. The shortfall of 628m² public open space will be required to be provided as cash-in-lieu by landowners within Development Area 7.

OFFICER COMMENT

Both Option 1 and Option 2 are considered to be feasible development outcomes for DA 7. Notwithstanding this, a number of components require further discussion.

Coolgardie Living Stream / Public Open Space

The fundamental difference between Option 1 and 2 relates to the relocation or retention of the Coolgardie Living Stream, and the subsequent location of public open space.

At present, all land within DA7 (with the exception of the Water Corporation pump site) is in freehold ownership. No areas, including the Coolgardie Living Stream, are reserved under the MRS or TPS 14 for public open space, nor identified under any State or local legislation as being worthy of environmental protection. Notwithstanding this, the Coolgardie Living Stream and area to its immediate east have been used unofficially by the public for recreational purposes, and accordingly have a high level of community value.

The portion of the site to the east of the Living Stream represents an area of land that possesses significant vegetation, albeit it on freehold land. Accordingly, under Option 1, this area is proposed as public open space, with the Living Stream being proposed to be relocated from its existing alignment through this area.

Under this option, it is unclear whether the proposed relocation of the Coolgardie Living Stream will be achieved through pipe arrangements or via overland flow. It is also noted that an existing sewer pollutant trap is located in the verge of Coolgardie Avenue, which is required to be retained. This will require further investigation should this be the preferred concept, however in principle can be supported.

12.5 Continued

Option 2 retains the Living Stream in its current alignment, with an area of public open space provided surrounding it to the west. However, the area to the east of the site, which represents the most well vegetated area of the site, is proposed to be developed for residential land uses. Notwithstanding this, it is noted that two significant trees are able to be retained within a road reserve. Having regard to the above, the location of the public open space and retention of the Living Stream under Option 2 is supported.

Under either option, the City of Belmont Parks Department has identified that a number of limestone walk trails and bridges have been recently installed in Garvey Park. It is therefore ideal for both structure plan concepts to demonstrate how the proposed access networks link with those in existence. This can be addressed prior to final adoption of a structure plan for the site.

It is acknowledged that DA7 is located adjacent to Garvey Park and that City of Belmont Local Planning Policy No. 17 generally does not support the creation of small pocket parks within close proximity of large areas of open space. However, having regard to the community value that has been associated with these areas, the provision of public open space in either location warrants support.

Public Open Space & Residential Interface

The central location of public open space under Option 1 means that it is bound by residential land uses on the eastern and western sides. This presents an effective opportunity for the new residential development to be designed in accordance with passive surveillance principles under local planning policies. Achieving effective passive surveillance under Option 2 on the eastern and southern side of the public open space is more difficult as these boundaries of the proposed public open space abut existing residential development.

Although the passive surveillance opportunities are more restricted under Option 1, it is considered that the preparation of local planning policies for the adjacent western residential properties can be implemented with mandatory passive surveillance design outcomes. This would also be imposed for all residential land abutting the public open space under Option 2. Having regard to this, both options are considered feasible.

Sewer / Drainage Easements

A 6.0m wide sewer easement is located within DA7 along the northern side of Coolgardie Avenue, continuing through to the easternmost corner of the site.

The position of the public open space under Option 1 means that the easement has limited impact on residential development. However, under Option 2, the eastern residential cell has required a design solution that incorporates the sewer easement, this being the provision of a grouped housing site in the eastern-most portion of DA 7. It is considered that the grouped housing site could be designed in such a manner that the sewer easement could be located beneath a common access way, and therefore not significantly impact potential building area.

Similarly, Option 2 has incorporated the existing 4.0m wide drainage easement in the eastern portion of the site into the configuration of lot boundaries, with extra width added to adjacent properties to allow for development to be feasible. This is not a consideration under Option 1, as the drainage easement is located within an area of proposed public open space.

12.5 Continued

The position of the proposed access road into the eastern portion of the site under Option 2 has been located so as to avoid the existing sewer pollutant trap that exists in the Coolgardie Avenue road reserve. Similarly, Option 1 does not require the relocation of the sewer pollutant trap.

Having regard to easement constraints, it is evident that both concepts are feasible on planning and engineering grounds and are therefore supported.

Road, Pedestrian and Cycle Network

Similar to Option 1, the proposed road network under Option 2 is highly legible, permeable and effectively links with the existing road network. Both proposed north-south access roads provides the opportunity for future road linkages between Coolgardie Avenue and Garvey Park. The proposed roundabout at the intersection of the central north-south road, Coolgardie Avenue and Bulong Avenue presents as an opportunity for a 'gateway' into the development area whilst encouraging safe traffic movements.

Further detail is necessary in relation to the location of proposed footpaths and cycleways to demonstrate opportunities for continued access to Garvey Park from Coolgardie Ave by pedestrians, cyclists and horse trainers. This can be addressed prior to Council's resolution on the final adoption of the Structure Plan after formal advertising.

Notwithstanding this, the road, pedestrian and cycle networks are supported on planning and engineering grounds.

Servicing

To ensure successful implementation of the structure plan elements, the developer and / or landowners will be required to prepare a Servicing Strategy, which ensure that that residential development can be accommodated within DA7. Further liaison with the City of Belmont Engineering Department will be necessary.

Advertising of Structure Plan

The intent of this report is to seek Council's consent to commence advertising of a structure plan for DA7, so as to provide certainty for landowners and developers.

The previous Council resolution of 28 July 2009 in relation to the structure plan concept shown in Option 1 required an alternative concept that provides for the retention of the Coolgardie Living Stream. Option 2 has now been completed. It is considered reasonable that both Option 1 and Option 2 be advertised to the public to ascertain which design is preferred by the local community.

FINANCIAL IMPLICATIONS

Standard consultation costs will be incurred.

ENVIRONMENTAL IMPLICATIONS

Refer to Background and Officer's Comments sections.

12.5 Continued

SOCIAL IMPLICATIONS

The proposal will encourage the redevelopment of this land in a coordinated manner and subsequently allow for new housing stock and additional residents within the locality.

OFFICER RECOMMENDATION

That Council endorse proposed Structure Plan Option 1 (Attachment 6) and Option 2 (Attachment 7) for Development Area 7 for the purpose of advertising in accordance with Clause 10.17.9 of Town Planning Scheme No. 14.

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

12.6 DEVELOPMENT AREA 8 - LOTS 6, 7, 244, 245, 248, 250, 252, 254, 256, 257, 258 FAUNTLEROY AVENUE AND LOT 603 LILIAN GROVE, ASCOT – PROPOSED STRUCTURE PLAN – CONSENT FOR FORMAL ADVERTISING**

Built Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 8 – Item 12.6 refers	<u>Land Ownership Plan</u>
Attachment 9 – Item 12.6 refers	<u>Opportunities & Constraints Plan</u>
Attachment 10 – Item 12.6 refers	<u>Proposed Structure Plan – Option 1</u>
Attachment 11 – Item 12.6 refers	<u>Proposed Structure Plan – Option 2</u>

Voting Requirement	:	Simple Majority
Subject Index	:	116/115
Location / Property Index	:	Land generally bounded by Hay Road, Lilian Grove, Fauntleroy Avenue and the eastern boundary of Lot 258 Fauntleroy Avenue – Lot 6 (68), 7 (70), 244 (72), 245 (74), 248 (76), 250 (78), 252 (80 & 80A), 254 (82), 256 (84), 257 (86), 258 (86) Fauntleroy Avenue and Lot 603 (2) Lilian Grove, Ascot.
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	12.1.2 of 28 July 2009 12.1.3 of 20 February 2007
Applicant	:	N/A
Owner	:	B E Kennedy and S H Wu, S C Sharp, S R and SJ Loynes, W P and J Bennier, D Figliomeni, R C McPherson, S D Jones, Y M Ayres, C and J A Sykes, E Toronyi, Western Australian Planning Commission
Responsible Division	:	Community & Statutory Services

COUNCIL ROLE

<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.</i>
<input 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 checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & 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 town 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>

12.6 Continued

PURPOSE OF REPORT

To consider adoption of two proposed structure plan concepts for Development Area 8 (DA8) for the purpose of advertising.

SUMMARY AND KEY ISSUES

- A structure plan has been prepared for DA8. A structure plan is required prior to development and subdivision.
- The WAPC owns a large proportion of the land area within DA8.
- The WAPC has identified that the preparation of a structure plan for this land is low priority. The City of Belmont has therefore initiated the preparation of a structure plan by engaging the services of a town planning consultant.
- The proposed structure plan has two concept options for the site, which provide alternative design and built form outcomes.
- Option 1 is in accordance with Item 12.1.2 of the Ordinary Council Meeting of 28 July 2009. Option 2 responds to the deferral resolution of Council at that meeting.
- The main difference between structure plan Option 1 and Option 2 relates to the south-west portion of the site adjacent to Lilian Grove, having regard to the specific environmental features.
- It is recommended that the both Option 1 and Option 2 be adopted for the purposes of formal advertising.

LOCATION

The land generally bounded by Hay Road, Lilian Grove, Fauntleroy Avenue and the eastern boundary of Lot 258 Fauntleroy Avenue – Lot 6 (68), 7 (70), 244 (72), 245 (74), 248 (76), 250 (78), 252 (80 & 80A), 254 (82), 256 (84), 257 (86), 258 (86) Fauntleroy Avenue and Lot 603 (2) Lilian Grove, Ascot.



12.6 *Continued*

CONSULTATION

A proposed structure plan(s) must be advertised in accordance with Clause 10.17.9 of TPS 14 for a period of 21 days.

STRATEGIC PLAN IMPLICATIONS

City of Belmont Strategic Plan

BUILT BELMONT – *“Encourage the upgrading and compatible redevelopment of the City.”*

NATURAL BELMONT – *“Protect and enhance the quality and amenity of our natural environment”.*

City of Belmont Public Open Space Local Planning Strategy

At the Special Council Meeting of 25 November 2008, Council resolved to adopt the City of Belmont Public Open Space Local Planning Strategy, which is a supporting document of the City of Belmont Local Planning Strategy.

Part 7.5 of the Public Open Space Strategy recommends that where subdivision or strata titling of land occurs and five or more lots are created, any legislative public open space requirement should be taken as 10% cash-in-lieu. The exception to this would be unless subdivision represents a good opportunity to provide functional open space within the suburbs of Rivervale and Redcliffe only (where an existing under provision is evident).

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Metropolitan Region Scheme (MRS)

The land is zoned ‘Urban’ under the MRS, and abuts an area of land reserved for ‘Parks & Recreation’ (Garvey Park) to the west.

City of Belmont Town Planning Scheme No. 14 (TPS 14)

The land is identified as ‘Development Area (DA8)’ under TPS 14, with the majority of the land having an underlying zoning of ‘Residential (R20)’.

Clause 10.18.5 of TPS 14 states that the City of Belmont is not to consider recommending subdivision and / or approve development of land within a Development Area without a structure plan being in place. A structure plan shall be prepared having regard to Clause 10.18.7 of TPS 14 and generally include information relating to the location of roads, utilities, density of development and lot layout. A structure plan will ensure that the subdivision and development of land is undertaken in a coordinated manner, however does not obligate landowners to develop concurrently.

12.6 Continued

Should Council resolve to adopt a proposed structure plan and release it for public comment, such advertising must be undertaken in accordance with the Scheme requirements. Any submissions received within the public advertising period must be considered by the City of Belmont Planning Department and tabled in a report to Council. Should Council resolve to adopt a Structure Plan, the documentation must then be referred to the WAPC for endorsement within seven (7) days of adoption.

Should the WAPC endorse a proposed structure plan with no modifications, the structure plan will take effect from the date of endorsement.

If the WAPC requires minor modifications to be made to the proposed structure plan as part of its endorsement, the City of Belmont will liaise with the WAPC in making the required changes. Any substantial changes to the proposed structure plan will need to be re-advertised in accordance with the Scheme requirements. In this instance, a report to Council will then be made detailing any changes and submissions, and consideration of adoption. Once adopted, the proposed structure plan is forwarded to the WAPC for its endorsement.

Deemed Refusal

Is there a right of appeal? Yes No

Clause 10.18.17 of Scheme 14 details that an owner who has submitted a proposed structure plan under clause 10.17.8.1 may appeal against a failure to advertise or determine a structure plan. Council is not an owner, and accordingly no right of appeal exists.

BACKGROUND

History

Coordinated Redevelopment

The City of Belmont's previous approach of encouraging coordinated redevelopment of specific sites proved effective where there were a limited number of landowners and where the development was on a small scale (i.e. the requirement for amalgamation of two to three lots only). Coordinated redevelopment was relatively easy to achieve in these instances through the preparation of Local Planning Policies. However, where there were a large number of landowners (or landowners in dispute) and there were no specific controls incorporated within the Town Planning Scheme, coordination was slow and/or problematic.

Amendment 43

Amendment No. 43 to TPS No. 14 introduced provisions for the operation of special control areas. As part of this amendment, four development areas were included in TPS 14 (Item 10.4.1 PDC 20/09/2004 refers).

Amendment 49

Amendment No. 49 (Item 12.1.3 OCM 20/02/07 refers) proposed the introduction of a further seven development areas into the TPS 14 in addition to the existing four which were implemented as part of Amendment No. 43. All of the development sites required the preparation of structure plans.

12.6 Continued

A large portion of land area within DA8 is owned by the Western Australian Planning Commission (WAPC), with a number of smaller parcels being in private ownership. DA8 was therefore included as part of Amendment 49 to promote a coordinated approach to subdivision and development, so as to avoid a proliferation of battleaxe lots.

At the time Amendment 49 was adopted for final approval, Council resolved to *“liaise with the WAPC in regard to their landholding in DA7 and DA8 to ascertain their future intentions for the land”*. The corresponding advice received from WAPC was that the preparation of structure plans for Development Area 7 (DA7) and DA8 were low priority. As such the City of Belmont has initiated the structure planning process by engaging the services of a private town planning consultancy to prepare local structure plans for these development areas.

Development Area 8

DA8 is 3.4219ha in area and is comprised of 11 freehold lots and 2 strata titled lots. The land is in multiple ownership. The largest land parcel is Lot 603, which is 1.6922ha and owned by the WAPC (refer to Attachment 8).

The majority of the land within DA8 is undeveloped. Eleven (11) residential dwellings have been created on the lots fronting Fauntleroy Avenue. Attachment 9 is an analysis of opportunities and constraints for the area.

Council Resolution

At the Ordinary Council Meeting of 28 July 2009, Council resolved to defer consideration of the proposed structure plan (Option 1) for Development Area 8. The deferral resolution was made to allow an Environmental Option Plan to be prepared having regard to the retention of the existing drainage outflow and damp area in the south-west corner. Consideration was also to be given to any necessary realignment of internal roads to respond to the environmental plan.

Option 2 has been prepared in response to the 28 July 2009 resolution of Council.

Proposed Structure Plan

A structure plan that incorporates two development concepts has been prepared for DA8 (refer to Attachments 10 and 11).

The common aspects between Option 1 and Option 2 are summarised as follows:

- A traditional R20 residential precinct incorporating the majority of lots fronting Fauntleroy Avenue. The intent of this precinct is to retain the existing streetscape character of Fauntleroy Avenue through the retention of existing dwellings.
- A medium density R30 residential precinct incorporating the rear portions of the existing lots fronting on to Fauntleroy Avenue. Access to these lots is provided by a 12.0 metre wide access road.
- Existing Lots 254 and 256 being proposed as flexible coded R20/R40 residential lots. This is due to the narrow frontage to the proposed 12.0m wide access road, thus encouraging a density bonus if property owners develop concurrently as a grouped housing site.
- Vehicle access to the site facilitated through the construction of Lilian Grove road carriageway and gazettal of Lot 202 as a road reserve.

12.6 Continued

- A separated 8.0 metre wide access way provided as a service road. The road is not designed to provide through-access for vehicles, however is intended to allow for pedestrian and cyclist access between the site and the Swan River.
- The differences between Option 1 and Option 2 relate primarily to the configuration of lots in the proposed R40 cottage lot precinct.

Option 1

The fundamental component of Option 1 that is different from Option 2 is that there is no provision of public open space. Instead, the cottage lot precinct is developed with 50 residential lots, and has an additional section of 12.0 metre wide road reserve. In order to facilitate development under Option 1, an existing damp area and drainage outlet is proposed to be removed.

Further details in relation to Option 1 have been discussed previously by Council at the Ordinary Council Meeting of 28 July 2009. A copy of this information can be provided to Councillors upon request.

Option 2

The fundamental component of Option 2 is the inclusion of a 3032m² area of public open space in the south-west portion of the site, abutting Lilian Grove. This has resulted in fewer residential lots in this precinct (39 single lots plus 1 group housing site) plus the deletion of a section of road.

The public open space provided equates to 8.92% of the gross subdivisible area in lieu of 10%. The 368m² deficit of public open space will be required as cash-in-lieu under this option.

OFFICER COMMENT

Both Option 1 and Option 2 are considered to be feasible development outcomes for DA8. Notwithstanding this, a number of components require further discussion.

Public Open Space

The fundamental difference between Option 1 and 2 relates to the provision of public open space.

At present, all land within DA8 is in freehold ownership. No areas, including the existing damp area to the south-west portion of the site and the existing drainage outlet adjacent to Hay Road are reserved under the MRS or TPS 14 for public open space, nor identified under any State or local legislation as being worthy of environmental protection (i.e. not conservation category wetlands, Bush Forever, etc).

It is acknowledged that DA8 is located adjacent to Garvey Park and that City of Belmont Local Planning Policy No. 17 generally does not support the creation of small pocket parks within close proximity of large areas of open space. Additionally, the City of Draft Belmont Public Open Space Local Planning Strategy identifies that there is a significant over-provision of public open space in Ascot (33.78% in lieu of 10%) and recommends that cash-in-lieu of public open space be acquired from developers as a preferred outcome.

12.6 Continued

On this basis, no public open space has been provided under Option 1. Conversely, in response to Council's aspirations to retain the damp area / drainage outlet as public open space, a 3032m² has been accommodated in Option 2.

Advice from the City of Belmont Environment Services has advised the following in relation to DA8:

- The development of low lying damp areas may have adverse environmental impacts and may not be consistent with the aims of the City's 'Environmental Enhancement Policy'. This policy states, "wherever possible and appropriate, the Council seeks to conserve those areas of remnant natural vegetation left throughout the City".
- Arboriculture assessment of this area identified 24 eucalyptus rudis (flooded gums), three of which represent highly significant habitat value due to the presence of habitat hollows. The presence of habitat hollows suggests that these trees are at least 100-120 years old.
- The modification of the natural overland drainage flow and creation of hardstand areas may increase the volume of stormwater runoff into the existing created wetland. This may have an adverse effect on the vegetation surrounding the wetland due to flooding and/ or increases in nutrients / hydrocarbon runoff.

The area retained for open space under Option 2 is considered to be the area of the site that has the most significance with its terms existing damp land and associated vegetation. Retention of this public open space area also reflects the recommendations made within the Garvey Park Precinct Study Development Concept Plan. The existing drainage outlet adjacent to Hay Road has not been retained on the basis that it represents limited conservation value and drainage outflow can be redirected to the proposed public open space area.

Notwithstanding Council's aspirations to retain the damp area, **it must be noted that converting this area into a lake is contrary to the guidelines of the Department of Water. The Department has advised the City that it does not support the creation of artificial lakes or permanent open water bodies (basins) when they involve the exposure of groundwater or require the modification of a wetland type.** This would include the excavation or lining lakes that require groundwater to maintain water levels in summer, or the converting a damp land into a lake. The reason for this position primarily relates to environmental and health concerns, such as hydrology, water quality, mosquitoes, midges, algal blooms, acid sulphate soils.

Having regard to this, Option 1 is supported as it does not retain the damp area or drainage outlet, and has regard to Council's adopted Public Open Space Local Planning Strategy. The retention of the existing damp area under Option 2 is accordingly not supported on the same grounds. Notwithstanding this, it is considered that remedial site works to this area under Option 2 could be undertaken to remove the damp area and allow for the public open space to be used for recreational purposes.

Road, Pedestrian and Cycle Network

The proposed road network is highly legible, permeable and effectively links with the existing road network, on the basis that the WAPC's Lot 202 is gazetted as a road reserve. Further consultation with the WAPC will be undertaken through the formal advertising process.

12.6 Continued

Under both options, the proposed 12.0 metre access road straddles the boundary between Lot 603 and Lots 248, 250, 252, 245 and 256. As such, only 9.0 metres of this road can be provided within Lot 603. In order to accommodate the required road reserve width, it is necessary to acquire the additional 3.0 metres from the rear of existing Lots 248, 250, 252, 245 and 256 Fauntleroy Avenue. Requiring this as a condition of subdivision of these lots is not appropriate considering there is no obligation for landowners to proceed with subdivision in a concurrent fashion. It is therefore likely that this would result in a fragmented road reserve. To better facilitate the road reserve outcome, it is envisaged that the required land from these lots would be acquired through legal agreements between the City of Belmont and affected landowners, or through compulsory acquisition under the provisions of the *Local Government Act 1995* and *Land Administration Act 1997*.

The proposed 8.0 metre access way under both options is not intended for through vehicular access and will therefore have bollards provided to separate vehicle access points. This is considered to be a suitable arrangement and will still allow for pedestrian and cycle movements between the subject site, Garvey Park and the Swan River.

The proposed road, pedestrian and cycle networks are supported on planning and engineering grounds.

Servicing

To ensure successful implementation of the structure plan elements, the developer and / or landowners will be required to prepare a Servicing Strategy, which ensure that that residential development can be accommodated within DA8. Further liaison with the City of Belmont Engineering Department will be necessary.

Advertising of Structure Plan

The intent of this report is to seek Council's consent to commence advertising of a structure plan for DA8, so as to provide certainty for landowners and developers.

The previous Council resolution of 28 July 2009 in relation to the structure plan concept shown in Option 1 required an alternative concept that provides for the retention of the damp area and drainage outlet, as well as the necessary modification of internal roads. Option 2 has now been completed. It is considered reasonable that both Option 1 and Option 2 be advertised to the public to ascertain which design is preferred by the local community.

FINANCIAL IMPLICATIONS

Standard consultation costs will be incurred.

ENVIRONMENTAL IMPLICATIONS

Refer to Background and Officer's Comments sections.

12.6 *Continued*

SOCIAL IMPLICATIONS

The proposed structure plan will encourage the redevelopment of this land in a coordinated manner and subsequently allow for new housing stock and additional residents within the locality.

OFFICER RECOMMENDATION

WOLFF MOVED, HITT SECONDED, That Council endorse the proposed Structure Plan Option 1 (Attachment 10) and Option 2 (Attachment 11) for Development Area 8 for the purpose of advertising in accordance with Clause 10.17.9 of Town Planning Scheme No. 14.

CARRIED 7 VOTES TO 2

Against: Dornford, Rossi

12.7 LOT 3 (116) KOOYONG ROAD, RIVERVALE – LIQUOR STORE**

Built Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 12 – Item 12.7 refers	Site Plan, Floor Plan and Elevations

Voting Requirement : Simple Majority
Subject Index : 115/001
Location / Property Index : 116 Kooyong Road, Rivervale
Application Index : 366/2009/DA
Disclosure of any Interest : Nil
Previous Items : NA
Applicant : Lavan Legal
Owner : Citykey Pty Ltd
Responsible Division : Community & Statutory Services

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, town planning schemes & 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 town 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 consider an application for a change of use from 'shop' to 'liquor store' at Lot 3 (116) Kooyong Road, Rivervale.

12.7 Continued

SUMMARY AND KEY ISSUES

- The applicant wishes to modify an existing vacant 'shop' at Kooyong Road shops to a 'liquor store'.
- The proposal includes external refurbishment – new aluminium glazing and security screen at front; and new roller door and security screen at rear.
- The proposal includes internal fitout (cool room, fridges, shelving, counter, and office).
- A 'liquor store' is a Use Not Listed under Town Planning Scheme No. 14. There is no delegation of authority to Council Officers in regard to uses not listed.
- In accordance with scheme provisions, the application was referred to surrounding residential properties. At the time the report was written no submissions have been received.
- In accordance with Clause 4.2.3 of the Scheme, Council is to make a determination as to in what zones a 'liquor store' is a permitted or discretionary use.
- Conditional approval of the application is recommended.

LOCATION

Lot 3 (116) Kooyong Road, Rivervale.



12.7 Continued



CONSULTATION

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

The application was referred to surrounding owners and occupiers on 16 October 2009 for a period of 21 days closing on 9 November 2009. A total of 14 submissions have been received (refer Officers Comments).

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT - *“Encourage the upgrading and compatible redevelopment of the City of Belmont.”*

BUILT BELMONT – *“Maximise business development opportunities within the City.”*

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

12.7 Continued

STATUTORY ENVIRONMENT

Town Planning Scheme No. 14

The proposed land use of 'liquor store' is defined under the Scheme as meaning 'any land or building the subject of or proposed to be the subject of, a Store Licence granted under the provisions of the Liquor Licensing Act 1988 (as amended)'.

The use of 'liquor store' is not listed under Table 1 - Zoning Table. Town Planning Scheme No. 14 (TPS) Clause 4.2.3 provides a number of options in dealing with 'uses not listed', as follows:

- Determine the use is consistent with the objectives and purposes and proceed the application as a permitted use;
- Determine that the use is consistent with the objectives of the zone and proceed with advertising the proposal as per Clause 5.7 of TPS14; or
- Determine use is not consistent with the objectives of the zone and is therefore not permitted.

Clause 10.4 contains the relevant development requirements for the Town Centre and Commercial Zones. The intention of the Commercial zone is "to provide for the retail commercial function and entertainment".

Deemed Refusal

Clause 5.5.2 of the City of Belmont Town Planning Scheme No. 14 applies where a landuse is classified as a 'D' or 'S' use under the City of Belmont Town Planning Scheme No. 14 Zoning Table and is subject to advertising requirements detailed in Clause 5.7 of the Scheme. As such, the application is 'deemed to be refused' if it is not determined within a 90 day period.

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

The deemed refusal date for this application is 20 December 2009. Should Council defer this item then deemed refusal rights will not arise if the matter is dealt with at the Council meeting to be held 15 December 2009.

Right of Appeal

Is there a right of appeal? Yes No

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

BACKGROUND

Lodgement Date:	21 September 2009	Use Class:	Use Not listed
Lot Area:	266m2	TPS Zoning:	Commercial
Estimated Value:	\$120,000	MRS:	Urban

12.7 *Continued*

Site History

The subject shop was previously a hardware shop and is currently vacant. The lot has pedestrian access from Kooyong Road with vehicle access provided from Jupp Lane at the rear. A search of Council's records confirmed approval for the existing security fence and gate at rear was granted on 2 September 2002.

Application

An application for change of use from 'shop' to 'liquor store' at Lot 3 (116) Kooyong Road, Rivervale was lodged on 21 September 2009.

The proposed modifications include:

- New aluminium glazing and security screen at shop front;
- New roller door and security screen at rear;
- Remove existing water feature and planters in rear yard;
- Refurbish toilets; and
- Internal fitout to include cool room, fridges, shelving, counter, and office.

Refer Attachment 12 (Site Plan, Floor Plan and Elevations).

The applicant states that all staff are to be well trained with good product knowledge. Hours of operation are to be in accordance with the standard trading hours under the *Liquor Control Act 1988* as follows: Monday to Saturday 8:00am to 10:00pm; and Sunday 10:00am to 10:00pm.

The applicant has also advised that the store will provide standard ancillary products such as ice, gift packs, food and wine information, cool drinks and snack items. In addition there are to be combined specials and promotions with grocery or meal items in the IGA located at Lot 52 (126) Kooyong Road, Rivervale.

A separate signage application is also being processed.

Power Supply

This site has underground power.

OFFICER COMMENT

The proposal to change the existing 'shop' to a 'liquor store', accords with the 'Commercial' zoning to provide for a retail commercial function. However in assessing any planning application, matters such as amenity, adjoining land uses, increased in traffic, parking facilities and any relevant submissions need to be considered.

Amenity

In this instance the proposal provides an opportunity to upgrade the tenancy which has been vacant for some time and is currently in a state of disrepair. No structural works or additions are proposed. It is considered that the refurbishment of the shop façade (new glazing and security screens) will improve the overall amenity of the Kooyong Road shopping precinct, is in keeping with the upgraded streetscape and will contribute to the vibrancy of the precinct.

12.7 Continued

The external refurbishment also includes new roller doors at the rear, upgrade of the toilets and removal of existing planter boxes, water feature and rear canopy. The existing automatic security gate and fencing at rear is to be retained with all deliveries to the shop to be from Jupp Lane at the rear of the site. Should Council approve the application, a standard condition regarding no outdoor storage would be included.

In regard to the proposed security screens, the applicant has advised that the security screens will be visually permeable. This accords with the Crime Prevention Through Environmental Design (CPTED) principles which have also been incorporated into the City's Draft Local Planning Policy No. 28 – Security Roller Shutters and Grills on Non Residential Buildings. The draft Policy requires screens to be visually permeable, to match or complement the building and be of a durable finish. Should Council approve the application this would form a condition of approval.

Land Use

Liquor stores are located throughout the City of Belmont namely at the Belmont Forum, Belvidere Street, Belgravia Street, Epsom Avenue and Eastgate Shopping Centres, as well as on the corner of Sydenham and Epsom Avenue, corner of Wright Street and Orrong Road and several along Great Eastern Highway. All these properties are zoned either Town Centre, Commercial or Mixed Use. A liquor store is considered to be consistent with the purpose and objectives of these zones.

In relation to how the business is managed or conducted; and the possible behaviour of customers – these are not planning matters and are issues that relate to the liquor licence provisions of the *Liquor Control Act 1988*. Under the *Liquor Control Act 1988* an application for a new liquor store is required to be advertised for a period of one month. Advertising includes letter drop, sign on site and advertisement in the Western Australian newspaper. At the time of writing the report no application had been formally lodged with the Department of Racing, Gaming and Liquor (DRGL). However once lodged and advertised, any person may object to the DRGL.

Traffic, Parking and Bins

Parking for the Kooyong Road Shops is currently provided along both sides of Kooyong Road and adjacent to the IGA store in Gerring Court. As there is no increase to the retail floor area, parking requirements under the Scheme which are based on nett lettable area, will remain unchanged. In addition, it is not considered that there would be any major increase in traffic or parking with respect to the proposed change of use from a 'shop' to a 'liquor store'.

Although the proposal includes the removal of the existing planter boxes and water feature in the rear yard, given the location of the existing buildings including the separate store and toilets at the rear the shop, there is no provision for parking on site. The City's Project Development Engineer has confirmed that there is sufficient parking available for both staff and clients in Gerring Court and in the IGA car park together with client parking along Kooyong Road.

With respect to loading and unloading, the City's Project Engineer has also confirmed that the loading/ unloading area as shown on the plan is acceptable as it will allow traffic to pass along Jupp Lane while this occurs.

12.7 Continued

The City's Manager Health & Rangers Services advised that bins are to be stored within the property boundary and not visible from Jupp Lane in accordance with the City's Health local laws. The location of the bins as shown on the plans is acceptable on collection day, given that it is unlikely that the bins will contain rotten (putrescent) matter.

Security

CCTV cameras have been installed at the Kooyong Road shopping centre. Cameras are located at the intersections of Francisco Street and Kooyong Road and Gerring Court and Kooyong Road which provide 24 hour coverage. A further camera is to be installed in Jupp Lane which will provide surveillance to the rear of the shops.

The City's Co-Ordinator Crime Prevention and Rangers has advised that the CCTV cameras have been installed in Kooyong Road as a pilot location for the City of Belmont CCTV Alarm Assist Initiative. This is a City project funded through the Federal Government Safer Suburbs Program. The CCTV is recorded in High Definition (HD) and has a history of 30 days minimum. The footage is not monitored however the combination of technologies provides that in the event of an alarm, duress, smoke detection or other triggers such as movement and gas sensors, our security services would be notified and be able to view footage live. The City can also provide immediate access through any internet browser to Police and other agencies. This would be advantageous in a Criminal Damage (Graffiti) context.

Economic Impact

The Eastern Metropolitan Regional Council (EMRC) has purchased a regional economic analysis software package called REMPlan. REMPlan use Australian Bureau of Statistics datasets and input / output methodology industrial economic data estimates to generate reports for defined geographic regions. The software also incorporates a region-specific economic impact modelling feature that was first developed at La Trobe University, with continued development from December 2006 by Compelling Economics Pty Ltd. This feature generates estimates of indirect or flow-on impacts from a direct change to an economy.

REMPlan calculates that an expenditure of \$120,000 on the fitout of 116 Kooyong Road would cause demand for intermediate goods and services to rise by \$108,000.

The increases in direct and indirect output would typically correspond to the creation of jobs in the local economy. Corresponding to this change in employment would be an increase in the total of wages and salaries paid to employees. A proportion of these wages and salaries are typically spent on consumption and a proportion of this expenditure is captured in the local economy. The local consumption effects under this scenario are estimated at \$27,000.

Submissions

A total of 14 written submissions have been received; one non objection and 13 objections. Of the submissions, 3 were from properties within the referral area and consisted of 1 non objection from an adjacent property in Gerring Court and 2 letters of objection from two Managers of a café located within the shopping centre. Copies of all submissions have been made available to Councillors.

12.7 Continued

In brief, the objections raised relate to potential anti social behaviour; increase in traffic and parking issues; and concerns regarding the number of existing liquor stores within the area. In regard to liquor related anti-social behaviour, as previously outlined this is a liquor management issue (controlled by the DRGL) and not a land use issue. The potential for alcohol related anti-social behaviour is a matter to be considered by the DRGL once an application for the new store is advertised in accordance with the provisions of the *Liquor Control Act 1988*. In relation to the number of existing liquor outlets, there is one current store in Rivervale (109-111 Great Eastern Hwy). Notwithstanding the number of stores in Rivervale or surrounding suburbs, the dispersal of such premises and/or the matter of competition between them is not a planning issue.

One submission also raised concerns regarding traffic access and egress, loading and unloading, manoeuvring and parking. However, as previously stated, truck movements, loading and unloading and parking provision are considered appropriate by the City's Engineering Services. It should also be noted that the parking and traffic generated for a liquor store is treated in the same manner as a 'Shop' (which is the existing use on site). The current proposal (with designated loading bay area) actually improves the existing situation wherein deliveries currently occur in a laissez faire manner. It also ensures that delivery vans will not be reversing in Jupp Lane and thereby less likely to damage fencing.

Signage

With respect to signage a separate application has been submitted and will be assessed on its merits in accordance with the provisions of Local Planning Policy No. 12 – Advertising signs (LPP12).

Conclusion

The proposed refurbishment of the premises will contribute to the overall improvement and the vitality of the Kooyong Road shopping precinct. Although a liquor store is a use not listed, it is considered to be consistent with the objectives, purpose and the intended function of the Commercial zone. Accordingly, it is recommended that conditional approval be granted and that a 'liquor store' be determined as a 'P' permitted use within the Town centre and Commercial zones and as a 'D' discretionary use within the Mixed Business and Mixed Use zones.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

The proposed upgrades to the premises will upgrade the façade and due to improved amenity may add to increasing use of a community activity area. The use will provide a service to a wide section of the community notwithstanding the arguments that excessive alcohol adversely impacts on wellbeing.

12.7 *Continued*

Whilst there is documentation to demonstrate a link between alcohol and negative impacts on community wellbeing, how the business is managed and the possible behaviour of customers are not planning matters and are issues that relate to the liquor licence provisions of the *Liquor Control Act 1988*.

OFFICER RECOMMENDATION

That Council:

- A Approve planning application 366/2009/DA as detailed in plans dated 21 September 2009 submitted by Lavan Legal on behalf of the owner Citykey Pty Ltd for Change of Use from 'Shop' to 'Liquor Store' at Lot 3 (116) Kooyong Road, Rivervale subject to the following conditions:
1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.
 2. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.
 3. Security screens along the front façade to be visually permeable and to match or complement the building to the satisfaction of the Director Community & Statutory Services or Manager Planning Services.
 4. All storage to occur within the building.
 5. Rubbish bins are to be stored within the property boundary and not visible from Jupp Lane in accordance with the City's Health local laws to the satisfaction Manager Health & Ranger Services.
- B Determine that a 'liquor store' is consistent with the intent and purpose of the Town Centre and Commercial zones and therefore any future planning applications for a 'liquor store' within these zones shall be assessed as a 'P' permitted use and that a 'liquor store' could be considered as an incidental to the predominant use within the Mixed Business and Mixed Use zones and therefore any future planning applications for 'liquor stores' within these zones shall be assessed as a 'D' discretionary use within the Mixed Business and Mixed Use zones.

12.7 Continued

Cr Wolff put forward the following Alternative Motion.

ALTERNATIVE MOTION

WOLFF MOVED, HITT SECONDED, That Council

- A Approve planning application 366/2009/DA as detailed in plans dated 21 September 2009 submitted by Lavan Legal on behalf of the owner Citykey Pty Ltd for Change of Use from 'Shop' to 'Liquor Store' at Lot 3 (116) Kooyong Road, Rivervale subject to the following conditions:**
- 1. The stamped and dated plan/plans, as amended by the City and together with any requirements detailed thereon by the City, shall form part of the planning approval issued in respect of the application referred to in this approval.**
 - 2. A detailed schedule of external materials and colours to be used in the construction of the development shall be submitted to the City for approval prior to the issue of a building licence.**
 - 3. Security screens along the front façade to be visually permeable and to match or complement the building to the satisfaction of the Director Community & Statutory Services or Manager Planning Services.**
 - 4. All storage to occur within the building.**
 - 5. Rubbish bins are to be stored within the property boundary and not visible from Jupp Lane in accordance with the City's Health local laws to the satisfaction Manager Health & Ranger Services.**
- B Determine that a 'liquor store' is consistent with the intent and purpose of the Town Centre and Commercial zones and therefore any future planning applications for a 'liquor store' within these zones shall be assessed as a 'P' permitted use and that a 'liquor store' could be considered as an incidental to the predominant use within the Mixed Business and Mixed Use zones and therefore any future planning applications for 'liquor stores' within these zones shall be assessed as a 'D' discretionary use within the Mixed Business and Mixed Use zones.**
- C On the advertising of any formal liquor licence application for the proposed Liquor Store at 116 Kooyong Road, Rivervale, make a formal submission to the Department of Racing, Gaming and Liquor (DRGL). The submission is to raise the matter of the potential impact of a Liquor Licence being granted on the management of existing community alcohol related issues including, but not limited to, statistics relating to the Socio-Economic Disadvantage Index For Areas (SEIFA) for Rivervale and the number of alcohol related assaults within the Rivervale locality.**

CARRIED 6 VOTES TO 3

Against: Hitt, Dornford, Rossi

12.7 *Continued*

Reason

It is clear that many in the Rivervale community, as well as the shop owners in the shopping Centre, have concern that the extra convenience of purchasing alcoholic drinks that a liquor store will provide, will be detrimental to the Shopping Centre, and to Rivervale. Some have expressed concern that the significant efforts and costs that have so far been put into alleviating antisocial behaviour at the Shopping Centre may be undermined by the presence of a liquor store.

12.8 REVISED STRUCTURE PLAN – THE SPRINGS – ABSOLUTE MAJORITY REQUIRED**

Built Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 13 – Item 12.8 refers	<u>The Springs Structure Plan</u>
Attachment 14 – Item 12.8 refers	<u>Table of Revisions in Response to WAPC Letter Dated 29 July 2009</u>
Attachment 15 – Item 12.8 refers	<u>The Springs Structure Document</u>

Voting Requirement : Absolute Majority
 Subject Index : 116/007 (The Springs)
 Location / Property Index : The Springs - The land generally bound by the Graham Farmer Freeway, Great Eastern Highway, Brighton Road and the Swan River Foreshore
 Application Index : N/A
 Disclosure of any Interest : N/A
 Previous Items : 12.1.11 of 20/02/07
 12.1.7 of 28/08/07
 12.1.4 of 20/05/08
 Applicant : LandCorp;
 Owner : Various
 Responsible Division : Community & Statutory Services

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, town planning schemes & 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 town 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*

12.8 Continued

PURPOSE OF REPORT

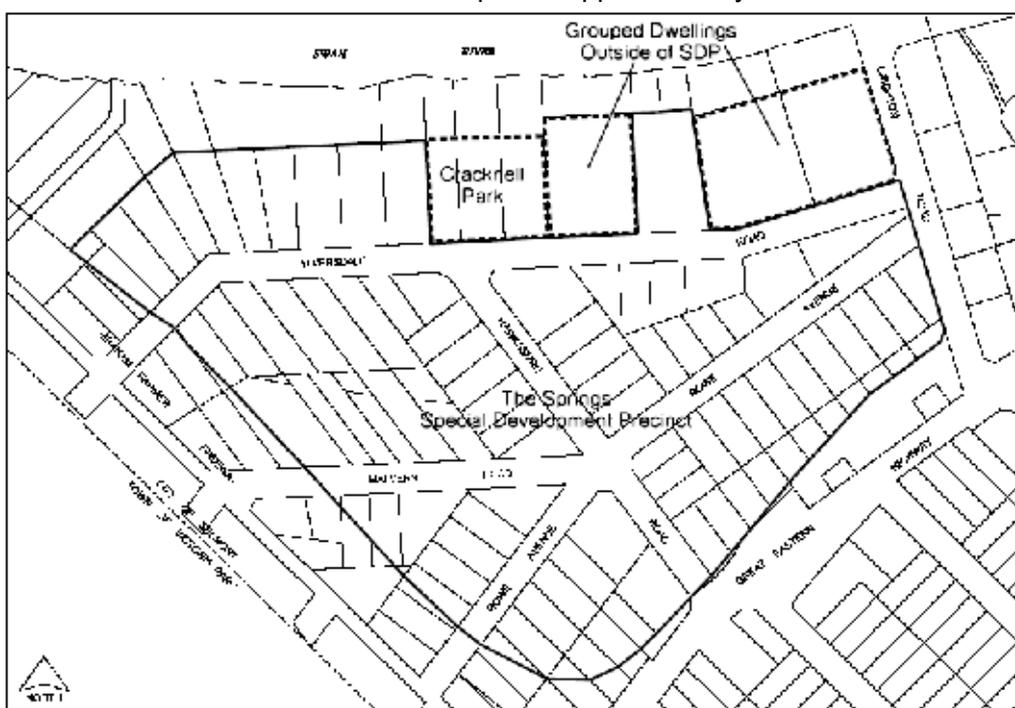
For Council to endorse the revisions made to The Springs Structure Plan prior to submission to the WAPC for final approval.

SUMMARY AND KEY ISSUES

- The revisions to The Springs Structure Plan have been made in response to requirements of the Western Australian Planning Commission.
- The revisions do not change the overall intent, objectives and principles of the structure plan that was previously adopted by Council.
- No consultation has been undertaken due to the nature of the revisions.
- It is recommended that Council adopt the revised structure plan.

LOCATION

The area known as The Springs is located in the suburb of Rivervale and is approximately 5 km by road from the Perth Central Area. The Springs Structure Plan area (see Attachment 13) is generally bound by the Graham Farmer Freeway, Great Eastern Highway, Brighton Road and the Swan River Foreshore, as shown on the plan below. The Structure Plan Area comprises approximately 12.5 hectares of land.



CONSULTATION

LandCorp and their consultants undertook extensive preliminary public consultation as part of the preparation of the original Structure Plan for The Springs.

12.8 Continued

The original draft Structure Plan and draft Local Planning Policy No. 31 – The Springs Design Guidelines were advertised for public comment in accordance with the provisions of Section 10.17.9 (Advertising of a Structure Plan) and Section 2.5 (Advertising of a Local Planning Policy) of the City of Belmont Town Planning Scheme No. 14 (TPS 14). The Council endorsed a longer advertising period (42 days) than the minimum required in order that all affected parties would have ample time to fully consider the proposed documents and lodge a submission. The draft documents were advertised from 11 April 2007 to 25 May 2007.

Thirteen submissions were lodged in respect of the application during the advertising period.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT – *“Encourage the upgrading and compatible redevelopment of the City.”*

BUSINESS BELMONT – *“Maximise business development opportunities within the City”.*

POLICY IMPLICATIONS

Local Planning Policy No. 31 – The Springs

STATUTORY ENVIRONMENT

Metropolitan Region Scheme

The land is predominantly zoned ‘Urban’ under the Metropolitan Region Scheme (MRS). The site is bound by land reserved as ‘Primary Regional Road’ to the west (Graham Farmer Freeway) and south (Great Eastern Highway), and land reserved for Parks & Recreation (Swan River foreshore) to the north.

Town Planning Scheme No. 14

The land is zoned ‘Special Development Precinct – The Springs’ under the City of Belmont Town Planning Scheme No. 14 (TPS 14).

The Springs Special Development Precinct is also identified as ‘Development Area 11’, under which an approved Structure Plan is required prior to further development or subdivision.

Section 10.17.10 of TPS 14 contains the provisions relating to the adoption of proposed structure plans.

Right of Appeal

Is there a right of appeal? Yes No

12.8 *Continued*

Clause 10.18.17 of Scheme 14 details that an owner who has submitted a proposed structure plan under clause 10.17.8.1 may appeal against a failure to advertise or determine a structure plan. The applicant / owner may appeal to the State Administrative Tribunal (SAT) subject to Part 14 of the *Planning and Development Act 2005*. Appeals must be lodged with SAT within 28 days.

BACKGROUND

Amendment No. 49 designated specific areas within the City of Belmont as Development Areas (DAs), each of which requires an approved structure plan prior to consideration of further development. It was approved by the Minister for Planning and Infrastructure on 21 April 2008 and gazetted on 2 May 2008.

In consideration of the (then) pending adoption of Amendment No. 49, Council adopted The Springs Structure Plan and Local Planning Policy No. 31 – The Springs Design Guidelines for proposed DA 11 at its meeting of 28 August 2007.

In response to the gazettal of Amendment No. 49 to TPS 14, the Structure Plan was re-adopted by Council at the OCM dated 20 May 2008 at the request of the (then) Department for Planning & Infrastructure (DPI).

On 29 July 2009, the Western Australian Planning Commission (WAPC) wrote to the City of Belmont and advised the following:

“... the Commission has reconsidered its previous resolutions and advises that the Commission would be prepared to approve the structure plan subject to:

1. *Appropriate demarcation being demonstrated between public open space and private property; with particular regard to a suitable mechanism being put in place to provide a suitable interface between Cracknell Park and the Rowe Avenue intersection.*
2. *The retention of Cracknell Park as public open space to the satisfaction of the Western Australian Planning Commission and in accordance with the relevant Western Australian Planning Commission policies.*
3. *Prior to the gazettal of Amendment No. 53, a suitable interim mechanism is to be established prior to subdivision and / or development on site to secure developer contributions in accordance with the Developer’s Contribution Schedule.*

The City and the WAPC will adopt the mechanism as interim policy to guide the application of cost contribution conditions.

This mechanism is to be supported by additional text in the local structure plan, outlining that no subdivision or development shall occur within the structure plan area until Amendment 53 if gazetted or an arrangement suitable to the WAPC and the Council is approved that would permit developer contributions towards shared costs.

4. *Modification of the draft Cost Contribution Schedule to include:*

12.8 Continued

- i) *Revision and implementation of the 1998 Foreshore Management Plan, for that portion of the foreshore which immediately abuts The Springs redevelopment area (applying to the Riversdale Road precinct abutting the Swan River).*
- ii) *The upgrade of Cracknell Park facilities, comprising of the access path and car parking.*
- iii) *A public open space contribution is required from all landholdings. All individual landowners will contribute to the required 10% either through the provision of land or as an equivalent cash contribution. For the purposes of calculation, Cracknell Park in its totality is to be included as a component of this POS contribution.*

Where a party agrees to contribute public open space on behalf of another landowner, an agreement binding that owner of the contributing land (and any subsequent owners), is to be made with the WAPC, clearly stating that the land is to be ceded to the Crown free of cost on behalf of the other owner and showing a plan of the subject land, prior to the WAPC approval of a deposited plan.

5. *Modification of the Draft LSP to reflect the requirements of the WAPC's Guidelines on the Preparation of Local Structure Plans (Draft) and to require the Draft LSP to contain a Statutory Section (Part 1) and an Explanatory Section (Part 2). It is noted that Sections 6 and 7 (as modified) of the draft LSP may be incorporated into Part 1 (Statutory) and the remaining sections being incorporated into Part 2.*
6. *Modification of Clause 6.4 of the draft LSP to insert a Precinct Development Table (as modified) which for each Precinct addresses the requirement for:*
 - *Building envelopes;*
 - *Minimum / maximum building height expressed in metres;*
 - *Ratios of dwelling sizes, including a requirement for a minimum proportion of the dwelling units within each Precinct to have a maximum floor area of 60m² and 90m²; the proportion of each to be applied on a site by site basis;*
 - *Densities and, where appropriate, density bonuses;*
7. *Modification of the LSP text to identify the requirement for a Detailed Area Plan to guide development within the Riversdale Road North precinct.*

The Detailed Area Plan must address the following:

- *Creation and preservation of significant sight lines (or view corridors) to and from the Swan River;*
 - *Overshadowing;*
 - *Control of building bulk via setbacks;*
 - *Response to topography;*
 - *Articulation of podium and tower elements;*
 - *Address to street and public realm.*
8. *Modification of Figure 14B of the Draft LSP to reflect the Development Precincts identified in 6 above.*

12.8 Continued

9. *Inclusion within the local structure plan of the requirement for, and principles guiding, the development of a 'Springs' transport and car parking management strategy. The strategy should recognise existing public transport facilities, reduce existing commercial parking requirements and ultimately limit the number of parking spaces to be provided by developers.*

The transport and car parking strategy is to be approved by the City of Belmont and the WAPC.

10. *The closure and acquisition of part of Hawksburn Road for conversion to public open space as per the requirements of the local structure plan.*
11. *Improvements to the pedestrian environment being addressed to the satisfaction of the City of Belmont and the WAPC in The Springs Transport and Parking Management Strategy."*

In response to the above letter, the applicant has made a number of revisions to The Springs Structure Plan, as summarised in Attachment 14.

OFFICER COMMENT

The subject revisions to The Springs Structure Plan (as summarised in Attachment 14) have been made by the applicant in order to address a number of issues that were raised by the WAPC. Notwithstanding this, the City of Belmont has previously supported the structure plan and, from a planning viewpoint, the changes that have been made are considered to be acceptable.

The revisions that have been made do not drastically change the overall intent, objectives and principles of the structure plan that has previously been considered by Council. Having regard to the extensive consultation undertaken as part of the original Structure Plan and the minor nature of the revisions, it is not considered necessary to re-advertise the structure plan to the local community.

It is recommended that Council adopt the revised structure plan for The Springs and advise the WAPC of their decision.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

12.8 Continued

OFFICER RECOMMENDATION

That Council:

1. Adopt the revised Structure Plan for 'The Springs' as detailed in plans dated October 2009 submitted by Taylor Burrell Barnett on behalf of Landcorp (as detailed in Attachment 15), being the majority landowner within The Springs Special Development Precinct.
2. Notify the Western Australian Planning Commission of the Council's resolution on the revised Structure Plan for 'The Springs'.

***ABSOLUTE MAJORITY REQUIRED

REVISED OFFICER RECOMMENDATION

That Council:

1. Adopt the revised Structure Plan for 'The Springs' in accordance with sub-clause 10.18.10.1 of Town Planning Scheme No. 14 subject to:
 - a) Removal of reference to 1 and 2 bedroom dwellings in the maximum development proportions in Table 1 and Table 3.
 - b) Inclusion of metre measurements to minimum height for Hawksburn Road and for minimum front setback for Riversdale Road South precinct in Table 1 and Table 3.
 - c) Corrections to the numbering sequence for the points following Table 3 (page 64).and as detailed in plans dated October 2009 submitted by Taylor Burrell Barnett on behalf of Landcorp (as detailed in Attachment 15), being the majority landowner within The Springs Special Development Precinct.
2. Notify the Western Australian Planning Commission of the Council's resolution on the revised Structure Plan for 'The Springs'.

***SIMPLE MAJORITY REQUIRED

12.8 Continued

Cr Hitt put forward the following Alternative Motion.

ALTERNATIVE MOTION

HITT MOVED, ROSSI SECONDED, That Council

1. **Adopt the revised Structure Plan for 'The Springs' in accordance with sub-clause 10.18.10.1 of Town Planning Scheme No. 14 subject to:**
 - a) **Removal of reference to 1 and 2 bedroom dwellings in the maximum development proportions in Table 1 and Table 3.**
 - b) **Inclusion of metre measurements to minimum height for Hawksburn Road and for minimum front setback for Riversdale Road South precinct in Table 1 and Table 3.**
 - c) **Corrections to the numbering sequence for the points following Table 3 (page 64).**
 - d) **Amending dot point 7 (page 42) of Clause 6.3.1 'Design Principles' to read "Promotion of sustainable design and building practices including building-performance design guidelines for energy, water efficiency and grey water usage and passive solar design".**
 - e) **Amending paragraph 1 (page 53) of Clause 6.3.6.7 'Irrigation Design and Construction' to read "All public open space within the site, excluding street verges, will be irrigated from a licenced bore or preferably recycled grey water. The possibility of using grey water will be considered, subject to gaining support from relevant government agencies."**

and as detailed in plans dated October 2009 submitted by Taylor Burrell Barnett on behalf of Landcorp (as detailed in Attachment 15), being the majority landowner within The Springs Special Development Precinct.
2. **Notify the Western Australian Planning Commission of the Council's resolution on the revised Structure Plan for 'The Springs'.**

***SIMPLE MAJORITY REQUIRED

CARRIED 9 VOTES TO 0

Note

Councillor Hitt requested new points be added to the resolution highlighting the need/requirement for grey water use and the minimum use of bore water from the present City allowance.

The matter of requiring compulsory grey water use for multi unit development within 'The Springs' has since been followed up with the Department of Health who have advised that numerous issues/concerns must be addressed prior to the use of grey water in any development including, but not limited to:

12.8 Continued

- **Maintenance of grey water systems (dependent on correct usage by operators);**
- **Concern over whether there will be enough garden areas on site to use the volume of grey water generated;**
- **Management and liability issues if water is proposed for use off-site;**
- **Concerns regarding necessary approvals from Swan River Trust and proximity to the River;**
- **Developers of each individual site would have to go straight to the Department of Health for approval prior to approvals from Council;**
- **May be cost prohibitive to the developer.**

Note

Cr Rossi expressed concern about many Flame Trees being removed because of the development and suggested that instead of removing them all, it might be possible to transplant them to an alternative location.

The Presiding Member stated that the factors of transplanting trees will be investigated, but may be cost prohibitive.

12.9 2010 – 2014 PHYSICAL ACTIVITY AND HEALTHY EATING PLAN**

SOCIAL BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 16 – Item 12.9 refers	<u>Physical Activity and Nutrition Plan</u>

Voting Requirement	:	Simple Majority
Subject Index	:	83/005 Belmont Recreation Project Planning
Location / Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	Item Number 12.7; 22 September 2009
Applicant	:	City of Belmont
Owner	:	N/A
Responsible Division	:	Community and Statutory Services

COUNCIL ROLE

- | | | |
|-------------------------------------|-----------------------|--|
| <input type="checkbox"/> | Advocacy | <i>When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.</i> |
| <input checked="" type="checkbox"/> | Executive | <i>The substantial direction setting and oversight role of the Council eg. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i> |
| <input type="checkbox"/> | Legislative | <i>Includes adopting local laws, town planning schemes & 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 town 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 seek endorsement from Council for the adoption of the 2010 - 2014 Physical Activity and Healthy Eating Plan. A copy of the 2010 - 2014 Physical Activity and Healthy Eating Plan is provided under Attachment 16.

12.9 *Continued*

SUMMARY AND KEY ISSUES

At the 22 September 2009 Ordinary Council Meeting, Council resolved to advertise the 2010 - 2014 Physical Activity and Healthy Eating Plan for public comment for 28 days until Monday 26 October 2009, prior to the formal adoption of the Plan.

During the period of public comment, the City received 1 formal submission from Redcliffe resident, Mr Peter Evans who provided positive comments about the Plan. Various other positive verbal and informal feedback was received.

The 2010 - 2014 Physical Activity and Healthy Eating Plan provides a framework and a set of objectives to assist the City of Belmont to plan, develop, implement, evaluate and sustain physical activity and healthy eating programs, opportunities and services for now and into the future.

The Plan focuses on encouraging members of the community to be active and healthy no matter what their age or physical capability. The Plan recommends action to be taken by both the City of Belmont and external agencies and organisations to promote physical activity and healthy eating. This Strategic Plan has a strong commitment to linking many of the City's business units including Leisure, Community Development, Health, Environment, Planning and Community Safety in positive ways to promote health and wellbeing.

Local Government has significant capacity to promote physical activity and healthy eating, through a commitment to environment and local community, distinctive structures, resources and practical knowledge and skills.

The 2010 - 2014 Physical Activity and Healthy Eating Plan outlines a coordinated approach to increasing opportunities for all people to become active and to eat well by promoting policy approaches that will shape and advocate for a decision-making agenda that is more orientated towards physical activity and healthy eating.

LOCATION

N/A

CONSULTATION

The following consultations were undertaken during the development of the draft Plan:

Council Officers

- Through interviews with Senior Officers from different Business Units
- Presentation of Strategies to BLT & SMG
- Strategy refinement workshop

12.9 Continued

State Government Agencies and a Range of Non-Government

- Interviews
- Needs assessments
- Strategy refinement workshop

Key Organisations Involved in Sport and Recreation and/or Physical Activity and Nutrition such as Sporting Associations

- Interviews and surveys with 18 local sporting clubs (including Cloverdale Canine Companions, Ascot Cricket Club, Belmont Junior Soccer Club, Belmont Raiders Tee ball and more)

The Community

- Schools
- Seniors
- Playgroups
- Walking groups
- Surveys during programmes and events

The second phase of community consultation included releasing the document for public comment for a period of 28 days. Promotion of the draft document requesting public comment was achieved through the following:

- Static Library Display at the Ruth Faulkner Public Library
- Advertisements in the Southern Gazette on 29 September 2009, 13 and 20 October 2009
- Hard copies available at the Civic Centre front counter
- An email to community groups and sporting clubs
- An email to stakeholders requesting comment
- Placed on the City of Belmont website

During the period of public comment, the City received 1 formal submission from Redcliffe resident, Mr Peter Evans as summarised below:

- Overall a very good plan
- Provided ideas to attract residents to walk to local shops and to purchase more fresh food by Council giving participants a reduction in rates, fees and charges and CCTV to reward residents who walk to their local shop
- Community Garden should be a high agenda item for Council
- Farmers Market to be run in conjunction with Rotary Sunday markets

Various other positive verbal and informal feedback was also received.

12.9 Continued

STRATEGIC PLAN IMPLICATIONS

Strategy:

- *'Provide and facilitate leisure and recreation programs and facilities that meet the needs the community.'*
- *'Provide, or facilitate access to, services and facilities required by seniors and other 'in need' community members.'*
- *'Assist clubs and community groups to provide services and facilities.'*
- *'Maintain public open space in accordance with the needs and expectations of the community.'*

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

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

BACKGROUND

The implementation of the outdated Leisure Services Plan (2006-2008) resulted in Leisure, Art & Cultural Services establishing new partnerships with Curtin University School of Public Health, South Metro Public Health Unit, the Red Cross and other stakeholders. The new partnerships enabled the City to further research the community's nutritional health as well as physical activity levels.

The alarming results obtained from the Physical Activity and Nutrition Survey (2007) included 33% of the community being overweight, an obesity level of 19% and only 4% of the community eating the recommended 5 serves of vegetables daily.

Therefore Leisure, Art & Cultural Services looked at developing an innovative strategic document that takes a more holistic approach to exercise and health by addressing nutrition and physical activity as the overall issues associated with obesity. For this reason, the new Physical Activity and Healthy Eating Plan 2010 - 2014 was developed.

The development of the new Plan was jointly funded by the Physical Activity Taskforce and the City of Belmont to engage consultant's Stoneham and Associates to develop the Plan.

Stoneham and Associates have developed plans for:

- City of Fremantle
- City of Perth
- Town of East Fremantle
- City of Swan
- Town of Bassendean
- City of Mandurah
- City of Armadale

12.9 Continued

Dr. Melissa Stoneham has over 20 years experience in the fields of public and environmental health, with particular skills in the area of Local Government management practices, public policy, and public health promotion. She has worked with and for Local Government agencies, universities, professional associations, international agencies and aid organisations.

Stoneham and Associates developed the Physical Activity and Healthy Eating Plan 2010 - 2014 in number of stages. This included:

1. Background Research and Literature Review

This involved the studying of the City's demographics, policies, procedures, organisational structure, existing plans and frameworks.

2. Physical Activity Audits

This involved the audit of public open space, walking trails, playgrounds, sporting facilities, school facilities open for public access, dog walking facilities, parking, lighting, safety and end of trip facilities.

3. Food Security Audits

This involved an audit of 17 premises. The audit evaluated local opportunities to participate in healthy cooking classes; access to affordable recommended foods; local social and environmental factors that influence eating practices; opportunities to access local nutrition promotion/education; potential locations for community markets or City Farms and land use issues associated with locating major shopping centres, 'junk food' outlets and fresh food premises.

4. Staff Consultation

Staff members from the City of Belmont were instrumental in developing this Plan. Interviews with a representative from each business unit and the CEO were held during the consultation phase and an interactive workshop was held to discuss the draft Plan.

5. Community Consultation

Many community groups, non-government agencies, government departments, sporting clubs and individuals were accessed and consulted to identify any barriers to getting people more active or to accessing healthy foods, to identify issues with existing facilities and services and to assess offers of assistance.

A series of discussion groups were held with sporting clubs, schools and existing community groups including youth groups, seniors, new immigrants and playgroups, Red Cross, Jacaranda Community Centre and the Food Security Coalition.

6. Strategy development

The first draft strategies were presented to SMG and BLT for comments. Following this, a strategy refinement workshop is to be conducted to confirm the strategies to complete the draft plan for public comment.

12.9 *Continued*

The strategies are based around 5 principals:

- Program Delivery and Policy Development
- Information Dissemination
- Creating Environments that Support Physical Activity and Nutrition
- Physical Activity Partnerships
- Physical Activity Advocacy

OFFICER COMMENT

The Physical Activity and Healthy Eating Plan 2010 - 2014 provides a framework to assist the City of Belmont to plan, develop, implement, evaluate and sustain physical activity and healthy eating programs, opportunities and services now and into the future. **Particular attention should be given to the plan of actions from pages 22 to 34 inclusive.**

Increasing and maintaining the number of people who are physically active and eating well by implementing the Plan, the outcomes include:

1. Improved physical health including:

- Reduced risk of acute and long-term illness, such as coronary heart disease, diabetes and cancers;
- Longer life expectancy;
- Improved physical wellbeing, including basic movement, co-ordination, motor skills and attentions spans; and
- Lower rates of work absenteeism.

2. Improved social capital such as:

- Reduction in social exclusion caused by mobility problems;
- More people taking part in community life;
- More opportunities to engage in education and lifelong learning;
- More people being physically fit and able to work.

3. Improved mental health and wellbeing with more people benefiting from a sense of greater wellbeing and fewer experiences of depression.

4. Improved social health including:

- Greater opportunities for social contact through community gardening, cooking classes or physical activity options;
- Opportunities to address anti-social behaviour and contribute to social justice; and
- The creation of environments (open spaces, green areas, safe streets, community gardens) likely to lead to physical activity and healthy eating.

12.9 *Continued*

5. Improved planning for environments that support physical activity and healthy eating, including:

- Good provision of walking and cycling facilities (footpaths and cycle ways);
- Street connectivity and design;
- Transport infrastructure and systems, linking residential, commercial and business areas;
- Facilities for physical activity (e.g. swimming pools);
- Location of agricultural lands;
- Retail type and locations;
- Transport infrastructure to food retail locations;
- Food service locations (including fast foods and vending machines); and
- Facilities (e.g. water fountains, community gardens, breastfeeding locations).

The document not only provides direction for the Leisure, Art and Cultural Services, but the 'Whole of Council' and community stakeholders in regards to overall health and wellbeing relating to physical activity and nutrition.

FINANCIAL IMPLICATIONS

Monetary resources will be required to be budgeted for on an annual basis as currently arranged in line with the Council budget process. The Plan identifies funding opportunities for specified projects. In addition to this, many of the strategies are resourced through 'in kind' support.

Budget consideration will need to include, but not limited to the following:

- Salaries and associated costs to resource the implementation and evaluation of this Plan. This includes the employment of a person under contract whose salary could be met from a combination of grants and Council contribution.
- Services – Project Management.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

The Physical Activity and Healthy Eating Plan 2010 - 2014 will:

- Ensure that the community has access to the services and facilities it needs;
- Assist in developing community capacity;
- Support community groups;
- Enhance a sense of community and the image of Belmont;
- Contribute to an environment where residents are safe and feel safe.

12.9 *Continued*

OFFICER RECOMMENDATION

That Council endorse the Physical Activity and Healthy Eating Plan 2010 - 2014 to strategically guide the provision of physical activity and nutrition opportunities in the City of Belmont for the next four years.

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

12.10 ACCOUNTS FOR PAYMENT**

Business Excellence Belmont

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 17 – Item 12.10 refers	Accounts For Payment Listing

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, town planning schemes & 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 town 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 Council each month for confirmation and endorsement in accordance with the Local Government Finance regulations.

12.10 Continued

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

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*, Clause 12.

OFFICER COMMENT

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

Municipal Fund Cheques	781231-781357	\$1,652,454.68
Municipal Fund EFTs	EF010117-EF010486	\$4,190,136.73
Trust Fund Cheques	905296-905297	\$48,058.84
Trust Fund EFT	EF010176	\$3,139.50
Total Payments for October 2009		\$5,893,789.75

A copy of the Authorised Payment Listing is included as Attachment 17 to this item.

12.10 *Continued*

FINANCIAL IMPLICATIONS

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

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER RECOMMENDATION

That the Authorised Payment Listing as provided under Attachment 17 be received.

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

12.11 MONTHLY FINANCIAL ACTIVITY STATEMENT AS AT 31 OCTOBER 2009**

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 18 – Item 12.11 refers	<u>Monthly Financial Activity Statement as at 31 October 2009</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 & 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, town planning schemes & policies.*
- Review** *When Council reviews decisions made by Officers.*
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PURPOSE OF REPORT

To provide Council with information relating to accounting reports and statements.

SUMMARY AND KEY ISSUES

To provide Council with information relating to accounting reports and statements.

12.11 *Continued*

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

Key Result Area: Business Excellence.

“Improve knowledge management and ensure organisational compliance to statutory record keeping obligations”.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

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

Regulation 34 was amended as at 1 July 2005 to require a Statement of Financial Activity reporting on the sources and applications of funds for that month. A quarterly or tri-annual statement is no longer required under the amended Regulation.

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 Comment section.

BACKGROUND

The *Local Government (Financial Management) Regulations 1996* require that financial statements are presented on a monthly basis to Council. In October 2008, Council adopted 10 percent of the budgeted closing balance as the materiality threshold.

12.11 *Continued*

OFFICER COMMENT

The statutory monthly financial report is to consist of a Statement of Financial Activity reporting on sources and applications of funds 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.

The amendment to the Regulations has fundamentally changed the reporting structure which has been used to 30 June 2005, as it now requires reporting of information consistent with the “cash” component of Council’s budget rather than being “accrual” based. The monthly Statement of Financial Activity now ties in more closely with the Management Report provided to Council quarterly.

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 eg tied grants.*

**** Based on a materiality threshold of 10 percent of the budgeted closing balance as previously adopted by Council.*

In order to provide more details regarding significant variations in the attached report, the following summary is provided.

Report Section	YTD Budget	YTD Actual	Comment
Applications of Funds – Capital			
Computing	218,032	80,827	Business applications and equipment not yet purchased.
Financing Activities	0	180,210	This item has been budgeted next month.
Crime Prevention & Comm Safety	435,000	32,085	The CCTV Project has only just commenced.
Technical Services	172,965	43,380	Some environmental projects to commence later than anticipated.
Grounds Operations	269,318	55,980	Delay in Parks Construction projects.
Footpath Works	167,020	220,963	Some projects are ahead of schedule.

12.11 Continued

Report Section	YTD Budget	YTD Actual	Comment
Operations Centre	416,834	255,510	Fleet not yet purchased.
Applications of Funds – Operating			
Insurance	515,808	452,846	Insurance premiums not yet fully taken up.
Governance	728,910	659,871	ABC Cost allocations lower than anticipated.
Property & Economic development	885,979	176,481	Contribution to Public Open Space subject to sale of land.
Financing Activities	0	75,393	This item has been budgeted next month.
Belmont Community Watch	188,082	136,863	The invoice for October is outstanding.
Crime Prevention & Comm Safety	326,439	113,923	The CCTV project has only just commenced.
Community Services	115,891	65,293	Employee related costs lower than anticipated.
Belmont HACC Services	647,556	593,235	Staff vacancies have led to a lower provision of services
Sanitation Charges	1,247,040	964,705	Invoices for October are outstanding.
Ruth Faulkner Library	541,485	461,916	'Finding my place' take up slower than anticipated.
Ground Operations	1,230,374	1,034,797	Timing issues with the budget spread.
Streetscapes	541,485	218,598	Streetscape projects commenced later than anticipated.
Public Works Overheads	319,603	476,530	Insurance Premiums paid earlier than expected.
Other Public Works	887,744	752,946	Relates to costs to be recovered due to private works.
Sources of Funds – Capital			
Property & Economic Development	(2,121,332)	(0)	Proposed land sales/purchases still pending.
Ground Operations	(33,332)	(110,000)	Timing issues with the budget spread of grant income.
Road Works	(653,301)	(228,536)	Timing issues with the budget spread of grant income and contributions.
Operations Centre	(160,436)	(28,802)	Fleet / Plant purchases behind budget.
Sources of Funds – Operating			
Insurance	(857,863)	(935,416)	Timing issues with budget spread.
Executive Services	(56,457)	(0)	Timing issues with budget spread.
Rates	(27,911,124)	(28,108,898)	Rates slightly higher than anticipated due to GRV amendments.

12.11 Continued

Report Section	YTD Budget	YTD Actual	Comment
Financing Activities	(212,173)	(591,547)	Investment income higher than anticipated with the strong recovery of the economy.
Crime Prevention & Comm Safety	(349,152)	(11,249)	Grant income yet to be received.
Faulkner Park Retirement Village	(66,668)	(0)	Property Services management income yet to be received.
Public Works Overheads	(393,174)	(324,039)	Overhead recoveries lower than anticipated.
Other Public Works	(455,939)	(854,641)	PTA Income received in advance.

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

Reconciliation of Nett Current Assets to Statement of Financial Activity		
Current Assets as at 31 October 2009	\$	Comment
Cash and investments	30,974,583	Includes municipal, reserves & deposits
- less non rate setting cash	-10,876,053	Reserves and deposits held
Receivables	8,270,983	Mostly rates levied yet to be received
- less non rate setting receivables	-1,317,987	ESL levied and GST payable
Stock on hand	198,052	
Total Current Assets	\$27,249,578	
Current Liabilities		
Creditors and provisions	-6,040,016	Includes deposits
- less non rate setting creditors & provisions	3,516,959	ESL, GST and deposits held
Total Current Liabilities	-\$2,523,057	
Nett Current Assets 31 October 2009	\$24,726,521	
Nett Current Assets as Per Financial Activity Report		
Restricted Assets	-\$1,085,516	Unspent grant monies held for specific purposes.
Less Committed Assets	-	All other budgeted expenditure
Estimated Closing Balance	500,000	

12.11 *Continued*

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 at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

OFFICER RECOMMENDATION

That the Monthly Financial Reports as at 31 October 2009 as included in Attachment 18 be received.

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

12.12 ADOPTION OF THE 2008-2009 ANNUAL REPORT**

BUSINESS EXCELLENCE BELMONT

ATTACHMENT DETAILS

<u>Attachment No</u>	<u>Details</u>
Attachment 19 – Item 12.12 refers	<u>Annual Report 2008 - 2009</u>

Voting Requirement : Adoption of the 2008-2009 Annual Report
Subject Index : 32/001 – Operational / Strategic Planning - Originals
Location / Property Index : N/A
Application Index : N/A
Disclosure of any Interest : N/A
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, town planning schemes & 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 town 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 adopt Council's Annual Report for 2008-2009.

SUMMARY AND KEY ISSUES

The statutory Annual Report is prepared to advise the Community on the activities of the local government and includes the audited Annual Financial Statements. The Annual Report also contains an overview of the Plan for the Future.

12.12 Continued

The Annual Report is to be presented to the Annual meeting of electors that must be conducted prior to the 31 December of the financial year being reported on, however, if the Auditor's Report is not available in time for acceptance by 31 December, then it must be accepted within 2 months of receiving the Auditor's Report.

LOCATION

N/A

CONSULTATION

No public consultation was considered to be required in respect to this matter. The Annual Financial Statements and Audit Report have been considered by the Audit and Risk Committee.

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Section 5.53(1) of the *Local Government Act 1995* prescribes that a Local Government must prepare an Annual Report and Section 5.53(2) prescribes what must be contained within the Annual Report.

Section 5.54 of the *Local Government Act 1995* prescribes that the annual report be accepted by the local government by 31 December after that financial year however, if the Auditor's Report is not available in time for acceptance by 31 December, then it must be accepted within 2 months after the receipt of the Auditor's Report.

Section 5.55 of the *Local Government Act 1995* prescribes that local public notice is to be given as soon as practicable, as to the availability of the Annual Report after its acceptance by the local government.

Section 29(2) of the *Disability Services Act 2006* requires a local government with a Disability Services Plan to report via its Annual Report on the implementation of this Plan.

Competitive Neutrality Obligations under the Competition Principles Agreement require the City to publish an annual report on the implementation of the principles including any allegations of non compliance.

Principle 6 of the State Records Principles and Standards 2002 (*State Records Act 2000*) requires that the City's Annual Report include evidence on the efficiency and effectiveness of the City's Record Keeping Plan, training and induction programs.

12.12 Continued

Section 94 of the *Freedom of Information Act 1992* requires the City to provide an "Information Statement" that outlines the structure of the City, access to information and a range of other information. The City provides details of our "Information Statement" in our Annual Report.

BACKGROUND

The local government is required to prepare, adopt and advertise its Annual Report, prior to the Elector's Meeting. The Annual General Meeting of Electors is in accordance with Council policy scheduled to take place at 7.00pm on Wednesday, 9 December 2009.

OFFICER COMMENT

The Annual Report, as show in Attachment 19, contains:

- Reports from the Mayor and Chief Executive Officer together with reports from individual Committee Presiding Members.
- A copy of the Financial Statements including the Auditor's Report.
- Council's obligations under clause 7(1) Agreement of the National Competition Policy.
- An overview of the Plan for the Future.
- Report on City's Disability Services Plan achievements.
- Details of the City's Freedom of Information Act - Information Statement.
- Report on the status of the City's Record Keeping Plan.

A copy of the Annual Report has been provided as an attachment and a final "published" version will be circulated to all Councillors when they become available.

The official published copy of the Annual Report will be available for members of the public at the Electors Meeting and will include a complete set of financial statements; however a copy will be made available for public inspection as soon as practicable following Council's resolution on this report.

Council is also advised that arrangements have been made for the appropriate advertising to be carried out once the Annual Report has been accepted.

FINANCIAL IMPLICATIONS

There are no significant financial implications evident at this time other than the costs associated with publication of the Annual Report and statutory advertising.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

There are no social implications at this time.

12.12 *Continued*

OFFICER RECOMMENDATION

ROSSI MOVED, HITT SECONDED, That Council

1. ***Accept the 2008-2009 Annual Report as provided under Attachment 19.***
2. ***The availability of the Annual Report be advertised in accordance with Section 5.55 of the Local Government Act 1995.***

CARRIED 9 VOTES TO 0

8.30pm The Principal Governance and Compliance Advisor departed the meeting.

8.31pm The Principal Governance and Compliance Advisor returned to the meeting.

13. REPORTS BY THE CHIEF EXECUTIVE OFFICER

13.1 REQUESTS FOR LEAVE OF ABSENCE

Nil.

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

8.39pm **HITT MOVED, WHITELEY SECONDED**, *That in accordance with Section 5.23(2)(b)(e) of the Local Government Act 1995 – the meeting proceed behind closed doors to discuss the Confidential Items.*

CARRIED 9 VOTES TO 0

8.39pm Members of the public departed the meeting.

14.1 ACQUISITION OF LAND – RIVERVALE – CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995, SECTION 5.23 (2) (e) (iii) CLOSURE**
(Circulated Under Separate Cover)

OFFICER RECOMMENDATION

MARKS MOVED, WOLFF SECONDED, *That*

1. *Council endorse the acquisition of Lot 3 (12) Malvern Road, Rivervale pursuant to the relevant provisions of the Local Government Act 1995, for the purpose of relocating Les Cooke Instruments.*
2. *Council endorse the disposal of Lot 90 (19) Brennan Way, Belmont, pursuant to the requirements of Section 3.58 (2) (b) of the Local Government Act 1995.*
3. *Council agree to reimburse LandCorp for half the cost of acquiring Lot 3 (12) Malvern Road, Rivervale.*
4. *Any surplus funds left from the disposal of Lot 90 (19) Brennan Way, Rivervale subsequent to the transfer of funds to LandCorp be transferred to the City's Land Acquisition Reserve.*
5. *The Chief Executive Officer be authorised to sign all documentation and take all actions necessary to put into effect the preceding recommendations.*
6. *Council authorise expenditure to the extent specified in this report for the acquisition of Lot 3 (12) Malvern Road, Rivervale.*

ABSOLUTE MAJORITY REQUIRED**

CARRIED 8 VOTES TO 1

Against: Rossi

8.43pm The Manager Governance and the Manager Finance departed the meeting and did not return.

14.2 COMMUNITY SERVICE AWARDS 2009 NOMINATIONS - CONFIDENTIAL MATTER IN ACCORDANCE WITH LOCAL GOVERNMENT ACT 1995 SECTION 5.23 (2) (b)**
(Circulated Under Separate Cover)

OFFICER RECOMMENDATION

MARKS MOVED, POWELL SECONDED, That

1. *Council endorse recipient nomination 1 by the Selection Panel as detailed in Tabled Confidential Attachment 1.*
- A. *The decision by Council on the recipient of the 2009 Community Service Awards remain confidential until the Annual Civic Dinner to be held on Saturday, 5 December 2009.*
- B. *Council invite the recipient of the 2009 Community Services Awards and their respective guest to the Annual Civic Dinner to be held on Saturday, 5 December 2009.*

CARRIED 8 VOTES TO 1

Against: Rossi

POWELL MOVED, WHITELEY SECONDED, That

2. *Council endorse recipient nomination 2 by the Selection Panel as detailed in Tabled Confidential Attachment 1.*
- A. *The decision by Council on the recipient of the 2009 Community Service Awards remain confidential until the Annual Civic Dinner to be held on Saturday, 5 December 2009.*
- B. *Council invite the recipient of the 2009 Community Services Awards and their respective guest to the Annual Civic Dinner to be held on Saturday, 5 December 2009.*

CARRIED 9 VOTES TO 0

GEE MOVED, WOLFF SECONDED, That the Meeting again be open to the public.

CARRIED 9 VOTES TO 0

8.50pm As there were no members of the public who returned to the gallery, the resolution was not read aloud by the Principal Governance & Compliance Advisor.

15. CLOSURE

There being no further business the Presiding Member closed the meeting at 8.54pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these minutes of the Ordinary Council Meeting held 24 November 2009 were confirmed as a true and accurate record at the Ordinary Council Meeting held 15 December 2009:

Signed by the Person Presiding: _____

PRINT name of the Person Presiding: _____
