City of Belmont

ORDINARY COUNCIL MEETING

MINUTES

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27 October 2009

ATTACHMENTS INDEX

CONFIDENTIAL ATTACHMENTS INDEX

Confidential Attachment 1 – Item 14.1 refers
Confidential Attachment 2 – Item 14.1 refers
Confidential Attachment 3 – Item 14.1 refers

Councillors are reminded to
retain the OCM Attachments for discussion with the Minutes

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 *(dep 8.47pm & did not return)*	Central Ward

IN ATTENDANCE

Mr S Cole	Chief Executive Officer
Mr N Deague	Director Community & Statutory Services
Mr R Garrett	Director Corporate & Governance
Mr R Lutey	Director Technical Services
Mr J Olynyk JP	Manager Governance
Mr M Ridgwell	Principal Governance & Compliance Advisor
Ms R Whittle	Senior Governance Officer

OBSERVERS

Mr M Glendinning *(departed 8.28pm and did not return)*	Ascot Fields Nominees
Mr G De Longville *(departed 8.28pm and did not return)*	Ascot Field Nominees
Ms K Gregory *(departed 8.28pm and did not return)*	Foundation Housing

MEMBERS OF THE GALLERY

There were 16 members of the public in the gallery and one press representative.

1. OFFICIAL OPENING

The Presiding Member opened the meeting at 7.04pm, welcomed those in attendance and read aloud the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers.

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 Martin — Apology
Cr Hanlon — Apology

3. DECLARATIONS OF INTEREST

7.05pm The Manager Governance read aloud the declarations of interest.

3.1 FINANCIAL INTERESTS

Name	Item No. & Title	Nature of Interest (and extent, where appropriate)
Cr Dornford	14.1 Request for Legal Representation	Has requested legal representation.

3.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Name	Item No. & Title
Cr Dornford	12.2 - Lot 155 (14) Sedgeland Way, Ascot – Retrospective Approval for Patio Enclosure
Cr Rossi	13.2 - Belmont Museum Historical Artefacts Register
Cr Wolff	13.2 - Belmont Museum Historical Artefacts Register
Cr Rossi	13.3 - Crime Perception Research Study
Cr Hitt	13.3 - Crime Perception Research Study
Cr Hitt	14.1 - Request for Legal Representation

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

4.1 ANNOUNCEMENTS

Nil.

4.2 DISCLAIMER

7.06pm The Presiding Member advised the following:

"I wish to draw attention to the Disclaimer Notice contained within the agenda document and advise members of the public that any decisions made at the meeting tonight, can be revoked, pursuant to the Local Government Act 1995.

Therefore members of the public should not rely on any decisions until formal notification in writing by Council has been received."

4.3 DECLARATIONS BY MEMBERS WHO HAVE NOT GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTLY BEFORE THE MEETING

Nil.

5. PUBLIC QUESTION TIME

5.1 RESPONSES TO QUESTIONS TAKEN ON NOTICE

5.1.1 Mr M Cardozo, 56 Lyall Street, Redcliffe

The following questions were taken on notice at the Ordinary Council Meeting of 22 September 2009. Mr Cardozo was provided with a response on 8 October 2009. The response from the City is recorded accordingly –

1. Can the City please put more detail in future agendas to more adequately describe or inform of impacted areas? The particular example was item 12.1 from the August Meeting where the item stated 'Tonkin Highway Paths', which did not adequately inform of the proposed Stanton Road/Tonkin Highway intersection on and off ramps.

Response

In relation to Stanton Rd Item 12.1 referred to paths (detailed in the plan attached in the Agenda) that have existed at the Stanton Road overpass of Tonkin Highway for some 20 years. There is no information about proposed intersection on and off ramps because there are none.

2. Can the City please revisit it's zero impact statements in relation to social implications to surrounding residents and ratepayers including two local primary schools adjoining the proposed on and off ramps?

Response

There are no social implications because there are no proposed on and off ramps.

3. In the City's opinion, will the construction of these proposed on and off ramps secure Stanton Road as the official secondary airport access road for commercial vehicles. Can the residents and ratepayers please have more information regarding this intersection?

Response

There are no proposed on and off ramps.

4. Can the City please consider a website link and posting of all planning related letters which reflect bulk planning notifications to ratepayers and residents? A resident or ratepayer could perhaps then look at what has happened or is happening in their ward.

Response

Planning applications are individually referred to impacted owners and/or occupiers for comment. Listing of all applications or any application that have been referred for comment is an added administrative burden that would add little value in terms of supplying information to residents and ratepayers. Major development proposals over $4.5 million are determined by Council and are generally reported in the local newspaper after the Agenda Briefing Forum and prior to a decision by full Council.

It should also noted that the receipt and determination of a planning application does not necessarily mean that a development will occur – that is only known when a building licence is issued and construction proceeds.

5.2 QUESTIONS FROM MEMBERS OF THE PUBLIC

7.07pm 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 (l), the Presiding Member advised that she had registered four members of the public who had given prior notice to ask questions, these being Mr Birch, Mrs Donovan, Ms Bass, and Mr Wilson.

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

Mr Broinowski, Mr Cole and Ms Bylinksi stated their intention to ask a question.

5.2.1 Mr R Birch, 195 Knutsford Avenue, Belmont

1. Mr Birch raised his concerns about the availability of parking at the City of Belmont Civic Centre and Library; he stated that often residents or visitors to the centre were forced to park on grass verges. Does the City have any plans to increase parking availability at the Civic Centre?

Response

The Chief Executive Officer responded that the issue has already been raised with the City and that alternative arrangements were being investigated and travel smart options were being encouraged to staff and residents.

2. The road surface outside Mr Birch's property is cracked and streaked with tar repairs, is this a sign of poor workmanship? Will these roads be repaired?

Response

The Director Technical Services responded that tar is used to fill the cracks caused due to the age of the roads, this is part of a continual maintenance program of the roads and is normally undertaken approximately one year before a complete re-surface of the road is done.

5.2.2 Mrs K Donovan, 22 Riverina Drive, Ascot

1. Why did Ascot Field Nominees (AFN) stop at building only six owner occupier houses when they knew they had a commitment to build 16?

2. Why did AFN sell the remaining blocks of land which had been allocated to Affordable Housing?

3. Why did the City of Belmont allow AFN to sell off this land?

4. Why has this housing not only changed from each house on an individual block but that they are rental houses versus owner occupied?

5. Where did the money go – be it $5 million or $1 million?

6. At this point residents of Ascot Waters are asking for the decision to be deferred.

Response

Mr Glendinning from Ascot Field Nominees advised that it had always been their intention to fulfil that commitment. Following the perpetuity issue surrounding the initial development of affordable housing, this new method is proposed. The timeline surrounding this matter is that critical funding forms part of the Federal Government's stimulus package.

Of the $5m Federal funding for the Ascot Waters Project, $1m was for "Demonstration Affordable Housing"

The Chief Executive Officer further advised that the City was not party to the sale of the blocks disposed of by AFN and had no mechanism to prevent the sale in any case.

7.34pm Ms Gregory from Foundation Housing made a presentation relating to Item 12.1.

HITT MOVED, ROSSI SECONDED, that question time be extended for fifteen minutes.

CARRIED 9 VOTES TO 0

5.2.3 Ms M Bass, 77 Keymer Street, Belmont

1. Have all Councillors read the Deed of Agreement?

Response

The Presiding Member replied that she could not speak on behalf of the other Councillors, but Councillors were distributed a copy of the Deed of Agreement.

2. Why was the affordable housing outlined in Item 12.1 only brought to residents attention on Sunday? Residents have grave concerns and request the item be deferred to allow consultation between the City of Belmont and Ascot Residents to form an alternative recommendation that suits both parties.

Response

The Presiding Member advised that the provision of affordable housing was a commitment of the Building Better Cities funding and not a matter where consultation was required.

5.2.4 Mr L Wilson, 14 Sedgeland Way, Ascot

Mr Wilson acknowledged his queries had been answered in the questions asked by Mrs Donovan previously.

5.2.5 Mr R Broinowski, 66 Armadale Road, Belmont

1. Asked that the City of Belmont and the Belmont Ratepayers Association Group consider mediation to improve the relationship between the Council and the Group and to attempt to stop the negative comments being published in the media.

Response

The Presiding Member acknowledged Mr Broinowski statement.

5.2.6 Mr P Cole, 1 Waterway Crescent, Ascot

1. Are you aware that there was insufficient advertising in respect to Item 12.1?

Response

The Director Community & Statutory Services advised that all required statutory public advertising had taken place.

5.2.7 Ms C Bylinski, 75 Norwood Road, Rivervale

1. Is there any intention by Foundation Housing to sell these houses or will they remain rental properties?

Response

Ms K Gregory from Foundation Housing responded that at least 12 properties will be kept as rental properties, and that it was possible for a shared equity scheme to take place with tenants for a portion of the development.

2. Will the tenants of the rental properties not become dependent on the service and never in fact become landowners?

Response

Ms Gregory from Foundation Housing responded that each case was revaluated regularly and rent was increased if the tenants wage earnings increased. It is unfortunate that for some people home ownership will not be a possibility and therefore the need for affordable rental housing is always going to be a necessity.

7.45pm **As there were no further questions, the Presiding Member declared Public Question Time closed.**

6. CONFIRMATION OF MINUTES / RECEIPT OF INFORMATION MATRIX

6.1 ORDINARY COUNCIL MEETING HELD 22 SEPTEMBER 2009

(Circulated under separate cover)

POWELL MOVED, WHITELEY SECONDED, That the minutes of the Ordinary Council Meeting held on 22 September 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 Presiding Member stated that Council had recently received a Councillor Motion to audio record all Council meetings. Council resolved not to support the Councillor Motion at that time.

6.2 INFORMATION MATRIX FOR THE AGENDA BRIEFING FORUM HELD 20 OCTOBER 2009

(Circulated under separate cover)

WOLFF MOVED, WHITELEY SECONDED, That the Information Matrix for the Agenda Briefing Forum held on 20 October 2009 as printed and circulated to all Councillors, be received and noted.

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

Nil.

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

Nil.

10. BUSINESS ADJOURNED FROM A PREVIOUS MEETING

Nil.

11. REPORTS OF COMMITTEES

Nil.

12. REPORTS OF ADMINISTRATION

WITHDRAWN ITEMS

Item 12.1 was withdrawn at the request of Cr Hitt.
Item 12.2 was withdrawn at the request of Cr Dornford.
Item 13.2 was withdrawn at the request of Cr Rossi.
Item 13.3 was withdrawn at the request of Cr Rossi.
Item 13.4 was withdrawn at the request of the Presiding Member.

WHITELEY MOVED, HITT SECONDED, that with the exception of Items 12.1, 12.2, 13.2, 13.3 and 13.4 which are to be considered separately, that the Officer Recommendations specifically for Items 12.3, 12.4, 12.5, 12.6 and 12.7 be adopted enbloc.

CARRIED BY ABSOLUTE MAJORITY 9 VOTES TO 0

12.1 ASCOT WATERS AFFORDABLE HOUSING MODEL

Built Belmont

ATTACHMENT DETAILS

Nil.

Voting Requirement	:	Simple Majority
Subject Index	:	116/007
Location / Property Index	:	Lot 366 (10) Waterway Crescent, Ascot
Application Index	:	NA
Disclosure of any Interest	:	NA
Previous Items	:	12.1.9 OCM 19 December 2006
Applicant	:	Ascot Fields Nominees
Owner	:	Ascot Fields Nominees
Responsible Division	:	Community and 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 a request for the endorsement of an agreement between Ascot Field Nominees (AFN) and Foundation Housing, for the provision of affordable housing on Lot 366 (10) Waterway Crescent intended to fulfil the outstanding requirements of the 1995 Heads of Agreement for the Ascot Waters project.

Item 12.1 Continued

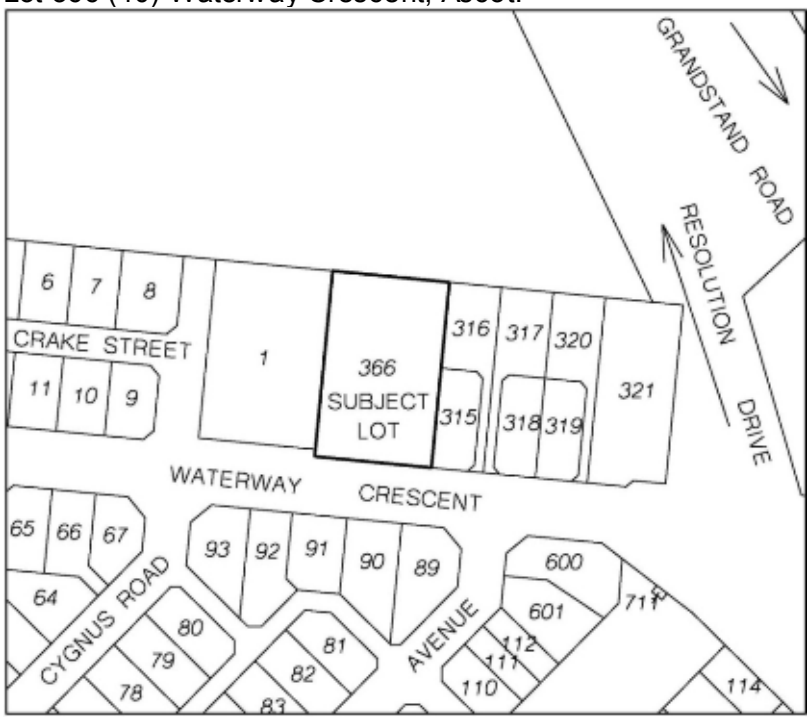
SUMMARY AND KEY ISSUES

- As part of the 1995 Ascot Waters Heads of Agreement, AFN has an obligation to provide affordable housing within the Ascot Waters Estate.
- In 1997 an Affordable Housing Model was adopted to fulfil this requirement. The model required the construction of 17 dwellings as affordable housing over a number of lots.
- Six dwellings have been constructed resulting in a balance of a further 11 dwellings being required to fulfil this agreement.
- In 2006 a Development Application was approved for 16 multiple dwellings at Lot 366 (10) Waterway Crescent, 12 of which AFN proposed to be affordable housing. The approval issued in 2008 was for the multiple dwellings only, and not an endorsement of the proposal for affordable housing.
- In 2008 AFN proposed a revised Affordable Housing Model be endorsed by Council. The model was not endorsed as there were concerns with the income criteria used to determine the recipients of the affordable housing, as well as the clustering of the remaining dwellings on one lot as opposed to throughout the estate (as stipulated in the 1997 model).
- AFN have now proposed that an agreement between AFN and Foundation Housing for the provision of affordable housing be endorsed to the outstanding requirements of the 1995 Heads of Agreement for the Ascot Waters project.
- The affordable housing would be provided in the form of the 16 multiple dwellings approved on Lot 366 (10) Waterway Crescent, which would be constructed and managed by Foundation Housing as affordable housing in perpetuity.

Item 12.1 Continued

LOCATION

Lot 366 (10) Waterway Crescent, Ascot.



CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

SOCIAL BELMONT: *"Ensure that the community has access to the services and facilities it needs"*

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.

Item 12.1 Continued

BACKGROUND

Requirement for Affordable Housing

The 1995 Heads of Agreement for the Ascot Waters estate required a strategy for the provision of affordable housing within the estate to be documented by AFN and approved by the City and WAPC. This resulted in the adoption of the 1997 Affordable Housing Model. In this model, a commitment was given by AFN to construct 17 affordable dwellings within the estate. The Ascot Waters Affordable Housing Model identified seven sites (shown in the diagram below) for the development of the affordable housing.

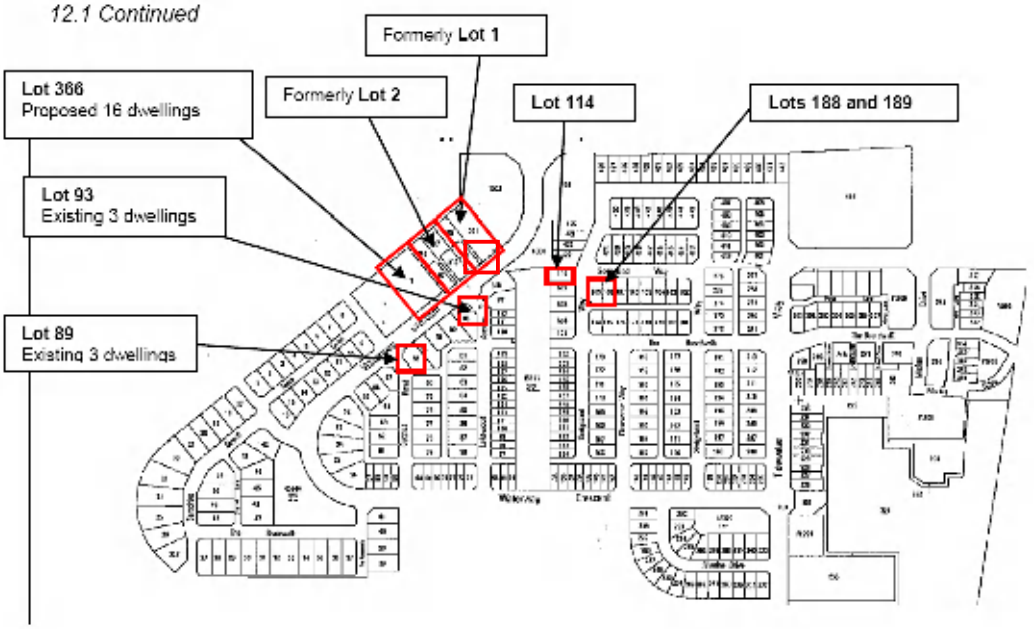
Affordable Housing Provision to Date

To date only two sites containing a total of 6 affordable dwellings have been constructed. As such there are still 11 affordable dwellings required to be developed within the estate. Of the seven lots originally nominated for the purpose of affordable housing, the following has occurred:

- Lot 1 Waterway Crescent – no affordable housing provided, subdivided into 3 lots and sold into private ownership.
- Lot 2 Waterway Crescent – no affordable housing provided, subdivided into 4 lots and sold into private ownership.
- Lot 366 – 12 affordable housing units proposed.
- Lot 89 Waterway Crescent – 3 affordable housing units provided.
- Lot 93 Waterway Crescent – 3 affordable housing units provided.
- Lot 114 Sedgeland Way – no affordable housing provided, AFN advises this in the process of being sold freehold.
- Lot 188 Sedgeland Way – no affordable housing provided sold freehold in July 2009.
- Lot 189 Sedgeland Way - no affordable housing provided, AFN advises this is in the process of being sold freehold.

Item 12.1 Continued

12.1 Continued



Development application for 10 (Lot 366) Waterway Crescent, Ascot

In December of 2006 an application for 16 multiple dwellings at Lot 366 (10) Waterway Crescent, Ascot was approved by Council (OCM 19 December 2006 - 180/2006/DA - Item 12.1.9 OCM Minutes 19/12/2006). The proposal consisted of four 3 bedroom townhouses, eight 2 bedroom apartments and four bedsit apartments. Of these dwellings it was proposed that 12 would become affordable housing. Shown below is the Waterway Crescent Elevation.

The report stated that due to a combination of development and economic pressures, a number of the sites which were allocated for affordable housing had been sold or subdivided. Because of this, the developers of the estate proposed the construction of 16 multiple dwellings on one of the remaining larger land parcels. However, it has since become apparent that at the time of this application, Lots 1, 114, 188 and 189 were in fact undeveloped and owned by AFN. As such they could have been used for the provision of affordable housing. The inclusion of the 12 affordable dwellings on the site would have meant a total of 18 affordable dwellings would be provided within the estate. This was one more than required by the Model, as the developers stated that an 'over supply' in the total number of affordable dwellings was proposed in lieu of meeting the minimum requirement across a range of sites.

Item 12.1 Continued

At the time of the consideration of the multiple dwellings, no request was made to Council that the approval be considered to constitute the fulfilment of the terms of the affordable housing model.

In December 2008, as the application was nearing expiry, AFN submitted an identical application for approval (438/2008/DA). The application was approved under delegation, on the basis that is was identical to the previous application. The approval was issued for 16 multiple dwellings only, and once again did not in any way constitute the fulfilment of the affordable housing requirements of the 1997 Model.

Request for Endorsement of Amended Affordable Housing Model

AFN requested the endorsement of a revised version of the Affordable Housing model in April 2008. The model proposed that the pricing of the housing be recalibrated to reflect the rise in house prices that have taken place since 1997, and that the requirement for the dispersal of the housing throughout the estate be waived in favour of the provision of 12 affordable housing units on lot 366 (10) Waterway Crescent.

Two issues were identified in regards to the revised model. The first was that the proposed pricing model for the units would not fulfil AFN's obligation to provide affordable housing. The second was that the clustering of the remaining units on one lot was in contradiction to the stated intention of the 1997 model, which was that the units be dispersed. This advice was communicated to AFN who agreed to review their proposal.

Request for Endorsement of Agreement Between AFN and Foundation Housing for the Provision of Affordable Housing on Lot 366 (10) Waterway Crescent, Ascot

AFN now seeks endorsement of an agreement between AFN and Foundation Housing for the provision of affordable housing on Lot 366 (10) Waterway Crescent intended to fulfil the remaining requirements of the 1995 Heads of Agreement for the Ascot Waters project. This agreement would see AFN enter into a contract with Foundation Housing to sell Lot 366 (10) Waterway Crescent to Foundation Housing, subject to Foundation housing constructing 16 multiple dwellings in accordance with the current approval for the site (438/2008/DA), and ensuring the dwellings were maintained as affordable rental housing.

Foundation Housing
Foundation Housing is a not-for-profit community housing provider. Foundation Housing draws tenants from an independent waiting list which is comprised of key workers, elderly people, and low income families, the disabled and culturally and linguistically diverse households.

Foundation Housing owns and manages a number of multiple dwelling developments in high land value areas such as East Perth, Leederville, West Perth, Subiaco and Mount Lawley.

Foundation Housing states that it maintains a low tenant to housing co-ordinator ratio in order to work closely with tenants, including helping them through any challenges they may face during their tenancy. Furthermore, properties are maintained to a high standard to ensure that they are indistinguishable from neighbouring properties.

Item 12.1 Continued

Proposal for the site
All 16 dwellings on the site would be provided as affordable housing. The proposal has pre-approval for funding from the Department of Housing, who received funds from the Federal Government as part of its Nation Building Economic Stimulus Package.

The front four 3 bedroom dwellings would be let to 'key worker' family households, while the bedsits and rear two bedroom units would be let to a combination of elderly people, 'key worker' small family households, 'key worker' couples with no children or 'key worker' single person households. This mixture of tenant types is designed to provide diversity within the development. Foundation Housing explains that Key workers are considered to be teachers, child carers and retail staff that sustain small businesses. These people play a vital role in supporting the local economy, but are often 'priced' out of inner city accommodation, while increased transportation costs make it impractical for them to continue employment in inner city areas.

12 of the properties would be maintained as affordable rental housing in perpetuity. Foundation housing has also advised that it is in the process of developing a rent-to-buy shared equity affordable housing program that it envisages to be finalised and implemented by 2011. Once in place, foundation housing anticipates that the four townhouses on the subject lot would be trialled under the program. The program would allow key worker households to gain a foothold into property ownership, and would work as rental and a shared purchase equity scheme over a number of years.

OFFICER COMMENT

Community Consultation

No community consultation has been carried out in regard to the revised model proposal. The Development application for the 16 multiple dwellings was referred to adjoining landowners prior to approval in both 2006 and 2008 which is the practise if there is a variation(s) to the Residential Design Codes and/or policy. One objection was received in 2006 after approval had been issued; of concern to the resident was the concentration of the affordable housing on one section of Waterway Crescent. Advertising the proposal may achieve little, because the affordable housing is required within the estate regardless of community opinion, and there are limited locations for it. Moreover, advertising for comment may have a negative impact on future residents of the affordable housing, as they will be immediately identified as such. This is in opposition to the intention of the 1997 Model, which clearly stated that the housing should be indistinguishable from the rest of the estate, and contained specific provisions that it should not advertised for sale as affordable housing. It was on that basis that the residents of Ascot Waters have not been consulted for comment on the affordable housing issue and dispersal issue.

WAPC Endorsement

The original Heads of Agreement was between AFN, the City and Building Better Cities (a joint Federal Government and State initiative. It is considered that the WAPC should endorse the agreement between AFN and Foundation Housing.

Item 12.1 Continued

Affordable Housing

Foundation Housing is a well known organisation that has experience constructing and managing affordable housing in similar locations (such as East Perth) to Ascot Waters with demonstrated success. The Affordable Housing Model adopted in 1997 was to provide housing for purchase to the income bracket of "the sector of the housing market which just falls outside of the requirements of Homeswest". This proposal also targets people who are not covered by Homeswest income criteria, and instead uses criteria recently formulated by the Federal Government's National Real Estate Affordability Scheme (NRAS) to determine recipients of reduced cost housing. This new proposal is for the provision of long term rental, which will be provided in perpetuity for this income group. This is considered to be a desirable outcome for the affordable housing within the estate, as it ensures ongoing affordability (not guaranteed when a home is purchased and resold). This proposal also has the advantage of providing an additional 5 dwellings to the original agreement.

The proposal does not meet the intention of the original agreement - to ensure that the housing was more distributed throughout the estate. AFN has justified this by pointing out that the original agreement stated that the affordable housing was best located in the areas of lesser land value, which no longer includes the nominated lots due to the rise in housing prices. Given this, AFN has argued that locating the housing on one lot will reduce the cost of the land component, making it financially viable for Foundation Housing to purchase the land and construct the dwellings, while allowing AFN to receive market value for the land.

The exact actions required by AFN to fulfil the requirement of the 1995 Heads of Agreement are not clear (if departing from the guidelines of the 1997 model). This is because the agreement was formulated over 10 years ago, and there are no records of all discussion that may have led to decisions being made. At this stage, there is no clear indication of exactly how the funding ($1 million) allocated by the Building Better Cities (BBC) programme for demonstration affordable housing was to be spent.

The 1997 Model stated that the $1 million was to be used to provide cash flow to achieve the provision of affordable housing as well as overall project goals. The Model also refers to all 17 dwellings as being 'demonstration affordable homes', with the first 6 to be constructed serving to highlight any changes needed in the further 11. This raises the question of whether it is appropriate for the affordable housing to be constructed by Foundation Housing with funds from the State Government, when AFN had already received funding through the BBC programme. Foundation Housing has confirmed that as part of the application process to the Department of Housing, the prior funding received from the Building Better Cities Program by AFN was disclosed. The question is then: is the City satisfied that this new agreement will see AFN satisfy their obligations given the funding already received? AFN argues that the funding has already been spent on the provision of the six existing affordable dwellings, as well as in achieving other 'milestones' (such as remediation of the overall Ascot Waters site and infrastructure works) required in the 1995 Heads of Agreement.

It would be the best outcome for the affordable housing to be also located on lots 366, 114 and 189 (the original lots identified for affordable housing). However, given that AFN have disposed of, or are in the process of disposing of, the remaining lots – this option appears impossible to achieve. Effectively, AFN has only left one option open.

Item 12.1 Continued

Notwithstanding that, although the concentration of all remaining affordable housing on one lot is perhaps not an ideal scenario, ongoing management by Foundation Housing is anticipated to mitigate any potential negative social impacts. Foundation Housing has advised that best practice management of their housing stock, along with strong relationships with tenants results in a positive social outcome for the community. The provision of an additional 5 dwellings, along with the ongoing nature of 12 of the 16 affordable housing dwellings is also considered to lend merit to the proposal.

The most important principle is the longevity of affordable housing and this will be achieved by the agreement with Foundation Housing.

The 1997 model which saw the creation of 6 affordable dwellings has not been as successful as envisioned. Two of the units originally purchased at affordable prices sold at prices which no longer make them 'affordable'.

Given the above, the following options are provided.

- **Option 1**
  That Council agree to endorse the agreement between AFN and Foundation Housing for the provision of 16 affordable housing dwellings on Lot 366 (10) Waterway Crescent.

- **Option 2**
  Refuse to endorse the agreement and advise AFN what action is required to fulfil the requirement of the 1995 Heads of Agreement.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

Affordable housing will contribute to creating a diverse range of housing to meet the needs of a diverse community.

Item 12.1 Continued

7.59pm ***DORNFORD MOVED, MARKS SECONDED, to temporarily suspend the City of Belmont Standing Orders 2006 in respect to speaking more than once.***

CARRIED 9 VOTES TO 0

OFFICER RECOMMENDATION

That Council agree to endorse the agreement between Ascot Field Nominees and Foundation housing for the provision of 16 affordable housing dwellings on Lot 366 (10) Waterway Crescent which would fulfil the requirements of the 1995 Heads of Agreement for the Building Better Cities Program and accordingly, recommend endorsement by the Western Australian Planning Commission (WAPC).

Cr Hitt put forward the following Alternative Motion.

ALTERNATIVE MOTION

HITT MOVED, WOLFF SECONDED, That Council

1. ***Agree to endorse the agreement between Ascot Field Nominees and Foundation housing for the provision of 16 affordable housing dwellings on Lot 366 (10) Waterway Crescent which would fulfil the requirements of the 1995 Heads of Agreement for the Building Better Cities Program and accordingly, recommend endorsement by the Western Australian Planning Commission (WAPC).***
2. ***Advise Ascot Fields Nominees (AFN) and the Western Australian Planning Commission (WAPC) of its reluctance to accept the departure from the previously agreed objective whereby sites for affordable housing were more dispersed.***
3. ***Advise AFN and the WAPC of its disappointment and concern with the action of AFN to dispose of those lots previously approved for affordable housing, without the formal endorsement of the Council and the WAPC.***

CARRIED 8 VOTES TO 1

Against: Dornford

Reason: **It is considered that AFN and WAPC should be advised of the Council's annoyance that it was not formally advised of the action to dispose of the lots agreed for affordable housing.**

8.27pm ***ROSSI MOVED, HITT SECONDED, to reinstate the City of Belmont Standing Orders 2006.***

CARRIED 9 VOTES TO 0

8.28pm **Mr Glendinning, Mr de Longville and Ms Gregory departed the meeting and did not return.**

12.2 LOT 155 (14) SEDGELAND WAY, ASCOT – RETROSPECTIVE APPROVAL FOR PATIO ENCLOSURE**

Built Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 1 – Item 12.2 refers	Site and Elevation Plans

Voting Requirement	:	Simple Majority
Subject Index	:	115/001
Location / Property Index	:	14 Sedgeland Way, Ascot
Application Index		352/2009/DA
Disclosure of any Interest	:	Nil
Previous Items	:	N/A
Applicant	:	Greg Rowe & Associates
Owner	:	J O Wilson
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 retrospective planning approval for a patio enclosure at Lot 155 (14) Sedgeland Way, Ascot.

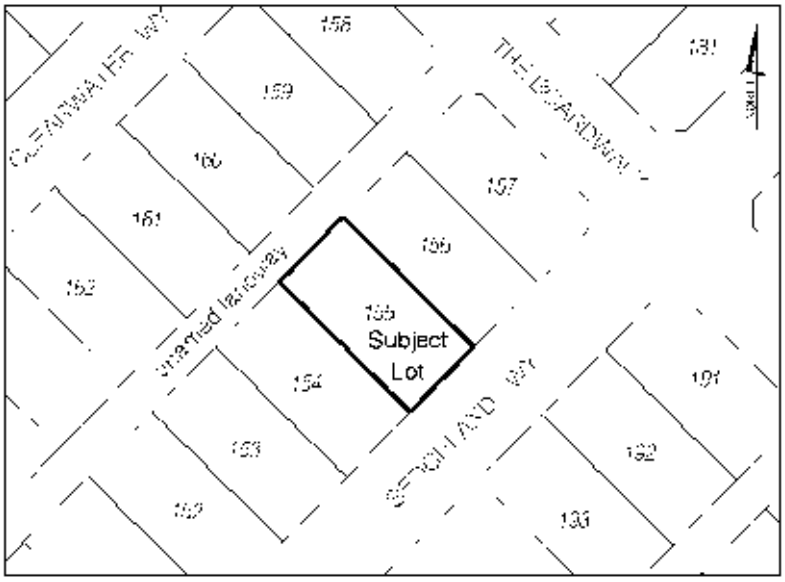
Item 12.2 Continued

SUMMARY AND KEY ISSUES

- The patio structure was approved on 22 October 2008.
- The patio structure included a variation to the rear setback to the rear laneway and variation to open space provision.
- The patio has now been enclosed which further reduces the site's open space.
- By fully enclosing the patio the structure is no longer considered a patio.

LOCATION

Lot 155 (14) Sedgeland Way, Ascot



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 original application for the patio was referred out to affected landowners with no objections received. There has been no specific consultation undertaken in respect to this application to enclose the patio.

STRATEGIC PLAN IMPLICATIONS

There are no Strategic Plan implications evident at this time.

POLICY IMPLICATIONS

Variations to the City of Belmont Local Planning Policy No. 6 – Ascot Waters Special Development Precinct Policy (LPP6) are proposed.

Item 12.2 Continued

STATUTORY ENVIRONMENT

Town Planning Scheme No. 14

The subject lot is zoned 'Special Development Precinct – Ascot Waters' under Town Planning Scheme No. 14 (TPS14) which has a residential density of R20/100B. In accordance with Clause 10.2.4 of TPS14 all development within a Special Development Precinct requires planning approval.

Clause 10.2.4.3 states that the provisions of the Residential Design Codes (R-Codes) relating to front and rear setbacks, car parking and open space may be varied at the discretion of Council in accordance with the provisions of the relevant local planning policy.

Clause 10.2.4.5 states that Council, in exercising discretion and in consideration of any application shall make its decision having regard to relevant policy provisions.

Local Planning Policy No. 6 (LPP6) – Ascot Waters Special Development Precinct Policy

LPP6 seeks to facilitate and maintain a high standard of residential development, and a harmonious and attractive living environment. The provisions of the policy promote a contemporary architectural character, with a consistency of form, materials and detailing which provides a unifying identity while allowing freedom of expressions. Development within the policy area shall comply with building form and details (materials and colours, windows, finished floor levels), setbacks, fencing, and landscaping.

The Ascot Waters Design Guidelines were adopted as a policy by the Council at its meeting of 17 April 2000. The policy was then reviewed and modified on 28 August 2003, 15 August 2005, 19 February 2008 and 21 October 2008.

Residential Design Codes (R-Codes)

The requirements of Clause 6.4 of the R-Codes are provided to ensure that both private and communal open space is set aside to provide for attractive streetscapes and settings to complement the buildings, privacy, direct sun and the recreational needs of the residents.

Deemed Refusal

Under Clause 5.5.1 of TPS14 an application is 'deemed to be refused' if it is not determined within a 60 day period.

Clause 5.5.2 of TPS14 applies where a landuse is classified as a 'D' or 'S' use under TPS14 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 10 November 2009. Should the Council defer this item then the deemed refusal rights will arise before the matter is referred back to the Council.

Item 12.2 Continued

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:	11 September 2009	**Use Class:**	NA
Lot Area:	353m^2	**TPS Zoning:**	Special Development Precinct – Ascot Waters
Estimated Value:	N/A	**MRS:**	Urban

LPP6 Provisions

The Ascot Waters Design Guidelines were adopted as a Local Planning Policy No. 6 in 2000. The policy states:

- open space provision shall be 45%;
- a private courtyard area shall be 40m^2;
- the setback to a secondary street shall be a minimum of 1.5metres;
- shade structures are permitted to be built in accordance with the R-Codes – Clause 4 – open space; and
- specifies the type of fencing for street frontages and fencing to mews:
    - Fencing to mews to be visually permeable for at least 25% of the fence length.

Site Development History

- The subject lot is located within Ascot Waters Special Development Precinct. Planning approval for the two storey dwelling was granted on 7 August 1997.
- The approved development plan and the building licence plan notates in red that front and rear fencing is required to comply with the Ascot Waters Design Guidelines.
- Planning approval for the patio addition was granted on 22 October 2008.
- This approval included a nil setback to the rear laneway instead of 1.5metres and a variation to the open space requirement.
- Due to the variation to the rear setback and as the patio was greater than 10% of the lot area, the application was referred to three adjoining properties (either side and to the rear) for comment.
- Given that no objections were received the application was assessed in accordance with the performance criteria of the R-Codes and approved.

Unauthorised Structures/Enclosure

Following a complaint received regarding an unauthorised patio enclosure and stormwater discharging onto laneway, a site inspection was undertaken by Officers of the City. The site inspection confirmed sliding doors and windows had been added to the patio.

Item 12.2 Continued

A meeting between Council officers and the owners on 16 July 2009 confirmed the following:

- Patio enclosure resulted in variation to open space requirement;
- To comply with the original approval the patio sliding doors and windows should be removed;
- Installation of blinds to the patio structure do not require planning approval, provided that they are not fixed and permanent and do not result in the patio being permanently enclosed; and
- Alternatively retrospective planning approval could be applied for but unlikely to be supported.

Rear fence

- A site inspection undertaken 22 September 2009 identified that the existing fence along the rear laneway boundary is constructed of limestone pillars with sandstone coloured brick infill to match the dwelling. This does not accord with LPP6, which states that fencing to mews is to be visually permeable for at least 25% of the fence length.
- A search of the City's records revealed that in March 2005, Council considered a report concerning several properties in Ascot Waters, where development had been found to be non-compliant with the provisions of LPP6. In particular the report noted that the rear fence at 14 Sedgeland Way did not comply with LPP6 provisions relating to 25% visually permeable fencing, due to solid colorbond infill panels. Consequently, the Council at its meeting of 22 March 2005 resolved to advise the owner of 14 Sedgeland Way that the fence did not comply with LPP6 and gave 28 days in which to install open infill panels to 25% of the length of the fence.
- In response to this Council resolution, the owners at that time provided a copy of correspondence from the Mayor dated 22 March 1999 that advised that the guidelines had been amended to remove any ambiguity of interpretation by builders in the future and that "*it is not intended to take action on your existing fence".* The existence of this letter was not acknowledged in the March 2005 Report to Council. Legal advice was obtained from McLeods dated 23 September 2005, which also confirmed that any legal enforcement proceedings for non-compliance with the original planning approval would not be successful given the letter dated 22 March 1999.
- It is not clear when the colorbond panels were replaced with brick infill as there is no record of a building licence. However, the property changed ownership in February 2007 and the applicant has confirmed that the current owner modified the fence with brick infill panels.

Proposal

Application for retrospective planning approval has been submitted showing glazing along the rear setback and half flywire and half glazing with sliding doors along the side boundary of the patio (refer Attachment 1). The proposal incorporates nil rear setback (instead of 1.5 metres) and provides 30% open space (in lieu of 40%) in accordance with the provisions of LPP6.

Item 12.2 Continued

In support of the patio the applicant has advised the following:

- The patio has a nil setback for 4.4metres of the secondary street (laneway) boundary. The laneway function is to provide vehicular access for the dwellings fronting Sedgeland Way. The nil setback to the laneway is not out of character with the existing built form as there are other dwellings with nil setbacks to secondary street frontages.
- The original patio application was referred to abutting owners for comment with no objections received.
- The patio is built to the boundary to provide privacy and security.
- LPP6 varies the open space requirements of the R-Codes by requiring open space of 40% and a 40m^2 private courtyard. The performance criteria of Clause 6.4.1 of the R-Codes relating to open space provision requires *"sufficient open space around buildings to complement the building, allow attractive streetscapes and to suit the future needs of residents, having regard to the type and density of the dwelling."* The open space provided accords with the compact lot size and type of residential development encouraged by the policy.
- The patio is proposed to be partially enclosed with glass and flywire screens to meet the dwelling requirements of the owner. The owner has Ross River virus and therefore requires the outdoor area to be protected from mosquitoes.
- The variation to open space provision does not compromise the amenity of adjoining properties, generally meets the objectives of the policy and creates a useable outdoor living area.

Power Supply

This site has underground power.

OFFICER COMMENT

In accordance with the R-Codes, open space generally includes the area of a lot that is not occupied by any building. This may include patios that are unenclosed on at least two sides and covering no more than 10% of the site area or 50m^2, whichever is the lesser. In this instance the lot area is 353m^2 and therefore a patio up to 35m^2 can be considered.

Given that the subject patio is calculated as being 47.84m^2 in area, a variation to the open space provision was proposed under the previous approval. Approval for the patio was granted on the basis that the patio was open on two sides, it was located over useable outdoor space and no objections to the rear setback variation were submitted. It should be noted that under the Building Code of Australia (BCA) a minimum setback of 900mm to the boundary is required or alternatively the wall is required to be fire rated. In this instance, the nil rear setback for the patio was supported on the basis that the rear boundary abutted a 6metre wide laneway thus providing an alternate fire rating solution.

Item 12.2 Continued

The enclosure of the patio now means that the patio can no longer be recognised as open space. Furthermore, the rear fence has been modified and the frame of the patio enclosure has been attached to this fence. Consequently the following options can be considered:

- **Option 1**
  That Council grant retrospective planning approval for the flywire and glazing enclosed patio (as submitted) which includes the solid brick fence as a variation to LPP6.

  While this decision will address the needs of the owner, it is considered that approval would set an undesirable precedent for development within Ascot Waters.

  LPP6 states: "*Shade structures are permitted to be built in open space in accordance with the Residential Design Codes Element 4 – Open Space.*" Clause 6.4 of the R Codes requires the provision of sufficient open space around buildings and an outdoor living area capable of use in conjunction with a habitable room and takes best advantage of the northern aspect of the site. The subject patio accords with these criteria. However, given it is not open on two sides, the patio has become an enclosed room thus rendering it part of the internal use of the existing dwelling.

  As the patio can no longer be considered as useable outdoor open space, and as the solid brick fence does not accord with LPP6 fencing provisions with respect to fencing to mews to be 25% open, this option is not supported.

- **Option 2**
  That Council refuse the application for the flywire and glazing enclosure as submitted together with solid brick wall, on the basis that it represents a significant variation to the open space and fencing provisions of LPP6 and would set an undesirable precedent for similar non compliant development within Ascot Waters.

  This option would require the patio structure to be modified by removing the existing framework and glazing. In addition, as the fence was modified without approval, it is also considered appropriate to require that the rear brick wall be modified to accord with LPP6 fencing provisions. Whilst this would mean that the patio would accord with the original approval, the owner's need for a screened outdoor area safe from mosquitoes would not be met. In addition, given the history of the fence with respect to solid colorbond infill panels and the previous legal advice not to take legal action, a requirement to rectify the fence to fully comply with LPP6 is considered to be onerous and should the applicant appeal to the State Appeals Tribunal, this would be difficult to defend.

  The option of installing non-fixed and non-permanent café blinds to the patio could be considered as they do not result in the patio being permanently enclosed. However, café blinds would not necessarily provide adequate protection from mosquitoes.

Item 12.2 Continued

Although applications for enclosure of alfresco or patio areas within Ascot Waters can assessed on their individual merit, given the above reasons, this option is not supported.

- **Option 3**
  That Council approve a modified application for the patio enclosure which includes:

  - Flywire along the rear secondary road boundary and half flywire and half glazing along the side boundary;
  - a portion of the rear fence to be modified to include red brick capping above the limestone blocks and open infill above to match the adjoining fence in accordance with LPP6 provisions; and
  - down pipe to be modified to ensure all stormwater is contained on-site.

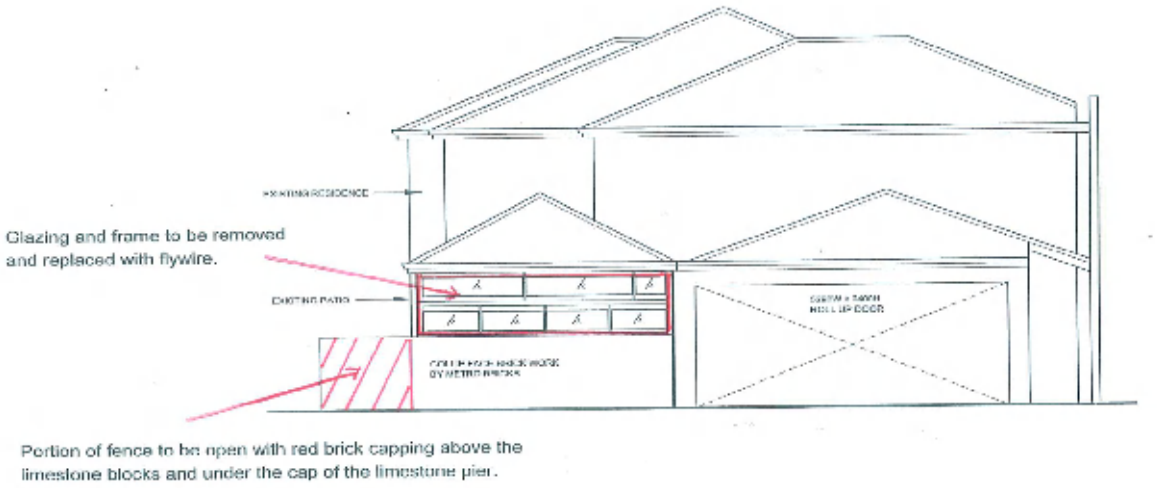
  In assessing the subject application, the overall context of the Ascot Waters Development Precinct objectives of LPP6 must be considered. LPP6 provides specific development guidelines which are in place to ensure the highest standard of streetscape and quality living environments for both existing and future residents in achieved. Any application to vary policy provisions is assessed on its merits. As such, consideration must also be given to the specific situation - the existing nil rear setback, modification to the fence abutting the rear laneway, stormwater disposal and the applicants justification for the patio enclosure.

  This third option is considered to have merit as the removal of the glazing along the rear boundary and for half of the side of the patio means the patio structure would remain open on two sides and can therefore be calculated as useable open space whilst providing protection from mosquitoes.

  A site inspection confirmed that stormwater is being disposed off site via a down pipe from the patio into the rear laneway. Discussions with the City's Technical Services confirmed that this is required to be modified to ensure that all stormwater is contained on-site.

  With respect to the solid brick rear fence, although the brick infill is considered to be an improvement on the solid colorbond panels, in modifying the fence, the red brick capping above the limestone blocks and under the cap of the limestone piers has been removed thus resulting in further variations to LPP6 provisions. As such, in supporting the removal of the rear glazing and associated framework and replacing with flywire, it is not considered unreasonable to require modification to the rear fence. Accordingly, it is suggested that the portion of the fence between the patio structure and the northern corner of the lot be modified to incorporate an open infill panel with red brick capping above the sandstone blocks which would match the existing neighbouring fence and comply with the provisions of the policy.

Item 12.2 Continued



It is also noted that given the nil setback and noting that the structure is built, a Building Certificate rather than a Building Licence would be required to be granted for both the patio enclosure and the brick fence.

In summary, it is considered that the patio structure itself is of high quality and the proposed modifications to the patio enclosure and rear fence will meet the objectives of LPP6 with respect to high standard and attractive development as well as meeting the needs of the residents. Therefore given the reasons stated above, Option 3 is supported.

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.

Item 12.2 Continued

OFFICER RECOMMENDATION

That Council approve planning application 352/2009/DA as detailed in plans dated 11 September 2009 submitted by Greg Rowe & Associates on behalf of the owner J O Wilson for patio enclosure at Lot 155 (No. 14) Sedgeland Way, Ascot 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. The patio enclosure is to be modified to include flywire along the rear laneway boundary and half flywire and half glazing with sliding doors along the side boundary to the satisfaction of the Director Community and Statutory Services or the Manager Planning Services.

3. The rear brick wall between the patio structure and the northern corner of the lot is to be modified to comply with the provisions of LPP6 to incorporate an open infill panel with red brick capping above the sandstone blocks and on top of the limestone block pier to match the existing neighbouring fence, to the satisfaction of the Director Community and Statutory Services or the Manager Planning Services.

Cr Gee put forward the following Alternative Motion.

ALTERNATIVE MOTION

GEE MOVED, POWELL SECONDED, that Council

1. ***Defer consideration of planning application 352/2009/DA as detailed in plans dated 11 September 2009 submitted by Greg Rowe & Associates on behalf of the owner J O Wilson for the patio enclosure at Lot 155 (14) Sedgeland Way, Ascot.***

2. ***Request its Officers to prepare a report for a future Council meeting which would review the requirements of Local Planning Policy No 6 relating to rear fencing and site coverage with a view to advertising an amended policy to Ascot Waters landowners and the Friends of Ascot Waters, as well as implementing the actions in accordance with Clause 2.5 of the City of Belmont Town Planning Scheme No 14.***

3. ***Advise the applicants and landowner of the reason for the deferral and that the application will be again considered pending the outcome of the Policy review.***

CARRIED 9 VOTES TO 0

Reason: **This is because the change to rear fencing and site coverage represents a significant departure from the current Policy.**

12.3 PROPOSAL FOR IMPLEMENTING DEVELOPMENT ASSESSMENT PANELS IN WESTERN AUSTRALIA**

Built Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 2 – Item 12.3 refers	Eastern Districts Planning Committee (EDPC) Technical Officers Group Submission on Building a Better Planning System
Attachment 3 – Item 12.3 refers	Development Assessment Panels Discussion Paper Comments

Voting Requirement	:	Simple Majority
Subject Index	:	82/001
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	:	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.*
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☐	**Review**	*When Council reviews decisions made by Officers*
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Item 12.3 Continued

PURPOSE OF REPORT

For Council to consider the implications of the Western Australian Planning Commission's (WAPC) Discussion Paper on 'Implementing Development Assessment Panels in Western Australia.

SUMMARY AND KEY ISSUES

The WAPC has released a Discussion Paper on "Implementing Development Assessment Panels in Western Australia". The discussion paper sets out the DAP model that the State Government is committed to implementing in Western Australia.

Public comment is being sought on the discussion paper until 2 November 2009. The discussion paper makes it clear that DAPs will be mandatory in Western Australia. Comments are only being sought on the manner in which DAPs are proposed to operate.

There are major concerns over the blanket approach to implementing DAPs.

A modified approach is supported only where a Council is demonstrably failing in its obligations or at the request of a Council.

LOCATION

The DAP proposals will impact on all property within the City of Belmont.

CONSULTATION

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

The matter has been listed as a matter for consideration by the Belmont Business Advisory Group.

STRATEGIC PLAN IMPLICATIONS

BUILT BELMONT – *"Revise the Town Planning Scheme to reflect current and emerging needs."*

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

BUSINESS BELMONT – *"Attract and support high-quality high employment businesses to the City of Belmont."*

BUSINESS BELMONT – *"Provide effective management of, and communications with, the community and other stakeholders."*

BUSINESS EXCELLENCE – "*Ensure that community requirements are understood and drive internal policies and processes."*

Item 12.3 Continued

POLICY IMPLICATIONS

Should the decision making capacity be removed from Council by a Development Assessment Panel, it is anticipated that new Local Planning Policies will have to be developed to make clear Council's intent in regard to various development issues. Consideration will also have to be given to incorporating more of the existing policies as Scheme Text provisions so that less discretion can be exercised in making deliberations on planning matters.

STATUTORY ENVIRONMENT

The Scheme may have to be amended in response to the DAP proposals removing decision making power from Council.

BACKGROUND

In response to ongoing concerns regarding the efficacy of the planning system in Western Australia, the WAPC released the 'Building a Better Planning System' Discussion Paper in March 2009 setting out a range of proposed planning reform initiatives. One of the initiatives identified was the introduction of independent development assessment panels (DAPs) to deal with significant development applications.

The City of Belmont, through the Eastern Districts Planning Committee (EDPC) Technical Officers Group, coordinated a regional response to the Paper (refer Attachment 2. In regard to the DAP proposals the submission was made that:

- Firstly, delegation to officers to make decisions should be set by the WAPC and not left to individual Councils – the setting of such benchmarks should be tied to the knowledge and experience of those people authorised to exercise delegation.
- Secondly panels of 'independent experts' should not just include private consultants (perhaps a secondment role of other experts from LG)
- Thirdly, panels should only be used where one or more of the following occur:
    i. The LGA chooses to refer a proposal and therefore abrogate responsibility for a decision.
    ii. The LGA cannot source staff with expertise.
    iii. The LGA's processes are demonstrably failing.

Item 12.3 Continued

In September 2009 the WAPC released 'Planning Makes It Happen: A Blueprint for Planning Reform' in response to the submissions on the earlier Discussion Paper. That blueprint identifies 11 strategic priorities for immediate focus and a further 22 initiatives to address operational, procedural and other strategic reforms. The 11 strategic priorities identified are:

1. Major Project Facilitation.
2. Development assessment panels.
3. National reform agenda.
4. Urban land supply and infrastructure coordination.
5. Establishment of regional planning committees.
6. Restructure of WAPC committees.
7. A development vision for Perth.
8. A strategic plan for land use in Metropolitan Perth and Peel.
9. Review of WAPC policies.
10. Streamlined, simplified and tracked structure planning.
11. Ensuring the majority of single houses are planning approval exempt.

On Friday 11 September 2009, the Minister for Planning announced the release of the discussion paper "Implementing Development Assessment Panels in Western Australia". The discussion paper sets out the DAP model that the State Government is committed to implementing in Western Australia. Public comment is being sought on the discussion paper until 2 November 2009. The discussion paper makes it clear that DAPs will be mandatory in Western Australia. Comments are only being sought on the manner in which DAPs are proposed to operate.

DAP Key Elements

Attachment 3 details all the proposals in regard to the DAPs and provides specific officer comment to each. However, the key aspects are detailed below.

Two different types of panels will be established – Local Development Assessment Panels (LDAPs) and Joint Development Assessment Panels (JDAPs). LDAPs will be established to determine applications made to a single local government, where that local government is deemed to be a high-growth local government with enough development to support its own panel.

In regard to the City of Belmont a JDAP is proposed whereby it is considered that Councils in the Eastern Metropolitan Region are not considered to have enough development to support their own LDAP. Accordingly a JDAP is proposed to cover Belmont, Bayswater, Bassendean, Swan, Mundaring and Kalamunda.

DAPs will effectively deal with all development applications valued at $2 million or more. The panel will be the decision-making body in place of the local government (in the case of an application under a local planning scheme), or the Western Australian Planning Commission (WAPC) (i.e. region scheme applications). Exempt from the DAP determination are single houses; complying 10 unit developments; and minor applications (carports, shade sails, outbuildings and sheds).

Panels will consist of five members, comprising a chairperson (who must be a specialist member), two additional specialist members and two local government representatives. All members will be appointed for a two-year term with an option to extend by an additional year (at the Minister's discretion).

Item 12.3 Continued

Local government members will only sit on the panel when the application being determined by the panel has been made under their local planning scheme. Sitting fees of $400 will be paid to specialist members and $500 to the chairperson. No sitting fee will be paid to local government representatives.

Technical staff from each local government will need to attend panel meetings to present their reports and provide any clarification that may be required. Panel meetings will be open to the public, unless a confidential item is being discussed. The paper anticipates that panels will meet either monthly or fortnightly, depending on the number of applications to be determined and the statutory timeframes for determining them.

The local government or the WAPC will be responsible for assessing each application, preparing a report for the DAP's consideration, administering any conditions of approval imposed by the DAP and for responding to any applications for review (appeals) arising from panel decisions.

The local government will incur all costs relating to the operation of DAPs. The discussion paper suggests that application fees paid will cover: the costs of providing DAP secretarial support; LGA administrative overheads; technical officer expertise (planning, building, health, environment, governance and so forth); sitting fees for panel members; specialist reports and advice where required by a DAP; and the defence of appeals.

The Department of Planning will prepare a Code of Conduct to govern the standards that panel members must abide by. The Department will also prepare an annual report summarising approval trends and the performance of each panel.

DAPs will make decisions in accordance with the existing planning framework, including local and region planning schemes and having regard to relevant local and State planning policies.

The Minister will have the right to 'call in' any development application that would ordinarily be determined by a DAP, where the Minister believes the project will have impacts beyond a single local government area. Under this arrangement, applications will be assessed by the local government and referred to the DAP for consideration. The panel will then submit a report containing its advice and recommendation to the Minister. There will be no right of review to the State Administrative Tribunal (SAT) available against the Minister's decision.

The benefits put forward in support of the DAP model is improved timeliness; efficiency; simplicity; transparency; sustainability; accountability; fairness; consistency; and suitability.

OFFICER COMMENT

The principle of introducing DAPs is not necessarily a bad concept. Hence the majority of submissions on the issue in the 'Building a Better Planning System' requested further clarification on the role, membership and operation of DAPs. Unfortunately the DAP Model currently out for comment is a one-size-fits-all approach aimed at penalising all Councils, communities and the development industry without pinpointing who is failing procedurally and why. It has not been demonstrated why a blanket approach to DAPs are necessary.

Item 12.3 Continued

The discussion paper contains a series of statements without supporting empirical evidence to support the claims. Consequently, the proposal as it stands is considered a major retrograde step in streamlining the planning process.

The $2 million threshold proposed will significantly slow down the development assessment process at the City of Belmont and at many other Councils as the majority of applications are dealt with under delegated authority by Council staff (current value limits are capped at $4.5million). Due to the skills shortage in recent times it is local governments who have streamlined their processes and increased levels of delegation to officers. This has been done in order to address the shortage of planners and the need to respond in a timely manner. Unfortunately, with less delegation and timely determination of application, the impact will be felt across the board for all applications, not just those referred to DAPs.

As previously recommended by the EDPC Technical Officers Group, DAPs should only be brought in where the process is failing. On that basis, the criteria applied to the introduction of DAPs in NSW is considered more appropriate where the Minister has the power to appoint a planning assessment panel or planning administrator in four circumstances:

1. where, in the opinion of the Minister, the Council has failed to comply with its obligations under the planning legislation;
2. where, in the opinion of the Minister, the Council has unsatisfactorily performed its development assessment or planning role;
3. where the Independent Commission Against Corruption has written a report recommending the appointment of a panel due to serious corrupt conduct by a Councillor in connection with the exercise of functions by the Council; or
4. The Council agrees to the appointment.

This approach is very similar to the one proposed by the EDPC Technical Officers Group.

However, it is also recommended that the application of such principles prior to the introduction of a DAP should be accompanied by:

- The delegation of decision making direct to qualified Planning Officers across all local governments by the WAPC. The setting of benchmarks for the exercise of delegation should be tied to the knowledge and experience of those people authorised to make decisions.
- The introduction of standard performance measures to ensure the consistent reporting of development assessment statistics by local government. This will allow for industry wide benchmarking.

Unless the imposition of DAPs is linked to performance measures prior to their introduction, the model as it currently stands effectively cost shifts (administrative, financial, resource and liability burdens) to local government and local communities while resulting in an erosion of community control. In that instance, if the State through the WAPC is removing decision making control from local government it should be done openly and honestly by removing the delegation of power to LGA and retaining decision making power with the WAPC.

Item 12.3 Continued

The WAPC should then collect all fees, provide technical support and resource the DAPs. Local Government should then be referred applications for comment, as and when required.

The DAP system introduces another level of bureaucracy in an overly bureaucratic system. Applications being assessed and reported on by LGA staff may also have to go through more Committee or Council processes. Planning decisions made on large scale Development Applications often rely on a co-operative approach between the developer and the Local Government (for example the LGA may agree to the use of the Council's road verge for parking to compensate for an on-site parking shortfall). In such a case, the DAP will have no authority from Councils for the use of the Council's assets – this will then need either the Council to be a party to the application; or a separate approval from the Council (either prior to lodgement of an application or during assessment). There is no evidence to suggest that there will be any time or resource saving to allow greater focus on strategic planning. The statement is unsupported by any factual analysis. The proposal as it currently sits will actually exacerbate issues with strategic planning assessment as it is less streamlined than the current process.

The outcome of a statutory decision where discretion is applicable may have a major impact on the strategic direction of the City – it is of concern that the City will have to deal with strategic impacts flowing on from decisions in the local area that are placed beyond Council's control. This is a fundamental erosion of the role of the local government and in the accountability of the planning process to local communities. DAPs will effectively undermine the decision making role of local governments and will result in a move to extremely prescriptive town planning scheme provisions rather than performance (outcome) based scheme provisions as the discretionary nature of decisions will be removed from local communities. Should the DAP format proceed as proposed, it is likely that all the work undertaken over the last few years in regard to the review of the Planning Scheme will have to be revisited and substantial modifications made prior to any advertising and/or finalisation of a new Scheme.

Last, but not least, the DAP proposal does nothing to address the procedural problems associated with State government agencies such as the Swan River Trust, Department of Environment and so forth. Referral of applications to the DAPs within the statutory timeframes will largely result in deferrals as the relevant information will not be available from State agencies or the developers themselves. These are the key reasons why applications are unable to be determined by LGAs within the statutory timeframes.

FINANCIAL IMPLICATIONS

The implementation of the DAP Model as it stands has major financial implications for the City for Belmont as the costs of providing DAP secretarial support; LGA administrative overheads; technical officer expertise (planning, building, health, environment, governance and so forth); sitting fees for panel members; specialist reports and advice where required by a DAP; and the defence of appeals will be the responsibility of Council. The current fee schedule which is set by the State will not cover costs.

There are concerns over potential costs associated with the City accepting liability costs for decisions made by the DAP and not Council.

Item 12.3 Continued

Additional resourcing of the Planning Department may arise from the introduction of the DAPs as it will make the current system significantly less streamlined. Other flow-on effects are expected as recent strategic planning initiatives will have to be revisited.

ENVIRONMENTAL IMPLICATIONS

The proposed DAPs will impact on the natural and the built environment through the statutory planning decision making arena.

SOCIAL IMPLICATIONS

The DAP system as proposed is considered an erosion of control by the local community over planning matters. 'Community' is referred to in the sense of the whole of community from residents, ratepayers, business owners and investors to name but a few components.

The City has worked consistently over many years to establish strategic and statutory procedures and controls that are acceptable and appropriate to the community. Continued erosion of community input is likely to result in a backlash against the planning system in the medium to long term.

OFFICER RECOMMENDATION

A. That Council advise the Minister for Planning and the Western Australian Planning Commission that:

1. It does not support the DAP model as proposed because it is a one-size-fits-all approach aimed at penalising all Councils, communities and the development industry without pinpointing which Councils are failing procedurally and why. Consequently, the proposal as it stands is considered to be a major retrograde step in streamlining the planning process.

2. If the government decides to proceed with the DAP concept the application of criteria such as those applied in the NSW model should be applied prior to the introduction of any DAP. This should be accompanied by:

- ***The delegation of decision making direct to qualified Planning Officers across all local governments by the WAPC. The setting of benchmarks for the exercise of delegation should be tied to the knowledge and experience of those people authorised to make decisions.***
- ***The introduction of standard performance measures to ensure the consistent reporting of development assessment statistics by local government. This will allow for industry wide benchmarking.***

Item 12.3 Continued

3. The $2 million threshold proposed will significantly slow down the development assessment process at the City of Belmont and at many other Councils. The majority of applications are dealt with under delegated authority by Council staff (current value limits are capped at $4.5million accompanied by other criteria).

Due to the skills shortage it is local governments who have streamlined their processes and increased levels of delegation to officers in order to address the shortage of planners and the need to respond in a timely manner. With less delegation, the impact will be felt across the board for all applications, not just those referred to DAPs.

The DAP model as proposed is considered a fundamental erosion of the role of the local government and in the accountability of the planning process to local communities. DAPs will effectively undermine the decision making role of local governments and will result in a move to extremely prescriptive town planning scheme provisions rather than performance (outcome) based scheme provisions as the discretionary nature of decisions will be removed from local communities.

The DAP model does nothing to address the procedural problems associated with state government agencies such as the Swan River Trust, Department of Environment and so forth. Referral of applications to the DAPs within the statutory timeframes will largely result in deferrals as the relevant information will not be available from State agencies or the developers themselves. These are the key reasons why applications are unable to be determined by LGAs within the statutory timeframes.

4. Elected members should be paid a sitting fee commensurate with any other panel member, as they are expected to devote extensive time and energy over and above that expected of other Councillors who are not allowed to sit on the DAP.

B. That Council endorse the comments contained in Attachment 3 for inclusion in a detailed submission to the WAPC on the Implementation of Development Assessment Panels.

C. That Council inform key stakeholders (including but not limited to, the Belmont Business Advisory Group, the Property Council of WA, State and Federal Members of Parliament, and residents groups) of the issues and concerns in regard to the current Development Assessment Panel format.

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

12.4 REVIEW OF THE CITY OF BELMONT POLICY NB3 ENVIRONMENTAL ENHANCEMENT**

Natural Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 4 – Item 12.4 refers	Revised City of Belmont Policy NB3 Environmental Enhancement.

Voting Requirement	:	Simple Majority
Subject Index	:	32/015
Location / Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	Nil
Previous Items	:	11.1 Standing Committee (Environmental) 1/09/2009
Applicant	:	N/A
Owner	:	N/A
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.*

PURPOSE OF REPORT

To review the City of Belmont Policy 'NB3 Environmental Enhancement', to include a direct statement regarding commitment to the prevention of pollution.

Item 12.4 Continued

SUMMARY AND KEY ISSUES

An external recertification audit of the City's Environmental Management System was conducted by SGS in May 2009.

An opportunity for improvement was identified in relation to AS/NZS ISO 14001:2004, as follows:

'Please ensure that a solid commitment to prevention of pollution is included in the environmental policy and also that consideration is given to endorsing this policy as does the other policies within the city of Belmont.'

Based on the audit recommendation, the City of Belmont Policy 'NB3 Environmental Enhancement' has been reviewed to include a direct statement regarding commitment to the prevention of pollution. In addition, all printed copies of the policy will be modified to include the signature of the Chief Executive Officer.

In addition, a minor amendment to reflect the correct name of the ISO standard has also been proposed.

These changes will ensure the policy complies with the requirements of ISO 14001.

The Standing Committee (Environmental) made the following recommendation at their meeting on the 1 September 2009 with regards to the proposed changes:

> ***"BRENNAN MOVED, WOLFF SECONDED, That the Standing Committee (Environmental) recommend that Council endorse the reviewed City of Belmont Policy NB3 Environmental Enhancement as attached in Attachment 2."***

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

Review of this policy will assist in achieving the following 'Natural Belmont' objectives of the Strategic Plan:

- Protect and enhance the quality and amenity of our natural environment.
- Minimise pollution of the environment.
- Use and manage our water resources in a sustainable manner.
- Increase community and staff capacity to better protect and manage the natural environment.

Item 12.4 Continued

POLICY IMPLICATIONS

This item relates to the following policy:

- NB3 Environmental Enhancement Policy.

STATUTORY ENVIRONMENT

Local Government Act 1995

"2.7. The role of the council

(1) The council —

(a) directs and controls the local government's affairs; and

(b) is responsible for the performance of the local government's functions.

(2) Without limiting subsection (1), the council is to —

(a) oversee the allocation of the local government's finances and resources; and

(b) determine the local government's policies."

BACKGROUND

An external recertification audit of the City's Environmental Management System was conducted by SGS in May 2009.

An opportunity for improvement was identified in relation to AS/ NZS ISO 14001, as follows:

'Please ensure that a solid commitment to prevention of pollution is included in the environmental policy and also that consideration is given to endorsing this policy as does the other policies within the city of Belmont.'

Section 4.2 of ISO 14001 states that:

"Top management shall define the organisation's environmental policy, and ensure that, within the defined scope of its environmental management system, it:"
…
"b) includes a commitment to continual improvement and prevention of pollution"

OFFICER COMMENT

Based on the audit recommendation, the City of Belmont Policy 'NB3 Environmental Enhancement' has been reviewed to include a direct statement regarding commitment to the prevention of pollution. In addition, all printed copies of the policy will be modified to include the signature of the Chief Executive Officer.

Item 12.4 Continued

These changes will ensure the policy complies with the requirements of ISO 14001. The addition of a direct statement on commitment to prevention of pollution will ensure the policy more accurately reflects Council's position on the environment.

In addition, a minor amendment to reflect the correct name of the ISO standard has also been proposed.

The additions to the policy are outlined below in bold, underlined text. Text with a strikethrough will be deleted.

Policy Objective:

To develop a strategy to protect and enhance the natural environment.

Policy Statement:

The City of Belmont:

i) Is committed to the principle of **AS/NZS** IS0 14001 ~~"International Environmental Management Standards."~~ "**Environmental Management Systems**".

ii) Is committed to the **prevention of pollution**, protection and enhancement of the natural environment and creation of a sustainable urban environment.

iii) Will manage its development process in order to achieve sustainable environmental outcomes.

iv) Will comply with relevant environmental legislation and monitor its actions in order to improve its performance.

v) Where possible, the City of Belmont will promote environmental issues and activities within Council and to the wider Belmont community.

vi) As appropriate, the City of Belmont will give preference to the planting of native species within its parks and streetscapes environments.

As part of Council's commitment to environmental protection and continual environmental enhancement, it shall develop, implement and continually review an Environment Plan which provides strategic direction of environmental activities throughout the City. The Environment Plan aims to achieve environmental sustainability through the adoption of best environmental management practices, setting and achieving realistic goals, working in co-operation with key regional stakeholders and undertaking continual monitoring of environmental performance.

Wherever possible and appropriate, the Council seeks to conserve those areas of remnant natural vegetation left throughout the city.

The Standing Committee (Environmental) made the following recommendation at their meeting on 1 September 2009 with regards to the proposed changes:

> ***"BRENNAN MOVED, WOLFF SECONDED, That the Standing Committee (Environmental) recommend that Council endorse the reviewed City of Belmont Policy NB3 Environmental Enhancement as attached in Attachment 2."***

Item 12.4 Continued

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

The proposed changes to the policy will address the opportunity for improvement identified in the external audit. This will ensure the City's certification to ISO 14001 is retained.

SOCIAL IMPLICATIONS

There are no social implications at this time.

COMMITTEE RECOMMENDATION

That Council endorse the reviewed City of Belmont Policy NB3 Environmental Enhancement as attached at Attachment 4.

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

12.5 MONTHLY FINANCIAL ACTIVITY STATEMENT AS AT 30 SEPTEMBER 2009**

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 5 – Item 12.5 refers	Monthly Financial Activity Statement as at 30 September 2009

Voting Requirement	:	Simple Majority
Subject Index	:	32/009 - Financial Operating Statements
Location / Property Index	:	N/A
Application Index	:	N/A
Disclosure of any Interest	:	N/A
Previous Items	:	N/A
Applicant	:	City of Belmont
Owner	:	City of Belmont
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.*
☐	**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 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.

Item 12.5 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 require 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.

Item 12.5 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	137,274	37,226	Business applications and equipment not yet purchased.
Property & Economic Development	800,000	0	Delay in purchase of land
Crime Prevention & Comm Safety	335,000	32,085	CCTV project is only just commencing.
Technical Services	107,701	32,066	Delay in some environmental projects.
Grounds Operations	258,980	28,454	Delay in Parks Construction projects.
Road Works	565,871	495,452	Deferral of a significant roadwork project.
Footpath Works	125,265	184,832	Some projects are ahead of schedule.
Operations Centre	310,165	192,220	Fleet not yet purchased.

Item 12.5 Continued

Report Section	YTD Budget	YTD Actual	Comment
Building Operations	267,600	207,532	Delay in a significant project.
Applications of Funds – Operating			
Computing	317,171	375,331	Business application expenses purchased earlier than anticipated.
Insurance	409,064	293,860	Insurance premiums not yet fully taken up.
Governance	398,959	487,959	ABC Cost allocations higher than anticipated and some expenses paid earlier than expected.
Rates	1,067,204	1,127,647	Discount take-up higher than anticipated.
Property & Economic development	849,247	134,309	Contribution to Public Open Space pending a land sale.
Crime Prevention & Comm Safety	243,885	87,678	CCTV project is only just commencing.
Sanitation Charges	854,651	631,356	Not all invoices received for Rubbish service expenses.
Ground Operations	917,609	749,390	Timing issue with budget spread.
Ground – Active Reserves	186,780	121,763	Timing issue with budget spread.
Ground Overheads	328,438	415,776	Insurance Premiums paid earlier than expected.
Streetscapes	311,094	169,155	Street Scape projects commenced later than anticipated.
Public Works Overheads	231,560	383,181	Insurance Premiums paid earlier than expected.
Other Public Works	495,857	674,201	Relates to costs to be recovered (private works).
Sources of Funds – Capital			
Property & Economic Development	(578,499)	(0)	Proposed land sale still pending.
Road Works	(211,993)	(78,750)	Grant funding outstanding.
Operations Centre	(120,327)	(28,802)	Timing issue with budget spread.
Sources of Funds – Operating			
Insurance	(55,401)	(937,716)	Timing issues with budget spread.
Transfer to reserve	(72,159)	(0)	Transfers not yet processed.
Executive Services	(56,415)	(0)	Advertising Services income outstanding.
Rates	(27,580,037)	(28,127,912)	Rates higher than anticipated due to amendments /additions to revaluation GRVs.
Financing Activities	(275,578)	(374,370)	Investment income high than anticipated.

Item 12.5 Continued

Report Section	*YTD Budget*	*YTD Actual*	*Comment*
Crime Prevention & Comm Safety	(349,064)	(5,208)	CCTV Grant income yet to be received.
Other Public Works	(37,670)	(841,384)	Relates to a major private works job. Income has been 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 30 September 2009	**$**	**Comment**
Cash and investments	35,319,701	Includes municipal, reserves & deposits
- less non rate setting cash	-12,795,008	Reserves and deposits held
Receivables	10,838,109	Mostly rates levied yet to be received
- less non rate setting receivables	-1,422,694	ESL levied and GST payable
Stock on hand	187,284	
Total Current Assets	**$32,127,392**	
Current Liabilities		
Creditors and provisions	-8,337,959	Includes deposits
- less non rate setting creditors & provisions	5,720,831	ESL, GST and deposits held
Total Current Liabilities	**-$2,617,128**	
Nett Current Assets 30 September 2009	$29,510,264	
Nett Current Assets as Per Financial Activity Report	$29,510,264	
Less Restricted Assets	**$1,085,516**	Unspent grant monies held for specific purposes.
Less Committed Assets	**$27,924,748**	All other budgeted expenditure
Estimated Closing Balance	**$500,000**	

Item 12.5 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 30 September 2009 and included in Attachment 5 be received.

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

12.6 ACCOUNTS FOR PAYMENT**

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 6 – Item 12.6 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 1996*.

LOCATION

N/A

Item 12.6 Continued

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	781083-781230	$217,635.26
Municipal Fund EFTs	EF009751-EF010116	$2,765,072.77
Trust Fund Cheques	905293-905295	$17,127.93
Trust Fund EFT	EF0009802	$2,345.00
Total Payments for September 2009		$3,002,180.96

A copy of the Authorised Payment Listing is included as Attachment 6 to this item.

FINANCIAL IMPLICATIONS

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

Item 12.6 Continued

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 6 be received.

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

12.7 2009/2010 OCTOBER BUDGET REVIEW**

Business Excellence Belmont

ATTACHMENT DETAILS

Attachment No	Details
Attachment 7 – Item 12.7 refers	2009/2010 October Budget Review

Voting Requirement	:	Absolute Majority Required
Subject Index	:	54/004 – Budget Documentation - Council
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

This report is prepared to conduct the first review of the Budget and recommend adjustments to the 2009-2010 Adopted Budget. (Note: A Summary of Income and Expenditure Variances are included as Attachment 7).

Item 12.7 Continued

SUMMARY AND KEY ISSUES

In keeping with sound financial management practices, a review of the 2009-2010 Adopted Budget has been conducted. The Budget remains in balance with all carried forward issues from 2008-2009 end of year being addressed.

LOCATION

N/A

CONSULTATION

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

STRATEGIC PLAN IMPLICATIONS

Achieve excellence in the management and operation of the Local Government's activities.

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires a local government to carry out a review of its Budget between 1st January and 31st March each year, report it to Council and then report the outcome of the review to the Department of Local Government. The City of Belmont has for many years now conducted two budget reviews, one in October and one in March. A further review will be conducted and reported to Council and also the Department in March 2010.

BACKGROUND

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

Item 12.7 Continued

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

- Carried Forward Figure as at 30 June 2009 (to be confirmed by Council's Auditors as part of the end of year Audit);
- Decisions of Council requiring funding;
- Confirmation of various Government Grants;
- Any major over-expenditures; and
- Building, Grounds and Engineering Carry Forward Works.

OFFICER COMMENT

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

(brackets indicate increased income/reduced expenditure)

➢ Opening Balance - Surplus	1,117,710
➢ Chief Executive Officer Section	0
➢ Corporate and Governance Division	(372,429)
➢ Technical Services Division	(709,185)
➢ Community and Statutory Services Division	(36,096)
➢ Closing Balance	0
Net Cost	0

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

This has always proved to be a challenging task and a more conservative approach has been adopted in recent years with the period ended 30 June 2009 being no exception. Unfortunately, this year, $971,721 expenditure was incurred that was not anticipated in the 2008/2009 financial year relating to the rehabilitation of part of 73 Harold Street Ascot (Waterway Crescent). As a result of this, the actual opening balance was less favourable than estimated which has resulted in a requirement to utilise some of the Property Development Reserve funds to ensure that the budget remains in balance. Should the outcome of the future redevelopment of this property result in capital revenue to the City, then funds will be reinstated to the Property Development Reserve at that time.

A fully funded road construction project at Abernethy Road/McDowell Street to a value of $2.5m has been included in this review. This project was not confirmed until after the 2009/2010 budget process was almost finalised and therefore was not included in the originally adopted budget. It results in a significant upgrade to the City's road assets in that area to the extent of $1.13m. Additional fully funded carpark works in Ascot Waters to the value of $90,000 have also been identified and included in this budget review. A number of smaller works have been deferred to enable an appropriate focus to be given to these major construction projects and ensure a balanced budget is maintained.

Item 12.7 Continued

In addition, the upgrade to the Ascot Waters Compensating Basin has been deferred due to the requirement to properly evaluate the extent of contamination which was discovered at the site. $120,000 remains in the budget to enable a thorough evaluation to be undertaken. This Budget Review has not required an amendment to the estimated closing balance as at 30 June 2008 which has remained at $500,000.

The October Budget Review has been an extensive exercise to ensure the budget remains in balance and reflects the current expenditure trends. The detailed summary of the budget review includes a lot of comment, however, should further explanation be required then please contact the appropriate Director.

The main focus of the October review has been to address those additional items that occurred subsequent to the Authorised Budget being adopted, and also to address any projects which were anticipated to be completed by 30 June, but were unable to be finalised.

The October Budget Review is an important step in the process of vigilance, as it maintains a balanced Budget and ensures Services and Capital Works Programmes are adequately resourced.

As has been the case in the past, Council's financial position will be closely monitored in the lead up to the March Budget Review and should any significant issues require attention, then they will be raised with Council accordingly.

Budget Reviews ensure that the City's Budget remains in balance and all matters relating to Income and Expenditure are addressed in a responsible and accountable manner. They also ensure sufficient resources are available to meet all statutory obligations as well as delivering services and completing capital works.

FINANCIAL IMPLICATIONS

There are no financial implications evident at this time.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

SOCIAL IMPLICATIONS

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

Item 12.7 Continued

OFFICER RECOMMENDATION

That Council:

1. ***Approve the variations to the 2009/2010 Budget as detailed in Attachment 7 of the 27 October 2009 Council Agenda October Budget Review adjustments document.***

2. ***Authorise the Director Corporate and Governance to amend the 2009/2010 Budget in accordance with all resolved variations.***

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

13. REPORTS BY THE CHIEF EXECUTIVE OFFICER

13.1 REQUESTS FOR LEAVE OF ABSENCE

13.1.1 Cr Hanlon has requested a leave of absence for the period 28 October 2009 to 25 January 2010 inclusive.

OFFICER RECOMMENDATION

HITT MOVED, ROSSI SECONDED, That Cr Hanlon's request for leave of absence for the period 28 October 2009 to 25 January 2010 (dates inclusive) be approved.

CARRIED 9 VOTES TO 0

13.1.2 Cr Martin has requested a leave of absence for the period 28 October 2009 to 29 January 2010 inclusive.

OFFICER RECOMMENDATION

HITT MOVED, ROSSI SECONDED That Cr Martin's request for leave of absence for the period 28 October 2009 to 29 January 2010 (dates inclusive) be approved.

CARRIED 9 VOTES TO 0

13.2 COUNCILLOR MOTION – BELMONT MUSEUM HISTORICAL ARTEFACTS REGISTER

ATTACHMENT DETAILS

Attachment No.	Details
Nil	

Voting Requirement	:	Simple Majority
Subject Index	:	11/007
Location / Property Index	:	Nil
Application Index	:	Nil
Disclosure of any Interest	:	Nil
Previous Items	:	Nil
Applicant	:	Cr Hanlon
Owner	:	Nil
Responsible Division	:	Community & Statutory

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

On the 16 October 2009 a Notice of Motion was received from Cr Hanlon in regards to the Belmont Museum Historical Artefacts Register.

CONSULTATION

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

Item 13.2 Continued

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

There are no significant statutory implications evident at this time.

BACKGROUND

Cr Hanlon has put forward a motion that Officers prepare a costed plan to present to Council to conduct the Belmont Museum Historical Artefacts Register to electronically record the Belmont Museum artefacts for the benefit of future generations and to sort and register the collection into its historical value and future preservation required for specific items. Cr Hanlon's rationale is detailed below;

"The Belmont Museum is ran by a small team of committed volunteers who lack the resources and expertise to electronically record and digitize the Belmont Museum artefacts. Digital records must be undertaken as soon as practical to ensure the protection of these historical records for the benefit of future generations. The process needs to be supervised by a specialist in the area of community artefacts, that can identify and list historical values and preservation methods required for the protection of any identified unique irreplaceable pieces. Any items deemed not needed to be retained should be notified to the donors to be returned or placed on loan to other community museums."

FINANCIAL IMPLICATIONS

There are minor financial implications in the investigation and report preparation of this matter.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

OFFICER COMMENT

The concepts for the overall development of the Faulkner Park precinct include a possible relocation of the Belmont Museum. It has been suggested that if this were to occur, then the museum function and history of Belmont could be incorporated with the Library. This would necessitate a temperature controlled room, appropriate storage cabinets and a specialist history librarian(s).

Item 13.2 Continued

Regardless of the future, there is an immediate need to accurately record what is currently held at the museum and to determine the requirements for ongoing care and maintenance. This can only be carried out by a person skilled in that type of work. It is therefore worthwhile for a report to be prepared on the scope and cost of such a project, which can be considered for funding in the 2010-2011 financial year.

COUNCILLOR MOTION

ROSSI MOVED, POWELL SECONDED, That Council Officers prepare a report to a future Council meeting which advises of the scope, cost and time required for an audit and report of the Belmont Museum, so that all artefacts and other items are catalogued or recorded in accordance with current, recognised standards. Further, that the audit report include liaison with the Chairman and other representatives of the Museum, whether voluntary assistance is practical and the identification of those items that can be returned to their donors or loaned to other museums.

CARRIED 9 VOTES TO 0

13.3 COUNCILLOR MOTION – CRIME PERCEPTION RESEARCH STUDY

ATTACHMENT DETAILS

Attachment No.	Details
Nil.	

Voting Requirement	:	Simple Majority
Subject Index	:	36/002
Location / Property Index	:	Nil
Application Index	:	Nil
Disclosure of any Interest	:	Nil
Previous Items	:	Nil
Applicant	:	Cr Hanlon
Owner	:	Nil
Responsible Division	:	Community & Statutory

COUNCIL ROLE

	Advocacy	*When Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.*
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☐	**Review**	*When Council reviews decisions made by Officers*
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PURPOSE OF REPORT

On the 16 October 2009 a Notice of Motion was received from Cr Hanlon in regards to conducting a Crime Perception Research Study.

CONSULTATION

The 2009 Catalyse Community Perceptions Survey identified safety & security and the control of graffiti, vandalism & antisocial behavior as the two highest areas of priority for the City of Belmont.

Item 13.3 Continued

STRATEGIC PLAN IMPLICATIONS

City of Belmont Strategic Plan (2008 – 2013)

"Social Belmont

To Achieve an environment in which residents are safe, and feel safe."

POLICY IMPLICATIONS

There are no significant policy implications evident at this time.

STATUTORY ENVIRONMENT

There are no significant statutory implications evident at this time.

BACKGROUND

Cr Hanlon has put forward a motion that Officers to prepare a costed plan to present to council to conduct focus group and research gathering on the perception of crime, security and safety within the City of Belmont. Cr Hanlon's rationale is detailed below;

"It has been identified in recent resident surveys that there is a high level of concern regarding crime, security and safety in particular zone/s within the City e.g. 31% concern perceived or actual has been identified with the Ascot Waters area.

This high percentage of concern requires independent research to investigate any underlying cause that Council can seek to address in the short term or take into consideration for future crime, security and safety planning."

FINANCIAL IMPLICATIONS

There are minor financial implications in the investigation and report preparation of this matter.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications at this time.

Item 13.3 Continued

COUNCILLOR MOTION

ROSSI MOVED, POWELL SECONDED, That as a result of the recent Community and Business Perception Surveys, the issues of crime, safety and criminal damage be investigated for a report to a future Council meeting. Further, that such report include comparative data from other local governments, results from focus groups and surveys for suburbs within the City and recommended strategies to address the perception concerns, having regard to the actions currently being implemented.

CARRIED 9 VOTES TO 0

13.4 REQUEST FOR PROXY MEMBER – PERTH AIRPORT MUNICIPALITIES GROUP

8.46pm The Presiding Member called for nominations to the position of Proxy Member – Perth Airports Municipalities Group. One nomination was received from Cr Marks.

ROSSI MOVED, POWELL SECONDED, that Cr Marks be appointed Proxy Member – Perth Airport Municipalities Group.

CARRIED 9 VOTES TO 0

8.47pm Cr Dornford departed the meeting and did not return.

14. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

8.48pm ***GEE MOVED, POWELLSECONDED, that in accordance with Section 5.23(2)(b)(e) of the Local Government Act 1995 – the meeting proceed behind closed doors to discuss Confidential Item 14.1 – Request for Legal Representation.***

CARRIED 8 VOTES TO 0

8.48pm Members of the public departed the meeting.

14.1 REQUEST FOR LEGAL REPRESENTATION

OFFICER RECOMMENDATION

MARKS MOVED, HITT SECONDED, That Council confirms the decision of the Chief Executive Officer made under Delegated Authority, DA29, and in accordance with policy BEXB16 Legal Representation for Council Members and Employees.

CARRIED 8 VOTES TO 0

9.05pm ***HITT MOVED, ROSSI SECONDED, that the public and officers be invited to return to the meeting.***

CARRIED 8 VOTES TO 0

As there were no members of the public who returned to the gallery, the resolution was not read aloud by the Manager Governance.

15. CLOSURE

There being no further business the Presiding Member closed the meeting at 9.08pm.

MINUTES CONFIRMATION CERTIFICATION

The undersigned certifies that these minutes of the Ordinary Council Meeting held 27 October 2009 were confirmed as a true and accurate record at the Ordinary Council Meeting held 24 November 2009:

Signed by the Person Presiding: _____

PRINT name of the Person Presiding: _____