

# Rockingham

# **MINUTES**

**Planning and Engineering Services Committee Meeting** 

Held on Monday 17 August 2020 at 4:00pm City of Rockingham Council Chambers



# City of Rockingham Planning and Engineering Services Committee Meeting Minutes Monday 17 August 2020



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### City of Rockingham

# Planning and Engineering Services Committee Meeting Minutes



## Monday 17 August 2020 - Council Chambers

- 11	Worlday 17 August 2020 - Council Chambers					
1.	Declar	Declaration of Opening				
		The Chairperson declared the Planning and Engineering Services Committee Meeting open at <b>4:00pm</b> , welcomed all present, and referred to the Acknowledgement of Country.				
2.	Record	Record of Attendance/Apologies/Approved Leave of Absence				
	2.1	Councillors				
		Cr Mark Jones	Chairperson			
		Cr Hayley Edwards				
		Cr Matthew Whitfield				
		Cr Lorna Buchan				
		Cr Deb Hamblin (Deputy Mayor)				
	2.2	Executive				
		Mr Michael Parker	Chief Executive Officer			
		Mr Bob Jeans	Director Planning and Development Services			
		Mr Peter Doherty	Director Legal Services and General Counsel			
		Mr James Henson	Manager Land and Development Infrastructure			
		Mr Mike Ross	Manager Statutory Planning			
		Ms Sarah Nicolaides	A/Manager Compliance and Emergency Liaison			
		Mr Ian Daniels	Manager Infrastructure Project Delivery			
		Mr Tony Bailey	A/Manager Asset Services			
		Mr Adam Johnston	Manager Parks Services			
		Mr Peter Varris	Manager Governance and Councillor Support			
		Mr Tristan Fernandes	Coordinator Strategic Planning			
		Ms Erica King	Coordinator Health and Building Services			
		Ms Melinda Wellburn	EA to Director Planning and Development Services			
	2.3	Members of the Gallery:	17			
	2.4	Apologies:	Nil			
	2.5	Approved Leave of Absence:	Nil			
3.	Respo	nses to Previous Public Q	uestions Taken on Notice			
	3.1	3.1 Mr Ross Leembruggen, Rockingham - Stormwater Drainage Issues - Harrison Street, Rockingham				
	At the Planning and Engineering Services Committee meeting held on 20 July 2020, Mr Leembruggen asked the following questions that were taken on notice and the Director Engineering and Parks Services provided a response in a letter dated 22 July 2020 as follows:					

#### Question

1. Why did Stage one construction not achieve its goal of diverting storm water away from the area of flooding and what is the plan now to further investigate the ongoing issues with this surging drain which is still putting my home at risk of flooding?

#### Response

Construction of the drainage upgrades for the Palm Beach area need to be completed in two stages due to the complexity of the project and the high ground water levels in the area. The two stages of the project combined are intended to address the flooding issues in Samuel Street, Chalwell Street and Harrison Street. Stage one works involved installing additional drainage infrastructure upstream of the flooding areas to reduce the volume of water accumulating at low points on Samuel Street, Harrison Street and Chalwell Street. Stage two of the works involves the installation of storage and infiltration infrastructure at the low points to hold water underground and improve the infiltration of water in the area.

#### Question

Why have engineers not been on site to see for themselves that the historical data is questionable and that Stage two construction is highly unlikely to achieve anything based on the true depth of the groundwater?

#### Response

The City has conducted numerous site visits to the area during storm events, reviewed historical data and sought the expertise of an external drainage consultant to determine the most appropriate treatments to be implemented to address the historical flooding issues in the area. All of the above factors have resulted in the extensive upgrade to drainage that the City is implementing.

## 3.2 Mr Paul Kotsoglo, Planning Solutions - PD-035/20 - Proposed Structure Plan - Lot 1 Baldivis Road, Baldivis

At the Planning and Engineering Services Committee meeting held on 20 July 2020, Mr Kotsoglo presented the following questions that were taken on notice and the Director Planning and Development Services provided a response in a letter dated 5 August 2020 as follows:

#### Question

1. Is the Committee aware of our strongest possible objection to the City's recommendation to approve the Structure Plan, for both planning and procedural reasons?

#### Response

Yes, this is addressed in the Officer's report.

2. Is the Committee aware the proposed Structure Plan is inconsistent with the provisions of the Baldivis (North) District Structure Plan which designates the area of the proposed Structure Plan solely for residential development?

#### Response

Yes, this is addressed in the Officer's report.

3. Is the Committee aware the proposal fails to adequately demonstrate the proposed commercial site achieves the requirements of State Planning Policy 4.2 Activity Centres for Perth and Peel with respect to urban form - in particular the way the built form is designed?

#### <u>Response</u>

The Committee recommended that the structure plan requires the preparation of a Local Development Plan which must be guided by the 'Urban Form' requirements of State Planning Policy 4.2 - Activity Centres for Perth and Peel and the '10 Design Principles' of State Planning Policy 7.0 - Design of the Built Environment.

4. Is the Committee aware the proposed new local centre is not justified having regard to the provisions of the City's Local Commercial Strategy and is outside designated activity centres? The adopted Local Commercial Strategy establishes a network of planned activity centres and this local centre falls outside of the network?

#### Response

This is addressed in the Officer's report.

5. Is the Committee aware the establishment of a new, unplanned local centre is contrary to the otherwise orderly and proper planning of Baldivis, and this orderly and proper planning has been considered a cornerstone of the planning system in Rockingham and Baldivis in particular?

#### Response

This is addressed in the Officer's report.

6. I trust the Committee is aware the Commercial Strategy has formed the basis of millions of dollars of investment decisions and should be respected and adhered to in the decision making process?

#### Response

The Committee is aware that the Strategy would form part of landowners decisions. The Officer's report gives careful consideration to the Strategy.

7. Is the Committee aware the opportunity to meet with the City's officers was not available due to COVID restrictions, and this has resulted in our opinion, our submission not being interpreted correctly?

#### Response

The City's Officers will meet with submissioners if they believe they need to clarify the content of a submission, which was not the case in this instance. Submissions need to stand alone, rather than rely upon meetings with Officers, given they are required to be considered by various Officers at both the City and Department of Planning, Lands and Heritage, along with formal Committee, Council and Western Australian Planning Commission meetings.

8. Is the Committee aware the proposed development disrupts planning and investment by the landowners who have participated in the consultation associated with the planning to date in particular our client considers the proposal adversely impacts on movement network planning, walkable catchments, public open space, the location of infrastructure and higher density residential development?

#### Response

This is addressed in the Officer's report. It is concluded that the proposed Local Centre will not undermine any established or planned centre in the area, nor is it anticipated to result in deterioration in the level of service to the local community. Given that the economic activity generated from the development of the centre is considered to be a net community benefit, the centre is supported with a 'Special Use' zoning applied.

9. Is the Committee aware this is considered an opportunistic proposal which effectively disrupts the considered, equitable distribution of and access to essential community and retail services?

#### Response

See response to question 8.

10. How does the Committee reconcile supporting the proposed local centre given it is car-oriented, with no civic or public spaces provided, inward orientated development and no footpaths connecting buildings to their surroundings as per the requirements of SPP 4.2?

#### Response

See response to question 3.

11. How does the Committee consider the proposed local centre is consistent with the City's Local Commercial Strategy as amended July 2018 - as it establishes an additional commercial floorspace outside the existing activity centre network and hierarchy for Baldivis?

#### Response

Planning Policy 3.1.2 - Local Commercial Strategy (LCS) does not preclude the development of a Local Centre outside of the existing activity centre network and hierarchy for Baldivis. In fact the LCS states that any development of a LC without a major anchor (such as a supermarket) should be viewed favourably.

12. Is the Committee aware our client considers the Local Commercial Strategy is the result of careful planning supported by thorough analysis of the community's short and long term retail and community development needs, and by adding additional floorspace in an ad hoc manner outside of this is contrary to orderly and proper planning ultimately resulting in the unacceptable consequence of delaying the timely provision of essential retail and associated community services?

#### Response

As noted in the response to question 11, the Local Commercial Strategy allows for the development of Local Centres, without a supermarket anchor, not identified in the Strategy.

13. How does the Committee consider the officer report asserts the analysis by Taktics4 determines the impacts of the proposed commercial centre to be minor and not threaten the viability of or delay development of the Baldivis North NC when it does not?

#### Response

The City engaged Macroplan to provide independent economic advice on this matter. It was concluded that a Local Centre with a limit on scale and types of land uses would unlikely to adversely impact the commercial potential of Baldivis North Neighbourhood Centre or have any implications on its development timing. It was also concluded that the economic activity generated from the development of the proposed centre (such as job creation), outweighs any potential negative trading impacts on the future Baldivis North Neighbourhood Centre, which are expected to be minimal.

14. Is the Committee aware the report produced by Taktics4 clearly states the proposed commercial centre will have a <u>major impact on the delivery and trading potential of the Baldivis North NC</u>? The report flags the duplication of retail offers may result in reduced viability of surrounding centres, and an overall depletion of facilities and disruption to the timeliness of the provision of services essential for the community.

#### Response

The independent advice provided to the City concluded that the limits placed on scale and land use by the Special Use Zoning of the Local Centre would not impact on the scale and timing of the supermarket anchor at Baldivis North Neighbourhood Centre, (a view supported by the Taktics RSA) which is the key factor for the supportability of neighbourhood centres. Once a supermarket is deemed supportable at the Baldivis North site, it will have the attraction and retail draw to drive foot traffic to the centre which would support a given amount of specialty retail floorspace irrespective of whether the proposed LC is developed or not.

15. Is the Committee aware, given the disruption to normal consultation and meeting processes everywhere due to Covid, we were not able to meet with the City's Officers and our requests to meet were declined. We do of course respect this, but the result has been the incorrect representation in the officer report?

#### Response

See response to question 7.

16. In summary, the proposed Structure Plan and in particular the commercial centre will have a detrimental impact upon existing and planned commercial centres within Baldivis. This will in turn have a detrimental impact on the Baldivis community. Would the Committee please reject the proposed structure plan on the basis it is inconsistent with the City's Local Commercial Strategy as amended July 2018?

#### Response

The Committee did not recommend that the proposed Local Centre be refused, however, it did recommend a range of modifications outlined in the Officer's report.

3.3 Mr Greg Davis, Taktics4 - PD-035/20 - Proposed Structure Plan - Lot 1 Baldivis Road, Baldivis

At the Planning and Engineering Services Committee meeting held on 20 July 2020, Mr Davis presented the following questions, of which Question 3 was taken on notice and the Director Planning and Development Services provided a response in a letter dated 5 August 2020 as follows:

#### Question

1. Local centre definition and characteristics used in the assessment?

#### Response (provided at meeting)

The definition of a Local Centre under the Local Planning Policy is a centre of a maximum size of 1,500m<sup>2</sup> retail floorspace and does not typically include a supermarket.

#### Question

2. The catchments used by the applicant in responses to commercial submissions?

#### Response (provided at meeting)

The catchments referred to in the report were outlined by the applicant. The City sought its own advice.

#### Question

3. The implication of the activity on surrounding centres and community?

#### Response

The City's assessment determined that the uses planned at the Local Centre would not impact on the scale and timing of the supermarket anchor at Baldivis North Neighbourhood Centre, which is the key factor for the development of neighbourhood centres. Once a supermarket is deemed supportable at the Baldivis North site, it will have the attraction and retail draw to drive traffic to the centre which would support a given amount of specialty retail floorspace irrespective of whether the proposed LC is developed or not.

The economic activity generated from the development of the centre (such as job creation), outweighs any potential negative trading impacts on the future Baldivis North Neighbourhood Centre, which are expected to be minimal.

#### 4. **Public Question Time** The Chairperson opened Public Question Time and invited members of the 4:04pm Public Gallery to ask questions. The Chairperson noted that this was the only opportunity in the meeting for the public to ask questions. 4.1 Mr Ross Leembruggen, Rockingham - Stormwater Drainage Issues -Harrison Street, Rockingham The Chairperson invited Mr Leembruggen to present his questions to the Planning and Engineering Services Committee. Mr Leembruggen asked the following questions: I return to this meeting to ask further questions relating to ongoing flooding issues on Harrison Street that, as mentioned, is still putting my home at risk of flooding. I've emailed the City and submitted pictures of recent flooding again, showing that Stage One has not reduced water flow as planned, but still inundates the area just as before. The obvious issue now is that Stage Two, being underground tanks, is clearly expected to resolve the entire issue of flooding to this area. The City commented by saying that the effectiveness of the drainage solution will be reviewed after construction is fully completed, however, my photographic proof should prompt urgency to review Stage One immediately? After viewing recent flooding photos, will the City say that they had a Council commented that the higher expectation of Stage One? geography of the area with its high water table is out of their power to control, however, it is not the geography that is causing the flooding issues, but primarily the underground stormwater system itself that is directing stormwater to this area during rainfall that causes the flooding. The City also commented that intense rainfall is out of their control. The recent pictures I sent of flooding, the data recorded just 10mm of rain. For over three years this is the exact point I have been stressing, that the area continually floods with just normal rainfall. Also for 3 years I've pushed the City to raise the verge to No's 3 and 3A to assist to keep flooding water to the street and not inundate my properties whilst they continue to address the flooding issues. They now agree to raise No.3, as pavers have already been removed for construction of the tanks, but not 3A even though they support the idea at my expense. These are new houses and paving has been installed over and above Council specs but is still clearly not enough to keep drainage to the street. 2. Why should I wear the costs of raising the verge when Council have a Duty of Care to protect my properties from damage caused by one of their assets and I ask that this fair and reasonable request be reconsidered? Raising just one verge will only cause twice the water flow down the other. An onsite visit will show both drives need raising for this idea to have any effect. The Chairperson advised that the questions will be taken on notice. 4.2 Ms Lois Burrow, Rockingham - PD-039/20 Proposed Serviced Apartments The Chairperson invited Ms Burrow to present her questions to the Planning and Engineering Services Committee. Ms Burrow asked the following question: Neighbours Unite is a locally designed City of Rockingham initiative 1. supporting the development of stronger, safer and more resilient neighbourhoods. How can we implement the RCC 'Neighbours Unite' initiative to build a strong, resilient and safe neighbourhood when Serviced Apartments are pepper-potted through the Azure residential building and AirBnB 'neighbours' in Serviced Apartments are here today and gone tomorrow?

#### Response:

The Chairperson advised that Neighbours Unite is a community safety initiative applied at a broad level across the City of Rockingham. This program applies irrespective of ownership.

#### 4.3 Mr Baard Maehle, Rockingham - PD-039/20 Proposed Serviced Apartments

The Chairperson invited Mr Maehle to present his questions to the Planning and Engineering Services Committee. Mr Maehle asked the following question:

1. On page 14 of today's agenda for the Planning and Engineering Committee meeting, the two first paragraphs under the "Details" heading it appears that on 20 February 2020, the Committee changed the term "Short Stay Accommodation" to "Serviced Apartments". This was formalised by the City Council on the following day - the 21st February 2020. Why did the City make this change, who instigated it, and what was the purpose?

#### Response:

Mr Mike Ross, Manager Statutory Planning advised that these are two separate matters.

On 20 February 2020, the City received the two applications seeking Development Approval for what the applicant described on the application form as "Short Stay Accommodation".

Separately to these applications being received by the City, on 21 February 2020, the City's Town Planning Scheme No.2 was changed to reflect the adoption by the Minister for Planning for Scheme Amendment No.173.

Scheme Amendment No.173 was initiated by Council on 27 November 2018 to replace various land use interpretations with their corresponding definition in the model provisions for Local Planning Schemes in the Planning and Development (Local Planning Schemes) Regulations 2015.

Prior to the City's Town Planning Scheme No.2 being amended in accordance with the Minister's approval on 21 February 2020, Short Stay Accommodation was still a land use that could be approved by Council within the Primary Centre Waterfront Village zone, including the Azure Apartments.

#### 4.4 Mr Kevin Thorpe, Rockingham - PD-039/20 Proposed Serviced Apartments

The Chairperson invited Mr Thorpe to present his questions to the Planning and Engineering Services Committee. Mr Thorpe introduced himself as a representative of the Azure Council of Owners, representing the Azure Strata Company which consists of 51 residential apartments and 2 commercial units. He advised that all apartments are now sold, however, the commercial units are still unsold.

Mr Thorpe asked the following questions:

- 1. Is the committee aware that the Azure complex is a fairly new complex and was registered by the developer in Feb 2019 and that the strata by-laws registered with Landgate are the same today as on first registry and have never been changed or amended to our knowledge and certainly not by the strata company?
- Can the committee inform the strata company if it has been able to give due consideration to the Azure strata by-law Schedule 1 by-law 16 which specifically states

#### Schedule One, By-law 16: Interpretation

Commercial lot means any lot that is not a residential lot. For the avoidance of doubt, this means Lots 52 and 53. Residential means any lot that is not a commercial lot. For the avoidance of doubt, this means Lots 1-51.

- 3. Has the committee been able to consider the State Arbitration Tribunal's own ruling, upheld on appeal by the Supreme Court, for the case of Byrne vs the owners of Ceresa River Apartments where SAT specifically define the meaning and more importantly the intent of the word 'Residence' as the following:
  - a. The word 'residence' refers to the intent with which a lot is to be occupied, not the type of use to which it is put (that is residential versus commercial or industrial);
  - b. 'Residence and residential' require the demonstration of an intent to reside permanently or for a substantial period, to call the place home or to have the place as a fixed address the words 'residential tenant' should reflect that same interpretation; and
  - c. Short stay occupiers demonstrate none of these intentions
- 4. Does the Committee accept that the nature of short term lets and the processes by which they are booked would mean that if the applicant were successful it would not be possible for him to comply with the following by-law within the approved strata plan, and as such each letting could potentially be considered and acted on as a breach. And that this is a clear indication of the intent that Azure by-laws were never intended for short stay accommodation?
- 5. Schedule 1, by-law 39 Leasing of Lots which states –

Prior to the leasing of a lot the proprietor shall before the commencement date of such lease:

- a. Inform the strata company of the name of the proprietor's managing agent for the lot (if any) and the name of the lessee. This Information shall be recorded on the strata company roll;
- b. Provide the lessee with a copy of the strata company by-laws;
- c. Provide to the strata company a copy of an executed and stamped lease and ensure that such lease states that any noncompliance with the by-laws of the strata company shall be a default under the terms of such lease.
- 6. Has the committee had time to consider that under Azure's by-laws no part of the pool and communal recreation area may be used for a commercial enterprise?

Schedule 1, by-law 46: Pool and communal recreation area:

Section (6): Every User must comply with the by-laws that apply to the areas mentioned anywhere in these by-laws and... must not:

(b) use any part of the areas for a commercial enterprise.

#### Strata Plan

- 7. Has the committee had time to consider the Azure strata plan which includes Form 3 Description of Parcel and Building where the description of the building describes fifty one apartment dwellings and two commercial sites in a mixed use multiple level development and is signed by a licensed surveyor on 17/12/2018
- 8. Further, has the committee had time to consider the Azure occupancy permit, issued by RCC, for strata Permit Form BA12 giving details of the building or structure as a 1 storey Multi Res: commercial class 2 where RES can only refer to residential. And Form 26 Sections 25(1) and 25(4) refers to approval of Western Australian Planning Commission has been granted pursuant to sections 25(1) of the strata titles act 1985 to:

Sub section (i) the Strata Plan/plan of re-subdivision/plan of consolidation submitted on 14 December 2018 and relating to the property described below:

- All of the references in the Strata Plan are for 2 commercial and 51 residential.
- 9. We ask the committee, given the references in the strata by-laws 16 and 39, the Strata Plan describing the Parcel and Building, the occupancy strata permit and the WA Planning Commission all describing the Azure development as being compiled of 51 residential and 2 commercial lots, can there be in any doubt as to the meaning and intent of the word residential in this matter?
- 10. Has the committee been able to give due consideration to the applicant's planning application statement that it is solely related to the use of his own lots within his own four walls in the full knowledge he is a co-owner of common property and in leasing the dwellings to short term occupiers he immediately gives them access rights to all common areas and that they cannot reach the apartments without accessing common areas and facilities?
- 11. Does the Committee accept that approving the use of 2 units on different floors within Azure represents a pepper potting of serviced apartment use that introduces inherent conflicts between different land uses and could be more appropriately provided in either a complete building of serviced apartments or as an entire floor within a building?
- 12. Can the committee confirm for Azure strata company if due consideration is given in planning development to individual owners opposing such planning consent when an overwhelming number of people have expressed their opposition to such a use, given that 35 lots out of 38 that voted against the use of short term accommodation and only 2 owners representing 3 lots voting for short term use? With all other owners abstaining.
  - a. Is the committee aware that the number of affected persons, owners and residents, in Azure who have signed a letter of opposition to this planning application now numbers 58 in total from 40 separate lots out of 51 lots? Their names, signatures, lot numbers and personal details have been provided to the committee
- 13. Has the committee been able to reflect on the time-line document provided to them which indicates all activities in this matter between the applicant, the COO and strata manager and clearly indicates that at no time has the strata company intentionally delayed or unnecessarily hindered the applicant's planning application?
- 14. Is the committee aware that despite the applicant operating his short term accommodation over many months without city council approval and without strata approval, breaching strata by-laws 16 and 39 on literally dozens of occasions he has never received a breach from this COO or strata company, indicating the level to which the strata company have been seeking to keep relations cordial and professional?
- 15. Does the committee accept that the applicants requested change of use would mean that the units would no longer be classified as residential according to the definition set out in the recent case of Ceresa?
- 16. Does the committee accept that if approved with conditions intended to preserve the amenity of permanent residents there are insufficient resources to effectively police and uphold any such conditions by the applicant and further that any approval would attach to the property which might be sold to others less willing to adhere to any such conditions, as evidenced by problems already experienced from short stay (serviced apartments) units at Azure, operating without a permit? These problems have been documented in Mrs L Burrows and other submissions to the committee.

The Chairperson thanked Mr Thorpe for his questions and advised that they would be taken on notice.

#### 4.5 Ms Jan Kelly, Rockingham - PD-039/20 Proposed Serviced Apartments

The Chairperson invited Ms Kelly to present her questions to the Planning and Engineering Services Committee. Ms Kelly made the following statement:

I would like Mr McCormick to know that the objections to the short-stay Air bnb are in no way personal and that the Azure Council of Owners is being diligent in trying to see this as an issue for the Strata Company.

The Chairperson advised that this is an item contained in tonight's Committee agenda and will be considered later in the meeting.

# 4.6 Mr Liam McCormick, Port Kennedy - PD-039/20 Proposed Serviced Apartments

The Chairperson invited Mr McCormick to present his questions to the Planning and Engineering Services Committee. Mr McCormick advised that he supported the Officers Recommendation and then read verbatim, advice received from his legal representative:

"I act for Mr Liam McCormick, the applicant in respect of proposed serviced apartments at Unit 202 and Unit 404, no 12 Flinders Lane, Rockingham (PD-039/20), which is due to be reconsidered by the Planning and Engineering's Services Committee at its meeting this afternoon, on invitation from the State Administrative Tribunal in DR 131 of 2020.

I confirm that my client is supportive of the Officer's recommendation, including all conditions.

I understand that the Council of Owners of Azure Beachside Apartments have recently written to the Committee (on or about 12 August 2020), providing unqualified and incorrect legal opinion regarding the application of case law.

Please note that all cases referred to in that correspondence are irrelevant to the application before you, which is to determine the applications for planning approval in accordance with the local planning framework. All of the cases referred to in that correspondence relate to strata disputes, they do not relate to a planning disputes.

Relevant planning considerations are set out in clause 67 of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Deemed Provisions). The terms of any strata bylaws are not relevant considerations as set out under clause 67 of the Deemed Provisions."

The Chairperson advised that this is an item contained in tonight's Committee agenda and will be considered later in the meeting.

## 4:28pm There being no further questions the Chairperson closed Public Question Time.

#### 5. Confirmation of Minutes of the Previous Meeting

#### Moved Cr Hamblin, seconded Cr Whitfield:

That Committee **CONFIRMS** the Minutes of the Planning and Engineering Services Committee Meeting held on 20 July 2020, as a true and accurate record.

Committee Voting (Carried) - 5/0

6.	Matters Arising from the Previous Minutes					
	Nil					
7.	Announcement by the Presiding Person without Discussion					
	4:30pm The Chairperson announced to all present that decisions made at Committee Council are recommendations only and may be adopted in full, amended deferred when presented for consideration at the next Council meeting.					
8.	Declarations of Members and Officers Interests					
	4:30pm The Chairperson asked if there were any interests to declare.  There were none.					
9.	Petitions/Deputations/Presentations/Submissions					
	Nil					
10.	Matters for which the Meeting may be Closed					
	Nil					
11.	Bulletin Items					
	Planning and Development Services Information Bulletin - August 2020					
	Health Services					
	Health Services Team Overview					
	2. Human Resource Update					
	3. Project Status Reports					
	3.1 FoodSafe					
	3.2 Industrial and Commercial Waste Monitoring					
	3.3 Mosquito Control Program					
	3.4 Environmental Waters Sampling					
	3.5 Food Sampling					
	4. Information Items					
	4.1 Food Recalls					
	4.2 Food Premises Inspections					
	4.3 Public Building Inspections					
	4.4 Outdoor Event Approvals					
	4.5 Permit Approvals					
	<ul><li>4.6 Complaint - Information</li><li>4.7 Noise Complaints - Detailed Information</li></ul>					
	<ul><li>4.7 Noise Complaints - Detailed Information</li><li>4.8 Health Approvals</li></ul>					
	4.9 Septic Tank Applications					
	4.10 Demolitions					
	4.11 Swimming Pool and Drinking Water Samples					
	4.12 Rabbit Processing					
	4.13 Hairdressing and Skin Penetration Premises					
	Building Services					
	Building Services Team Overview					
	2. Human Resource Update					
	3. Project Status Reports					
	4. Information Items					

- 4.1 Monthly Building Permit Approvals (All Building Types)
- 4.2 Other Permits
- 4.3 Monthly Caravan Park Site Approvals

#### **Compliance and Emergency Liaison**

- 1. Compliance and Emergency Liaison Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
  - 4.1 Ranger Services Action Reports
  - 4.2 Building Compliance
  - 4.3 Development Compliance
  - 4.4 Emergency Management CRMs July 2020
  - 4.5 City of Rockingham Fire Control Notice
  - 4.6 SmartWatch Key Result Areas

#### **Strategic Planning and Environment**

- 1. Strategic Planning and Environment Team Overview
- 2. Human Resource Update
- Project Status Reports
  - 3.1 Local Planning Strategy
  - 3.2 Baldivis Tramway Management Reserve Plan
  - 3.3 Lake Richmond Management Plan Implementation
  - 3.4 Coastal Hazard Risk Management and Adaptation Plan Implementation
  - 3.5 Sustainable Transport Plan
  - 3.6 Karnup District Structure Plan
  - 3.7 Environmental Planning Strategy
- 4. Information Items
  - 4.1 Structure Plan Assessment Status

#### Land and Development Infrastructure

- 1. Land and Development Infrastructure Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
  - 3.1 Managed Aquifer Recharge (MAR) Feasibility Study
- 4. Information Items
  - 4.1 Referrals
  - 4.2 Delegated Land and Development Infrastructure Assets Approvals
  - 4.3 Handover of Subdivisional Roads
  - 4.4 Delegated Subdivision Engineering and Public Open Space Practical Completions
  - 4.5 Delegated Authority to Approve the Release of Bonds for Private Subdivisional Works

#### Statutory Planning

- 1. Statutory Planning Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
  - 3.1 Pedestrian Access Way Strategy Review
  - 3.2 Conservation Plan fmr Roads Board Museum
  - 3.3 Review of Planning Policy 3.3.1 Control of Advertisements
- 4. Information Items
  - 4.1 Subdivision/Development Approval and Refusals by the WAPC
  - 4.2 Notifications and Gazettals
  - 4.3 Subdivision Clearances



- 4.4 Subdivision Survey Approvals
- 4.5 Subdivision Lot Production
- 4.6 Delegated Development Approvals
- 4.7 Delegated Development Refusals
- 4.8 Delegated Building Envelope Variations
- 4.9 Subdivision/Amalgamation Approved
- 4.10 Strata Plans
- 4.11 Subdivision/Amalgamation Refused
- 4.12 Subdivision Lots 101 and 102 Crystaluna Drive, Golden Bay

#### **Planning and Development Directorate**

- 1. Planning and Development Directorate Team Overview
- 2. Human Resource Update
- Project Status Reports
  - 3.1 Rockingham Primary Centre, Centre Plan Implementation (LUP/137-08)
  - 3.2 Design Review Panel (LUP/2094)
  - 3.3 Cape Peron (including Mangles Bay) Planning Investigation
- 4. Information Items

#### **Advisory Committee Minutes**

#### **Committee Recommendation**

#### Moved Cr Whitfield, seconded Cr Edwards:

That Councillors acknowledge having read the Planning Services Information Bulletin - August 2020 and the content be accepted.

Committee Voting (Carried) - 5/0

#### **Engineering and Parks Services Information Bulletin - August 2020**

#### **Engineering and Parks Services Directorate**

- 1. Engineering and Parks Services Directorate Team Overview
- 2. Human Resource Update
- 4. Information Items
  - 4.1 Bushfire Risk
  - 4.2 Basslet Street Wall Project

#### **Asset Services**

- Asset Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
  - 3.1 Drainage Condition Audit
  - 3.2 Drainage Catchment Survey Audit
  - 3.3 Road Reserve Condition Audit
  - 3.4 Reserve Electrical Asset Mapping
- 4. Information Items
  - 4.1 Asset Maintenance Team
  - 4.2 Asset Maintenance Buildings
  - 4.3 Asset Maintenance Reserves
  - 4.4 Strategic Asset Management

#### **Infrastructure Project Delivery**

- Infrastructure Project Delivery Team Overview
- 2. Human Resource Update
- 3. Project Status Reports

#### 4. Information Items

- 4.1 Aqua Jetty, Warnbro 25m and 50m Pool Refurbishment
- 4.2 Aqua Jetty, Warnbro Replacing car park lighting
- 4.3 City Park, Rockingham Replacement of aged reserve barbecues
- 4.4 Eighty Road (Nairn Drive to Oak Way (North), Baldivis Install Kerbing, Drainage and Footpath
- 4.5 Eighty Road (Safety Bay Road to Tranby Drive), Baldivis Upgrade and Widen
- 4.6 Georgetown Drive Reserve Replace and relocate basketball court and seats
- 4.7 Lark Hill Sporting Complex Hockey Turf Replacement, Port Kennedy
- 4.8 Palm Beach, Rockingham Drainage Upgrade (Stage 2)
- 4.9 Photovoltaic (PV) Arrays (Solar Panels)
- 4.10 Playground Replacements 2020-2021
- 4.11 Port Kennedy Community Centre, Port Kennedy Switchboard & Building Upgrades
- 4.12 Read Street / Gnangara Drive, Waikiki Drainage Upgrade
- 4.13 Refurbishment of public toilets Various locations
- 4.14 Rockingham Aquatic Centre, Rockingham Various works
- 4.15 Rockingham Council Administration Building, Rockingham Disability Compliance Upgrades and Refurbishments
- 4.16 Rockingham Council Depot, Rockingham Minor Refurbishment Works and Shed Replacements
- 4.17 Rockingham Gem Club, Rockingham Refurbishment Works
- 4.18 Safety Bay Road, Safety Bay Pedestrian Islands
- 4.19 Secret Harbour Street lighting upgrade
- 4.20 Warnbro Sound Avenue, Warnbro Bus Embayments

#### **Parks Services**

- 1. Parks Services Team Overview
- 2. Human Resource Update
- 3. Project Status Reports
- 4. Information Items
  - 4.1 Delegated Public Open Space Handovers
  - 4.2 San Javier Circle, Secret Harbour emergency access track
  - 4.3 Naval Memorial Park community planting event
  - 4.4 Safety Bay Foreshore Bent Street Boat Ramp parking
  - 4.5 Tamworth Hill Swamp Reserve revegetation and biodegradable tree guard trial
  - 4.6 Reserve irrigation replacements
  - 4.7 Reserve Tree Planting

#### **Engineering Services**

- 1. Engineering Services Team Overview
- 2. Human Resource Update
- Project Status Reports
  - 3.1 Coastal Facilities Strategy
- 4. Information Items
  - 4.1 Delegated Authority for Temporary Thoroughfare Closure
  - 4.2 Delegated Authority for approval of Directional Signage
  - 4.3 Delegated Authority for approval of Heavy Haulage
  - 4.4 Authorised Traffic Management Plans for Works on City Controlled Roads
  - 4.5 Civil Works Program 2020/2021
  - 4.6 Civil Maintenance Program 2020/2021
  - 4.7 Road Rehabilitation & Renewal Programs 2020/2021

- 4.8 Drainage Renewal Program Municipal Works 2020/2021
- 4.9 Footpath Renewal Program Municipal Works 2020/2021
- 4.10 Carpark Renewal Program Municipal Works 2020/2021
- 4.11 Litter and Street Sweeping Program 2020/2021
- 4.12 Graffiti Program 2020/2021
- 4.13 Delegated Authority for the payment of crossover subsidies
- 4.14 Third Party Works within the City
- 4.15 Asset Inspections
- 4.16 Verge Treatment Applications
- 4.17 Verge Issues
- 4.18 Coastal Infrastructure
- 4.19 Coastal Management

#### **Advisory Committee Minutes**

#### **Committee Recommendation**

#### Moved Cr Whitfield, seconded Cr Edwards:

That Councillors acknowledge having read the Engineering and Parks Services Information Bulletin - August 2020 and the content be accepted.

Committee Voting (Carried) - 5/0

#### 12. Agenda Items

#### **Planning and Development Services**

# Planning and Development Services Statutory Planning Services



Reference No & Subject: PD-039/20 Proposed Serviced Apartments

File No: DD20.2020.00000052.001; DD20.2020.00000053.001

Applicant: Mr L McCormick

Owner: Mr L K McCormick

Author: Mr Chris Parlane, Senior Planning Officer

Other Contributors: Mr David Waller, Coordinator Statutory Planning

Mr Mike Ross, Manager Statutory Planning

Date of Committee Meeting: 17 August 2020

Previously before Council: 26 May 2020 (PD-023/20)

Disclosure of Interest:

Nature of Council's Role in

this Matter:

Executive

Site: Lot 10 (Unit 201) and Lot 31 (Unit 404) Strata Plan 72828,

No.12 Flinders Lane, Rockingham

Lot Area: 2,697m<sup>2</sup>

LA Zoning: Primary Centre Waterfront Village

MRS Zoning: Central City Area

Attachments: Schedule of Submissions

Maps/Diagrams: 1. Locality Plan

Aerial Photograph

3. South-west Elevation Plan

4. South-east Elevation Plan

5. North-east Elevation Plan

6. North-west Elevation Plan

7. Unit 201 (Lot 10) Floor Plan

8. Unit 404 (Lot 31) Floor Plan

9. Ground Floor Strata Plan

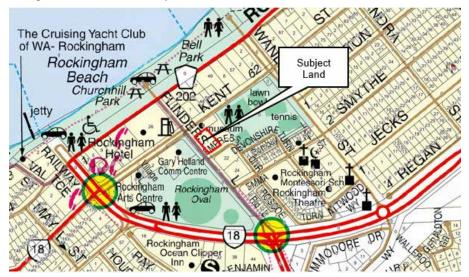
10. Second Floor Strata Plan

11. Fourth Floor Strata Plan

12. Rockingham Strategic Metropolitan Centre Concept Plan

#### **Purpose of Report**

To reconsider 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 (Azure Rockingham) to 'Serviced Apartment', which remain undetermined from the Ordinary meeting of Council on 26 May 2020.



1. Locality Plan



2. Aerial Photograph

#### **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 Azure Rockingham 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.

Consistently with the City's usual practice, both applications were accompanied by consents from Azure Rockingham's strata company.

On 28 April 2020, the Council resolved to defer consideration of the applications until the May 2020 meeting of Council. No reason for deferral of the application was provided by the Council.

On 16 May 2020, the City received notice from the Council of Owners of Azure Rockingham revoking the consents for the applicant to apply to change the use to the two apartments to Serviced Apartments.

At the Ordinary meeting of Council on 26 May 2020, it was resolved that "That Council acknowledges the revocation of the consent of the Council of Owners for the applications in respect to Item PD-023/20 - proposed Serviced Apartments (Deferred April 2020)". Accordingly, the applications for Development Approval were unable to be determined by the Council.

The applicant was advised of the outcome of the Council meeting on 27 May 2020.

On 18 June 2020, the applicant applied to the State Administrative Tribunal (SAT) for a review of the Council's 'deemed refusal' of the two applications.

The matter was considered by the SAT at a directions hearing on 10 July 2020, whereupon the following orders were issued:

- "1. Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider its decision on or before 27 August 2020.
- 2. The proceeding is adjourned to a further directions hearing at 9.30am on 4 September 2020 at 565 Hay Street, Perth, Western Australia."

In accordance with Order No.1, the matter is referred to Ordinary meeting of Council on 25 August 2020 for determination.

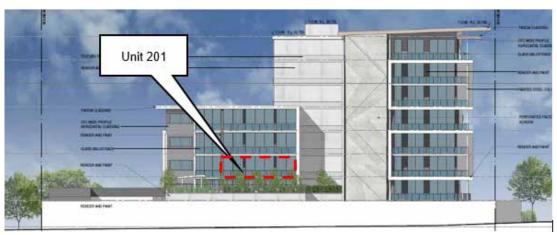
Elevation plans of the approved development are included below:



3. South-west Elevation Plan



4. South-east Elevation Plan



5. North-east Elevation Plan



6. North-west Elevation Plan



#### **Details**

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
- The applications were accompanied by letters of consent from the strata company of Azure Rockingham.

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.

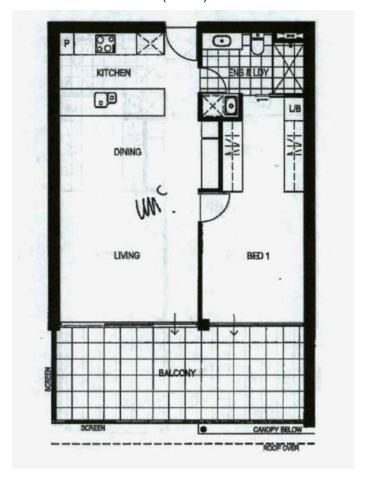
Unit 404 is a self-contained apartment and comprises of 1 bedroom, 1 bathroom and living area on the fifth level of the Azure building. The unit has views to the south-west overlooking the Village Green public open space.

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

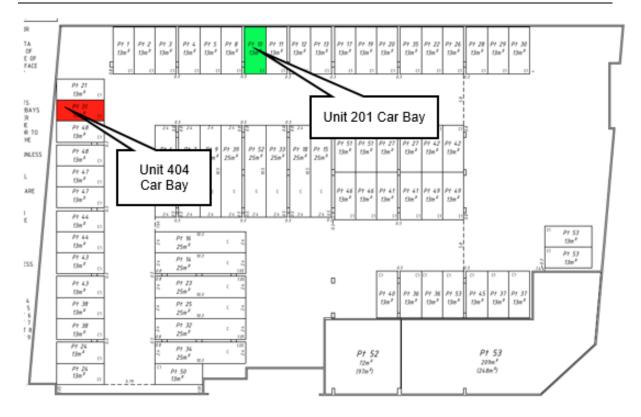
The following plans show the floor plan layout and the location of the units and associated car parking within the building:



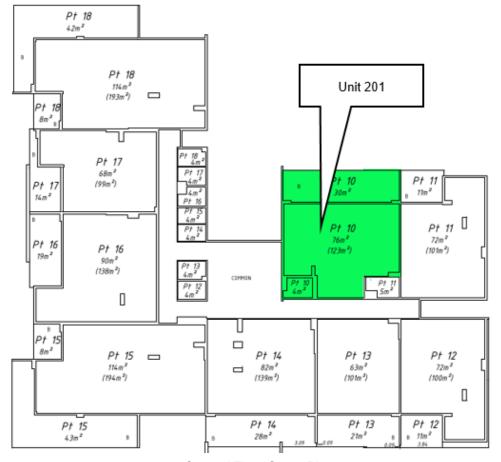
7. Unit 201 (Lot 10) Floor Plan



8. Unit 404 (Lot 31) Floor Plan



9. Ground Floor Strata Plan



10. Second Floor Strata Plan





11. Fourth Floor Strata Plan

#### Implications to Consider

#### a. Consultation with the Community

The two applications for Development Approval were previously 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 Azure Rockingham;
- 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.

No further consultation was undertaken due to the timing of the SAT process, however, the submissioner comments from the previous advertising period are still considered to be relevant.

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



#### **Strata Consent (Previous Responses)**

#### **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:

While there has been a dispute between owners as to whether the consent of the strata body ought to have been given in support of the applications for development approval, this is now a moot point, as the consents have now been revoked and this matter is in the hands of the SAT, which has invited the Council to determine the applications.

#### **Security (Previous Responses)**

#### **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.

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.

#### Security (Previous Responses) (cont...)

#### 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 (Previous Responses)**

#### **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.

#### City Response:

The reasonable expectations of purchasers can only be informed by the planning framework relevant to the land. With the consent of the strata body, there is nothing preventing an owner from applying for a change of use where the proposed use is not prohibited in the zone. It is noted that 'Serviced Apartments' are a discretionary use, not a prohibited use in the Primary Centre Waterfront Village zone, and are potentially permissible.

#### **Amenity (Previous Responses)**

#### **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.

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.

#### Amenity (Previous Responses) (cont...)

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

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

#### 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.

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#### Amenity (Previous Responses) (cont...)

#### 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.

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 (Previous Responses)

#### **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.

#### Other Matters (Previous Responses) (cont...)

#### 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. The change of use application that I have made has been submitted as soon as practicably possible since purchase. 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).
- 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".

#### 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.

#### Other Matters (Previous Responses) (cont...)

#### 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 resider.

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.

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



Fig.3 CoR Tourist Destination Strategy [1]

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#### Other Matters (Previous Responses) (cont...)

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.

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 GP'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.

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#### Other Matters (Previous Responses) (cont...)

#### 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 Metropolitan 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.

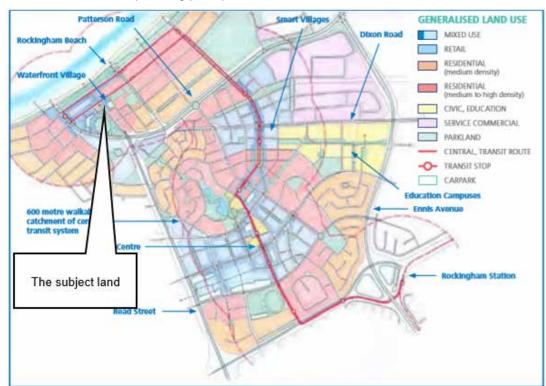
PP3.2.5 articulates the following planning principles which apply across the Strategic Metropolitan Centre which are relevant to informing the decision making for these applications:

"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 cotemporary, 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 Strategic Metropolitan 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.

<u>Planning and Development (Local Planning Scheme) Regulations 2015 (Planning Regulations)</u>

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**

In the context of the SAT directions, the Council has been invited to reconsider the applications and make a decision.

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 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 previously 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 matters, 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 both the consent and the development applications before Council.

Strata Companies are regulated by the *Strata Titles Act 1985* (as amended), 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, which were later revoked.

The applicant has now commenced review proceedings in the SAT in which he contends that the Consents are not required and that SAT should determine the applications in his favour.

The SAT has invited the Council to determine the applications before proceeding to a hearing. The only parties to the SAT proceedings are the applicant and the City. At this stage, the City understands that none of the submitters have sought to intervene in the SAT proceedings, to be joined as a party or to make submissions in those proceedings.

## 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;
    - 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:
  - (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.

## **Committee Recommendation**

The Committee agreed to move this Item behind closed doors to receive legal advice from the Director Legal Services and General Counsel.

#### Moved Cr Hamblin, seconded Cr Edwards:

That the Planning and Engineering Services Committee *CLOSES* the meeting to the members of the gallery in accordance with section 5.23(2)(d) of the Local Government Act 1995 to allow the Planning and Engineering Services Committee to discuss Item PD-039/20 - Proposed Serviced Apartments.

Committee Voting (Carried) - 3/2

(Crs Whitfield and Buchan voted against)

- 4:35pm The Chairperson requested that members of the gallery depart the meeting.
- 4:36pm The meeting resumed behind closed doors.
- 5:07pm The meeting came out from behind closed doors and the Chairperson invited members of the gallery to rejoin the meeting.

Other than the procedural motion, no resolutions were made behind closed doors.

## Moved Cr Whitfield, seconded Cr Jones:

That Council:

- (a) **APPROVES** the application for a Serviced Apartment at Unit 201 (Lot 10) No.12 Flinders Lane, Rockingham subject to the following conditions:
  - 1. Pursuant to clause 72 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (WA) this approval is granted for a period of 12 months commencing on the date of this approval.
  - 2. No more than four (4) persons are permitted to occupy the Serviced Apartment at any one time.
  - 3. 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.
  - 4. 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.

# 5. 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.

## 6. 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:
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- 8. 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.
- 9. 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.
- 10. Guest parking must only be in the designated parking bay shown on the approved plans.
- (b) **APPROVES** the application for a Serviced Apartment at Unit 404 (Lot 31) No.12 Flinders Lane, Rockingham subject to the following conditions:
  - 1. Pursuant to clause 72 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (WA) this approval is granted for a period of 12 months commencing on the date of this approval.
  - 2. No more than two (2) persons are permitted to occupy the Serviced Apartment at any one time.
  - 3. 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.
  - 4. 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:
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    - (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.

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  - (i) Provide the guests a copy of the information referred to in the House Management Plan;
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  - (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.
  - 10. Guest parking must only be in the designated parking bay shown on the approved plans.

Committee Voting (Carried) - 3/2 (Crs Hamblin and Buchan voted against)

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

Having regard to the concerns raised by objectors, the Committee considered that the approval period of 12 months should apply.

# Implications of the Changes to the Officer's Recommendation

Not Applicable

# Planning and Development Services Planning Services



**Reference No & Subject:** PD-040/20 **Proposed Street Naming Theme - Secret Harbour Boulevard** File No: DD021.2018.38.1 Applicant: McMullen Nolan Group Owner: Secret Foreshore Pty Ltd Author: Miss Nicole D'Alessandro, Planning Administration Officer Mr David Waller, Coordinator Statutory Planning Other Contributors: Mr Mike Ross, Manager Statutory Planning Date of Committee Meeting: 17 August 2020 Previously before Council: Disclosure of Interest: Nature of Council's Role in Executive this Matter: Lots 2661, 2663 Palermo Cove and Lot 2664 Secret Harbour Site: Boulevard, Secret Harbour Lot Area: 5.508ha LA Zoning: Development MRS Zoning: Urban Attachments: Maps/Diagrams: 1. Location Plan 2. Former Structure Plan – Secret Harbour 3. Subdivision Plan - WAPC 156606

Local Development Plan



1. Location Plan

# **Purpose of Report**

To consider an application seeking approval for a street naming theme based on 'unique sounding musical instruments or music notations of a classic and historic nature' to be applied to a residential subdivision located at Lots 2661 and 2663 Palermo Cove and Lot 2664 Secret Harbour Boulevard, Secret Harbour.

# **Background**

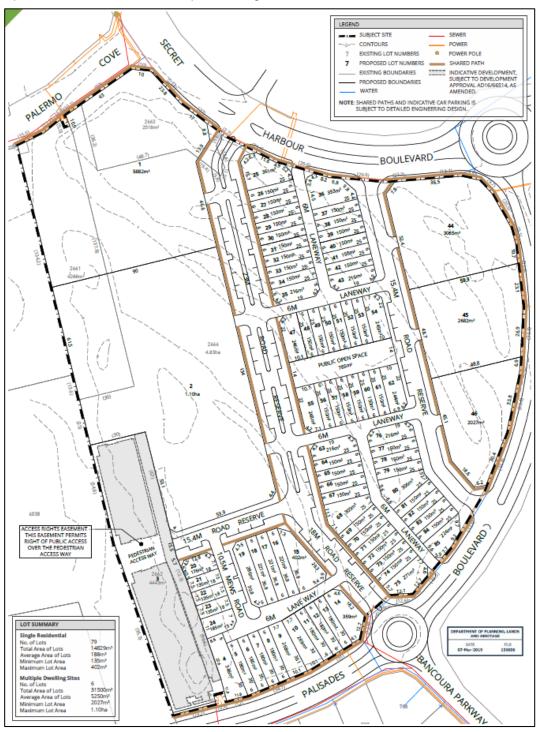
The Council adopted the Secret Harbour Structure Plan in July 2006, which has since been superseded by the zones and reserves being reflected in Town Planning Scheme No.2 (TPS2); a section of which is shown below:



2. Former Secret Harbour Structure Plan

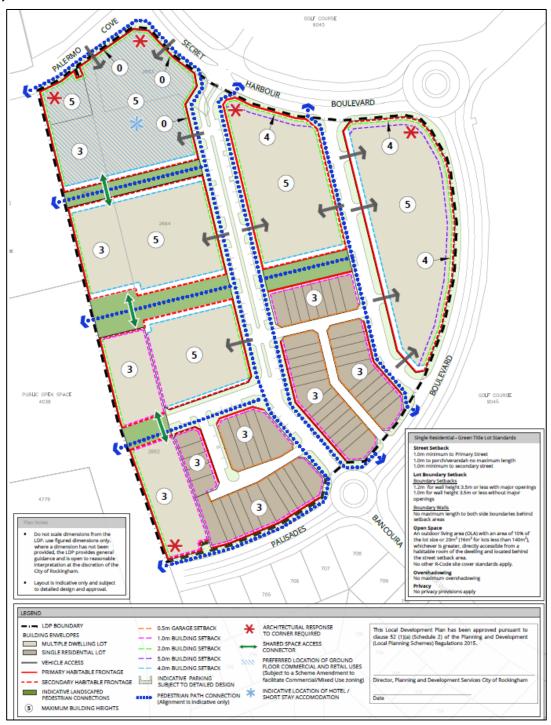


In March 2019, a subdivision application for Lots 2661-2664 was conditionally approved by the WAPC for the creation of 86 lots, comprising 79 single residential lots and 7 larger residential development sites, intended for multiple dwellings.



3. Subdivision Plan - WAPC 156606

In July 2020, an amended Local Development Plan for the site was approved by the Council, subject to minor amendments.



4. Local Development Plan

# **Details**

The Secret Harbour Estate currently has a mix of approved street naming themes being 'American Lake Names', 'Australian Surfing Spots' and 'Names of Mediterranean Coastal Towns of Spain, France, Italy, Yugoslavia, Egypt, Algeria and Morocco' which available names have now become exhausted. For marketing purposes, the landowners would like to differentiate themselves from the existing Estate and have a separate street naming theme for this subdivision.



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The proposed street naming theme for this subdivision is based on unique sounding 'musical instruments or music notations of a classic and historic nature'.

Examples of the proposed street names are as follows:

Marimba - The marimba is a percussion instrument consisting of a set of wooden bars

struck with yarn or rubber mallets to produce musical tones.

Allegro - A tempo mark directing that a passage is to be played in a quick, lively tempo,

faster than allegretto but slower than presto.

Opus - An opus number is the work number assigned for a composition, or a set of

compositions, in the approximate order in which a composer wrote something.

Guiro - The guiro is a Latin American percussion instrument consisting of an open-

ended, hollow gourd with parallel notches cut in one side.

# **Implications to Consider**

## a. Consultation with the Community

Nil

### b. Consultation with Government Agencies

Consultation with the Geographic Names Team is required following the Council's decision.

### 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 the growing population, with

consideration of future generations.

d. Policy

Nil

e. Financial

Nil

## f. Legal and Statutory

The Land Administration Act 1997 (section 26A) requires developers of new subdivisions to submit street names for support by the Council. The responsibility for approving street names rests with the Geographic Names Team. The proposed theme is in accordance with the Geographic Names Committee Principles, Procedures and Guidelines.

## 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 City's *Planning Procedure No.1.4* - *Street Names and Their Themes* (Planning Procedure No.1.4) provides guidelines and procedures for street naming themes and associated street names for subdivisions within the City. All applications for approval of street naming themes are assessed by the City for compliance with Planning Procedure No.1.4 and are referred to Council for determination.

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The proposed theme based on 'unique sounding musical instruments or music notations of a classic and historic nature' complies with the City's Planning Procedure No.1.4 and the Geographic Names Committee Principles, Procedures and Guidelines, as a thematic source of names.

In light of the above, it is recommended that the Council support the proposed street naming theme.

#### **Next Steps**

Street names that are consistent with the Council approved street naming theme and comply in all respects with Planning Procedure No.1.4, will be pre-approved by the City and referred to the Geographic Names Team for further assessment and final approval.

# **Voting Requirements**

Simple Majority

#### Officer Recommendation

That Council **SUPPORTS** the proposed street naming theme based on 'unique sounding musical instruments or music notations of a classic and historic nature' for the residential subdivision located at Lots 2661, 2663 Palermo Cove and Lot 2664 Secret Harbour Boulevard, Secret Harbour.

#### **Committee Recommendation**

#### Moved Cr Hamblin, seconded Cr Whitfield:

That Council **SUPPORTS** the proposed street naming theme based on 'unique sounding musical instruments or music notations of a classic and historic nature' for the residential subdivision located at Lots 2661, 2663 Palermo Cove and Lot 2664 Secret Harbour Boulevard, Secret Harbour.

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

# **Engineering and Parks Services**

# Engineering and Parks Services Asset Services



Reference No & Subject: EP-016/20 Council Policy - Asset Management

File No: CPM/198

Proponent/s:

Author: Mr Tony Bailey, Acting Manager Asset Services

Other Contributors: Ms Louise Walter, Coordinator Strategic Asset Management

Date of Committee Meeting: | 17 August 2020

Previously before Council: 23 June 2020 (EP-013/20)

Disclosure of Interest:

Nature of Council's Role in

this Matter:

Executive

Site:

Lot Area:

Attachments:

Maps/Diagrams:

# Purpose of Report

For Council to adopt the Council Policy - Asset Management following the public consultation process.

## Background

The draft Council Policy - Asset Management was approved for the purposes of public comment at the Council meeting held on 23 June 2020.

## **Details**

The Council Policy - Asset Management provides a framework for assets to be managed in a sustainable manner allowing service levels to be achieved for current and future generations. Effective asset management achieves a balance between performance, cost and risk which is crucial to the long-term sustainable delivery of local government services.

## Implications to Consider

# a. Consultation with the Community

The draft policy was advertised in accordance with Council Policy - Policy Framework and closed on 15 July 2020.

Public consultation was carried out as follows:

- 1. A notice was published in the Sound Telegraph on 1 July 2020; and
- 2. A copy of the draft policy was advertised on the City's website with submissions invited through the 'share-your-thoughts' page.

At the close of the public consultation period no submissions were received.

## 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 Objectives contained in the Strategic Community Plan 2019-2029:

Aspiration 4: Deliver Quality Leadership and Business Expertise

Strategic Objective: Effective governance - Apply systems of governance which

empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant

environment.

Strategic Objective: Strategic and sustainable financial planning - Undertake long-term

planning and allocation, with prioritised spending on core services,

infrastructure development and asset management.

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

Council Policy - Policy Framework provides the requirement for Council to advertise the draft policy for a 14 day period or more before consideration for final adoption.

## e. Financial

Nil

## f. Legal and Statutory

The Local Government (Administration) Regulations 1996 specify 'what a plan for the future' should involve. Local governments are required to develop and adopt a Strategic Community Plan and a Corporate Business Plan. Regulation 19DA refers to the need to develop and integrate matters relating to resources including asset management.

### 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

With significant industry advances made in asset management knowledge and practice, the existing policy required revision. The revised Council Policy - Asset Management aligns with industry standards and the Strategic Asset Management Framework endorsed by the Executive in October 2019.

## **Voting Requirements**

Simple Majority

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## Officer Recommendation

That Council ADOPTS the revised Council Policy - Asset Management.

#### **Committee Recommendation**

#### Moved Cr Edwards, seconded Cr Hamblin:

That Council ADOPTS the revised Council Policy - Asset Management.

## **Council Policy - Asset Management**

### **Council Policy Objective**

To ensure the City has an effective framework in place to manage the City's assets and deliver services to the community to defined levels of service in the most cost effective way.

## **Council Policy Scope**

Council and City employees that have responsibility for the planning and delivery of infrastructure related services.

## **Council Policy Statement**

The City is committed to implementing an effective asset management system in line with the ISO 55000 suite of standards and the International Infrastructure Management Manual (IIMM) which will result in strong governance and accountability; effective and sustainable decision making; enhanced customer service and the effective management of risk. Asset Management is an organisation wide responsibility ensuring the sustainable delivery of services to current and future generations.

## **Strategic Asset Management Framework**

The City's Strategic Asset Management Framework consists of the following key outputs:

- Council Policy reviewed every three years.
- Strategic Asset Management Plan aligned with this Policy specifying the long term objectives and action plan for managing the City's assets, adopted by Council and reviewed every three years.
- Asset Management Plan describing how assets will be managed to meet defined levels
  of service. Reviewed annually and updated with asset condition rating information,
  deterioration modelling, financial projections and performance indicators. This is to be
  endorsed by the City's Executive.
- Five Year Works Programs Prioritised capital renewal and expansion requirements meeting agreed levels of services and ranking criteria for inclusion and annual review through the City's Business Plan.

These outputs will be underpinned by:

- Integration ensuring asset management planning integrates with corporate, financial, business, operational, human resource and information technology plans.
- Provision Guidelines tools to define the need and standard of new and upgraded infrastructure based on road, facility and park hierarchies, social, economic and environmental factors and risk.
- Operational and Capital Investment Guidelines strategies and processes shaping the lifecycle management of infrastructure assets aligned with asset management objectives.
- Operational Levels of Service the defined outputs that the organisation intends to deliver to the community.
- **Continuous Improvement -** regular monitoring and review of network performance and the City's asset management system.

- Compliance meeting legal and regulatory requirements in terms of reporting and managing assets through creation/acquisition, operation, maintenance, renewal and disposal activities.
- Ownership clear ownership and leadership behaviours to achieve the City's strategic objectives.
- Accountability transparent and auditable asset management processes aligning with the City's aspirations and strategic objectives.
- **Information Management** ensuring asset data is maintained so it is current, accurate and legally compliant, forming a robust foundation for effective decision making.
- Sustainability Management management of assets encompassing the economic, environmental and social sustainability of the built and natural environment throughout their life cycle.
- **Decision Making** based on a decision making framework to ensure the balance between performance, risk and cost in a consistent and transparent manner.

#### **Definitions**

**Asset -** an item, thing or entity that has potential or actual value to the organisation (International Infrastructure Management Manual 2015 (IIMM)).

**Asset Management -** the systematic and coordinated activities and practices to optimally and sustainably deliver on its objectives through the cost-effective lifecycle management of assets (IIMM).

**Asset Management System -** the set of inter-acting elements of an organisation to establish asset management policies and objectives and the processes to achieve those objectives (ISO 55000).

**Level of Service** - The parameters or combination of parameters that reflect social, political, economic and environmental outcomes that the City delivers. Levels of service statements describe the outputs or objectives the City or activity intends to deliver to customers (IIMM).

**Lifecycle** - the time interval that commences with the identification of the need for an asset and terminates with the decommissioning of the asset or any liabilities thereafter (IIMM).

**Renewal** - works to replace existing assets or facilities with assets of facilities of equivalent capacity or performance capability (IIMM).

**Sustainability** - the capacity to endure; in the context of asset management, it is about meeting the needs of the future by balancing social, economic, cultural and environmental outcomes or needs when making decisions today (IIMM).

**Upgrade** - Enhancements to an existing asset to provide higher levels of service, e.g. widen a sealed road (Australian Infrastructure Financial Management Manual).

#### Legislation

Local Government Act 1995 - Section 5.56 (1) and (2)

Local Government (Administration) Regulations 1996 - Regulation 19DA Section 3C

## Other Relevant Policies/ Key Documents

City of Rockingham Strategic Community Plan

City of Rockingham Business Plan

City of Rockingham Community Infrastructure Plan

Infrastructure Asset Management Plan

International Infrastructure Management Manual

Australian Infrastructure Financial Management Manual

Companion Guide to ISO 55001

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## **Responsible Division**

Engineering and Parks Services

**Review Date** 

June 2023

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

# Engineering and Parks Services Director and Support Services



Reference No & Subject:	EP-017/20 Proposed Council Policy - Requests for Feature Lighting
File No:	CPR/853
Proponent/s:	
Author:	Mr Michael Wilson, Senior Projects Officer
Other Contributors:	Mr Sam Assaad, Director Engineering and Parks Services
Date of Committee Meeting:	17 August 2020
Previously before Council:	
Disclosure of Interest:	
Nature of Council's Role in this Matter:	Executive
Site:	
Lot Area:	
LA Zoning:	
MRS Zoning:	
Attachments:	
Maps/Diagrams:	<ol> <li>Administration clock tower lit up for #GoGreenForParks</li> <li>Rockingham Beach Foreshore projector lighting</li> </ol>

# **Purpose of Report**

To consider preparation of a Council Policy on requests for changes to City of Rockingham controlled feature lighting.

# **Background**

Feature lighting can be used to create a sense of place, activate after dark and bring attention to specific causes and events.

Outdoor feature lighting is frequently found on significant buildings or the more popular outdoor spaces.



1. Administration clock tower lit up for #GoGreenForParks



2. Rockingham Beach Foreshore projector lighting

Modern feature lighting can come in many colours, patterns and displays, with a multitude of programming options.

With the increased prevalence of coloured lighting options and sophisticated programming comes requests for special purpose lighting displays. Such requests come from individuals and organisations, to celebrate an event, mark a particular commemorative date, for personal reasons and for commercial reasons.

The management of feature lighting has a range of financial, logistical and operational impacts which create direct and indirect costs to the organisation. For this reason it is necessary to manage the number of requests that may be made.

Public organisations with feature lighting displays have adopted policies that put limitations on whom can make requests, for what purpose, and when feature lighting is available for special requests. Typically, policies on requests for feature lighting displays incorporate the following:

- Limitation on whom can make a request. The City of Perth only allows charitable and not-for-profit organisations to apply. The City of Brisbane only permits organisations to apply for its Light Up Brisbane opportunities. The CN Tower, a notable landmark with feature lighting in Canada, will not consider any requests made via petition or social media.
- **Limitations on dates available for requests.** For instance the City of Perth reserves Australia Day, ANZAC Day and the Christmas period for its own purposes.
- Restrictions on the reasons for a request. Such restrictions include not allowing requests for any commercial purpose; that the request has to have significance to the local, state, national or international community; will have a demonstrable significant benefit to the local community (e.g. attract 10,000 participants City of Brisbane); and that the request doesn't have any political or denominational purpose.
- Restrictions on how many nights a request can be made for. Typically requests are limited to one or two nights only.

## **Details**

The City of Rockingham currently has two significant feature lighting displays. The lighting of the Administration building clock tower, and the lighting display at Rockingham Beach Foreshore.

Recently the clock tower was turned green as part of the #GoGreenForParks celebration. This was noticed by a member of the local Rotarian community and resulted in a request that the lighting be turned red for Polio Day.

As part of building stronger communities, place making and activation, the City of Rockingham has a role to play in amending feature lighting for specific activities and events.

The City has its own programme of feature lighting changes at the Foreshore to coincide with a range of commemorative days. As already experienced, requests may come from members of the Rockingham community to have changes made specifically for additional events. A transparent and consistent approach to handling future requests is required. Hence the suggestion for a Request for Feature Lighting policy.

Policy details will seek to cover:

- 1. That feature lighting can be booked;
- By whom it can be booked;
- 3. For what purposes it can be booked;
- 4. Any restrictions on when feature lighting can be booked; and
- Any costs involved in making a booking.

In order to effectively manage requests for feature lighting, it is suggested that bookings be restricted as follows:

- 1. To office bearers of not-for-profit organisations, with precedence given to those operating in City of Rockingham;
- 2. Only for purposes of a state, national or internationally recognised health and well-being campaigns; and

## By the City of Rockingham for its own purposes.

The current cost to change lighting on the Administration building clock tower is \$350-450 each time. Currently a similar request for making a change to the Foreshore lighting utilising already programmed light colour(s) will cost \$135. Both of these costs are expected to reduce over time as LED lighting is installed and the City develops more mature lighting control infrastructure.

Changing feature lighting is seen as a community service being provided by the City and therefore it is envisaged that no fees will be charged. The costs associated with implementing the proposed Policy will be met through existing operational budgets.

# Implications to Consider

## a. Consultation with the Community

Community consultation will be undertaken subject to approval of development of this policy and Council approval of a draft policy

## b. Consultation with Government Agencies

Nil

## 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: Community capacity building - Empower the community across all

ages and abilities to be culturally aware and involved with a diverse range of community initiatives that incorporate volunteering, sport,

culture and the arts.

Aspiration 4: Deliver quality leadership and business expertise

Strategic Objective: Foster relationships and partnerships with key stakeholders to

achieve enhanced community outcomes

#### d. Policy

Nil

#### e. Financial

The costs for preparing a draft policy document are Officer time only.

The costs for conducting community consultation if the draft Policy is endorsed by Council is estimated at \$500.

## 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**

The City of Rockingham has a role to play in generating a sense of place, and in supporting community health and well-being.

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The utilisation of feature lighting is a cost effective means of spreading messages relating to specific causes with a health and well-being focus and when undertaken as part of a broader campaign can reinforce and emphasise the message.

Enabling not-for-profit organisations to make requests for feature lighting is seen as a reasonable, cost effective method for Council to support these outcomes.

# **Voting Requirements**

Simple Majority

## Officer Recommendation

That Council **SUPPORTS** the preparation of a Policy on requests for feature lighting for the purposes of state, national or internationally recognised health and wellbeing campaigns and the City of Rockingham for its own purposes.

## **Committee Recommendation**

### Moved Cr Whitfield, seconded Cr Buchan:

That Council **SUPPORTS** the preparation of a Policy on requests for feature lighting for the purposes of state, national or internationally recognised health and wellbeing campaigns and the City of Rockingham for its own purposes.

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

# Engineering and Parks Services Parks Services

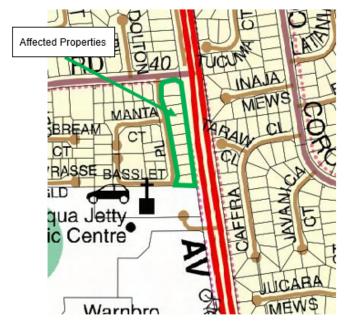


Reference No & Subject: EP-018/20 Demolition and Reconstruction of the Subdivision Estate Wall - No.1 Basslet Place to No.19 Basslet Place, Warnbro File No: DBC/935 Proponent/s: Author: Mr Adam Johnston, Manager Parks Services Other Contributors: Mr Craig Beard, Project Technical Officer - Parks Services Mr Sam Assaad, Director Engineering and Parks Services Date of Committee Meeting: 17 August 2020 Previously before Council: 17 December 2019 (PD-074/19) Disclosure of Interest: Nature of Council's Role in Executive this Matter: Site: Lot 1 (No.1) Basslet Place, Warnbro Lot 2 (No.3) Basslet Place, Warnbro Lot 15 (No.5) Basslet Place, Warnbro Lot 16 (No.7) Basslet Place, Warnbro Lot 17 (No.9) Basslet Place, Warnbro Lot 18 (No.11) Basslet Place, Warnbro Lot 19 (No.13) Basslet Place, Warnbro Lot 20 (No.15) Basslet Place, Warnbro Lot 21 (No.17) Basslet Place, Warnbro Lot 22 (No.19) Basslet Place, Warnbro Lot Area: LA Zoning: Residential MRS Zoning: Urban Attachments: Maps/Diagrams: Location Plan

# **Purpose of Report**

To seek Council approval for the City to allocate additional funds to undertake the project management of the demolition and reconstruction of the subdivision estate wall that runs from No.1 Basslet Place to No.19 Basslet Place, Warnbro.





Location Plan

# **Background**

At the Council meeting held on Tuesday 17 December 2019<sup>1</sup> it was resolved:

"That Council, subject to landowner agreement:

- 1. **DIRECTS** the Chief Executive Officer to undertake the project management of the demolition and reconstruction of the subdivision estate wall facing Warnbro Sound Avenue and Holcombe Road Warnbro, running between No.1 Basslet Place to No.19 Basslet Place, Warnbro
- 2. **DIRECTS** the Chief Executive Officer to make all necessary arrangements in respect to legally undertaking the demolition and reconstruction of the subdivision estate wall, and charging the landowners accordingly.
- 3. AGREES to fund the project management costs for the wall replacement project."

An initial estimate of \$15,000 was determined as being required to bear the costs of project management for the project.

## **Details**

During the course of developing the consultant's scope of works for this project, it was recognised that there were a number of complexities and a staged approach was required.

The consultancy services brief for the project management scope set out a number of stages with each stage being dependent on the predecessor having been completed to the satisfaction of the City and agreed to by the affected residents of Basslet Place. Each stage is set out as below:

Ÿ	Stage 1	Start-up, presentation to owners
Ÿ	Stage 2	Survey, cost estimates, design presentation
Ÿ	Stage 3	Draft legal documentation to the owners
Ÿ	Stage 4	Technical documentation for fence and the retaining wall
Ÿ	Stage 5	Final legal documentation to the owners
Ÿ	Stage 6	Project management of the works
Ÿ	Stage 7	Project Debrief

<sup>&</sup>lt;sup>1</sup> Correction of typographical error

Presiding Member

Committee meeting held on Monday 14 September 2020

Quote documents were sent directly to eight companies inviting them to quote on the project. Two submissions were received and evaluated in accordance with the assessment criteria. Both submissions showed a high level of understanding of the work required and their capability to undertake the project. There was a four (4) percentage variance in the total project cost between the two submissions.

With the fully defined consultant's scope of works and seeking market valuation, the full cost of the project management services for all stages of the project is \$59,012.

# **Implications to Consider**

### a. Consultation with the Community

An update to previous communications to all affected property owners was provided by the City on 12 March 2020. This correspondence advised that the City was progressing with engaging an external project management consultant. It was also reiterated that the consultant as per the Council resolution 17 December 2019 would be funded by the City to provide project management for the demolition and reconstruction of the subdivision wall.

# b. Consultation with Government Agencies

As part of the landowner notification, the City has also notified the Housing Authority which owns two of the affected properties.

## 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: Community Safety and Support - Provide support to residents and

visitors so they feel safe and secure at home and outdoors

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

Strategic Objective: Effective Governance - Apply systems of governance which

empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant

environment.

## d. Policy

Nil

## e. Financial

Following the receipt of quotes, the full cost of the project management services for all stages is \$59,012. The previous estimated budget of \$15,000 as detailed in Council report PD-074/19 requires an additional allocation of \$44,012 to complete all stages of the project management works.

Any additional costs outside of the consultancy services project management scope that the project may generate are expected to be passed in whole back to the affected property owners.

## f. Legal and Statutory

As the location of the wall is on private property, the City will enter into a legal contract with each landowner for the City to undertake the project management of the demolition and reconstruction of the wall. The City will prepare the draft and final legal documentation for presentation to property owners by the nominated project management consultant.

#### 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



## Personal Health and Safety Risk - High

Given the identified high risk of injury to members of the public including the landowners posed by the current condition of the wall and its potential collapse it is deemed that by the City project managing the wall demolition and replacement that the wall be replaced to a structural and aesthetic standard that will eliminate the current high level of personal risk.

## **Comments**

The engagement of a project management consultant will ensure that the required level of consultation occurs with the affected property owners of Basslet Place and that each property owner fully understands and agrees to the works required in the demolition and replacement of the property boundary wall.

As each stage hinges on the acceptance of the previous stage it is important that the methodology of communication and provision of information is such that it facilitates the building of a strong relationship with property owners. Having a single point of contact and liaison through the duration of project will allow this to occur.

The project management services shall include:

- · property owner consultation including presentation of legal documentation;
- pre demolition property dilapidation surveys;
- site feature surveys to determine infrastructure within the construction zone;
- · replacement fence design and specifications; and
- supervision of the contractor undertaking the fence demolition and replacement.

Of the two submissions received, both companies displayed a high level of understanding of what the works entailed and were reputable firms in the field of project management. Given the now clearly defined scope of works and the closeness in pricing of the submissions received, it is considered that the overall project cost of \$59,012 represents an accurate reflection of the actual costs required.

## **Voting Requirements**

**Absolute Majority** 

### Officer Recommendation

That Council **APPROVES** a budget allocation of \$59,012 for the project management of the demolition and reconstruction of the subdivision estate wall facing Warnbro Sound Avenue and Holcombe Road, Warnbro, running between No.1 Basslet Place to No.19 Basslet Place, Warnbro.

## **Committee Recommendation**

## Moved Cr Hamblin, seconded Cr Edwards:

That Council **APPROVES** a budget allocation of \$59,012 for the project management of the demolition and reconstruction of the subdivision estate wall facing Warnbro Sound Avenue and Holcombe Road, Warnbro, running between No.1 Basslet Place to No.19 Basslet Place, Warnbro.

Committee Voting (Lost) - 2/3

(Crs Buchan, Jones and Whitfield voted against)

### Moved Cr Whitfield, seconded Cr Buchan:

That the Committee *REFERS* Item EP-018/20 - Demolition and Reconstruction of the Subdivision Estate Wall - No.1 Basslet Place to No.19 Basslet Place, Warnbro direct to Council, in anticipation of the submission of a Rescission Motion to Council's 17 December 2019 (PD-074/19) decision in relation to this matter.

Committee Voting (Carried) - 4/1

(Cr Hamblin voted against)

Confirmed at a Planning and Engineering Services
Committee meeting held on Monday 14 September 2020

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

The Committee believed that should the City undertake the project management of the demolition and reconstruction of the subdivision estate wall, it would set an undesirable precedent and there was uncertainty of a satisfactory outcome.

# Implications of the Changes to the Officer's Recommendation

Not Applicable

13.	Reports of Councillors	
	Nil	
14.	Addendum Agenda	
	Nil	

# 15. Motions of which Previous Notice has been given

# **Engineering and Parks Services**

# Engineering and Parks Services Parks Services



Reference No & Subject: EP-019/20 Notice of Motion - To Rename Breaden

Drive Reserve, Cooloongup to Keren

**Ugle Snr Reserve** 

File No: R/35235

Proponent/s: Councillor Rae Cottam

Author: Mr Adam Johnston, Manager Parks Services

Other Contributors:

Date of Committee Meeting: 17 August 2020

Previously before Council:

Disclosure of Interest:

Nature of Council's Role in

this Matter:

Executive

Site: Breaden Drive Reserve (R 35235)

Lot Area: Lot 2523 Breaden Drive, Cooloongup.

LA Zoning:

MRS Zoning:

Attachments:

Maps/Diagrams: Location Plan

# **Purpose of Report**

To provide Officer comment and advice on Cr Rae Cottam's Notice of Motion:

"That Council **DIRECTS** the CEO to rename Breaden Drive reserve to Keren Ugle Snr Reserve in acknowledgement and recognition of his contribution to the community."

# **Background**

Cr Rae Cottam submitted the following Notice of Motion:

"That Council **DIRECTS** the CEO to rename Breaden Drive reserve to Keren Ugle Snr Reserve in acknowledgement and recognition of his contribution to the community."



Notice of Cr Cottam's motion was given at the 28 July 2020 Council meeting and the following reasons were given in support:

"Nyoongar people leave footprints everywhere of where they've been but you may not know they're there but they're everywhere. I would like to leave a footprint in this town and I would like to recognise the footprints of those left before me. I would like to recognise and acknowledge the contribution that Uncle played in the community, the intergenerational impact he had on Sporting, across many sports and many volunteering hats. He was a Political Leader, he was a leader and he was a Warrior and I see it fitting to rename this park after a Nyoongar Warrior, in the trees at this park you can see the footprints of our old people. There are coolamons in the trees and there is a shield, a scar tree at this park. I would like to have this preserved and recognised and I would like the children of future generations of this town to recognise the contribution of this great Elder.

When Uncle came to town I was happy because I could run barefoot in the park with more friends and family. When uncle came to town he was on the cricket pitch with his big son teaching how to hit and run, bowl and bat. Uncle still holds records in both Football and Cricket in the Upper Great Southern and for down here, I would like to acknowledge that. He trained his children in many sports, he trained his grandchildren, he trained parents, families, grandparents and young ones how to play sports. He gave up his time and he gave it freely, he was a hard man but deep inside you could feel his love.

Uncle Keren trained his families and many generations of residents at this park. I've seen him watch his children play there, his grandkids and I've seen many beautiful things happen here. I would like to use this space to grow our connectedness to the community in line with our Strategic Community Plan to grow and nurture community connectedness through wellbeing through aboriginal heritage and inclusion. We would like to strengthen relationships with Aboriginal and Torres Strait Islander peoples which fosters mutual respect, support and Cultural Awareness.

I would like to empower Community Capacity Building by empowering the Community across all ages and abilities to be Culturally Aware and involved with the diverse range of Community initiatives that incorporate Volunteering, Sport, Culture and the Arts."

## **Details**

The reserve located at the intersection of Breaden Drive and Goongarrie Drive is known as Breaden Drive Reserve. The City received the Vesting Order for the Reserve in June 1978 with development of the Reserve commencing in the mid to late eighties. The Reserve is currently used for junior level sports and passive recreational activities. The accepted practice for naming a reserve is principally determined by the major road frontage identified on the deposited plan provided by the Department of Planning, Lands and Heritage at the time of the reserve Management Order being created.



Location Plan



Landgate's Geographic Names Committee (GNC) sets the Policy and Standards for Geographic Naming in Western Australia. When a naming action has been presented to the GNC, it shall determine whether the naming proposal in its current form conforms to all required naming policies and standards. Further supporting evidence from the applicant, government departments or development bodies and other interested parties may be required. The GNC will determine the merits of each proposal and/or identify issues arising from the application before making a final decision.

Before making an application to the GNC, the City needs to ensure that any naming request meets the required standards and provide evidence of so in its application. Community consultation to provide evidence of broader support for the reserve naming is also required.

When a City reserve is to be named in honour of a person, it is to recognise their significant contribution to the area of the proposed park or reserve. Association or contribution can include:

- twenty or more years association with a local community group or service club;
- twenty or more years of association or service with a local or state government agency or organisation;
- action by an individual to protect, restore, enhance or maintain an area that produces substantial long-term improvements for the community or area; and,
- service to the community or organisation must have been voluntary.

# **Implications to Consider**

## a. Consultation with the Community

The GNC requires that any proposal requesting the renaming of an approved name or any new naming proposal considered to be of significance to the immediate or extended community must include evidence of consultation with the community. Local governments must ensure that the level and form of consultation undertaken reflects the significance of the naming proposal.

The GNC also outlines that consultation with the relevant Aboriginal communities should be undertaken prior to any public consultation on the proposed name. In instances when there is more than one relevant Aboriginal group, consultation with all parties must be undertaken.

Selection of a local park or recreational reserve name must take into consideration the impact the name will have on the wider community.

### b. Consultation with Government Agencies

The GNC, based on information received in the City's application, will make recommendation to the Minister for Lands on any request for the official naming of a reserve. It may consult with relevant emergency response or public service organisations if a question of public safety or confusion might arise in any naming change request.

## 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: Aboriginal Heritage and Inclusion - Strengthen relationships with

Aboriginal people which foster mutual respect and support, and

cultural awareness.

Aspiration 4: Deliver Quality Leadership and Business Expertise

Strategic Objective: Effective Governance - Apply systems of governance which

empower the Council to make considered and informed decisions within a transparent, accountable, ethical and compliant

environment.

#### d. Policy

Nil

#### e. Financial

There are no administrative costs imposed by the GNC for the application to rename a reserve. Once a reserve is officially named then a reserve name sign will be installed along with a plaque outlining the person's achievements and background. The costs of the sign and plaque are in the order of \$3,000.

In addition, an on-site unveiling ceremony with Councillors, staff and relevant family members may be considered.

## f. Legal and Statutory

As per the provisions in the *Land Administration Act 1997*, the Minister for Lands (the Minister) has the authority for officially naming and un-naming all local parks and recreational reserves in Western Australia.

## 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

At the time of preparing this report officers were not able to seek additional information regarding the particulars of the contributions and relationship that Keren Ugle Snr had with the local Cooloongup community. This information is required to ensure that the renaming proposal meets the GNC Standards for Geographic Naming in Western Australia.

Where the provided information suitably addresses the GNC criteria, the findings will be presented back to Council with a recommendation to progress to public consultation on the renaming proposal.

# **Voting Requirements**

Simple Majority

## Officer Recommendation

That Council **DIRECTS** the CEO to seek additional information that supports the Geographic Names Committee criteria for the renaming of Breaden Drive Reserve to Keren Ugle Snr Reserve.

# **Notice of Motion from Cr Rae Cottam**

That Council **DIRECTS** the CEO to rename Breaden Drive reserve to Keren Ugle Snr Reserve in acknowledgement and recognition of his contribution to the community.

Note: As a Committee member had not been authorised by Cr Cottam to move her Notice of Motion, this Item will be referred to Council on Tuesday 25 August 2020 without a Committee Recommendation.

16.	Notices of Motion for Consideration at the Following Meeting
	Nil
17.	Urgent Business Approved by the Person Presiding or by Decision of the Committee
	Nil
18.	Matters Behind Closed Doors
	Nil
19.	Date and Time of Next Meeting
	The next Planning and Engineering Services Committee Meeting will be held on <b>Monday 14 September 2020</b> in the Council Boardroom, Council Administration Building, Civic Boulevard, Rockingham. The meeting will commence at 4:00pm.
20.	Closure
	There being no further business, the Chairperson thanked those persons present for attending the Planning and Engineering Services Committee meeting, and declared the meeting closed at <b>5:43pm</b> .