

10.2 Fernleigh Gardens Retirement Village

Cr Nash MOVED:

That:

- a. *Under the provisions of Section 90(2) of the Local Government Act 1999 an order be made that the public with the exception of the Chief Executive Officer, General Manager Corporate and Community, General Manager Project and Services, Chief Finance Officer, General Manager City Development, Manager Infrastructure and Design, Group Manager Sustainability, Manager Development Services, Manager Strategic Projects, Team Leader Finance, Governance Adviser, Asset Planner, Security Coordinator and Minute Secretary be excluded from attendance at the meeting in order to consider in confidence this item.*
- b. *The Council is satisfied that it is necessary that the public be excluded to enable the Council to consider the report at the meeting on the following grounds:*
 - (h) *legal advice.*
- c. *Accordingly, on this basis the principle that meetings of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information or discussion confidential.*

Seconded by Cr Alford.

CARRIED

Cr Mazzachi declared a Conflict of Interest as an employee of Norman Waterhouse Lawyers, who act as Council's legal advisers in this matter. Norman Waterhouse would receive a direct pecuniary benefit (being payment for legal services) if this matter were decided in a particular manner. Cr Mazzachi left the chamber at 8.18pm.

Cr Peat MOVED:

That having regard to legal advice dated 5 May 2009, Council reaffirm its decision of 16 December 2008 to initiate enforcement proceedings under the relevant provisions of the Development Act (subject to legal advice on the appropriate process and section of the Act) in relation to alleged breaches of the Development Act relating to development of the Fernleigh Gardens Retirement Village at 177 Pimpala Road, Woodcroft.

Seconded by Cr Ferguson.

CARRIED

Cr Coomans MOVED:

3. *That an order be made under the provisions of Section 91(7) and (9) of the Local Government Act 1999 that the abovementioned document (or part of such document) including the minutes and the report of the Council relating to discussion of the subject matter of that document, having been dealt with*
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on a confidential basis under Section 90 of the Act, should be kept confidential on the grounds of information contained in Section 90(3)(h) until conclusion of any legal proceedings (including appeal actions) relating to the alleged breaches.

Seconded by Cr Erwin.

CARRIED

Cr Mazzachi resumed his seat in the chamber at 8.31pm.

Cr Fletcher MOVED that Council write to the Minister for Planning and Urban Development requesting that he investigate and implement options for improved penalty provisions and cost recovery for prosecutions under the Development Act.

Seconded by Cr Nash.

CARRIED

10 Closure

There being no further business Mayor Rosenberg officially declared the meeting closed at 8.38pm.