AGENDA

Ordinary Meeting of Council

To be held on Tuesday 28 April 2020 at 6:00pm
City of Rockingham – Electronic Meeting

Note: In accordance with regulation 14D and 14E of the Local Government (Administration) Regulations 1996, this meeting will be conducted by electronic means and closed to the public.

Questions relating to the business of Council are invited for submission via customer@rockingham.wa.gov.au before 2pm of the meeting day.
Notice of Meeting

Dear Mayor and Councillors

The next Ordinary Meeting of the Council of the City of Rockingham will be held by electronic means on Tuesday 28 April 2020 commencing at 6:00pm.

MICHAEL PARKER
CHIEF EXECUTIVE OFFICER
23 April 2020

DISCLAIMER

PLEASE READ THE FOLLOWING IMPORTANT DISCLAIMER BEFORE PROCEEDING:

Statements or decisions made at this meeting should not be relied or acted on by an applicant or any other person until they have received written notification from the City. Notice of all approvals, including planning and building approvals, will be given to applicants in writing. The City of Rockingham expressly disclaims liability for any loss or damages suffered by a person who relies or acts on statements or decisions made at a Council or Committee meeting before receiving written notification from the City.
1. Declaration of Opening

Acknowledgement of Country
This meeting acknowledges the traditional owners and custodians of the land on which we meet today, the Nyoongar people, and pays respect to their elders both past and present.

Suspension of Standing Order
Resolution required to suspend clause 8.2 ‘Members to occupy own seats’ of City of Rockingham (Standing Orders) Local Law 2001.

2. Record of Attendance/Apologies/Approved Leave of Absence

<table>
<thead>
<tr>
<th>2.1 Councillors</th>
<th>Rockingham/Safety Bay Ward</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cr Barry Sammels (Mayor)</td>
<td></td>
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<tr>
<td>Cr Deb Hamblin (Deputy Mayor)</td>
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<tr>
<td>Cr Sally Davies</td>
<td>Baldivis Ward</td>
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<tr>
<td>Cr Hayley Edwards</td>
<td>Baldivis Ward</td>
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<tr>
<td>Cr Matthew Whitfield</td>
<td>Baldivis Ward</td>
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<tr>
<td>Cr Lorna Buchan</td>
<td>Comet Bay Ward</td>
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<tr>
<td>Cr Mark Jones</td>
<td>Comet Bay Ward</td>
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<tr>
<td>Cr Craig Buchanan</td>
<td>Rockingham/Safety Bay Ward</td>
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<tr>
<td>Cr Rae Cottam</td>
<td>Rockingham/Safety Bay Ward</td>
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<tr>
<td>Cr Leigh Liley</td>
<td>Rockingham/Safety Bay Ward</td>
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<tr>
<td>Cr Joy Stewart</td>
<td>Rockingham/Safety Bay Ward</td>
</tr>
</tbody>
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<tr>
<th>2.2 Executive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Michael Parker</td>
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<tr>
<td>Mr Peter Ricci</td>
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<tr>
<td>Mr Sam Assaad</td>
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<tr>
<td>Mr John Pearson</td>
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<td>Mr Peter Doherty</td>
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<tr>
<td>Mr Michael Holland</td>
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<td>Mr Peter Varris</td>
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<tr>
<th>2.3 Members of the Gallery:</th>
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<tbody>
<tr>
<td>2.4 Apologies:</td>
</tr>
<tr>
<td>2.5 Approved Leave of Absence:</td>
</tr>
</tbody>
</table>

3. Responses to Previous Public Questions Taken on Notice

4. Public Question Time

In accordance with regulation 14D and 14E of the Local Government (Administration) Regulations 1996, this meeting will be conducted by electronic means and closed to the public.

Questions relating to the business of the Committee are invited for submission via customer@rockingham.wa.gov.au before 2pm of the meeting day.
5. **Applications for Leave of Absence**

6. **Confirmation of Minutes of the Previous Meeting**

**Recommendation:**
That Council **CONFIRMS** the Minutes of the Ordinary Council Meeting held on 24 March 2020, as a true and accurate record.

7. **Matters Arising from the Previous Minutes**

8. **Announcement by the Presiding Person without Discussion**

The Mayor to announce to all present that decisions made at Committees of Council are recommendations only and may be adopted in full, amended or deferred when presented for consideration at the Council meeting.

9. **Declarations of Members and Officers Interests**

<table>
<thead>
<tr>
<th>Item</th>
<th>Type of Interest</th>
<th>Nature of Interest</th>
<th>Extent of Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>EP-010/20</td>
<td>Financial</td>
<td>Cr Edwards’ partner is a Director of Shelford Constructions. Shelford Constructions submitted a tender for T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>PD-021/20</td>
<td>Impartiality</td>
<td>Cr Buchan is friends with one of the applicants.</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

10. **Petitions/Deputations/Presentations/Submissions**

11. **Matters for which the Meeting may be Closed**

In accordance with section 5.23(2)(b) of the Local Government Act 1995 – if there are any questions or debate on Confidential Item CD-009/20 Recommendation from the Rockingham Education and Training Advisory Committee Meeting held on 9 March 2020, then the Council will need to defer the matter for consideration at Agenda Item 23 - Matters Behind Closed Doors.
Corporate and Community Development Committee

CONFIDENTIAL ITEM
NOT FOR PUBLIC ACCESS
Section 5.95(3) Local Government Act 1995 (the Act)
This item may be discussed behind closed doors as per Section 5.23(2)(b) of the Act

Community Development
Community Capacity Building Services

Reference No & Subject: CD-009/20
Recommendation from the Rockingham Education and Training Advisory Committee Meeting held on 9 March 2020

File No: CSV/1522-05

Author: Ms Olivia Forsdike, Community Development Officer

Other Contributors:
Mr Sam Hegney, Acting Coordinator Recreation and Wellbeing
Ms Julia Dick, Collaborative Manager Community Capacity Building

Date of Committee Meeting: 21 April 2020

Disclosure of Interest: Executive

Nature of Council's Role in this Matter:

Attachments:
Minutes of the Rockingham Education and Training Advisory Committee meeting held on 9 March 2020

Maps/Diagrams:

Voting Requirements
Simple Majority

Recommendations to the Corporate and Community Development Committee

Advisory Committee Recommendation 1 of 1:
Tertiary Scholarship Scheme applications: Round One 2020

That Council APPROVES the eligible applicants for the Tertiary Scholarship Scheme Round One 2020.

Officer Recommendation if Different to Advisory Committee Recommendation
Not Applicable

The Officer's Reason for Varying the Advisory Committee Recommendation
Not Applicable
Committee Recommendation
That Council APPROVES the eligible applicants for the Tertiary Scholarship Scheme Round One 2020.

Committee Voting (Carried) – 5/0

The Committee’s Reason for Varying the Officer’s Recommendation
Not Applicable

Implications of the Changes to the Officer’s Recommendation
Not Applicable
12. **Receipt of Minutes of Council Committees**

**Recommendation:**
That Council *RECEIVES and CONSIDERS* the minutes of the:
1. Planning and Engineering Services Committee meeting held on 20 April 2020; and
2. Corporate and Community Development Committee meeting held on 21 April 2020.

13. **Officers Reports and Recommendations of Council Committees**

| Planning and Engineering Services Committee | 9 |
| PD-019/20 Proposed Serviced Apartments | 9 |
| PD-020/20 Proposed Scheme Amendment No.179 - Additional Uses 'Nursing Home' and 'Medical Centre' - Final Approval | 33 |
| PD-021/20 Proposed Demolition of Heritage Building (Lucy Saw Home) | 60 |
| EP-009/20 Tender T19/20-09 - Supply and Laying of New Irrigation Systems at Various Locations | 76 |
| EP-010/20 Tender T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre | 84 |


**Recommendation:**
That Council *RECEIVES* the Information Bulletins as follows:
1. Planning Services Bulletin – April 2020;
2. Engineering and Parks Services Bulletin – April 2020;
3. Corporate and General Management Services Bulletin – April 2020; and

15. **Report of Mayor**

| Report of Mayor | 88 |
| MR-004/20 Meetings and Functions Attended by the Mayor and Deputy Mayor | 88 |

16. **Reports of Councillors**

17. **Reports of Officers**

| Reports of Officers | 90 |
| CS-008/20 Amendment of Delegation to the Chief Executive Officer to Waive/Grant Concession or Write Off Monies Owing (Absolute Majority) | 90 |

18. **Addendum Agenda**

19. **Motions of which Previous Notice has been given**

20. **Notices of Motion for Consideration at the Following Meeting**
<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>21.</strong></td>
<td><strong>Questions by Members of which Due Notice has been given</strong></td>
</tr>
<tr>
<td><strong>22.</strong></td>
<td><strong>Urgent Business Approved by the Person Presiding or by Decision of the Council</strong></td>
</tr>
<tr>
<td><strong>23.</strong></td>
<td><strong>Matters Behind Closed Doors</strong></td>
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<tr>
<td><strong>24.</strong></td>
<td><strong>Date and Time of Next Meeting</strong></td>
</tr>
<tr>
<td></td>
<td>The next Ordinary Council Meeting for the City of Rockingham will be held by electronic means on <strong>Tuesday 26 May 2020</strong> at 6:00pm.</td>
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<tr>
<td><strong>25.</strong></td>
<td><strong>Closure</strong></td>
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</tbody>
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## Planning and Development Services

### Statistical Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PD-019/20 Proposed Serviced Apartments</th>
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</thead>
<tbody>
<tr>
<td>File No:</td>
<td>DD20.2020.00000052.001; DD20.2020.00000053.001</td>
</tr>
<tr>
<td>Applicant:</td>
<td>Mr L McCormick</td>
</tr>
<tr>
<td>Owner:</td>
<td>Mr L K McCormick</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Chris Parlane, Senior Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>20 April 2020</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
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<tr>
<td>Disclosure of Interest:</td>
<td>Executive</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td></td>
</tr>
<tr>
<td>Site:</td>
<td>Lot 10 (Unit 201) and Lot 31 (Unit 404) Strata Plan 72828, No.12 Flinders Lane, Rockingham</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>2,697m²</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Primary Centre Waterfront Village</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Central City Area</td>
</tr>
<tr>
<td>Attachments:</td>
<td>Schedule of Submissions</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Locality Plan</td>
</tr>
<tr>
<td></td>
<td>2. Aerial Photograph</td>
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<tr>
<td></td>
<td>3. South-west Elevation Plan</td>
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<td>4. South-east Elevation Plan</td>
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<td>5. North-east Elevation Plan</td>
</tr>
<tr>
<td></td>
<td>6. North-west Elevation Plan</td>
</tr>
<tr>
<td></td>
<td>7. Unit 201 (Lot 10) Floor Plan</td>
</tr>
<tr>
<td></td>
<td>8. Unit 404 (Lot 31) Floor Plan</td>
</tr>
<tr>
<td></td>
<td>9. Ground Floor Strata Plan</td>
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<td></td>
<td>10. Second Floor Strata Plan</td>
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<tr>
<td></td>
<td>11. Fourth Floor Strata Plan</td>
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<tr>
<td></td>
<td>12. Rockingham Strategic Metropolitan Centre Concept Plan</td>
</tr>
</tbody>
</table>
Purpose of Report

To consider two applications from the same applicant seeking Development Approval to change the use of Unit 201 and Unit 404 in the Azure Apartments development at 12 Flinders Lane, Rockingham to 'Serviced Apartment'.
Background

In July 2015, the Metro South-West Joint Development Assessment Panel (JDAP) granted Development Approval for a mixed-use development comprising 90 multiple dwellings and 4 commercial (Office) tenancies on the subject land.

In October 2016, the JDAP granted Development Approval for amended plans to reduce the scale of development to 51 multiple dwellings and 2 commercial (Office) tenancies on the subject land.

In November 2017, the City granted Development Approval to amend the JDAP approval to change the use of commercial tenancies to 'Restaurant', and to permit the construction of a Parklet in the verge of Empress Corner.

In 2018 the development was subdivided into built strata titles.

On 20 February 2020, the City received two applications seeking Development Approval to change the use of two residential apartments in the Azure development to ‘Short Stay Accommodation’, (i.e. Serviced Apartment) being Unit 201 (Lot 10) and Unit 404 (Lot 31). While two separate development applications were lodged, both applications were submitted by the same applicant. For reasons of conciseness, both applications are considered within the following report, however, as the applications are separate, the report provides separate recommendations for each application accordingly.

Elevation plans of the approved development are included below:
On 20 February 2020, the City received two applications seeking Development Approval to change the use of two residential apartments in the Azure development to ‘Short Stay Accommodation’, being Unit 201 (Lot 10) and Unit 404 (Lot 31). For the purpose of this report, the term Serviced Apartment is used in lieu of the term ‘Short Stay Accommodation’.

On 21 February 2020, the City amended Town Planning Scheme No.2 (TPS) in accordance with Scheme Amendment No.173 (Gazetted on 20 December 2019), which had the effect of replacing the land use term ‘Short Stay Accommodation’ with the term ‘Serviced Apartment’. The proposals have therefore been assessed as applications seeking to change the use of the units to Serviced Apartments.

The applications propose:

- A maximum number of four (4) guests in Unit 201;
- A maximum number of two (2) guests in Unit 404;
- Bookings are arranged via Airbnb and the Rockingham Tourist Centre;
- The owner will not reside in the premises;
- The owner will vet bookings and conduct the hosting of all guests before, during and after their stay;
- There are currently no employees, but the applicant intends to employ a professional cleaner to assist with cleaning duties;
• Guests are required to check in between the hours of 3pm - 11pm and check out prior to 12pm on the day of departure;
• A 4 night minimum stay policy applies;
• The Units will be available for use as Serviced Apartments for the whole year, except for Christmas and New Year public holidays, when they will be unavailable to guests;
• Car parking is proposed in the form of a single allocated car bay for each Unit;
• The owner will enforce proposed House Rules, which outline the expected conduct of guests;
• The application states that guests will have access to the communal swimming pool, which is fully insured for their use; and
• A letter of consent from the Strata Body has been provided.

Unit 201 is a self-contained apartment and comprises of 2 bedrooms, 2 bathrooms, laundry and living area on the third level of the Azure building. The unit has views to the north overlooking the communal swimming pool.

Unit 404 is a self-contained apartment and comprises of 1 bedroom, 1 bathroom and living area on the fifth level of the Azure building. The unit has views to the south-west overlooking the Village Green public open space.

The apartments have been used in the past for short stay accommodation without development approval from the Council.

The following plans show the floor plan layout and the location of the units and associated car parking within the building:

7. Unit 201 (Lot 10) Floor Plan
8. Unit 404 (Lot 31) Floor Plan
9. Ground Floor Strata Plan

- Unit 201 Car Bay
- Unit 404 Car Bay

10. Second Floor Strata Plan

- Unit 201
11. Fourth Floor Strata Plan

**Implications to Consider**

**a. Consultation with the Community**

The two applications for Development Approval were advertised for public comment concurrently, in accordance with clause 64 of the deemed provisions of Town Planning Scheme No.2 (TPS2), in the following manner:

- 74 letters were sent to all known owners and occupiers of the Azure Apartment building;
- On 2 March 2020, the applications were placed on the City's website for public viewing, indicating that submissions will be received until 24 March 2020.

At the close of the submission period 36 submissions had been received, as follows:

- 5 submissions received in support of the applications;
- 31 submissions were received objecting to the applications.

One objection contained a copy of legal advice and a petition (contained in the Submission Schedule) signed by 28 apartment owners stating that the signing parties:

- "Do not consent to the owners applying to the City of Rockingham to change the use of their apartment to short stay accommodation;"
- *Object to the Council of Owners voting on this issue without consultation*.

The submissions supporting the applications spoke of the application's merit.

The issues raised in the submissions received objecting to the applications are summarised as follows:
Strata Consent

**Submission:**
Concerns were raised about the validity of the strata consent letter provided from the strata company in support of the development application. Submissions consider that a resolution of the strata body is required to be obtained 'without dissent' at a duly convened meeting, and that there was no consultation between the strata manager and the strata owners prior to lodgement of the development application. It has been submitted that the proposal is inconsistent with the strata by-laws and the applicant, being the Chair of the Council of Owners, has a vested interest in the outcome. Objectors consider this is not a valid planning application.

**Applicant's Comment:**
The City Planning requirements states that consent from the Strata Body Council of Owners is the requirement, and not for resolution without dissent by majority consensus.

The current approved Strata bylaws for the Azure project, which all the buyers have in their sales contract, do not prohibit Short Term Accommodation.

On the contrary, the introduction of a new bylaw to expressly prohibit Short Term Accommodation would require a 'vote without dissent' at a specially convened meeting of owners.

The application was submitted to the Council of Owners in which four months elapsed while two council members actively attempted to thwart the progression of the application. This was considered more than adequate time for consultation. Furthermore, the council members in question used this period to form an unsanctioned meeting of owners to protest the application and commence a slanderous campaign against me.

On the issue of voting rights, it should be noted that the elected council of owners all have a vested interest in their respective properties, and the development at large. The Chair has no exclusive voting rights than the other members and is perfectly entitled to support the investors in the scheme whom he was elected to represent.

Therefore as an elected representative for investors and all owners, the application is valid and consistent with strata bylaws.

The formation of the unsanctioned meetings has led to an extraordinary Council of owner meeting to discuss council member behaviour.

**City Response:**
The City Planning requirement is that consent from the Strata Body Council of Owners be given, not for there to be a resolution 'without dissent' from unit owners. The City received the required consent in relation to each application (Consents).

On the basis of the information provided to the City, it is considered that the Strata By-Laws do not prohibit Short Term Accommodation and that a resolution ‘without dissent’ is not required.

While there is a dispute between owners as to whether the Consents ought to have been given, it is considered that the City’s requirements have been satisfied and an assessment of the development applications must proceed.

Security

**Submission:**
There are concerns about security risk with non-residents gaining access to the common areas. Objectors consider this compromises their personal security. There have been previous security breaches, which some submitters attribute to the use of some apartments for short stay accommodation eg leaving keys for cleaners or guests in an unlocked letterbox.

**Applicant's Comment:**
These concerns are valid but not applicable to my application as it applies to another owner.
Security (cont…)

All owners, residers and tenants alike, are subject to strata bylaws. I understand that this owner in question identified and reported to the Strata Manager. In my application, I have stated that I meet the tenant and conduct a full tour of the facility with stringent house rules. There are no exceptions as I insist that the tenant is fully conversant with the house rules and strata bylaws during their stay.

I cannot vouch for other owners and how they manage their properties, but I anticipate they would state their provisions for building and personal security in their planning application.

City Response:

Guests, like residents will have swipe card access to the common areas of the building. A security feature within the building includes CCTV, monitored by the Council of Owners.

While the City is unable to verify if previous security breaches are attributable to short stay operations, it is noted that the applicant proposes various management measures, including vetting, inducting and actively managing guests, which if managed effectively is likely to address submitter concerns about building security that may be attributable to these applications.

Purchasing Expectations

Submission:

Objections state that apartments were not purchased or marketed with short stay accommodation in mind. Owners bought into the development with lifestyle objectives including living in a secure, residential apartment building with by-law controls to manage resident behaviour.

Applicant's Comment:

The by-laws that are in place and enforced, manage the behaviours of all residents at Azure in whatever capacity they reside there to ensure a safe and secure building. All residents are answerable to the by-laws and the strata manager with no one able to act with impunity. The owner of the short stay accommodation is the property manager and the contact details for the property is with the Strata Manager.

On the issue of marketing and sales of the units, it is the contrary. The apartments were marketed and sold and in my case purchased with short stay accommodation in mind. Please see email attachment from Blackburn's Development Manager which gives deeper context.

Please refer to the below emails sent from David Fitzgerald, Development Manager, Blackburn, respectively on 19th December 2019, 28th January 2020 to the Council of Owners.

City Comment: The emails referred to above have not, for reasons of conciseness, been reproduced here, however, can be tabled upon request if necessary.

Amenity

Submission:

Concerns are expressed about disruptive and antisocial guest behaviour, including late night gatherings on balconies, or guests being locked out and requiring the assistance of neighbours to gain access to their apartments.

Applicant's Comment:

As an active member of the council of owners, I have been privy to all anti-social behaviour, criminal activity and strata breaches in general. I have been the delegated member to operate the scheme CCTV system and have successfully captured the evidence with identification on all occasions.
Amenity (cont…)

I am unable to comment on how other owners have managed their guests, whether short term or not as this has not applied to me. I have stated in my application, that I live in the local area and available at all hours if my guest requires assistance.

To date, there have been categorically no incidents that have involved anti-social behaviour from short term accommodation (Table 1 below refers), and the episodes thus far have been confirmed to originate from tenants on long lease or residers.

That said, the owner of the property is always responsible for the tenant and is also liable should a breach occur. Residers are encouraged to report all anti-social behaviours to the Strata Manager or the Police.

<table>
<thead>
<tr>
<th>Incident</th>
<th>Type of resident</th>
<th>Action taken</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vandalism on 4th floor by lift (photo evidence and CCTV)</td>
<td>Long term lease tenant</td>
<td>Strata breach issued</td>
<td>Wall repaired at cost to strata</td>
</tr>
<tr>
<td>Drug paraphernalia on balcony- Photo evidence</td>
<td>Long term lease resident</td>
<td>Property management (Blackburne) informed – No action taken</td>
<td></td>
</tr>
<tr>
<td>Bulk storage of garbage on balcony-photo evidence</td>
<td>Long term lease resident</td>
<td>Property management (Blackburne) informed – No action taken</td>
<td></td>
</tr>
<tr>
<td>Thieves tailgating through garage door leading to theft of bikes CCTV taken due to negligence by resident</td>
<td>Resident</td>
<td>CCTV taken to police, case still ongoing</td>
<td>charges dropped due to no theft reports.</td>
</tr>
<tr>
<td>Damage to front fire access doors due to resident not challenging the thieves CCTV evidence</td>
<td>Resident</td>
<td>CCTV taken to police- Scenes of Crime Mandurah attended for photos and fingerprints.</td>
<td>No one apprehended</td>
</tr>
<tr>
<td>Dumping of rubbish outside bin room CCTV taken (2 Counts)</td>
<td>Long term lease tenant</td>
<td>Strata breaches issued</td>
<td>No feedback</td>
</tr>
<tr>
<td>Noise from partying all night Feb 14 2020 (at least 4 complaints)</td>
<td>Long term lease tenant</td>
<td>Strata breach issued</td>
<td>No feedback</td>
</tr>
<tr>
<td>Bike thefts CCTV due to poor key management by Council member and negligent contractor</td>
<td>Resident &amp; Contractor</td>
<td>Police Report raised for Key Theft Police report raised 2 hours later for bike theft</td>
<td>CCTV evidence submitted/ victims raised crime reports.</td>
</tr>
<tr>
<td>BBQ/ CCTV</td>
<td>Long term lease tenant</td>
<td>Reminder to clean BBQ with cleaning agent</td>
<td></td>
</tr>
</tbody>
</table>

Table 1 – Azure Incidents 2019-2020 (source: Council of Owners)
Amenity (cont…)

City Response:
The City is unable verify, based on the available evidence, whether the concerns raised in submissions are specifically attributable to the past operation of short term accommodation from Units 201 or 404. Regardless of the source of these concerns, both the owners and occupiers of all apartments in the building have a responsibility to comply with the strata by-laws. For example, under the by-laws in respect to noise, a proprietor, tenant or invitees must not use the lot in a manner which would unreasonably cause damage, nuisance or disturbance to other occupants of adjoining lots. In accordance with the Azure Strata Management Statement, the strata company may impose a financial penalty for a breach of the strata by-laws. Amenity is discussed further in the Comments section later in this report.

Submission:
Concerns about increased noise levels from guests, disrupting the quality of living for long term residents.

Applicant's Comment:
With regards to noise levels, there have been noise levels leading to numerous complaints from known and persistent offenders and a breach of strata was issued (Table 1) within Azure bylaws. There have been no noise complaints lodged against me, and these claims are unfounded. As stated in my application, there is no music system, and my apartment is only capable of accommodating two guests per bedroom. Further, Airbnb does not sanction parties in Strata complexes even if the owner was to tolerate parties, noise and anti-social behaviour.

City Response:
The applicant's response is noted. Noise is also a matter administered by the City for compliance with the Environmental Protection (Noise) Regulations 1997.

Submission:
Concerns that short stay accommodation generates greater flows of people moving in and out of the building.

Applicant's Comment:
Higher flows of traffic are not at all possible, and there are periods between when the apartment is empty with no flow of persons whatsoever. The apartment is for two persons per bedroom. It can only equal the same stream of persons moving if occupied to the same extent as permanently occupied apartment.

City Response:
The frequency with which guests enter and leave a Serviced Apartment will depend to a large extent upon the reason for their stay. While there may be situations where holidaying guests enter and leave an apartment (on a daily basis) more frequently than guests staying for other reasons, there will be times when they don't, or when the apartment is not occupied at all. To the extent that the submitter concerns relate to adverse impacts on the quality of life for residents, refer to the Comments section of this report below for further discussion.

Submission:
Concerns that guests won't comply with the house rules.

Applicant's Comment:
A security deposit is payable on booking, and all guests are met and briefed personally with the strata and house rules and warned of the implications of non-compliance. As well as the website, a hard copy of strata and house rules is permanently accessible within the apartment. There have been no instances on non-compliance to date; however, any breaches are still the responsibility of the owner and accordingly is answerable to the strata manager.

City Response:
All owners, residents and guests are required to comply with by-laws created or amended under the Strata Titles Act 1985, whether or not Development Approval is granted to this application. As mentioned above, there is potential for a financial penalty in the event of a breach of the strata by-laws. It is the applicant's stated intention to inform guests of the house rules and to 'rigorously enforce' them.
## Amenity (cont…)

Should these applications be approved, the onus will be on the proponent to ensure guests comply with house rules. A failure to comply will constitute a breach of conditions, resulting in the City undertaking development compliance action.

## Other Matters

### Submission:
Concerns the building is not suitable for use as serviced apartments as it lacks features such as a reception/concierge, daily cleaning service etc. There is no on site management or support for short term guests.

### Applicant's Comment:
Short term accommodation is not entirely the same as serviced apartments, in that there is no room cleaning service provided daily, house-keeping, fitness centre, laundry as serviced apartments offer. All cleaning requirements are pre-arranged between myself and guests.

To that end, this should not be a concern of Azure owners, bearing in mind that I meet the guest with induction and their cleaning requirements are fully managed and resourced by me within my property.

From all of our reviews from guests, we have received a five star rating for cleanliness and is immaculate. Comparatively, it is a lot cleaner than neighbouring apartments.

For on-site management requirements, I live in Port Kennedy and on-site most evenings in my capacity as a member of the council. All guests can contact me via mobile/email at all hours in addition to the booking website.

### City Response:
The definition of the term 'Serviced Apartment' as outlined in TPS2 provides for, but does not mandate the requirement for reception or recreational facilities. This is discussed further in the Legal and Statutory Section later in this report.

Reception facilities or specific design considerations for short term accommodation were not included in the Azure building, however, this is not considered fatal to the application as the purpose of such facilities can be satisfactorily addressed in other ways (eg the proponent hosting guests and servicing the apartment). The apartments are otherwise fully self-contained and suitable for use as Service Apartments. The applicant proposes to clean the apartments between guest stays and is contactable during guest stays should a need arise.

### Submission:
Concerns this and other apartments are already hosting short stay accommodation guests unlawfully, without approval of the Council.

### Applicant's Comment:
The use of my apartment has been known to the Strata Manager since I took ownership, with confirmation that there is no Strata bylaw to prevent short stay accommodation. I have been frustrated by delays in process at all stages, delays that were beyond my control.

I initially had guests stay over three months that do not qualify as short stay guests, and encountered delays beyond my control. I bought the apartments as investment properties, and any delay would have placed me in financial hardship. The delays encountered were:

1. The formation of the Council of Owners (a pre-requisite for permission) could not take place until >60% of the apartments are bought from the developer (Blackburne Strata bylaws ruling).
2. My application was submitted and intentionally delayed by obstructive council members for over four months.
3. The CoR Planning has not been able to enforce the planning requirements while the short stay accommodation regulations have been under review by the WA government.

I am unable to comment on the other owner’s activities because I do not know the practices of other owners and any short stay operations. I am only able to make my application on its merit without consideration to other alleged accommodation providers whom I do not know personally"
Other Matters (cont…)

City Response:
It is illegal for Short Stay Accommodation to operate without Development Approval. In light of the level of public awareness about this issue, in 2019, the City informed the community through newspaper advertisements that any unlawful Short Stay accommodation uses should cease immediately, and for the operators of which to submit a Development Application to obtain approval.
The City recently received and is currently investigating a complaint in respect to the use of three apartments in this building, of which two are the subject of the current applications.

Submission:
Problems previously experienced such as disruptive guests, litter, careless handover of keys which submitters attribute to the unlawful use of apartments for short stay accommodation.

Applicant’s Comment:
As per the previous response, anti-social behaviour has been identified from a robust CCTV system installed onsite and has been verified to not originate from short Term Accommodation. See table 1.
These reports are without foundation and are speculation. Azure is currently experiencing difficulties with residents on long term leases. This information is verifiable via the Strata Manager, Blackburne.
Key Handover is always face to face with an introduction to the guest as per my application, and I am an active property manager for my apartments. I insist on being present as part of my apartment management framework.

City Response:
The City is unable to validate these claims of past experience, and as mentioned above is investigating a complaint received.

Submission:
Increased costs of building compliance for apartment owners, in particular building maintenance, due to wear and tear of common areas, insurance claims for damage or repair of property caused by short stay guests.

Applicant’s Comment:
This claim is speculative and unfounded. Between bookings, there are significant periods of vacancy with short term accommodation units that are only rated for the number of occupants that they hold (for example my apartment was vacant for two months last year). For that reason alone, wear and tear is lower than that generated by a full-time resident.
Furthermore, I am still required to meet the strata fee levies the same as the other owners and yet not able to claim a discount for non-use of the apartment when vacant.

City Response:
These concerns are not a relevant planning consideration.

Submission:
Concern the proposal will adversely affect apartment values.

Applicant’s Comment:
*The Apartments have been marketed and sold to all the owners with an understanding that they are available, subject to planning approval, for short term accommodation. It was public information at the time of sale, and it is reflected in the sales contract that each owner has signed. Also to the contrary, the apartments have all been sold with a price that reflects the ability to conduct short term accommodation, to remove that capability will lead to a potential loss of sale or price reduction with a future buyer.
Azure Beachside apartments are located in the Primary Centre Tourist Zone, which allows for short term accommodation.
Other Matters (cont…)

The City of Rockingham has set its Tourism strategy around this immediate area with zoning to reflect.

![CoR Tourist Destination Strategy](image)

Azure is located within the Waterfront village sector and is a preferred use for mixed use development”.

The emerging Waterfront Village will continue with its transformation into a regionally significant beachfront hub with further redevelopment of under-utilised public and private properties. An attractive mix of medium to high density residential and short-stay apartments, hospitality-focused retail, offices and urban waterfront recreation uses will combine to make this a priority destination on the Rockingham coastline.

**City Response:**
Potential impact on property value is not a relevant planning consideration.

**Submission:**
Approval of this application will set a precedent, leading to a proliferation of short stay accommodation in residential apartment buildings.

**Applicant's Comment:**
Firstly, it is important to note that Azure is zoned as a mixed-use development [5], and accordingly, it was marketed and sold on that premise. It is not zoned as the ‘residential’ apartment building that is now claimed to be by many owners. Currently, none of the owners, have indicated their desire to change the use to short stay with an even balance between residers and investors. The apartments at Azure are expensive and the decision for an owner to ‘change use’ is not to be taken lightly, the owner must be proactive with their property management and hosting skills to manage their property respectfully and responsibly. My wife and I have a passion for this, and it suits our requirements perfectly, but it is not for everyone; fortunately there are house, Airbnb, strata and planning criteria to meet for suitability.

From Table 1. It is also arguable that any ‘proliferation’ could arguably bring about a reduction in anti-social behaviours and breaches of Strata that the development is currently experiencing.
Other Matters (cont…)

There is a notion that Airbnb customers are ‘party goers’ and people of low social standing, but this has not been my experience, and I attribute this to media hype. I have hosted G.P’s and neurologists, Company Executives, Naval Officers and Non-Commissioned Officers as well as tourists from Germany, UK, Russia. All of these guests have arrived with just a suitcase and with no intention or capability for ‘partying’. All of them have come with the intent of getting on with their business requirements, enjoying Rockingham, supporting the local businesses which I have encouraged. They have been here for business (example: HMAS Stirling, Medical Centres, Fenner Dunlop ) or here to holiday and see Western Australia (Pinnacles and Rottnest Island) and the City of Rockingham has figured prominently as a top tourist and business destination.

City Response:
Any application for development approval will be considered on the basis of its planning merit, in the context of Town Planning Scheme No.2 and the particular circumstances of the case.

Submission:
There is ample short stay accommodation options available nearby eg Quest.

Applicant's Comment:
The Guests that have stayed with us have all cited that we are a better choice than the likes of other known providers. Some of them have remained at Quest, and not had a good experience with very few alternative providers. 
I am a paid subscriber and member of Tourism Rockingham and attended the AGM and appreciated the importance of tourism to Rockingham. I am proud of the role I have in supporting it.
As well as alternative accommodation arrangements, this also highlights the vital role that the Rockingham Tourist Centre provides, introducing guests to recommended and approved accommodation providers.
These guests sometimes do not wish to use Airbnb and want the same quality recommendation that the staff at RTC can provide.

City Response:
The applications promote variety in the form of short stay accommodation offerings available in the Waterfront Village, which as discussed below, is considered consistent with the City's planning vision for the zone. The objective in this area is to facilitate rather than restrict a range of accommodation options, consistent with its role as a Strategic Regional Centre.

b. Consultation with Government Agencies/Others
Nil

c. Strategic

Community Plan
This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Community Plan 2019-2029:

**Aspiration 3:** Plan for Future Generations:

**Strategic Objective:** Responsive planning and control of land use: Plan and control the use of land to meet the needs of the growing population, with consideration of future generations.

d. Policy

State Government Policies
No current State Government policies apply.

In 2019, the Western Australian Legislative Assembly Economics and Industry Standing Committee, following an enquiry into the regulation of Short-Stay Accommodation in Western Australia, released a report containing 10 recommendations.
In February 2020, the Western Australian Government (Government) issued its response to the enquiry which generally agreed with the report and indicated it will consider developing and/or adopting policy to give effect to the intent of the recommendations, including forming an interdepartmental working group to address some of the recommendations.

The recommendations included:

- Developing model by-laws that assist strata companies to better manage short term rentals in their strata scheme. It is intended that any development approval that is issued does not prevent the ability of the creation of strata by-laws that prohibit short term rentals.
- Introducing a state-wide registration scheme for Short-Term Rentals, coupled with data provision requirements for on-line platforms.

**Local Planning Policies**

**PP 3.2.5 Development Policy Plan Waterfront Village Sector**

The Waterfront Village Sector is one of 11 Sectors within the Activity Centre Plan for the Rockingham Strategic Regional Centre (Centre Plan), which was endorsed by the Western Australian Planning Commission in 2009. PP3.2.5 has been established to guide development within the Sector.

PP3.2.5 articulates the following planning principles which apply across the Strategic Metropolitan Centre which are relevant to informing the decision making for these applications:

"Ensure that new uses support and enhance the role of the Strategic Metropolitan Centre as the primary 'Main Street' activity centre in the South-west Perth Region.

Encourage land uses and developments that employ and attract high numbers of people, and have the potential to activate the Waterfront Village by day and night along the route of the principle, street based public transport system. Such uses should include medium to high density residential, short stay accommodation, retail, civic and community facilities, educational and cultural facilities, cafes, restaurants, hotels, offices and other intensive employment uses.

Ensure that residential uses are integrated with the retail, commercial and hospitality potential of the Waterfront Village."

The subject land is located in close proximity to the commercial core of the Waterfront Village sector, and is close to the Central Transit Route operating between Rockingham Station and Rockingham Beach. Short stay accommodation options such as Serviced Apartments are considered an important element for fulfilling the vision for a Strategic Metropolitan Centre. The current applications for development approval are considered consistent with above planning principles.
12. Rockingham Strategic Metropolitan Centre Concept Plan

Within the Waterfront Village Sector there are seven precincts. For each of the precincts, PP3.2.5 identifies desired future character, preferred land uses and required elements for development proposals.

The subject land falls within the Village Green Precinct, within which 'multiple dwellings' and 'short-stay accommodation' are identified as a Preferred Uses.

Given the locational context of the subject site within the Waterfront Village, the current applications, being a form of short stay accommodation, are considered consistent with PP3.2.5.

e. Financial
Nil

f. Legal and Statutory

**Town Planning Scheme No.2 (TPS2)**

*Clause 3.2 – Zoning Table*

The subject land is zoned Primary Centre Waterfront Village (PCWV) in TPS2.

The proposed use is interpreted as a 'Serviced Apartment', which is a discretionary ('D') use in the PCWV zone and permissible.

Serviced Apartment is defined to mean:

"a group of units or apartments providing:-

(a) self-contained holiday accommodation for guests; and

(b) any associated reception or recreational facilities".

Relevantly, the term Holiday Accommodation is defined to mean:

"2 or more dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot."
It can be seen from the definition of the term Serviced Apartment that "any associated reception or recreational facilities" are included within the meaning, but are not mandatory requirements of a Serviced Apartment proposal.

Relevant Objectives for the PCWV zone include:

"(a) To promote contemporary, waterfront residential and accommodation, commercial, tourism and recreational activities, which service the residents and visitors alike, in accordance [with] the Development Policy Plan for the Waterfront Village Sector";

"(c) To achieve appropriate land use and built form outcomes, including a range of medium to high density housing, within a walkable catchment of the central public transport system";

"(f) To promote active day and night time retail and social environments"; and

"(g) To encourage vibrant and diverse uses which promote the Waterfront as a destination".

The above objectives promote a wide range of potential land use outcomes which contribute to activating the Waterfront Village and establishing a vibrant Metropolitan Regional Centre.

The proposals promote tourism, land use diversity and enhance short stay accommodation options within the zone. The applications are therefore considered consistent with the above objectives.

Clause 4.15.1.2 - Carparking

In accordance with Table 4 - Car Parking Standards within the Primary Centre Waterfront Village Zone, car parking for Holiday Accommodation shall be provided in accordance with the residential parking allocation (ie 1 bay per dwelling).

The parking of guest's vehicles for the Serviced Apartments is proposed to occur using the single car bay allocated to Unit 201 and Unit 404 in the undercroft car park. A single car bay is considered acceptable for each Unit, given the maximum number of guests proposed.

Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations)

Clause 67 of the Planning and Development (Local Planning Scheme) Regulations ('the Regulations') outlines matters to be considered by the Council in determining this application.

The relevant provisions of Clause 67 are described below:

"(a) The aims and provisions of this scheme;
(g) Any local planning policy;
(m) The compatibility of the development within its setting, including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
(n) The amenity of the locality including the following:
(i) Environmental impacts of the development;
(ii) The character of the locality;
(iii) Social impacts of the development;
(v) The potential for loss of community service or benefit resulting from the development other than the potential loss that may result from economic competition between new and existing businesses;
(w) The history of the site where the development is to be located;
(x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
(y) Any submissions received on the application;
(zb) Any other planning considerations the local government considers appropriate".
g. Risk

All Council decisions are subject to risk assessment according to the City’s Risk Framework.

Implications and comment will only be provided for the following assessed risks.

- Customer Service / Project management / Environment: High and Extreme Risks
- Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

Short stay accommodation is generally encouraged within the City in locations that present an advantage to visitors to the City, such as proximity to the beach, parks, retail and restaurant facilities. The subject land is located in close proximity to the Rockingham Beach waterfront, within easy walking distance to all of these attributes.

In determining these applications, the Council must give due regard to the matters outlined in Clause 67 of the Planning Regulations, as indicated above.

In respect to the planning framework, the applications are considered consistent with the principles and objectives outlined in PP3.2.5 and TPS2, for the reasons indicated. Serviced Apartments within the Azure building are consider to be a compatible land use given the context of the surrounding locality.

Amenity

As to whether the proposal is acceptable from an amenity perspective, the following is concluded:

Amenity is defined to mean "all those factors which combine to form the character of an area and include the present and likely future amenity".

In considering this matter the Council is required to consider the proposal having regard to the preservation of both the present and likely future amenity of the locality.

The surrounding locality contains a mix of commercial uses (taverns, short stay accommodation, offices, retail, food and beverage), public open space, community uses as well as medium - high density residential multiple and group dwellings. The amenity of this locality is characteristic of an inner city location. As development within Waterfront Village evolves over time (consistent with PP3.2.5), so too will the amenity of this area, which the residents of the Azure building will experience.

As to whether and to what extent the Serviced Apartment will prejudicially affect the amenity of the locality, including the amenity that of other residents in the building, the following points are noted.

Concerns raised in submissions include:

- Disruptive and antisocial guest behaviour;
- Increased people and noise disrupting the quality of life for residents;
- Security concerns from guests having access to the building;
- Inadequate on-site supervision and guests not complying with the house rules.

It is considered here that the above issues, if substantiated and unmanaged, have the potential to adversely impact the amenity of other residents.

In regards to the current applications before the Council, it is noted that:

- The apartments are physically suitable for use as Serviced Apartments and there is adequate car parking available on site;
- The applicant proposes screening potential guests and ‘rigorously enforcing’ the house rules;
- The applicant proposes active hosting, through greeting and inducting guests when they check in, as well as checking in on guests from time to time;
- Strategies are proposed within the house rules to mitigate potential antisocial or disruptive behaviour and to engage with neighbours.
It is considered that amenity impact is likely to be a function of how effectively the applicant can manage the use. It is considered that amenity impact can be adequately mitigated through the following recommended conditions, in the event approval is granted:

- Requirement for a House Management Plan to be approved by the City, which outlines the house rules; an engagement strategy with residents and the strata manager, and includes a complaints resolution procedure;
- The applicant being required to maintain a visitor log book and provide an annual report to the City providing details of the operation, including any complaints received and how they were resolved; and
- Restrict the check in time for guests to an earlier evening hour (9pm as opposed to 11pm), so as not to compromise the amenity of other residents.

**Strata Consent**

The main concern outlined in submissions received related to the letter of consent provided by the strata body in support of the development application. Submitters questioned the validity of the development application currently before Council.

Strata Companies are regulated by the *Strata Titles Act 1985*, the regulations made under that Act and the Strata Company's By-Laws. On the information available to the City, the power to give the Consents required by the City rested with the Strata Company's Council and that Council gave the Consents.

The Consents having been given, the City considers that it must determine the development applications.

The City has neither the function nor the power to resolve a dispute between owners as to whether the Consents ought to have been given in the first place.

**Conclusion**

To conclude, it is considered that:

- The development applications are compliant with the local planning framework, in particular with the PCWV zone objectives and with PP3.2.5 in that short stay accommodation is regarded as a preferred use in the Village Green Precinct of the Waterfront Village Sector;
- The Development Applications have merit, as the apartments are suitable for use as a Serviced Apartments;
- The proposed Serviced Apartments, acknowledging the concerns of residents, can be managed by applying conditions of development approval, which would limit the occupancy numbers and guest check in times.

For the above reasons, it is recommended that the Council grants conditional Development Approval for the use of Unit 201 and Unit 404 as Serviced Apartments, at 12 Flinders Lane, Rockingham.

**Voting Requirements**

Simple Majority

**Officer Recommendation 1**

That Council **APPROVES** the application for a Serviced Apartment at Unit 201 (Lot 10) No.12 Flinders Lane Rockingham, subject to the following conditions:

1. No more than four (4) persons are permitted to occupy the Serviced Apartment at any one time.
2. The Serviced Apartment must only be occupied by persons for a period of not more than a total of three months in any one twelve month period.
3. The operation of the Serviced Apartment is to be carried out in accordance with a revised House Management Plan which shall be approved by the City and addresses the following matters:
   (i) Providing clients with 24 hour contact details of the owner or a nominated property manager;
(ii) Establishing a complaints resolution procedure, this shall include maintaining a complaints register;

(iii) Property maintenance and waste management;

(iv) House rules; and

(v) On-site vehicle parking.

The House Management Plan must be approved prior to the use (Serviced Apartment) establishing and shall be implemented for the duration of the development.

4. The applicant must:

(i) Provide the guests a copy of the information referred to in the House Management Plan;

(ii) Ensure that the house rules referred to in the House Management Plan are observed by the guests at all times; and

(iii) Provide a copy of the House Management Plan and emergency contact number to each adjoining household for use in the event of client non-compliance.

5. The applicant must:

(i) Maintain a telephone number (or numbers) and an email address (or email addresses) through which a complaint concerning the development may be made to the operator, at any time.

(ii) Advise the strata manager and all property owners within the building in writing of the telephone number (or numbers) and the email address (or addresses) through which a complaint may be made, prior to the use commencing.

(iii) Maintain a complaints log in which the following is to be recorded:

(a) the date and time of each complaint made and received;

(b) the means (telephone or email) by which the complaint was made;

(c) any personal details of the complainant that were provided or, if no details were provided a note to that effect;

(d) the nature of the complaint;

(e) the steps or actions taken in response to each complaint (and when those steps or actions were taken), including any follow-up contact with the complainant; and

(f) if no actions or steps were taken in relation to the complaint or enquiry, the reasons why no action or steps were taken.

(iv) Respond to every complaint received as soon as possible, but in any event, within three (3) working days after receipt of the complaint.

(v) Provide the complaints log to the City of Rockingham within one (1) working day after receipt of a request from the City that it be provided.

6. No clients are to check in after 9:00pm and no clients are to check out prior to 7:00am.

7. A Visitor Log Book must be maintained by the landowner recording who has stayed on the premises, client arrival and departure dates, and client length of stay.

8. By 30 June each year, a report must be provided to the City which provides details of the operations of the development including, but not limited to:

(i) The length of stay of clients;

(ii) Arrival and departure times of clients; and

(iii) The number and type of complaints received from the public and responses to those complaints.

9. Guest parking must only be in the designated parking bay shown on the approved plans.
**Officer Recommendation 2**

That Council **APPROVES** the application for a Serviced Apartment at Unit 404 (Lot 31) No.12 Flinders Lane Rockingham, subject to the following conditions:

1. No more than two (2) persons are permitted to occupy the Serviced Apartment at any one time.

2. The Serviced Apartment must only be occupied by persons for a period of not more than a total of three months in any one twelve month period.

3. The operation of the Serviced Apartment is to be carried out in accordance with a revised House Management Plan which shall be approved by the City and addresses the following matters:
   - Providing clients with 24 hour contact details of the owner or a nominated property manager;
   - Establishing a complaints resolution procedure, this shall include maintaining a complaints register;
   - Property maintenance and waste management;
   - House rules; and
   - On-site vehicle parking.

   The House Management Plan must be approved prior to the use (Serviced Apartment) establishing and shall be implemented for the duration of the development.

4. The applicant must:
   - Provide the guests a copy of the information referred to in the House Management Plan;
   - Ensure that the house rules referred to in the House Management Plan are observed by the guests at all times; and
   - Provide a copy of the House Management Plan and emergency contact number to each adjoining household for use in the event of client non-compliance.

5. The applicant must:
   - Maintain a telephone number (or numbers) and an email address (or email addresses) through which a complaint concerning the development may be made to the operator, at any time.
   - Advise the strata manager and all property owners within the building in writing of the telephone number (or numbers) and the email address (or addresses) through which a complaint may be made, prior to the use commencing.
   - Maintain a complaints log in which the following is to be recorded:
     - the date and time of each complaint made and received;
     - the means (telephone or email) by which the complaint was made;
     - any personal details of the complainant that were provided or, if no details were provided a note to that effect;
     - the nature of the complaint;
     - the steps or actions taken in response to each complaint (and when those steps or actions were taken), including any follow-up contact with the complainant; and
     - if no actions or steps were taken in relation to the complaint or enquiry, the reasons why no action or steps were taken.
   - Respond to every complaint received as soon as possible, but in any event, within three (3) working days after receipt of the complaint.
   - Provide the complaints log to the City of Rockingham within one (1) working day after receipt of a request from the City that it be provided.
6. No clients are to check in after 9:00pm and no clients are to check out prior to 7:00am.
7. A Visitor Log Book must be maintained by the landowner recording who has stayed on the premises, client arrival and departure dates, and client length of stay.
8. By 30 June each year, a report must be provided to the City which provides details of the operations of the development including, but not limited to:
   (i) The length of stay of clients;
   (ii) Arrival and departure times of clients; and
   (iii) The number and type of complaints received from the public and responses to those complaints.
9. Guest parking must only be in the designated parking bay shown on the approved plans.

**Committee Recommendation**

That Council *DEFERS* consideration of Item PD-019/20 Proposed Serviced Apartments to the May 2020 Council meeting

Committee Voting (Carried) – 5/0

**The Committee's Reason for Varying the Officer's Recommendation**

Not Applicable

**Implications of the Changes to the Officer’s Recommendation**

Not Applicable
<table>
<thead>
<tr>
<th><strong>Reference No &amp; Subject:</strong></th>
<th>PD-020/20 Proposed Scheme Amendment No.179 - Additional Uses 'Nursing Home' and 'Medical Centre' - Final Approval</th>
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<tbody>
<tr>
<td><strong>File No:</strong></td>
<td>LUP/2137</td>
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<tr>
<td><strong>Applicant:</strong></td>
<td>CLE Town Planning + Design</td>
</tr>
<tr>
<td><strong>Owner:</strong></td>
<td>Secret Foreshore Pty Ltd</td>
</tr>
<tr>
<td><strong>Author:</strong></td>
<td>Mr David Banovic, Senior Planning Officer</td>
</tr>
<tr>
<td><strong>Other Contributors:</strong></td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td><strong>Date of Committee Meeting:</strong></td>
<td>20 April 2020</td>
</tr>
<tr>
<td><strong>Previously before Council:</strong></td>
<td>29 October 2019 (PD-063/19)</td>
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<td><strong>Disclosure of Interest:</strong></td>
<td>Legislative</td>
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<td><strong>Nature of Council's Role in this Matter:</strong></td>
<td>Legislative</td>
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<td><strong>Site:</strong></td>
<td>Portion of Lot 2664 (No.5) Secret Harbour Boulevard, Secret Harbour</td>
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<td><strong>Lot Area:</strong></td>
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<td><strong>LA Zoning:</strong></td>
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<td><strong>MRS Zoning:</strong></td>
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<td><strong>Attachments:</strong></td>
<td>1. Scheme Amendment Report - Opal Aged Care</td>
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<td></td>
<td>2. Schedule of Submissions</td>
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<td>3. Location Plan</td>
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<td>4. Aerial Photograph</td>
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<td>5. Approved Local Development Plan</td>
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<td>6. Approved Subdivision Plan</td>
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<td>7. Previous Secret Harbour Structure Plan Map (July 2006)</td>
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<td>8. Existing and Proposed Zoning Map</td>
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<td></td>
<td>9. Draft Concept Plan for Nursing Home (ground floor)</td>
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<td></td>
<td>10. Draft Concept Plan for Nursing Home (concept elevations)</td>
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<tr>
<td></td>
<td>11. Draft Concept Plan for Nursing Home (perspective No.1)</td>
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<td></td>
<td>12. Draft Concept Plan for Nursing Home (perspective No.2)</td>
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<td></td>
<td>14. Draft Concept Plan for Nursing Home (perspective No.4)</td>
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<tr>
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<td>15. Consultation Plan</td>
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<td>16. Locality Plan</td>
</tr>
<tr>
<td><strong>Maps/Diagrams:</strong></td>
<td>1. Location Plan</td>
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<tr>
<td></td>
<td>2. Aerial Photograph</td>
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<tr>
<td></td>
<td>3. Approved Local Development Plan</td>
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<td></td>
<td>4. Approved Subdivision Plan</td>
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<tr>
<td></td>
<td>5. Previous Secret Harbour Structure Plan Map (July 2006)</td>
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<td>6. Existing and Proposed Zoning Map</td>
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<td>8. Draft Concept Plan for Nursing Home (concept elevations)</td>
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<td>10. Draft Concept Plan for Nursing Home (perspective No.2)</td>
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<td>11. Draft Concept Plan for Nursing Home (perspective No.3)</td>
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<td>13. Consultation Plan</td>
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<td>14. Locality Plan</td>
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</table>
Purpose of Report

To consider Scheme Amendment No.179 to Town Planning Scheme No.2 (TPS2) for Final Approval, to include the Additional Uses of 'Nursing Home' and 'Medical Centre' for a portion of Lot 2664 (No.5) Secret Harbour Boulevard, Secret Harbour, following the conclusion of public advertising.
3. Approved Local Development Plan
4. Approved Subdivision Plan
5. Previous Secret Harbour Structure Plan Map (July 2006)
6. Existing and Proposed Zoning Map
7. Draft Concept Plan for Nursing Home (ground floor)
8. Draft Concept Plan for Nursing Home (concept elevations)
9. Draft Concept Plan for Nursing Home (perspective No.1)

10. Draft Concept Plan for Nursing Home (perspective No.2)
11. Draft Concept Plan for Nursing Home (perspective No.3)

12. Draft Concept Plan for Nursing Home (perspective No.4)
Background

In October 2019, Council resolved as follows:

“1. **ADOPTS** (initiate) Amendment No.179 to the City’s Town Planning Scheme No.2, in pursuance of Section 75 of the Planning and Development Act 2005, as follows:

   (i) Include Additional Use No.32 in Schedule 2 to include changes in red, to as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Site Description</th>
<th>Additional Use</th>
<th>Special Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>Portion of Lot 2664 (No.5) Secret Harbour Boulevard, Secret Harbour</td>
<td>Nursing Home and Medical Centre</td>
<td>1. A maximum of four (4) health consultants operating within the 'Medical Centre' at any one time.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2. The use of 'Medical Centre' shall not be permitted unless the land subject to Additional Use No.32 is being used for the purposes of a 'Nursing Home'.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3. Prior to any development occurring on the site, a Local Development Plan must be prepared and adopted by the Local Government.</td>
</tr>
</tbody>
</table>

   (ii) Amend the Scheme Maps accordingly.

2. **CONSIDERS** the proposed Scheme Amendment as a 'Standard Amendment' in accordance with Regulation 34 (a) of the Planning and Development (Local Planning Schemes) Regulations 2015.

3. **REQUIRES** the proposed Scheme Amendment to be advertised for a minimum period of 42 days in accordance with Regulation 47(4) of the Planning and Development (local Planning Schemes) Regulations 2015.”

Implications to Consider

a. **Consultation with the Community**

   This Scheme Amendment was advertised in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 for a period not less than 42 days, commencing on 5 February 2020 and concluding on 20 March 2020.

   Public advertising was carried out in the following manner:

   - A notice appeared in the public notices section of the Sound Telegraph newspaper on 5 February 2020;
   - Two signs were erected on site, one fronting Secret Harbour Boulevard and the other fronting Palisades Boulevard;
   - The landowners shown in Figure 13 below were advised of the proposal in writing and invited to comment;
   - Relevant government and servicing agencies were also advised of the proposal in writing and invited to comment; and
   - Copies of the Scheme Amendment and supporting documentation were made available for inspection at the City’s Administration Offices and on the City’s website.
13. Consultation Plan

At the close of the public consultation period a total of 11 submissions were received, which included eight (8) objections and three (3) letters of support.

The submissions received objecting to the Scheme Amendment have been summarised in the table below, including the applicant's and City's response. The applicant's response to the objections raised have also been summarised.

### 1. Land Use

<table>
<thead>
<tr>
<th>Submission:</th>
<th>Applicant's Response:</th>
<th>City's Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Land uses like restaurants, cafes and shops would have more benefit.</td>
<td>The site is zoned residential and is therefore suitable for residential land use as proposed.</td>
<td>The land is zoned Residential ‘R80’ under TPS2 where land uses like restaurants, cafes and shops are not permitted.</td>
</tr>
</tbody>
</table>
1. Land Use (cont…)

It is noted that the subject site is located in close proximity to the Secret Harbour District Centre, which accommodates a variety of commercial land uses such as restaurants, cafes and shops and is also in close proximity to recreational facilities and a Primary School. It is considered that commercial land uses at the location of the Amendment Area would be inconsistent with the recommendations of the City’s Local Planning Policy 3.1.2 – Local Commercial Strategy, pertaining to neighbourhood and local shopping centre locations as a proposal to include commercial uses could impact/compete with the existing Secret Harbour District Centre and undermine its commercial viability.

14. Locality Plan

Submission:
(ii) Young people should be attracted instead.

Applicant's Response:
The site is zoned for residential purposes and is therefore appropriate for the proposed form of development.

City's Comment:
Given the Nursing Home use is predominantly residential in nature and in close proximity to Secret Harbour Town Centre, the foreshore and a primary school, the land use is considered to be situated appropriately. As development progresses on Lots 2661-2664 (refer to Figure 3 and 4), green-titled lots and strata lots will become available, allowing for diverse housing options for different household types.

2. Concept Plan

Submission:
(i) Development is too high and does not meet the expectations of the Spyglass Hill residents.
### 2. Concept Plan (cont…)

<table>
<thead>
<tr>
<th>Applicant's Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The approved 2016 Local Development Plan (LDP) permits development of five storeys on the subject site. The indicative concept plans provided to support the amendment demonstrate compliance with the Local Development Plan.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City's Comment:</th>
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<tbody>
<tr>
<td>The building height concern has been raised throughout seven of the eleven submissions received. Concerns pertaining to height relate to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment.</td>
</tr>
</tbody>
</table>

| The applicable LDP permits a five storey development on this portion of the land and the submitted concept plans demonstrate compliance with the building height provisions. The LDP also includes two public green links throughout the Scheme Amendment area, connecting Palisades Boulevard to the future internal pedestrian network. |

| The City is currently considering an amendment to the approved LDP, as a response to a condition of Subdivision Approval, granted by the Western Australian Planning Commission, which requires an amended LDP to be prepared and approved in accordance with the revised plan of subdivision (see Diagram No.4). The building height provisions pertaining to the Scheme Amendment area are not proposed to be changed as a result of the LDP amendment, however, the green links are proposed to be removed. Changes to the LDP will be considered separately and will provide a planning framework for a subsequent Development Application. It is the City's expectation that any future plans for a Nursing Home and Medical Centre development on this site would be modified by the proponent as a response to the removal of the green links to ensure reduced bulk impact. |

<table>
<thead>
<tr>
<th>Submission:</th>
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<tbody>
<tr>
<td>(ii) Concerns regarding emergency evacuation particularly in a fire scenario due to building height.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicant's Response:</th>
</tr>
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<tbody>
<tr>
<td>Aged care facilities are required to include sprinklers throughout for fire. The event of a full-scale fire breaking out is low and as such, a full-scale evacuation is unlikely as the sprinkler system would provide adequate time for the building to be evacuated safely in accordance with internal procedures.</td>
</tr>
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</table>

| Emergency practices would be considered by the Department of Fire and Emergency Services (DFES) as part of a Development Application, who would nominate set down locations for emergency vehicles. |

<table>
<thead>
<tr>
<th>City's Comment:</th>
</tr>
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<tbody>
<tr>
<td>The subject site is mapped 'Bushfire Prone' and a Nursing Home is a 'vulnerable' land use under State Planning Policy 3.7 - Planning in Bushfire Prone Areas. A Bushfire Management Plan and Emergency Evacuation Plan will be required as part of a future Development Application for a Nursing Home and Medical Centre on this site.</td>
</tr>
</tbody>
</table>

| This will be given due consideration at the time of a Development Application, on advice from DFES. Further, as per the Building Code Australia, building fire requirements would be considered as part of the Building Permit Application, in the event Development Approval is granted. |

<table>
<thead>
<tr>
<th>Submission:</th>
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<tr>
<td>(iii) Loss of views paid at a premium.</td>
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</table>

<table>
<thead>
<tr>
<th>Applicant's Response:</th>
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</thead>
<tbody>
<tr>
<td>The approved 2016 LDP permits development of five storeys over the subject site. The indicative concept plans provided to support the amendment demonstrate compliance with the Local Development Plan.</td>
</tr>
</tbody>
</table>
2. Concept Plan (cont…)

**City's Response:**
Property values are not a relevant planning consideration.
This proposal is for a Scheme Amendment to consider the appropriateness of Nursing Home and Medical Centre land uses on Residential zoned land.
The applicable LDP permits development of up to five storeys over the subject site and the Scheme Amendment does not propose any changes to the permissible heights. Changes to the LDP will be considered separately and will provide a planning framework for a subsequent Development Application.

3. Traffic Concerns

**Submission:**
(i) Concerns regarding congestion and existing traffic issues in the area.

**Applicant's Response:**
The site is currently vacant; therefore development will increase traffic volumes from the status quo. The precinct is zoned residential R80 and has been planned for high density residential, including the associated traffic volumes. Vehicle movements from an aged care facility are projected to be less than that of a multiple dwelling development of a similar scale as residents do not drive. The traffic impact statement prepared to support the amendment indicates that there is ample capacity in the local road network to accommodate the development.

**City's Comment:**
The City's traffic count data indicates that Palisades Boulevard carries approximately 680 vehicles per day, whilst Secret Harbour Boulevard carries approximately 5,000 vehicles per day near the Shopping Centre and approximately 1,200 vehicles per day south of St Kitts Boulevard. The City's traffic findings concur with the submitted Transport Impact Statement (TIS) which suggest that the proposed development would generate approximately 81 vehicle trips during the peak hour periods (1.4 vehicle per min) and up to 544 vehicles per day. Therefore, the proposed development is within the design capacity of the surrounding road network of which Secret Harbour Boulevard is a “Neighbourhood Connector”, which has the capacity for up to 7,000 vehicles per day.

**Submission:**
(ii) The designated parking spaces will not be sufficient to accommodate staff and visitors and as a result, cars may overspill onto the Secret Harbour Golf Links car park area.

**Applicant's Response:**
Parking for staff and visitors will be provided to meet the projected demands of the facility without impacting on adjacent areas or businesses. The TIS prepared to support this amendment has confirmed that there is ample capacity in the road network to accommodate the traffic.

**City's Comment:**
All car parking associated with the development must be provided on-site and satisfied in accordance with the TPS2 requirements, together with the possibility of some visitor parking bays provided within the internal access road serving the development site.

4. Antisocial behaviour

**Submission:**
(i) Adding prescription drugs to the premises may result in antisocial behaviour in the area.
4. Antisocial behaviour (cont…)

<table>
<thead>
<tr>
<th>Applicant's Response:</th>
<th>The proposal will increase surveillance and activity from residents, staff and visitors contributing to a safer environment in the foreshore precinct.</th>
</tr>
</thead>
<tbody>
<tr>
<td>City's Comment:</td>
<td>It is considered that development of this site is likely to improve community safety through increased surveillance of the foreshore area, golf course and surrounding streets.</td>
</tr>
</tbody>
</table>

b. Consultation with Government and Servicing Agencies

The Scheme Amendment was referred to the Environmental Protection Authority (EPA) to determine if an environmental assessment was required, prior to advertising. The EPA advised that the Amendment should not be assessed under the *Environmental Protection Act 1986*.

The following government and servicing agencies were also consulted:
- Department of Planning, Lands and Heritage;
- Department of Health;
- Telstra;
- Water Corporation; and
- Western Power.

Three (3) submissions were received which are summarised and addressed as follows:

<table>
<thead>
<tr>
<th>1. Water Corporation (WC)</th>
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<tbody>
<tr>
<td>Submission:</td>
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<table>
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<th>2. Department of Water and Environmental Regulations (DWER)</th>
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<tbody>
<tr>
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<th>3. Department of Health (DoH)</th>
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</thead>
<tbody>
<tr>
<td>Submission:</td>
</tr>
</tbody>
</table>
3. Department of Health (DoH) (cont…)

Applicant’s Response:
Noted and supported.
It is acknowledged that connections to the surrounding water and sewerage network will be required.

City’s Comment:
Noted.

c. Strategic
Community Plan
This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Strategic Community Plan 2019-2029:

Aspiration 3: Plan for Future Generations
Strategic Objective: Responsive Planning and Control of Land Use - Plan and control the use of land to meet the needs of a growing population, with consideration of future generations.

d. Policy
Planning Policy 7.4 - Design Review Panel (PP7.4)
The City operates a design review process involving a panel of independent experts in the field of architecture, urban design, sustainability and landscape architecture to facilitate an improvement in urban design and built form outcome on new projects.

Comments from the City’s Design Review Panel (DRP) will be required in the event a Development Application is submitted for a Nursing Home and associated Medical Centre, following consideration of Final Approval by the Minister for Planning, Lands and Heritage (the Minister).

e. Financial
Nil

f. Legal and Statutory
Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations)
The procedure for dealing with an application to amend TPS2, as per the Planning and Development Act 2005, are set out in the Regulations. Regulation 35 (1) allows the Council to adopt a standard amendment to TPS2 proposed by the owner of land.

Regulation 50(3) provides that the City shall:
"Before the end of the consultation period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution -
(a) to support the amendment without modifications; or
(b) to support the amendment with proposed modifications to address issues raised in the submissions;
(c) not to support the amendment."
The Council must consider submissions on a standard amendment within 60 days after the end of the submission period for the amendment.

In the case of a resolution to support an amendment to a local planning scheme without modifications, the Local Government must provide its resolution within 21 days of passing the resolution.

Town Planning Scheme No.2 (TPS2)
The subject land is zoned Residential ‘R80’ under TPS2.
Both Nursing Home and Medical Centre are presently identified as prohibited ‘X’ land uses under TPS2 in Residential zone, hence the Scheme Amendment being proposed by the applicant.
g. Risk

All Council decisions are subject to risk assessment according to the City's Risk Framework.
Implications and comment will only be provided for the following assessed risks.
Customer Service / Project management / Environment: High and Extreme Risks
Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

The proposed Scheme Amendment is consistent with the objectives of TPS2 and the Residential zone, by expanding the range of residential accommodation to include a Nursing Home land use, which is not available in the Secret Harbour locality. The Medical Centre component can only operate as an incidental land use and is capped to manage external visitor numbers.

Furthermore, the subject land is appropriate for a Nursing Home and Medical Centre land uses for the following reasons:

- The development will provide additional care services targeted specifically at supporting 'Aging in Place' for the immediately surrounding area;
- The development of the site will provide an incidental medical use which provides a range of services for the immediately surrounding area; and
- The site is in a medium to high density area and the concepts show that the future development can be designed to complement the streetscape and that it will not be out of scale or character of its transitional setting.

The primary concerns for submissioners is the building height and traffic implications associated with the concept plans for this site. The submissions received during the consultation period have been considered and the Officer's comments have addressed the concerns raised.

As detailed above, the proposal will be further assessed and subject to the City's DRP to ensure a quality urban design and built form outcome is achieved.

It is recommended that the Council grant Final Approval to Scheme Amendment No.179, without modification.

Voting Requirements

Simple Majority

Officer Recommendation

That Council:

1. **ADOPTS** for Final Approval Amendment No.179 to Town Planning Scheme No.2, in pursuance of Section 75 of the Planning and Development Act 2005, as follows:

   (i) Include Additional Use No.32 in Schedule 2 to include changes in red, to as follows:

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<td>2. The use of 'Medical Centre' shall not be permitted unless the land subject to Additional Use No.32 is being used for the purposes of a 'Nursing Home'.</td>
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2. **ADOPTS** the recommendations contained within the Schedule of Submissions.

## Committee Recommendation

That Council:

1. **ADOPTS** for Final Approval Amendment No.179 to Town Planning Scheme No.2, in pursuance of Section 75 of the *Planning and Development Act 2005*, as follows:
   
   (i) Include Additional Use No.32 in Schedule 2 to include changes in red, to as follows:

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</table>
   | 32  | Portion of Lot 2664 (No.5) Secret Harbour Boulevard, Secret Harbour | Nursing Home and Medical Centre | 1. A maximum of four (4) health consultants operating within the 'Medical Centre' at any one time.  
   2. The use of 'Medical Centre' shall not be permitted unless the land subject to Additional Use No.32 is being used for the purposes of a 'Nursing Home'.  
   3. Prior to any development occurring on the site, a Local Development Plan must be prepared and adopted by the Local Government. |

   (ii) **Amend the Scheme Maps accordingly.**

2. **ADOPTS** the recommendations contained within the Schedule of Submissions as follows:

### CITY OF ROCKINGHAM

**AMENDMENT NO.179 TO TOWN PLANNING SCHEME NO.2**

**SCHEDULE OF SUBMISSIONS**

<table>
<thead>
<tr>
<th>Submission</th>
<th>Comment</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ms B Hughes, No Address Provided</td>
<td>Noted.</td>
<td>That the submission be noted.</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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</tr>
<tr>
<td><strong>2. Ms C Lee, 14 Kewarra Bend, Secret Harbour WA 6173</strong>&lt;br&gt; I feel that proposing to build a 5 story building regardless of its use is ludicrous! I feel already completely let down by the council for approving the 3 story town houses however can understand why it has been approved however all a 5 story building will do is destroy the beauty of the area! I don't think people have considered the residence of spyglass hill what so ever! We were sold our land by Satterley with perks of an ocean view! We chose this area because if it’s beauty! I am so angry that this is being actually considered!</td>
<td>This submission relates to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment. The approved Local Development Plan permits development of five storeys on this site. The proposal will be further assessed upon receipt of a Development Application for the Nursing Home and Medical Centre. As part of the Development Application process, the proposal will also be presented to the City's DRP to assist in the delivery of quality urban design and built form outcomes.</td>
<td>That this part of the submission be noted and the matter be dealt with at Development Application stage.</td>
</tr>
<tr>
<td><strong>3. Mr L O'Connor, 20 Lobos Mews, Secret Harbour WA 6173</strong>&lt;br&gt; What is the local council trying to do to this community. We need to attract young people Mandurah is the place retirement aged people go. The foreshore development continues to be poorly managed.</td>
<td>The key objective of the Scheme Amendment is to provide housing for the elderly, presently an undersupplied housing typology. The Scheme Amendment is in keeping with the objective of the Residential zone as it increases the range of medical services, residential densities and housing typologies to help ensure that the housing supply satisfies the needs of all members of its community.</td>
<td>That the submission be not upheld.</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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<td>------------</td>
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</tr>
</tbody>
</table>
| **4. Mr P Hoops, 22 San Javier Circle, Secret Harbour WA 6173**  
I strongly support the proposed amendment for the development of an aged care facility.  
Many residents of Secret Harbour have lived here for many years, and with advancing age will be looking for care options in the area, rather than having to relocate elsewhere.  
Investment in community facilities is a positive sign for the suburb, and should be encouraged. | Noted. | That the submission be noted. |
| **5. Ms H Laggon, 20 Zadar Way, Secret Harbour WA 6173**  
Will increase traffic volume.  
Five (5) storeys too high.  
Can be used for younger families of Secret Harbour. Restaurants, cafes, shops which will have more benefit to the community. | It is agreed that any development on this site will result in a traffic increase given that the site is presently vacant. The site is zoned Residential R80 and has been planned for high density residential development, including the associated traffic volumes. The accompanying Traffic Impact Statement (TIS) addresses the relevant traffic matters at the Scheme Amendment stage. A further detailed TIS will need to be provided the time of the Development Application.  
This part of the submission relates to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment.  
The approved Local Development Plan permits development of five storeys on this site. The proposal will be further assessed upon receipt of a Development Application for the Nursing Home and Medical Centre.  
As part of the Development Application process, the proposal will also be presented to the City's DRP to assist in the delivery of quality urban design and built form outcomes.  
These are valid land use considerations, however, the neighbourhood context shows that the subject land is already in close proximity to a number of localised services including shops, public transport, school and reserves within walking distance. | That this part of the submission be not upheld. | That this part of the submission be noted. |
<table>
<thead>
<tr>
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<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>5. cont…</td>
<td>Restaurants, shops and cafes are also not permitted on Residential zoned land. The Scheme Amendment is considered to be consistent with the Objectives of the Residential zone and is considered to be suitable for the site.</td>
<td></td>
</tr>
<tr>
<td>6. Mr B &amp; Mrs M Spence, 12 Kewarra Bend, Secret Harbour WA 6173</td>
<td>When I purchased my block of land, we visited Council regarding the planned apartments opposite, (Currently in construction). They were planned for 5 stories but was turned down. We don’t mind the development but do oppose 5 stories. We have made a big investment in Secret Harbour to now possibly look onto a brick wall is unacceptable. Max 3 stories (Including grand level) would be ok. We just don’t want to look onto a concrete jungle for obvious reasons. This submission relates to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment. The approved Local Development Plan permits development of five storeys on this site. The overall appearance of the Nursing Home and Medical Centre development will be assessed on its own merits at the Development Application stage and be subject to the City's DRP to ensure a quality urban design and built form outcome is achieved.</td>
<td>That this part of the submission be noted.</td>
</tr>
<tr>
<td>7. Mr C Bailey, 6 Tangadee Road, Golden Bay WA 6174</td>
<td>Absolutely fantastic initiative allowing great usage of many existing amenities. Imagine if our dear elderly could catch the train too at Karnup? That would be brilliant! Green light for our elderly in Secret Harbour.</td>
<td>That the submission be noted.</td>
</tr>
<tr>
<td>8. Mrs R Walters, 27 San Javier Circle, Secret Harbour WA 6173</td>
<td>I have no problems with a Nursing Home and Medical Centre being in Secret Harbour, but a 5 storey building is too big and is drastically different from the rest of the buildings in Secret Harbour. The previous tallest building is the surf club, and that is 3. There is no reason to have a building over double the height of any other building in that area. The land use comment is noted. The rest of the submission relates to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment. These matters will need to be considered at the Development Application stage. The site is zoned Residential R80 and has been planned for high density residential development. Medium density residential development has already occurring on Lot 2662 Palisades Boulevard, Secret Harbour, which comprises of three storey apartments and two to three storey town houses.</td>
<td>That this part of the submission be noted. That this part of the submission be noted.</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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<td>8. cont... Also for a large building, parking WILL be an issue. Will they start parking at the golf club? How is that good for the Golf Clubs business? Also, we have enough problems with drug deals happening every night at the beach car parks – adding access to prescription drugs may create more issues – not only for the facility, and beach car park, but the houses around it. That road is also already busy and is only a single lane road and it if becomes busier or blocked, it will create more undue stress to the residents. All car parking associated with the development will need to be provided on-site in accordance with the TPS2 requirements. The City may also consider it appropriate to provide for limited on street car parking. It is considered that development on this site is likely to improve community safety through increased surveillance to the foreshore, golf course and surrounding streets. The accompanying TIS addresses the relevant parking and traffic matters at the Scheme Amendment stage. A further detailed TIS will need to be provided the time of the Development Application. That this part of the submission be noted.</td>
<td>That these parts of the submission be not upheld.</td>
<td></td>
</tr>
<tr>
<td>9. Mr A Green, 27 San Javier Circle, Secret Harbour WA 6173 My belief is that a building of that size is very inappropriate for the area, does not meet reasonable standards and expectations of residents, and is out of touch with the 'feel' of the local area being a beach-side community, and with be a eye-sore for tourists and residents. The location means the building will be visible from almost all locations in the suburb and, unlike the 2-3 story surf club, is not an iconic building. A 3 story building with low upper roof is more appropriate provided it has street appeal and fits in with the beach design of all other buildings such as the council toilet blocks and surf club. The traffic issues in that area will be dramatically impacted affecting the liveability of the area and creating suburban peak-hour issues. The roads in and around that area are already busy and are used by hundreds of children each morning. This submission relates to the 'Concept Plans' that whilst advertised, do not form part of the Scheme Amendment. Prior to endorsement of the applicable LDP the Council considered 80 submissions pertaining to the advertised LDP and were satisfied that medium to high density development was appropriate for the precinct. The submitted concept plans demonstrate compliance with the building height provisions for this site, noting the removal of green links. A proposal on this site will be assessed on its own merits at the Development Application stage and be subject to the City's DRP to ensure a quality urban design and built form outcome is achieved. The accompanying TIS addresses the relevant traffic matters at the Scheme Amendment stage. A further detailed TIS will need to be provided the time of the Development Application.</td>
<td>That this part of the submission be noted. That this part of the submission be not upheld.</td>
<td></td>
</tr>
</tbody>
</table>
10. Mrs S Coughlan, 23 Holloways Ridge, Secret Harbour WA 6173

As a resident of Spyglass Hill I am opposed to any high rise development at Secret Harbour Foreshore. When we purchased our land from Satterley we did so at a premium price on the basis that we have ocean views. Any construction over 3 storeys will take that away completely.

Whilst I appreciate this is not an issue for the Council, there have been various proposals over the last 8-10 years for what should be done with this land and at the time of purchase, we were assured that it was going to be a single storey lifestyle village.

Aside from my own personal objections I feel that there are other considerations to take into account.

Despite your report to the contrary, parking IS an issue on Secret Harbour foreshore. Anyone trying to park there at the weened or during school holidays will agree that cars are regularly parked on grass verges and walkways.

Whilst it is good to see the area so popular, the addition of a nursing home will only exasperate already strained parking conditions.

I do not believe that the designated parking spaces for the nursing home will be enough to accommodate staff and visitors to the home. I am also concerned about emergency access vehicles. Whilst I assume that there will be a designated emergency vehicle parking space, it is not inconceivable that more than one such vehicle may be required at any given time. The lack of access for a second vehicle could prove fatal to any resident unfortunate enough to be the second in line for emergency care.

<table>
<thead>
<tr>
<th>Submission</th>
<th>Comment</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Mrs S Coughlan, 23 Holloways Ridge, Secret Harbour WA 6173</td>
<td>The LDP permits development of five storeys on the subject site.</td>
<td>That this part of the submission be not upheld.</td>
</tr>
<tr>
<td></td>
<td>In July 2006, Council adopted the previous Secret Harbour Local Structure Plan to guide future subdivision and development. The Structure Plan identified Lots 2661 - 2664 as ‘R80’ Residential/Short Stay Accommodation, thusLots 2661-2664 had been earmarked for high density residential development since July 2006. The precinct is zoned residential R80 and has been planned for high density residential, including the associated traffic volumes. The provision of parking will need to be provided in accordance with the Scheme requirements and be determined at the time of a Development Application.</td>
<td>That this part of the submission be not upheld.</td>
</tr>
<tr>
<td></td>
<td>That this part of the submission be noted.</td>
<td>That this part of the submission be noted.</td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
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<tr>
<td>10. cont…</td>
<td>Emergency evacuation will also be given consideration at the time of a Development Application, on advice from DFES. Further, as per the Building Code Australia, building fire requirements would be considered as part of the Building Permit Application, in the event Development Approval is granted. Staff training is an operational matter and not for the City to determine.</td>
<td>That this part of the submission be noted.</td>
</tr>
<tr>
<td>My other concern is in the case of an emergency evacuation of a facility like this. The use of lifts would be prohibited during a fire which would mean residents on the higher floors being evacuated manually. Will there really be enough adequately trained staff on site to evacuate the building in the case of a fire? I find that hard to believe, especially as a number of residents will no doubt be wheel-chair bound.</td>
<td>The precinct has been planned for high density residential development, including the associated traffic volumes. Future proposals across Lots 2661-2664 will be assessed on their own merit at the Development Application stage and will be required to provide car parking in accordance with the Scheme requirements.</td>
<td>That this part of the submission be noted.</td>
</tr>
<tr>
<td>The construction of the new town houses and apartments will also add to the burden of parking. As these premises only have limited parking (1 allocated bay in the apartments) it can only be assumed that excess cars will be parked in public parking spaces. It is inconceivable that a 2 bedroom apartment will be occupied by residents owning only one vehicle. There is also the remaining land to be developed and again, whether this ends up being short stay holiday accommodation or something else, there is unlikely to be adequate parking (as this is not cost effective to any developed) and thus will add further burden on public parking.</td>
<td>Noted, however, the Residential Design Codes requires Single Houses to only provide two parking bays. As with any property, more parking beyond that which is provided. There is a significant amount of underutilised public parking in the vicinity of the site. Further, parking restrictions could be imposed in future if there were ongoing tissues. Four additions on-street bays were also provided by the subdivider along Secret Harbour Boulevard.</td>
<td>That this part of the submission be noted.</td>
</tr>
<tr>
<td>The new play area attracts many families to the foreshore, which again puts burden on the public parking area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lot 250 Secret Harbour Bvd is now well under way and with such small blocks it is hard to imagine that overflow parking from those properties will not also be utilised from the public parking spaces. I am personally aware of one family which have just moved into that developed which consists of a family of 4 drivers. Only one vehicle is parking in the garage which means that the other 3 are parked in the public spaces. I can only assume that the other properties in that development will adopt the same stance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Submission</td>
<td>Comment</td>
<td>Recommendation</td>
</tr>
<tr>
<td>------------</td>
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</tr>
<tr>
<td>10. cont…</td>
<td>I appreciate that it is not for the Council to decide what should or should not be developed on private land, only that they consider applications for development but I would urge the Council to NOT approve this development or any other high residential ratio development which will impact on the area in such a high vehicle way.</td>
<td>Again, the precinct has been planned for high density residential development, including the associated traffic volumes. In the event, the Scheme Amendment is approved and a subsequent Development Application is submitted for a Nursing Home and associated Medical Centre on this site, the City would consider the proposal on its merit. That this part of the submission be not upheld.</td>
</tr>
<tr>
<td>11. Mrs K Hayes, 30 Cobblestones Circuit, Secret Harbour WA 6173</td>
<td>The entire proposal encompassing lot 2661-2664 lack sufficient parking to cater for 4-5 story high developments, meaning overflow into beach carparks. The entire proposal for lot 2661-2664 lacks sufficient public open space. Height of development is an issue for all adjoining existing housing areas who have paid premium prices for ocean views. Evacuation of elderly residents in an emergency is a concern with building height.</td>
<td>This submission relates to the applicable LDP, that does not form part of the Scheme Amendment. A proposal on this site will be assessed on its own merits at the Development Application stage and be subject to the City's DRP to ensure a quality urban design and built form outcome is achieved. Emergency evacuation will also be given consideration at the time of a Development Application, on advice from DFES. That this submission be not upheld.</td>
</tr>
<tr>
<td>12. Mr B Coombes (on behalf of Water Corporation), PO Box 1525, Canningvale WA 6970</td>
<td>I refer to your letter of 5 February 2020 inviting comments on the above amendment proposal. The Water Corporation has no objections to the rezoning. The proposed development of the site can be serviced by connection to the water and sewerage networks in the locality. If you have any queries or require further clarification on any of the above issues, please contact me on Tel. 9420-3165.</td>
<td>Noted. That the submission be noted.</td>
</tr>
</tbody>
</table>
13. Ms V Evans (on behalf of Department of Water and Environmental Regulations), PO Box 322, Mandurah, WA 6210

Thank you for providing the Amendment No.179 to Town Planning Scheme No.2 for the Department of Water and Environmental Regulation (Department) to consider.

The Department does not object to the Additional Uses (Nursing home and Medical Centre) of the portion of Lot 2664, Secret Harbour Boulevard and has no comments.

In the event there are modifications to the proposal that may have implications on aspects of environment and/or water management, the Department should be notified to enable the implications to be assessed.

Should you require any further information on the comments please contact Victoria Evans on 9550 4237.

14. Dr M Lindsay (on behalf of Department of Health), PO Box 8172, Perth, WA 6849

The DoH has no objection to the proposed amendment providing such uses are required to connect to scheme water and reticulated sewerage and be in accordance with the Government Sewerage Policy (2019).

Should you have any queries or require further information please contact Vic Andrich on 9222 2000 or at ehinfo@health.wa.gov.au.

Committee Voting (Carried) – 5/0

**The Committee’s Reason for Varying the Officer’s Recommendation**

Not Applicable

**Implications of the Changes to the Officer’s Recommendation**

Not Applicable
### Planning and Development Services
#### Statutory Planning Services

<table>
<thead>
<tr>
<th>Reference No &amp; Subject:</th>
<th>PD-021/20 Proposed Demolition of Heritage Building (Lucy Saw Home)</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No:</td>
<td>DD020.2019.00000332.001</td>
</tr>
<tr>
<td>Applicant:</td>
<td>W Howard and L Thomas</td>
</tr>
<tr>
<td>Owner:</td>
<td>W Howard and L Thomas</td>
</tr>
<tr>
<td>Author:</td>
<td>Mr Stephen Sullivan, Planning Officer</td>
</tr>
<tr>
<td>Other Contributors:</td>
<td>Mr David Waller, Coordinator Statutory Planning</td>
</tr>
<tr>
<td></td>
<td>Mr Mike Ross, Manager Statutory Planning</td>
</tr>
<tr>
<td>Date of Committee Meeting:</td>
<td>20 April 2020</td>
</tr>
<tr>
<td>Previously before Council:</td>
<td></td>
</tr>
<tr>
<td>Disclosure of Interest:</td>
<td>Cr Buchan declared an Impartiality Interest in Item PD-021/20 Proposed Demolition of Heritage Building (Lucy Saw Home), as detailed in Clause 3.3 of Council’s Code of Conduct and Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 and as per section 5.65 of the Local Government Act 1995, as she is friends with one of the applicants.</td>
</tr>
<tr>
<td>Nature of Council’s Role in this Matter:</td>
<td>Tribunal</td>
</tr>
<tr>
<td>Site:</td>
<td>Lot 16 (No.65) Parkin Street Rockingham</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>1,411 m²</td>
</tr>
<tr>
<td>LA Zoning:</td>
<td>Residential R40</td>
</tr>
<tr>
<td>MRS Zoning:</td>
<td>Urban</td>
</tr>
<tr>
<td>Attachments:</td>
<td>1. Place record of Site No.56 - Municipal Heritage Inventory</td>
</tr>
<tr>
<td></td>
<td>2. Heritage Impact Assessment prepared for the Applicant by Terra Rosa Consulting</td>
</tr>
<tr>
<td></td>
<td>3. Engineering report prepared for the Applicant by Design Engineering</td>
</tr>
<tr>
<td></td>
<td>4. Heritage Impact Assessment prepared for the City by the City's Heritage Consultant</td>
</tr>
<tr>
<td></td>
<td>5. Engineering Assessment Report prepared for the City</td>
</tr>
<tr>
<td></td>
<td>6. Schedule of Submissions</td>
</tr>
<tr>
<td>Maps/Diagrams:</td>
<td>1. Locality Map</td>
</tr>
<tr>
<td></td>
<td>2. Aerial Photograph</td>
</tr>
<tr>
<td></td>
<td>3. Photograph Front of Dwelling</td>
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<tr>
<td></td>
<td>4. Photograph Main Entry Hall</td>
</tr>
<tr>
<td></td>
<td>5. Photograph Front of Dwelling</td>
</tr>
</tbody>
</table>
Maps/Diagrams: (cont.)

6. Photograph Front of Dwelling
7. Photograph Historical Photo 1921
8. Consultation Map
9. Location of Submissioners

Purpose of Report

To consider a Development Application to demolish a building on the City's Heritage List (former Lucy Saw Home) on Lot 16 (No.65) Parkin Street, Rockingham.

Background

The building, locally known as Lucy Saw Home, is listed as Site No. 56 on the City's Local Heritage Survey [formerly called the Municipal Heritage Inventory (LHS)]. The property was included on the City's original Municipal Heritage Inventory in 1995.

Within the City's LHS, former Lucy Saw Home has a Management Category B classification which has Considerable Significance.

The current owners purchased the property in 2003.

The property has previously been referred to the Heritage Council of WA for consideration for inclusion on the State Register of Heritage Places. The property, however, was not considered to meet the threshold for State Significance for inclusion on the State Register of Heritage Places.
2. Aerial Photograph

Details

The Applicant seeks Development Approval to demolish the house (former Lucy Saw Home). Details of the proposal are as follows:

- The Applicant advises that they would like to demolish the house as it unliveable and unsafe;
- The building comprises of 35% asbestos material;
- The application for demolition is supported by a Heritage Impact Assessment Report (HIA) and Structural Engineers Report; and
- The Applicant has indicated that there are no plans for a replacement development at this point in time.

3. Photograph Front of Dwelling
4. Photograph Main Entry Hall

5. Photograph Front of Dwelling
6. Photograph Front of Dwelling

In support of the Development Application, the Applicant's HIA stated the following:

"This HIA assesses the heritage values and significance Lucy Saw Home holds and the impact the proposed works may have on the integrity of Rockingham's cultural heritage. It concludes that whilst the building is of heritage significance to the Rockingham region as a tangible link to historic people and services that shaped the City, the level of deterioration, the structural issues and safety matters, and the cost to make it habitable again are prohibitive to its restoration. It also notes the ongoing community work started at the house and/or by its former occupants, including Lucy Saw Centre and Serenity Lodge, continues the house's legacy for Rockingham and provides an intangible link to its past, even if the building or remnants of its fabric no longer exists".

In response to the City receiving the application, which included the Applicant's HIA and Structural Engineer's report, the City sought advice from its Heritage Consultant and a Structural Engineer was also engaged to peer review the application and reports.
Implications to Consider

a. Consultation with the Community

The application was advertised for public comment over a period of 21 days, commencing on 30 January 2020 and concluding on 19 February 2020 in accordance with Clause 64 of the deemed provisions of Town Planning Scheme No. 2 (TPS2). Advertising was carried out in the following manner:

- The application was advertised in the Sound Telegraph on the 12 February 2020.
- A sign was erected on the site on the 5 February 2020.
- 33 letters sent out to surrounding property owners and occupiers, as shown below:

8. Consultation Map

- Copies of technical documents and plans of the proposal were made available for public inspection at the City's Administration Offices and details were placed on the City's website.

At the close of the submission period, 51 submissions had been received by the City, as follows:

- 44 submissions were received opposing the demolition of the building;
- 5 submissions were received in support; and
- 2 neutral submission was received.

The City received major submissions objecting to the proposed demolition of the dwelling from the Rockingham District Historical Society Inc; the National Trust of W.A., and the History Council of W.A. Inc.

The following map shows the location of 30 submissions that were received within a 5km radius of the site. There were 10 submissions that were from outside of the District or which only provided an email address.
9. Location of Submissioners

The submissions received are summarised as follows.

The Applicant was provided an opportunity to respond to the issues raised in the submissions, however, declined the opportunity.

The primary concerns raised in the objections received included:

<table>
<thead>
<tr>
<th>SUBMISSIONS OBJECTING TO DEMOLITION OF DWELLING</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Demolition by neglect and should not be supported – once it is gone, it is gone forever.</td>
</tr>
</tbody>
</table>

**City's Comment:**
With respect to heritage protection, it is noted that the City's planning powers have been strengthened through the Gazettal of the deemed provisions to TPS2. These changes allow Council to issue Heritage Conservation Notices in order to address the matter of demolition by neglect. In the first instance, however, it is recommended that the City seek to work with the property owners to achieve a good outcome for both parties.

| (ii) There is social and historic value to the property which is important to the District and future generations. |

**City's Comment:**
The heritage significance of the building has been documented in the Local Heritage Survey and in Heritage reports; the Council is required to give due regard in determining this Development Application.

| (iii) I would rather see this building fully restored to its original state and used as a community building or commercial use building. |

**City's Comment:**
One of the options open to Council and the owners is the adaptive re-use of the building. An alternative use may result in the restoration and conservation of the building which could deliver a positive outcome for both the owner and the community.
Grounds submitted in support of demolition included:

<table>
<thead>
<tr>
<th>SUBMISSIONS IN SUPPORT OF DEMOLITION OF BUILDING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submission:</td>
</tr>
<tr>
<td>(i) Problems of vermin living on the unkempt property and potential fire risk and unauthorised access to the building.</td>
</tr>
<tr>
<td>City’s Comment:</td>
</tr>
<tr>
<td>The unkempt nature of the property has the potential to allow vermin to breed on the site, and create a fire risk which could impact on adjoining properties.</td>
</tr>
<tr>
<td>The City can implement measures in respect to the untidy nature of the property and potentially securing of the building. The owner has an obligation to ensure that a property does not afford harbourage vermin. There are a number of measures that the owner can take to address the matter of rats.</td>
</tr>
<tr>
<td>Recommendation 1:</td>
</tr>
<tr>
<td>Submissioners will be advised that issues to do with vermin and fire risks will be investigated by the City. These are separate but related matter to the Council’s consideration of the application for demolition.</td>
</tr>
<tr>
<td>Submission:</td>
</tr>
<tr>
<td>(ii) Appearance of building not in keeping with character of the locality.</td>
</tr>
<tr>
<td>City’s Comment:</td>
</tr>
<tr>
<td>The Heritage assessments indicate that the building is still significant in terms of its heritage values despite its current appearance. While the closed in verandah appearance of the building does not currently contribute to the streetscape, restoration work would improve the appearance and enable the building to contribute positively to the streetscape.</td>
</tr>
<tr>
<td>Recommendation 2:</td>
</tr>
<tr>
<td>That Council issue a Heritage Conservation Notice to require the house to be maintained in a reasonable condition and reducing the rate of deterioration.</td>
</tr>
<tr>
<td>Submission:</td>
</tr>
<tr>
<td>(iii) There is no aesthetic value to the house as additions have rendered it ugly and very dilapidated. The property bears no resemblance to original structure &amp; surrounds so any heritage value is lost.</td>
</tr>
<tr>
<td>City’s Comment:</td>
</tr>
<tr>
<td>It is considered by the City’s Heritage Consultant that the building still retains a high degree of the original fabric. The City’s Heritage Consultant has stated:</td>
</tr>
<tr>
<td>“Whilst the place is not included in the State Register of Heritage Places, its inclusion in the Municipal Heritage Inventory reflects its high cultural heritage values. With a high degree of original building fabric the place has the ability to be conserved and adopted for future uses. There is scope for additions to the rear (south) of the existing dwelling and for an appropriately designed new development to the north east of the site.</td>
</tr>
<tr>
<td>Demolition of a place with ‘Considerable’ significance is identified in the City’s Planning Policy 3.3.21 as being rarely appropriate, requiring the strongest justification. Following our site inspection and review of all the available documentation and in our professional opinion, Lakeside retains its considerable cultural heritage significance. Therefore we do not believe that there is sufficient justification to warrant demolition”.</td>
</tr>
</tbody>
</table>

b. Consultation with Government Agencies

Nil
c. **Strategic**

Community Plan

This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective contained in the Strategic Community Plan 2019-2029:

**Aspiration 3:** Plan for Future Generations

**Strategic Objective:** Responsive Planning and control of land use – Plan and control the use of land to meet the needs of a growing population, with consideration of future generations.

d. **Policy**

State Planning Policy 3.5 - Historic Heritage Conservation (SPP3.5)

SPP3.5 applies principally to historic cultural heritage including heritage areas, buildings and structures. The Policy applies to places and areas of significance at both State and local level.

SPP3.5 sets out the requirements the Council shall have regard to when considering the demolition of a building on the City’s heritage list. These requirements have been incorporated into the City’s PP3.3.21, which are discussed in the following section.

Planning Policy 3.3.21 Heritage Conservation and Development (PP3.3.21)

PP3.3.21 applies the development control principles contained in the SPP 3.5 and sets out principles against which Development Applications for demolition are to be assessed in relation to buildings on the Heritage List.

The current application has been assessed against the requirements of PP3.3.21 as follows:

<table>
<thead>
<tr>
<th>Policy Criteria</th>
<th>City’s Response</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The conservation and protection of any place or area that has been registered in the State Register of Heritage Places under the Heritage of Western Australia Act 1990, or is the subject of a Conservation Order under the Act;</td>
<td>The property is not on the State Register of Heritage Places nor is it the subject of a Conservation Order.</td>
<td>N/A</td>
</tr>
<tr>
<td>(b) The conservation and protection of any place which is included in the Heritage List under Clause 8 of the deemed provisions of the City of Rockingham Town Planning Scheme No. 2;</td>
<td>The property is on the Heritage List of TPS2. The Development Application is to demolish the heritage listed building. Demolition of the building will not conserve or protect the building.</td>
<td>No</td>
</tr>
<tr>
<td>(c) whether the proposed development will adversely affect the significance of any heritage place, including adverse effect resulting from the location, bulk, form or appearance of the proposed development;</td>
<td>The proposed development is to demolish the building which will destroy the significant heritage fabric of the site.</td>
<td>No</td>
</tr>
<tr>
<td>Policy Criteria</td>
<td>City’s Response</td>
<td>Compliance</td>
</tr>
<tr>
<td>----------------</td>
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<tr>
<td>(d) the level of heritage significance of the place, based on a relevant heritage assessment;</td>
<td>The building is identified in the LHS as a building of “considerable significance”. This level of significance has been acknowledged by both the Applicant's Heritage Consultant and the City's Heritage Consultant following an inspection of the premises.</td>
<td>No</td>
</tr>
<tr>
<td>(e) Measures proposed to conserve the heritage significance of the place and its setting; whether the place is capable of adaptation to a new use which will enable its retention and conservation;</td>
<td>There are no measures proposed to conserve the significance of the place as it is proposed to demolish the entire building.</td>
<td>No</td>
</tr>
<tr>
<td>(f) the structural condition of a place, and whether a place is reasonably capable of conservation; and</td>
<td>This is discussed in the Comments section below.</td>
<td>No</td>
</tr>
<tr>
<td>(g) whether the place is capable of adaptation to a new use which will enable its retention and conservation.</td>
<td>This is discussed in the Comments section below.</td>
<td>No</td>
</tr>
</tbody>
</table>

In considering this proposal to demolish a heritage place, the following ‘development control principles’ must be applied in considering applications. The weight given to heritage as a consideration will vary, depending on the degree of significance of a place or area, and relevant economic, social or environmental factors that may apply.

<table>
<thead>
<tr>
<th>Policy Criteria</th>
<th>City’s Response</th>
<th>Compliance</th>
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</thead>
<tbody>
<tr>
<td>(a) Demolition of a heritage place with exceptional or considerable significance is rarely appropriate and should require the strongest justification. Demolition of a heritage place with moderate or low significance should be avoided wherever possible, although there may be circumstances where demolition is justified. The onus rests with the Applicant to provide a clear justification.</td>
<td>The existing building has been classified in the LHS and recognised by the City’s Heritage Consultant as being of considerable significance. In view of the above, the City considers the Applicant’s reasons for demolition have not been supported to warrant support for the demolition of the building.</td>
<td>No</td>
</tr>
<tr>
<td>(b) Demolition approval should not be expected simply because redevelopment is a more attractive economic proposition, or because a building has been neglected.</td>
<td>• The Applicant’s Engineering report and the City’s Engineering report have not identified that the building is structurally failing.</td>
<td>No</td>
</tr>
<tr>
<td>Policy Criteria</td>
<td>City's Response</td>
<td>Compliance</td>
</tr>
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</tbody>
</table>
| Consideration of a demolition proposal should be based upon the significance of the building or place; the feasibility of restoring or adapting it, or incorporating it into new development; and the extent to which the community would benefit from the proposed redevelopment. | The feasibility of restoring or adapting the building has been based on estimates provided by the City’s Structural Engineer which suggests the building is structurally sound and works are not as cost prohibitive as the Applicant’s Structural Engineering Report has suggested. There are still some defects but these can be rectified while retaining the majority of the original building fabric and would not be prohibitive in cost.  
• The retention of the building would provide the community with tangible evidence of its historical roots and the contribution of its early pioneers to the development of the City.  
• The demolition of the building would mean the future residents of the City would need to rely on intangible evidence of the City's history.  
• It is considered that the Applicant’s justification for demolition is not strong and options for the adaptive re-use of the building should be explored. | |

PP3.3.21 requires the provision of a structural condition assessment in the case of an application for demolition, and states:  
"If structural failure is cited as a justification for the demolition of a place in the Heritage List, evidence should be provided from a registered structural engineer that the structural integrity of the building has failed, to the point where it cannot be rectified without removal of a majority of its significant fabric and/or prohibitive costs".  

The reports prepared by the Applicant’s Structural Engineer and the City’s Structural Engineers have not confirmed that the structural integrity of the building has failed or is failing. The Applicant’s Structural Engineer is of the opinion that the cost of restoration of the building is prohibitive, whereas the City’s Structural Engineer has advised that in its opinion, the building is structurally sound and has provided an example where it is possible that costs could be reduced.  

To assess the heritage side of the application, the City’s Heritage Consultant undertook an assessment of the existing building, which concluded:  
"Lakeside still exhibits a high level of authenticity and the cultural heritage values as recorded in the Statement of Significance are still considered relevant:  
The place remains a relatively intact example of an Inter-War Californian Bungalow executed in limestone."
The place retains its historical and social significance for its associations with Lucy Saw and the Saw Family as well as Serenity Lodge.

Whilst the place is not included in the State Register of Heritage Places, its inclusion in the Municipal Heritage Inventory reflects its high cultural heritage values. With a high degree of original building fabric the place has the ability to be conserved and adopted for future uses. There is scope for additions to the rear (south) of the existing dwelling and for an appropriately designed new development to the north east of the site.

Demolition of a place with ‘Considerable’ significance is identified in the City’s Planning Policy 3.3.21 as being rarely appropriate, requiring the strongest justification. Following our site inspection and review of all the available documentation and in our professional opinion, Lakeside retains its considerable cultural heritage significance. Therefore we do not believe that there is sufficient justification to warrant demolition.”

To conclude, the City considers, based on the available evidence that insufficient justification has been provided in support of the application. For the reasons stated above, the proposal is considered to be inconsistent with PP3.3.21.

e. Financial

Nil

f. Legal and Statutory

Local Heritage Survey (LHS)

The property was originally included on the City’s TPS2 Heritage List when it was established in March 2008. The current owners were consulted during the process at the time when the City developed the Heritage List under TPS2.

Now referred to as the Local Heritage Survey (LHS), the LHS classifies Lucy Saw Home as a Management Category B classification, and as such is considered to have Considerable Significance.

A Management Category B classification is defined to mean:

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<th>Level of Significance</th>
<th>Description</th>
<th>Desired Outcome</th>
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<tr>
<td>Considerable Significance</td>
<td>Very important to the heritage of the locality. High degree of integrity / authenticity.</td>
<td>Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place.</td>
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</table>

The “Statement of Significance” from the LHS for Lucy Saw Home states:

- The place has aesthetic value as a large and intact example of the Inter War Californian Bungalow style executed in limestone.
- The place has historic value for its association with the Saw family, who were early settlers in the district and made a significant contribution to the community.
- The place has historic value for its association with Lucy Saw, who was a most valued member of the Rockingham community as a midwife and nurse.
- The place has social value for its contribution to the community's sense of place, because of its continuity of function since c1920 and its association with the early development of the area for farming and as a holiday destination.
- The place has social value for its association with Serenity Lodge for the provision of support and counselling services to the community.

Town Planning Scheme No.2 (TPS2):

TPS2 contains the following relevant provisions in respect to heritage, which were introduced through the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations). Clause 13 provides for the opportunity for the Council to issue a Heritage Conservation Notice if it forms the view the property is not being properly maintained.

*13. Heritage conservation notice

(1) In this clause —

heritage conservation notice means a notice given under subclause (2):
**heritage place** means a place that is on the heritage list or located in a heritage area;

**properly maintained**, in relation to a heritage place, means maintained in a way that ensures that there is no actual or imminent loss or deterioration of -

(a) the structural integrity of the heritage place; or

(b) an element of the heritage place that is integral to —

(i) the reason set out in the heritage list for the entry of the place in the heritage list; or

(ii) the heritage significance of the area in which it is located, as set out in a statement in the local planning policy for the area adopted in accordance with clause 9(2).

(2) If the local government forms the view that a heritage place is not being properly maintained the local government may give to a person who is the owner or occupier of the heritage place a written notice requiring the person to carry out specified repairs to the heritage place by a specified time, being a time that is not less than 60 days after the day on which the notice is given.

(3) If a person fails to comply with a heritage conservation notice, the local government may enter the heritage place and carry out the repairs specified in the notice.

(4) The expenses incurred by the local government in carrying out repairs under subclause (3) may be recovered as a debt due from the person to whom the notice was given in a court of competent jurisdiction.

(5) The local government may —

(a) vary a heritage conservation notice to extend the time for carrying out the specified repairs; or

(b) revoke a heritage conservation notice.

(6) A person who is given a heritage conservation notice may apply to the State Administrative Tribunal for a review, in accordance with Part 14 of the Act, of a decision —

(a) to give the notice; or

(b) to require repairs specified in the notice to be carried out; or

(c) to require repairs specified in the notice to be carried out by the time specified in the notice”.

If no intervention action is taken, further deterioration of the heritage listed building will occur. The preferred approach is to discuss with the owners options for the adaptive re-use of the building, and the undertaking of regular maintenance of the building, failing which, it would be open to the City to issue a Heritage Conservation Notice.

Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations)

Clause 67 of the Planning and Development (Local Planning Scheme) Regulations (‘the Regulations’) outlines matters to be considered by the Council in determining this application. The relevant provisions of Clause 67 are described below:

“(a) The aims and provisions of this scheme;

(c) Any approved State planning policy

(g) Any local planning policy;

(k) the built heritage conservation of any place that is of cultural significance;

(w) The history of the site where the development is to be located;

(x) The impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;

(y) Any submissions received on the application;

(zb) Any other planning considerations the local government considers appropriate”.
The important consideration above is that Council can take into consideration submissions on the application and the built heritage conservation of the place in determining the proposal under TPS2.

g. Risk

All Council decisions are subject to risk assessment according to the City's Risk Framework.

Implications and comment will only be provided for the following assessed risks.

Customer Service / Project management / Environment: High and Extreme Risks
Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

In determining this application, the Council must give due regard to the matters outlined in Clause 67 of the Regulations, as indicated above.

In respect to the planning framework, the application is considered to be inconsistent with the principles outlined in PP3.3.21, in particular the Council’s adopted (LHS) Management Category B classification of the building reflects that it has “Considerable Significance”.

The following main issues should be considered:

1. Grounds for Demolition

The arguments presented by the Applicant’s representative is that the demolition of a heritage significant building is acceptable as the Saws have been acknowledged in other ways such as the Lucy Saw Refuge Centre. It is noted that the name of the centre could be changed and as such, any recognition of the Saws is then lost.

Part of the basis for supporting demolition has been the level of deterioration, the structural issues and safety matters, and the cost to make it habitable again are prohibitive to its restoration, which are addressed below.

The City considers that the building is in need of repair and the property needs general maintenance to address some of the health concerns of the adjoining property owners. There were strong concerns in the objections received about “demolition by neglect” as a means of achieving demolition. The City has through the provisions within TPS2, the ability to require the owners to undertake conservation works to ensure that the property is properly maintained - refer to Clause 13(1) of the Regulations above. The Regulations permit the owner to appeal a Heritage Conservation Notice to the State Administrative Tribunal if they have an objection to the content of the Heritage Conservation Notice.

Neither of the structural reports concluded that there is a structural failure of the building. If there are any safety matters, these can be addressed as part of the maintenance of the building.

2. Neglect

The Applicant’s Structural Engineering Report has not stated that the building is structurally failing, only that it does not meet the Heritage Offices threshold required for State Registration. The Report also states that “considering the poor and neglected condition of the house, the cost of repairing the house will exceed the value of a new house.” This raises the question as to whether the reference to neglected condition of the house in the reports constitutes demolition by neglect. Had the owners regularly spent money maintaining the building, the building would not be in its current condition. The demolition should not be allowed for this reason, as the City’s Structural Engineer has advised the building is structurally sound.

It is noted that the owners have disconnected services and have not maintained the property with guttering and downpipes to help minimise the impact of stormwater runoff on the building structure. The building is also currently not secured, nor is the site being maintained as evidenced by the concerns raised in submissions.

As mentioned, the provisions of TPS2 allow the City to consider issuing a Heritage Conservation Notice on the property owners, when it is considered that the heritage listed property has not been properly maintained as defined in clause 13 of TPS2 which is set out above in the Legal and statutory section.
3. **Adaptive Reuse**

It is considered that the building if restored may be capable of adaptive re-use, which could enable its retention and conservation, a point that has been raised in a number of submissions.

The City's Heritage Consultants has advised of the potential adaptive re-use of the building future development possibilities for the site:

"Whilst the place is not included in the State Register of Heritage Places, its inclusion in the Municipal Heritage Inventory reflects its high cultural heritage values. With a high degree of original building fabric the place has the ability to be conserved and adopted for future uses. There is scope for additions to the rear (south) of the existing dwelling and for an appropriately designed new development to the north east of the site".

PP3.3.21 also provides for variations of site and development standards to facilitate the conservation of a place listed on the Heritage List. There is also scope, given the R40 coding of the land, for the site to accommodate future development at the front of the site in addition to retaining the heritage listed building.

4. **Condition of Property**

Irrespective of the Council's determination of this application, improvements are required at the property to address concerns in submissions that relate to the condition of the land and its potential to harbour vermin and pose a health hazard. To this extent, measures both within and outside of the planning framework are available to the City to require improvement to the building and condition of the land.

**Conclusion:**

It is considered that having regard to the City’s Structural Engineering Report and the City’s Heritage Impact Assessment, the existing building is still a significant building in terms of the cultural heritage of the City and is in a structurally sound condition. As such, it is considered that the application does not meet the threshold of justification required to support demolition. There are potential options for the adaptive reuse of the building that could be investigated further with the owners.

Whilst the City could issue a Heritage Conservation Notice, it is considered that the City should undertake the following steps:

(i) consult with the City’s Heritage Consultant and the City’s Structural Engineer Consultant on a schedule of urgent works to help with the maintenance of the property;

(ii) meet with the owners about those urgent works needed to the building and the property; and

(iii) further to the outcomes of the meeting referred to in (ii) investigate and determine whether a Heritage Conservation Notice should be served.

**Voting Requirements**

Simple Majority

**Officer Recommendation**

That Council:

1. **REFUSES** the application for the demolition of the house (former Lucy Saws House) on Lot 16 (No. 56) Parkin Street for the following reasons:

   (i) The building is classified as Management Category B in the Heritage List of Town Planning Scheme No. 2, and as such is considered to be of Considerable Significance worthy of built heritage conservation;

   (ii) There is insufficient justification to warrant demolition, as:

      - the building is not considered to be structurally failing at this time;
      - the Council is not persuaded that restoration of the building is unfeasible.

   (iii) Demolition of the building would be contrary to the intent of the Heritage List and the objectives of PP 3.3.21 Heritage Conservation and Development and SPP 3.5 Historic Heritage Conservation;
2. **DIRECTS** the Chief Executive Officer to initiate discussions with the property owner on the urgent conservation works required to conserve the building.

3. **SUPPORTS** a Heritage Conservation Notice being investigated to require the property owner to undertake urgent conservation works to the building, based on advice from the City’s Heritage Consultant and the City’s Engineering Consultant, subject to the outcomes of discussions with the property owner.

### Committee Recommendation

That Council:

1. **REFUSES** the application for the demolition of the house (former Lucy Saws House) on Lot 16 (No. 56) Parkin Street for the following reasons:
   
   (i) The building is classified as Management Category B in the Heritage List of Town Planning Scheme No. 2, and as such is considered to be of Considerable Significance worthy of built heritage conservation;

   (ii) There is insufficient justification to warrant demolition, as:
   
     - the building is not considered to be structurally failing at this time;
     - the Council is not persuaded that restoration of the building is unfeasible.

   (iii) Demolition of the building would be contrary to the intent of the Heritage List and the objectives of PP 3.3.21 Heritage Conservation and Development and SPP 3.5 Historic Heritage Conservation;

2. **DIRECTS** the Chief Executive Officer to initiate discussions with the property owner on the urgent conservation works required to conserve the building.

3. **SUPPORTS** a Heritage Conservation Notice being investigated to require the property owner to undertake urgent conservation works to the building, based on advice from the City’s Heritage Consultant and the City’s Engineering Consultant, subject to the outcomes of discussions with the property owner.

   Committee Voting (Carried) – 4/1
   
   (Cr Whitfield voted against)

### The Committee’s Reason for Varying the Officer’s Recommendation

Not Applicable

### Implications of the Changes to the Officer’s Recommendation

Not Applicable
## Purpose of Report

To provide Council with details of the tenders received for Tender T19/20-09 - Supply and Laying of New Irrigation Systems at Various Sites, document the results of the tender assessment and make recommendations regarding award of the tender.

## Background

Tender T19/20-09 - Supply and Laying of New Irrigation Systems at Various Sites was advertised in the West Australian on Saturday, 15 February 2020. The tender closed at 2.00pm, Wednesday, 4 March 2020 and was publicly opened immediately after the closing time.

## Details

This contract is for the replacement of nineteen (19) infield irrigation systems at various parks and reserves within the City, as follows:

1. Malibu A Reserve, Safety Bay - R34697
2. Malibu B Reserve, Safety Bay - R34700
3. Malibu C Reserve, Safety Bay - R35208
4. Malibu D Reserve, Safety Bay - R35083
5. Careeba Park, Rockingham - R33299
6. Shoalwater Oval, Shoalwater - R24280
7. The Esplanade Foreshore, Rockingham - R21487
8. Nettleton Way Reserve, Safety Bay - R33955
9. Governor Reserve, Rockingham - R22618
10. North Road Reserve, Shoalwater - R25119
11. Solquest Park, Cooloongup - R34856
12. Seabrook/Barron Reserve, Rockingham - R35060
13. John Butts Reserve, Safety Bay - R26215
14. Gabyon Park, Hillman - R39625
15. Torcross Reserve, Warnbro - R34357
16. Fred Gardiner Reserve, Safety Bay - R32216
17. George Foster Reserve, Golden Bay - R29466
18. Tarwarri Park, Hillman - R35906
19. Axminster Reserve, Hillman - R35906

The replacement works include all pipe, fittings, sprinklers and labour to replace the current infield irrigation systems and to connect to the existing bore and controller infrastructure.

An addendum was issued to remove the installation of new irrigation controllers, with the addendum acknowledged by all tenderers.

Tenders were received from:
- Horizon West Landscape & Irrigation Pty Ltd
- Acemark Investments ATF the McFadden Trust trading as Hydroquip Pumps Pty Ltd
- Sanpoint Pty Ltd trading as LD Total
- Total Eden Pty Ltd
- New Ground Water Services Pty Ltd

The contract requires practical completion for all sites by 30 August 2020.

A panel comprising Manager Parks Services, Coordinator Maintenance - Parks Services and Irrigation Supervisor completed the tender assessment.

The contract allowed within the Price Schedule fifteen (15) separable portions. Each tendered portion was evaluated in accordance with the advertised tender assessment criteria, produced the following weighted scores:

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### Assessment Criteria

#### Portion 2 - Careeba Park and Shoalwater Oval

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<table>
<thead>
<tr>
<th>Assessment Criteria</th>
<th>Portion 13 - George Foster Reserve</th>
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## Assessment Criteria

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<tr>
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<td>19.9</td>
<td>14.0</td>
</tr>
</tbody>
</table>

## Implications to Consider

a. **Consultation with the Community**

Not Applicable

b. **Consultation with Government Agencies**

Not Applicable

c. **Strategic**

Community Plan

This item addresses the Community's Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:

**Aspiration 2:** Grow and Nurture Community Connectedness and Wellbeing

**Strategic Objective:** Services and facilities: Provide cost effective services and facilities which meet community needs.

**Aspiration 4:** Deliver Quality Leadership and Business Expertise

**Strategic Objective:** Management of current assets: Maintain civic buildings, sporting facilities, public places and road and cycle way infrastructure based on best practice principles and life cycle cost analysis.

d. **Policy**

In accordance with the City’s Purchasing Policy, for purchases above $150,000, a public tender process is to be conducted in accordance with the provision of section 3.57 of the Local Government Act 1995; and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11A(1).
e. Financial
Funds totalling $765,000 have been budgeted in the 2019/2020 Capital work orders for the nineteen (19) sites. The total sum of all separable portions for the recommended successful tenderer is $750,461.99.

f. Legal and Statutory

’Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than $150,000 unless sub regulation (2) states otherwise’.

g. Risk
All Council decisions are subject to risk assessment according to the City’s Risk Framework.

Implications and comment will only be provided for the following assessed risks.

Customer Service / Project management / Environment: High and Extreme Risks
Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments
The tender allocated fifteen (15) separable portions within the Price Schedule. This is due to the varying nature of the works, including site locations and system types along with the capacity of each tenderer to complete the works within the practical completion timeframe.

The submissions provided varying levels of detail in the information provided for the criteria Understanding of Tender Requirements. This criteria required tenders to set out their methodology for undertaking the works inclusive of a detailed program of works. New Ground Water Services and Total Eden provided a high level of detail in this area, Hydroquip Pumps and LD Total provided average to good detail while Horizon West Landscape & Irrigation was lacking in the level of information received to properly assess.

Following consideration of the submissions in accordance with the tender assessment criteria the submission received from New Ground Water Services for all separable portions was considered to provide best value to the City. New Ground Water Services has demonstrated that it has the required capacity to complete the works within the required timeframe and therefore is recommended as the preferred tenderer.

Voting Requirements
Simple Majority

Officer Recommendation
That Council ACCEPTS the tender submitted from New Ground Water Services Pty Ltd for Tender T19/20-09 - Supply and Laying of New Irrigation Systems at Various Sites in accordance with the tender documentation for:

- separable portion 1 for the lump sum value of $104,761.99 (excl GST).
- separable portion 2 for the lump sum value of $181,360.00 (excl GST).
- separable portion 3 for the lump sum value of $92,460.00 (excl GST).
- separable portion 4 for the lump sum value of $64,950.00 (excl GST).
- separable portion 5 for the lump sum value of $69,590.00 (excl GST).
- separable portion 6 for the lump sum value of $23,400.00 (excl GST).
- separable portion 7 for the lump sum value of $22,450.00 (excl GST).
- separable portion 8 for the lump sum value of $21,200.00 (excl GST).
- separable portion 9 for the lump sum value of $21,340.00 (excl GST).
• separable portion 10 for the lump sum value of $16,970.00 (excl GST).
• separable portion 11 for the lump sum value of $43,360.00 (excl GST).
• separable portion 12 for the lump sum value of $29,050.00 (excl GST).
• separable portion 13 for the lump sum value of $23,880.00 (excl GST).
• separable portion 14 for the lump sum value of $18,330.00 (excl GST).
• separable portion 15 for the lump sum value of $17,360.00 (excl GST).

Committee Recommendation

That Council **ACCEPTS** the tender submitted from New Ground Water Services Pty Ltd for Tender T19/20-09 - Supply and Laying of New Irrigation Systems at Various Sites in accordance with the tender documentation for:

• separable portion 1 for the lump sum value of $104,761.99 (excl GST).
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• separable portion 12 for the lump sum value of $29,050.00 (excl GST).
• separable portion 13 for the lump sum value of $23,880.00 (excl GST).
• separable portion 14 for the lump sum value of $18,330.00 (excl GST).
• separable portion 15 for the lump sum value of $17,360.00 (excl GST).

Committee Voting (Carried) – 5/0

The Committee’s Reason for Varying the Officer’s Recommendation

Not Applicable

Implications of the Changes to the Officer’s Recommendation

Not Applicable
### Purpose of Report

To provide Council with details of the tenders received for Tender T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre, document the results of the tender assessment and make recommendations regarding award of the tender.

### Background

Tender T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre was advertised in the West Australian on Saturday, 15 February 2020. The tender closed at 2.00pm, Wednesday, 11 March 2020 and was publicly opened immediately after the closing time.

### Details

Once completed, the Rockingham Youth Centre will provide a dedicated space for the delivery of youth services, programs and activities.
The contract involves the renovation and fit out of an existing commercial premises into a contemporary public building designed specifically for young people. The works are extensive and involve demolition of existing stair wells and internal spaces, construction of new compliant stairs, installation of a lift, re-roofing, new hydraulic, mechanical and electrical installations, as well as the construction of internal walls and spaces.

Submissions were received from the following Contractors:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Price $</th>
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<tbody>
<tr>
<td>LKS Constructions (WA) Pty Ltd</td>
<td>$1,412,000.00</td>
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<tr>
<td>Shelford Constructions Pty Ltd</td>
<td>$1,501,300.00</td>
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<tr>
<td>Crothers Pty Ltd</td>
<td>$1,558,264.00</td>
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<td>Geared Construction Pty Ltd</td>
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<td>Construct360 Pty Ltd</td>
<td>$1,347,500.00</td>
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<tr>
<td>Go2 Group Pty Ltd</td>
<td>$1,508,154.45</td>
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<tr>
<td>Clinton Long Project Management Pty Ltd</td>
<td>$2,006,216.85</td>
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A panel comprising of the Manager Infrastructure Project Delivery, Major Infrastructure Projects Officer and Senior Community Infrastructure Planning Officer undertook tender evaluations.

Evaluation of the tender, in accordance with the advertised tender assessment criteria, produced the following weighted scores:

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<tr>
<th>Assessment Criteria</th>
<th>Max. Points</th>
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<th>Understanding Tender Requirements 30 Pts</th>
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</table>

**Implications to Consider**

a. **Consultation with the Community**
   Extensive public consultation was undertaken during the development of the designs for the Rockingham Youth Centre.

b. **Consultation with Government Agencies**
   Not Applicable

c. **Strategic**
   **Community Plan**
   This item addresses the Community’s Vision for the future and specifically the following Aspirations and Strategic Objectives contained in the Strategic Community Plan 2019-2029:
Aspiration 2: Grow and Nurture Community Connectedness and Wellbeing
Strategic Objective: Youth development and Involvement - Engage and encourage youth to become actively involved in contributing to the wellbeing of our community.

Aspiration 3: Plan for Future Generations
Strategic Objective: Infrastructure Planning - Plan and develop community, sport and recreation facilities which meet the current and future needs of the City’s growing population.

d. Policy
In accordance with the City’s Purchasing Policy, for purchases above $150,000, a public tender process is to be conducted in accordance with the provision of section 3.57 of the Local Government Act 1995; and Local Government (Functions and General) Regulations 1996, Part 4, Division 2, regulation 11A(1).

e. Financial
There is a total of $2,350,000 in the current budget for the completion of the facility of which $1,600,000 is allocated to the construction contract.

The remainder is allocated to project management fees, appointment of a project superintendent, information technology equipment, and other ancillary costs.

On this basis, there are sufficient funds available to award this tender.

f. Legal and Statutory

‘Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than $150,000 unless sub regulation (2) states otherwise’.

g. Risk
All Council decisions are subject to risk assessment according to the City’s Risk Framework.

Implications and comment will only be provided for the following assessed risks.

Customer Service / Project management / Environment: High and Extreme Risks
Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments
Following consideration of the submissions in accordance with the tender assessment criteria, all companies demonstrated a varied capacity to undertake the works, however, the submission received from LKS Constructions (WA) Pty Ltd, (LKS) scored highly (top 3) in all three assessment criteria and achieved the highest total score. The submission from LKS is considered the best value to the City and therefore recommended as the preferred tenderer.

The submission by LKS demonstrated an extensive understanding of the project requirements and complexities, including a thorough understanding of the AS2124 Contract, which the works will be completed under.

LKS demonstrated a proven track record completing similar projects for both Local and State government agencies. LKS proposed a detailed methodology and program, which fitted the terms of the contract and had consideration for long lead items and contingencies. LKS has an ISO accredited Quality Management System and is using an independent Occupational Health and Safety Officer to audit Safety Management Plans and on-site compliance.

Voting Requirements

Simple Majority
Officer Recommendation

That Council **ACCEPTS** the tender submitted from LKS Constructions (WA) Pty Ltd, for Tender T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre in accordance with the tender documentation for the lump sum value of $1,412,000.00.

Committee Recommendation

That the Committee **REFERS** Item EP-010/20 Tender T19/20-76 - Renovation and Fit-out of the Rockingham Youth Centre to Council for consideration without committee recommendation.

Committee Voting (Carried) – 4/0

The Committee’s Reason for Varying the Officer’s Recommendation

Not Applicable

Implications of the Changes to the Officer’s Recommendation

Not Applicable
15. **Report of Mayor**

**City of Rockingham**  
**Mayor’s Report**

**Reference No & Subject:** MR-004/20  
**Meetings and Functions Attended by the Mayor and Deputy Mayor**

<table>
<thead>
<tr>
<th>Date</th>
<th>Meeting/Function</th>
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<tbody>
<tr>
<td>25 March 2020</td>
<td>Filming of Coronavirus COVID-19 video</td>
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</tbody>
</table>
| 27 March 2020      | Radio interview  
WALGA Coronavirus Webinar with Premier, Minister for Local Government and Department of Health |
| 31 March 2020      | Filming update of Coronavirus COVID-19 video                                      |
| 2 April 2020       | Filming update of Coronavirus COVID-19 video                                      |
| 3 April 2020       | Radio interview and advertisements                                                |
| 6 April 2020       | Private Australian Citizenship Ceremonies                                         |
| 7 April 2020       | Brand Community Cabinet Weekly Teleconference  
Private Australian Citizenship Ceremonies |
| 8 April 2020       | Filming update of Coronavirus COVID-19 video  
Radio interview                                      |
| 9 April 2020       | Radio interview                                                                   |
| 14 April 2020      | Brand Community Cabinet Weekly Teleconference                                    |
| 16 April 2020      | Radio interview                                                                   |
| 21 April 2020      | Brand Community Cabinet Weekly Teleconference                                    |
| 23 April 2020      | Radio interview                                                                   |
| 25 April 2020      | Laying of wreaths on ANZAC Day                                                    |
| 28 April 2020      | Council meeting                                                                   |

**Purpose of Report**

To advise on the meetings and functions attended by the Mayor and Deputy Mayor during the period 25 March 2020 to 28 April 2020.

**Background**

Nil

**Details**

<table>
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| 25 April 2020      | Laying of wreaths on ANZAC Day                                                    |
| 28 April 2020      | Council meeting                                                                   |
Implications to Consider

a. Consultation with the Community
   Nil

b. Consultation with Government Agencies
   Nil

c. Strategic
   Nil

d. Policy
   Nil

e. Financial
   Nil

f. Legal and Statutory
   Nil

g. Risk
   All Council decisions are subject to risk assessment according to the City's Risk Framework.
   Implications and comment will only be provided for the following assessed risks.
   
   Customer Service / Project management / Environment : High and Extreme Risks
   Finance / Personal Health and Safety : Medium, High and Extreme Risks

   Nil

Comments

Nil

Voting Requirements

Simple Majority

Officer Recommendation

### 17. Reports of Officers

**Corporate Services**  
**Director and Support**

| Reference No & Subject: | CS-008/20  
| Amendment of Delegation to the Chief Executive Officer to Waive/Grant Concession or Write Off Monies Owing (Absolute Majority) |
| File No: | CPM/130-06 |
| Proponent/s: | Mrs Naomi Edwards, Coordinator City Properties |
| Author: | Mr John Pearson, Director Corporate Services |
| Other Contributors: | Ms Helen Savage, Senior Projects Officer  
| | Mr Allan Moles, Manager Financial Services |
| Date of Council Meeting: | 28 April 2020 |
| Previously before Council: | |
| Disclosure of Interest: | |
| Nature of Council’s Role in this Matter: | Executive |
| Site: | |
| Lot Area: | |
| Attachments: | National Cabinet Mandatory Code of Conduct - SME Commercial Leasing Principles During COVID-19 |
| Maps/Diagrams: | |

**Purpose of Report**

For Council to approve an amendment to Delegation 2.3 to the Chief Executive Officer (CEO) to waive/grant concession or write off monies owing to the City.

**Background**

Council has delegated authority (Delegation 2.3) to the CEO to waive/grant concession or write off monies owing. Specifically the CEO may:

1. Waive or grant concessions in relation to the debts owed to the City.
2. Write off money owed to the City.
3. Determine the conditions to be applied to waive, grant a concession or write off money owed to the City.

This delegation is conditional as it is limited to individual sundry debts not exceeding $2,000.
The State and Federal governments have imposed restrictions in response to the COVID-19 pandemic that have had a significant financial impact on lessees, licensees and other tenants within the City of Rockingham.

The National Cabinet has also produced a Mandatory Code of Conduct for commercial lessors and lessees which is expected to be implemented by the State Government in the form of legislation or regulation shortly.

Details

To provide financial support to vulnerable tenants, it is proposed that Delegation 2.3 is increased to a maximum of $10,000 on the basis that the debt remains unpaid due to the public health and economic implications associated with COVID-19.

The purpose of the above is to assist organisations that are either in forced closure or unable to trade/function as they normally would due to the pandemic, with the goal of putting those tenants in a position to reopen when restrictions are lifted. Telecommunication providers, government agencies and government funded tenants will not be provided with any waiver.

The City has been contacted by a number lessees which may need support during this period in the form of possible lease fee or ancillary charge write offs. There is no clarity yet as to the amount of demonstrated financial hardship. A system will be implemented to review any requests received.

Not for profit entities within the City lease/licence City owned/managed properties for nominal rent, however they are on-charged other costs which can include utility charges and rates, insurance premiums and the Emergency Services Levy.

The intent will be to consider these entities on a case by case basis to determine whether a waiver due to the COVID-19 pandemic is appropriate.

The current delegation allows for the write off of money owing including rates, however as the provision for granting concessions for rates and service charges is under a different section of the Local Government Act, it is not covered in the delegation. The addition of section 6.47 of the Local Government Act 1995 in the amended delegation will provide for the granting of concessions for all debts including rates. This could be applied to penalty interest on outstanding rates and service charges where financial hardship is determined.

Implications to Consider

a. Consultation with the Community

The City has been in regular contact with tenants to provide information and advice on the impact of COVID-19. The City will continue to communicate with tenants to respond as required. Advice to date has been the City will advise all tenants’ charges payable, will not pursue unpaid rents and will review the matter as the situation evolves. Circumstances are changing rapidly.

b. Consultation with Government Agencies

The City has been closely following the advice of the State Department of Health, the Australian Government and the Department of Local Government, Sporting and Cultural Interests in respect to COVID-19.

The National Cabinet has provided the following direction to commercial landlords:

“Commercial tenants, landlords and financial institutions are encouraged to sit down together to find a way through to ensure that businesses can survive and be there on the other side. As part of this, National Cabinet agreed to a common set of principles, endorsed by Treasurers, to underpin and govern intervention to aid commercial tenancies as follows:

- a short term, temporary moratorium on eviction for non-payment of rent to be applied across commercial tenancies impacted by severe rental distress due to coronavirus;
- tenants and landlords are encouraged to agree on rent relief or temporary amendments to the lease;
- the reduction or waiver of rental payment for a defined period for impacted tenants;
the ability for tenants to terminate leases and/or seek mediation or conciliation on the grounds of financial distress;
• commercial property owners should ensure that any benefits received in respect of their properties should also benefit their tenants in proportion to the economic impact caused by coronavirus;
• landlords and tenants not significantly affected by coronavirus are expected to honour their lease and rental agreements; and
• cost-sharing or deferral of losses between landlords and tenants, with Commonwealth, state and territory governments, local government and financial institutions to consider mechanisms to provide assistance.”

The National Cabinet has also produced a Mandatory Code of Conduct for commercial lessors and lessees which is expected to be implemented by the State Government in the form of legislation or regulation shortly.

c.  **Strategic**

   **Community Plan**

This item addresses the Community’s Vision for the future and specifically the following Aspiration and Strategic Objective(s) contained in the Strategic Community Plan 2019-2029:

   **Aspiration 2:** Grow and Nurture Community Connectedness and Wellbeing

   **Strategic Objective:** Services and Facilities – Provide cost effective services and facilities which meet community needs.

The City’s response to the impacts of COVID-19 will have varying implications to the City’s capacity to address all aspirations within the Strategic Community Plan.

d.  **Policy**

The Council Policy – Leasing provides the definition of a commercial lease as a lease between the City and an entity that is not an incorporated not for profit association and includes a lease where the tenant is an individual, a company or a statutory or government body.

In accordance with the Leasing Policy a commercial lessee is responsible for:

• The payment of all outgoings, rates, taxes, insurances and a fee for document preparation.
• Maintenance of mechanical services (such as lifts and air conditioners), roofing, fit-out and structure.
• Capital renewal, upgrade and capital expansion of all assets on the leased land.

The amendment of the delegation would allow for the consideration of any debt relating to a lease to be considered for a waiver or to be written off up to a value of $10,000.

For the purposes of applying the proposed amendment it is not intended that a statutory or government body will be eligible to have their debt written off.

e.  **Financial**

The financial impact is estimated at a maximum of $30,000 per month with approximately $20,000 in lease fees and an additional $10,000 per month for outgoings.

f.  **Legal and Statutory**

Section 5.42 of the Local Government Act 1995 enables the delegation of powers and duties from the Local Government to the CEO and the preceding section 5.41(i) authorises the CEO to perform the delegated actions.

In accordance with section 5.46 of the Local Government Act 1995 the Chief Executive Officer is to keep a register of any delegations made to the Chief Executive Officer and employees. At least once every financial year the delegation needs to be reviewed by the delegator.
The power to waive or grant concessions for rates or service charges is under section 6.47 of the Local Government Act 1995 which states subject to the Rates and Charges (Rebates and Deferments) Act 1992, a local government may at the time of imposing a rate or service charge or at a later date resolve to waive* a rate or service charge or resolve to grant other concessions in relation to a rate or service charge (*Absolute majority required).

As penalty interest charged on overdue rates or service charges is taken to be a rate or service charge for recovery purposes, the above section would also apply.

g. Risk

All Council decisions are subject to risk assessment according to the City’s Risk Framework.

Implications and comment will only be provided for the following assessed risks:

- Customer Service / Project management / Environment: High and Extreme Risks
- Finance / Personal Health and Safety: Medium, High and Extreme Risks

Nil

Comments

Given the impact of COVID-19, it is prudent that the City put these effective measures in place, which allows for lease and tenant related charges to be written off. On the other side of the pandemic, during the recovery stage, it will be important for people to access the sites listed above and for volunteers to return to not for profit groups and undertake work for the community’s benefit. While the predominant focus of this report relates to commercial tenancies, equally the CEO will have the ability to grant concessions, waive and write off charges for community facility users. This amended delegation will assist the City to make informed and timely decisions by removing charges on tenants to enable them to reopen their doors for the benefit of Rockingham and broader community.

Voting Requirements

Absolute Majority

Officer Recommendation

That Council APPROVES the amended delegation to the Chief Executive Officer, under section 5.42 of the Local Government Act 1995, to Waive/Grant Concession or Write Off Monies Owing as follows:

2.3 WAIVE/GRANT CONCESSION OR WRITE OFF MONIES OWING

<table>
<thead>
<tr>
<th>Function Delegated:</th>
<th>1. Waive or grant concessions in relation to debts owed to the City.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Write off money owed to the City</td>
</tr>
<tr>
<td></td>
<td>3. Determine the conditions to be applied to waive, grant a</td>
</tr>
<tr>
<td></td>
<td>concession or write off money owed to the City.</td>
</tr>
<tr>
<td>Power is originally assigned to:</td>
<td>Local Government</td>
</tr>
<tr>
<td>Power Delegated to:</td>
<td>Chief Executive Officer</td>
</tr>
<tr>
<td>Council's Conditions on Delegation:</td>
<td>Limited to individual sundry debts that do not exceed $2,000; or in relation to debts associated with leased or licenced properties impacted by COVID-19, individual debts that do not exceed $10,000.</td>
</tr>
</tbody>
</table>
### 2.3 WAIVE/GRANT CONCESSION OR WRITE OFF MONIES OWING

| Statutory Power to Sub-Delegate: | Local Government Act 1995  
s5.44 CEO may delegate some powers and duties to other employees |
| Record Keeping s5.46(3) | Details of decisions to be recorded in appropriate file or financial record.  
Compliance Links | • Local Government Act 1995, Part 6, Division 6  