



City of Nedlands

Planning and Development Reports

Committee Consideration – 10 August 2021

Council Resolution – 24 August 2021

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PD27.21	Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)
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Committee	10 August 2021
Council	24 August 2021
Applicant	David Joseph
Landowner	D Joseph and C Joseph
Director	Tony Free – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia</p>
Report Type Quasi-Judicial	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
Reference	DA20-48595
Previous Item	Nil
Delegation	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Extract of 23 March 2021 OCM – Agenda containing report with recommendation to Council 2. Extract of 23 March 2021 OCM – Minutes
Confidential Attachments	<ol style="list-style-type: none"> 1. Plans 2. Updated Management Plan

1.0 Executive Summary

The purpose of this report is for Council to reconsider a Development Application for an existing Holiday House (Short-Term Accommodation) at No. 37 Strickland Street, Mount Claremont.

At the 23 March 2021 Ordinary Council Meeting, the application was refused by Council. Subsequent to Orders being set out by the State Administrative Tribunal and a new Management Plan being received by the City, this application is presented to Council to reconsider the proposal and make a determination.

It is recommended that the application be refused by Council as the updated Management Plan does not materially change the development proposal as previously considered by Council on 23 March 2021. As such, Council's previous decision from March 2021 is recommended.

Recommendation to Committee

Council in accordance with Clause 68 (2) of the Planning & Development (Local Planning Schemes) Regulations 2015 resolves to refuse the development application dated 27 May 2020 for a Short Term Accommodation at Lot 96 (No. 37) Strickland Street, Mount Claremont for the following reasons:

1. The proposal is not compatible or complimentary with the adjoining residential development and is contrary to an objective of the Residential zone under the Scheme;
2. The proposal does not comply with Clause 67(2)(n)(iii) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 as the development is not in keeping with the amenity of the locality, including the social impacts of the development and
3. The proposal would have a detrimental impact on the existing residential amenity and character of the immediate low density residential area.

2.0 Background

2.1 History of the Development Application:

The timeline below refers to the history of the application thus far:

May 2020	Development application lodged with the City of Nedlands
July 2020	Application advertised to adjoining landowners and occupiers
September 2020	Application presented to Council for determination due to objections being received. At the Committee Meeting, the application was recommended for approval. At the Council Meeting on 22 September 2020, the item was deferred to October 2020
October 2020	Application re-presented to Council for final determination, where the motion to approve was lost, and no decision was made.
December 2020	SAT Appeal lodged by applicant for Deemed Refusal (i.e. no decision having been made within the 90 day statutory time limit).
January 2021	Directions Hearing held at SAT – Orders made that the application is to be re-presented to Council for a final determination.
March 2021	Application presented to Council for determination. Application was refused by Council – please see Attachment 2 for Minutes from the 23 March 2021 OCM.
June 2021	Mediation held at SAT – Orders made that the applicant is to provide additional information (Management Plan) to the City of Nedlands and the application is to be re-presented to Council for reconsideration.
August 2021	Application presented to Council for determination.

3.0 Application Details

3.1 Updated Management Plan

Pursuant to Orders set by the SAT, the applicant has submitted an updated Management Plan which is contained as **Confidential Attachment 2** of this report.

To assist the applicant with the preparation of the updated Management Plan, four different examples of short term accommodation management plans were provided by the City's representative. Although these management plans were examples of proposals outside of the City of Nedlands, the information was provided to the applicant so as to assist in providing a response to the City to reconsider the decision previously made on the proposal.

In the updated Management Plan, the applicant has added the following statements to assist with the consideration of the application:

- A dedicated website will be set up with owner's contact details on the website;
- A sign on site will be set up;
- A register of clients using the short term accommodation will be maintained;
- A complaints register will be maintained.

The City notes that the updated Management Plan does not materially change the nature of the application as previously considered by Council at the March 2021 OCM. Additional information would be required to assist the Council in the reconsideration of the application, including the following information, but not limited to:

- What information and content will be uploaded on the website, including marketing of the short term accommodation to groups of people, how guests are selected and the vetting process;
- Details on the nature, size, content and location of the site;
- How often the register of clients will be updated and maintained, what information will be available on the register (arrival and departure dates, names of guests, contact details);
- How often the complaints register will be updated and maintained, how often the City of Nedlands will be provided the complaints register (weekly / fortnightly / monthly basis) what information will be available on the complaints register (nature of complaint, date, time and complaint details), action(s) taken to address complaints and any further actions required by applicants.

4.0 Conclusion

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

Although an updated Management Plan has been submitted by the applicant, the additional information submitted does not materially change the development proposal as previously considered by Council at the 23 March 2021 Ordinary Meeting. Accordingly, Council's previous decision for a refusal is recommended for the reconsideration of the application.

The State Administrative Tribunal will consider the matter further in the light of Council's determination. In the event that Council resolves to refuse the application as recommended, the applicant will have the right of review through a full hearing of the Tribunal.

PD05.21	Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)
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Committee	9 March 2021
Council	23 March 2021
Applicant	David Joseph
Landowner	David Joseph and Christine Joseph
Director	Tony Free – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia</p>
Report Type	When Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications and other decisions that may be appealable to the State Administrative Tribunal.
Quasi-Judicial	
Reference	DA20-48595
Previous Item	Nil
Delegation	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Applicant's Justification Report 2. Extract of 27 October 2020 OCM – Agenda containing report with recommendation to Council 3. Extract of 27 October 2020 OCM – Minutes
Confidential Attachments	<ol style="list-style-type: none"> 1. Plans 2. Management Plan 3. Submissions 4. Assessment 5. Petition

1.0 Executive Summary

The purpose of this report is for Council to reconsider pursuant to the orders set by the State Administrative Tribunal a Development Application for an existing Holiday House (Short-Term Accommodation) at No. 37 Strickland Street, Mount Claremont.

At the 27 October 2020 Ordinary Council Meeting, the motion for conditional approval was lost. In accordance with Regulation 11(da) of the *Local Government (Administration) Regulations 1996*, Council stated the reason for not approving the application was due to the number and type of complaints received. As the approval motion was lost without an alternative refusal resolution, the application is legally

considered to have been 'deemed refused' as the statutory time period in which to make a determination has expired.

Subsequent to Council's consideration of the matter, the applicant lodged an application for review to the State Administrative Tribunal. The Tribunal has ordered the City consider the proposal again. This report is presented to Council to make a final determination for the proposal based on sound town planning grounds.

It is recommended that the application be approved by Council as it is considered to satisfy all the Objectives and Policy Measures for a Holiday House of the City of Nedlands Short Term Accommodation Local Planning Policy (LPP).

Recommendation to Committee

Council approves the retrospective development application dated 27 May 2020 for a Holiday House at Lot 96 (No. 37) Strickland Street, Mount Claremont, subject to the following conditions and advice notes:

- 1. This approval is for a Holiday House. Development shall be in accordance with the land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.**
- 2. The approval period for the Holiday House will expire 12 months from the date of this approval.**
- 3. The Management Plan date stamped 24 June 2020 forms part of this approval and is to be complied with at all times to the City's satisfaction.**
- 4. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.**
- 5. The proposed use complying with the Holiday House definition stipulated under the City's Local Planning Scheme No. 3 (refer to advice note a)).**
- 6. A maximum of six (6) guests are permitted to reside at the Holiday House at any one time.**
- 7. Each booking for the Holiday House must be for a minimum stay of 2 consecutive nights.**
- 8. A maximum of two (2) guest vehicles for guests of the Holiday House are permitted on the premises at any one time.**

Advice Notes specific to this proposal:

- a) **With regard to condition 1, the applicant and landowner are advised that the use Holiday House is defined as the following in accordance with the City of Nedlands Local Planning Scheme No. 3 and the City of Nedlands Short Term Accommodation Local Planning Policy:**

‘Holiday House means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast’.
- b) **In relation to Condition 2, the applicant is advised that if the applicant wishes to continue the use of the land for the Holiday House after the expiry period (30 June 2022), an application to renew the approval must be submitted to the City’s Planning Department for assessment prior to the completion of the initial approval period. The applicant is advised to contact the City’s Planning Services closer to the expiry date for assistance in lodging an Amendment Development Application and the required fees for the application.**
- c) **A separate development application is required to be submitted to and approved by the City prior to any increase in the maximum number of guests at the Holiday House.**
- d) **The applicant is advised that any increase to the number of guest vehicles which are parked at the Holiday House will require further Development approval by the City of Nedlands.**
- e) **This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.**
- f) **This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands’ Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.**
- g) **Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997*.**
- h) **All solid waste and refuse and waste to be managed so as to not create a nuisance to neighbours (in accordance with City requirements).**
- i) **No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.**

- j) Emergency exits and safety of premises to be assessed for adequacy by the Department of Fire and Emergency Services (DFES).
- k) Should the occupancy capacity of the proposal exceed 6 persons (exclusive of the property owners) the proposal will require reassessment as a “lodging house” under the *Health (Miscellaneous Provisions) Act 1911* and the *City of Nedlands Health Local Laws 2017*.
- l) Where applicable the applicant shall upgrade the premises to comply with the relevant provisions applicable for a Class 1b Building, please contact the City’s Building Services for further advice.

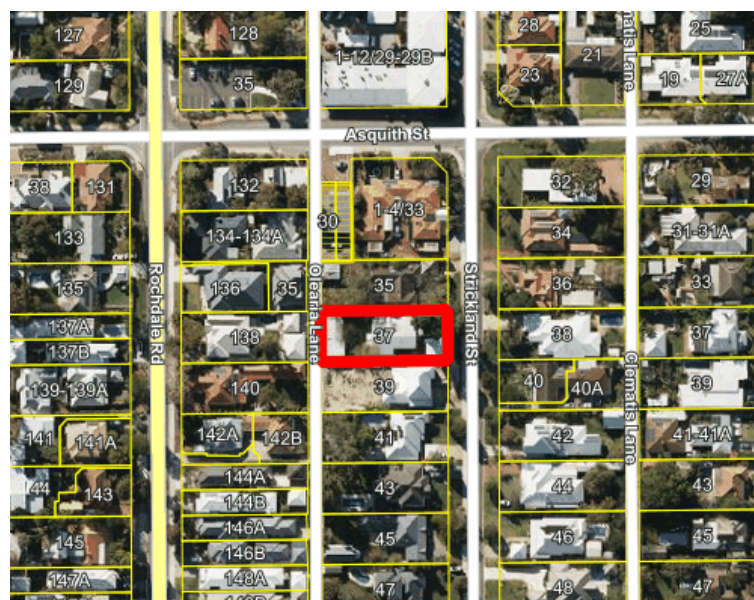
2.0 Background

2.1 Land Details

Metropolitan Region Scheme Zone	Urban
Local Planning Scheme Zone	Residential
R-Code	R20
Land area	1012m ²
Additional Use	No
Special Use	No
Local Development Plan	No
Structure Plan	No
Land Use	Existing – Residential and Ancillary Dwelling Proposed – Residential and Holiday House
Use Class	Proposed – ‘A’ use class for Holiday House in a Residential zoned area.

2.2 Locality Plan

The subject property is located within an area which displays a predominantly residential character with a density of R20 under LPS 3 as shown in the aerial map below.



Approximately 80m to the north of the subject property is the Mount Claremont Local Centre which consists of a diverse variety of retail and commercial tenancies as shown on the map below.



3.0 Application Details

3.1 Nature of Application

The applicant seeks development approval for the use of the subject property for a Holiday House. As per the City of Nedlands Local Planning Scheme No. 3, a “Holiday House” is defined as:

“a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast.”

The City of Nedlands Local Planning Scheme No. 3 defines a “Short-Term Accommodation” use as:

“temporary accommodation provided either continuously or from time-to-time with no guest/s accommodated for periods totalling more than 3 months in any 12-month period.”

The applicant (who is also the owner of the property) is seeking to operate the “Holiday House” at the subject property. The owners of the property will reside on site and manage the holiday house.

In the Management Plan contained as **Confidential Attachment 2** of this report, the applicant has explained:

- There will be one booking taken at a time.
- The maximum number of guests at the property will be between 4 to 6 guests and each booking will be for a minimum of 2 consecutive nights.
- The maximum number of guest cars the property will be 2 guest cars.
- The hosting requirements of the holiday house will be managed by 'Houst' (a management company) to take care of bookings, guest data and check in and check out dates.
- The Management Plan also contains a Code of Conduct which will be provided to all guests of the Holiday House.

The City notes that when the Short-Term Accommodation Local Planning Policy was adopted, there was an amnesty period to encourage already operating short term accommodation providers to get their necessary approvals through the Council.

Of the many already operating short term accommodation properties within the City, the applicant for this DA was one of the few owners that came forward to normalise the use of the land for the holiday house.

3.2 History of Application

The timeline below refers to the history of the application thus far:

May 2020	Development application lodged to the City of Nedlands
July 2020	Application advertised to adjoining landowners and occupiers
September 2020	Application presented to Council for determination due to objections being received. At the Committee Meeting, the application was recommended for approval. At the Council Meeting on 22 September 2020, the item was deferred to October 2020
October 2020	<p>Application re-presented to Council for final determination, where the motion to approve was lost, and no decision was made.</p> <p>The Council Minutes contained as Attachment 3 indicated that in accordance with Regulation 11(da) of the Local Government (Administration) Regulations 1996, Council did not approve this application due to the number and type of complaints received. This is not considered a resolution to refuse the application under clause 68(2)(c) of the Deemed Provisions of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.</p> <ul style="list-style-type: none"> - Note: Regulation 11(da) of the Local Government (Administration) Regulations 1996 requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration
December 2020	SAT Appeal lodged by applicant for Deemed Refusal (i.e., no decision having been made within the 90-day statutory time limit).

January 2021	Directions Hearing held at SAT – Orders made that the application is to be re-presented to Council for a final determination.
March 2021	Application presented to Council for determination.

In summary, pursuant to the Orders set by the SAT, the purpose of this report is for Council to reconsider the Development application for an existing Holiday House (Short-Term Accommodation) at the subject site and make a determination under clause 68(2) of the Deemed Provisions.

3.3 SAT Appeal

An Order made by the SAT requests the landowner to provide further information to the City to assist their proposal.

At the Council Meetings in 2020, submitters made a presentation to Council and stated they have filed a Police Report against the Holiday House with concerns over street drinking, antisocial behaviour and noise. To confirm these statements, the owner of the subject site visited the Wembley Police Station on 25 September 2020. The owner was advised by the police that there have been no incident reports created for the use of the site as a Holiday House.

The Assessing Officer called Wembley Police Station on 10 February 2021 to ask the Police Station to confirm if there have been any police incident reports against No. 37 Strickland Street, Mount Claremont. The Police Station confirmed that on the Statewide Database, there have been no police incident reports against the subject property in relation to street drinking, antisocial behavior or noise.

The Assessing Officer has also enquired with the City of Nedlands Rangers Department who have confirmed that Rangers have no complaints or issues for the subject property.

In light of the above findings, there have been no complaints or issues for this site to the City's Planning Department, City's Rangers Department, or the Police. It can therefore be considered that although the holiday house has been operating since 2019, there have been no negative impacts on the local amenity through antisocial behavior or noise.

4.0 Consultation

A Holiday House is an 'A' Use in a Residential Zone under the Zoning Table of the City of Nedlands Local Planning Scheme No. 3.

An 'A' use means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving notice in accordance with clause 64 of the deemed provisions. Therefore, the development application was advertised for a period of 14 days in accordance with the City's Local Planning Policy - Consultation of Planning Proposals. The application was advertised in July from 6 July 2020 – 20 July 2020 to a total of 38 owners and occupiers. During this consultation period, 4 objections were received.

In support of the application, the applicant has provided a letter of response, addressing the submissions received. This has been provided as **Attachment 1** of this Council Report.

In the original report to Council, a summary of the concerns/comments raised, and the City's response and action taken is provided in the table under Section 5.0. Please refer to **Attachment 2 – 5.0 Consultation** for the summary of submissions of the 4 submissions received, the officer response and action taken.

Administration notes that after the report was presented to Council in September, the application was deferred to the October meeting. On 22 October 2020, a Petition was received by the City to refuse the application with a total of 31 signatories. Council considered the Development Application at the 27 October 2020 Ordinary Meeting. The petition is contained as **Confidential Attachment 5** to this report.

5.0 Assessment of Statutory Provisions

5.1 Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9, clause 67(2) (Consideration of application by local government) stipulates those matters that are required to be given due regard to the extent relevant to the application. Where relevant, these matters are discussed in the following sections.

In accordance with provisions (m) and (n) of the Regulations clause 67(2), due regard is to be given to the compatibility of the development and the likely effect of the proposed development's potential impact it will upon the local amenity.

5.2 Local Planning Scheme No. 3 – Residential Zone Objectives

Requirement	Proposal	Satisfies
a) To provide for a range of housing and a choice of residential densities to meet the needs of the community;	The proposal is considered to positively contribute to the City's housing diversity through the proposal of a Holiday House. Temporary accommodation through the proposal of a Holiday House is seen to meet the needs of the community, which seeks for a diverse range of housing options.	Yes
b) To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;	Not applicable as the application is only seeking approval for the use of the existing dwelling as a Holiday House. No works are proposed as part of this development application.	N/A
c) To provide for a range of non-residential uses, which are compatible with and complementary to residential development;	As above. It is noted that the proposal for a Holiday House is seen complementary to the existing residential development on site and the residential land use in the locality of Mount Claremont. As seen in the locality plan, the surrounding land uses all include Residential dwellings in an R20 coding.	N/A

	The dwelling which will be used for the Holiday House is an existing dwelling and the proposal of the Holiday House is seen to be compatible with this existing land use of the site and the adjoining residential use of the locality.	
d) To ensure development maintains compatibility with the desired streetscape in terms of bulk, scale, height, street alignment and setbacks;	As above – no works are proposed as part of this development application.	N/A

5.3 Local Planning Policy

5.3.1 – Short Term Accommodation Local Planning Policy

Policy Objective	
3.1	To ensure the location and scale of short-term accommodation uses are compatible with the surrounding area.
3.2	To maintain a high standard of amenity for the surrounding neighbourhood through required management controls.
3.3	To ensure properties used for a short-term accommodation uses do not have an undue impact on the residential amenity of the area by way of noise, traffic, or parking.
3.4	To establish a clear framework for the assessment and determination of applications for short-term accommodation.
Policy Requirement	
4.2	Applications for Holiday House, where a keeper does not reside on-site may be supported where: <ul style="list-style-type: none"> a) The number of guests is limited to 6 persons; and b) Bookings must be for a minimum stay of 2 consecutive nights.
Proposed	
The application proposes: <ul style="list-style-type: none"> - A Holiday House which proposes the owners to reside on site, - Only one booking will be taken at a time, - The maximum number of guests which will reside at the Holiday House is 6 people, - Each booking will be for a minimum stay of two consecutive nights, and - Check in time is 3PM and check out time is 11AM. 	
Administration Assessment	
The application for the Holiday House is considered to meet the objectives and requirements of a Holiday House under the City of Nedlands Short Term Accommodation LPP. The applicant has demonstrated through the submitted management plan that the use of the residential dwelling as a Holiday House will likely have a negligible impact on neighbouring landowners and the surrounding amenity of the property.	
As per recommended Condition 8 of the determination, the Management Plan forms part of the approval and is to be complied with at all times to the City’s satisfaction.	
Administration also notes that this Application was proposed during the amnesty period which was provided by Council through the adoption of the City of Nedlands Short Term Accommodation LPP.	
As per recommended Condition 2 of determination, this Approval would only be valid for 12 months. During this time, the City can keep a record of complaints or concerns raised	

through the use of the Holiday House. Should the applicant wish to continue operating the Holiday House after the expiry period, an Amendment to the Development application will be required to be submitted to the City for further review and assessment of the short-term accommodation, taking into consideration any complaints received during the approval period.

5.3.2 – Parking Local Planning Policy

Policy Objective
3.1 To facilitate the development of sufficient parking facilities for cars and other wheeled vehicles.
Policy Requirement
For a Holiday House, the Parking LPP prescribes that 1 car parking bay is required per guest bedroom, in addition to any bays required under the R-Codes for the dwelling.
Proposed
As per the plans, 4 rooms will be used for the Holiday House. These rooms include Bedroom 2, 3, 4 and 5.
On point 2 of the Management Plan, the applicant (and landowner) has advised that there will be a maximum of 2 guest cars on the property.
As per the requirements of the R-Codes, 2 car parking bays are required for the dwelling. Therefore, a total of 4 car parking bays are required for this proposal.
The subject property has 3 carports at the rear of the site abutting Olearia Lane to the rear and there is a double carport for 2 cars at the front of the property facing Strickland Street. Therefore, a total of 5 car parking bays are provided on the subject property.
Administration Assessment
The application for a Holiday House is considered to meet the objectives and requirements of a Holiday House under the City of Nedlands Parking LPP. The applicant has demonstrated through the submitted Management Plan contained as Confidential Attachment 2 that the use of the residential dwelling as a Holiday House will likely have a negligible impact on neighbouring landowners and the surrounding amenity of the property.
As per recommended Condition 7 of the determination, a maximum of 2 guest vehicles are permitted for the guests of the Holiday House at any given time.
As per recommended Condition 8 of the determination, the Management Plan (which also indicates that a maximum of 2 guest cars are permitted on the property) forms part of the approval and is to be complied with at all times to the City's satisfaction.
As per recommended Condition 9, all guest vehicles shall be parked within the property boundaries of the subject site and no guest parking is permitted on the verge or street.

6.0 Conclusion

Council is requested to make a decision in accordance with clause 68(2) of the Deemed Provisions. Council may determine to approve the development without conditions (cl.68(2)(a)), approve with development with conditions (cl.68(2)(b)), or refuse the development (cl.68(2)(c)).

The application for a retrospective Holiday House is considered to satisfy the objectives and requirements of the City of Nedlands Local Planning Scheme No. 3,

the City of Nedlands Short Term Accommodation Local Planning Policy and the City of Nedlands Parking Local Planning Policy.

Through the proposed Management Plan submitted by the applicant (and owner of the subject property), the applicant has demonstrated that the Holiday House is unlikely to have an undue impact on the residential amenity of the area by way of noise or parking. The Holiday House proposes sufficient parking facilities on the site for the operation of the Holiday House.

As per the Management Plan submitted with this application, the owners will reside on site which will allow for any potential neighbour concerns of the Holiday House to be readily addressed in comparison to a proposal for an unsupervised Holiday House.

Accordingly, it is recommended that the application be approved for fixed-term period of 12 months, subject to Conditions and Advice Notes.

12.2 Planning & Development Report No's PD05.21 to PD10.21 (copy attached)

Note: Regulation 11(da) of the *Local Government (Administration) Regulations 1996* requires written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70, but not a decision to only note the matter or to return the recommendation for further consideration.

PD05.21	Reconsideration of Planning Application – No. 37 Strickland Street, Mount Claremont – Holiday House (Short Term Accommodation)
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Committee	9 March 2021
Council	23 March 2021
Applicant	David Joseph
Landowner	David Joseph and Christine Joseph
Director	Tony Free – Director Planning & Development
Employee Disclosure under section 5.70 Local Government Act 1995 and section 10 of the City of Nedlands Code of Conduct for Impartiality.	<p>The author, reviewers and authoriser of this report declare they have no financial or impartiality interest with this matter.</p> <p>There is no financial or personal relationship between City staff and the proponents or their consultants.</p> <p>Whilst parties may be known to each other professionally, this relationship is consistent with the limitations placed on such relationships by the Codes of Conduct of the City and the Planning Institute of Australia</p>
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Reference	DA20-48595
Previous Item	Nil
Delegation	In accordance with the City's Instrument of Delegation, Council is required to determine the application due to objections being received.
Attachments	<ol style="list-style-type: none"> 1. Applicant's Justification Report 2. Extract of 27 October 2020 OCM – Agenda containing report with recommendation to Council 3. Extract of 27 October 2020 OCM – Minutes
Confidential Attachments	<ol style="list-style-type: none"> 1. Plans 2. Management Plan 3. Submissions 4. Assessment 5. Petition

Regulation 11(da) – Not Applicable – Recommendation Adopted

Moved – Councillor Mangano

Seconded – Councillor Youngman

That the Recommendation to Council be adopted.

(Printed below for ease of reference)

CARRIED 7/5

**(Against: Deputy Mayor McManus Crs. Hodsdon
Poliwka Wetherall & Senathirajah)**

Council Resolution / Committee Recommendation

Council in accordance with Clause 68 (2) of the Planning & Development (Local Planning Schemes) Regulations 2015 resolves to refuse the development application dated 27 May 2020 for a Short Term Accommodation at Lot 96 (No. 37) Stricklan Street, Mount Claremont for the following reasons:

- 1. The proposal is not compatible or complimentary with the adjoining residential development and is contrary to an objective of the Residential zone under the Scheme;**
- 2. The proposal does not comply with Clause 67(2)(n)(iii) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 as the development is not in keeping with the amenity of the locality, including the social impacts of the development and**
- 3. The proposal would have a detrimental impact on the existing residential amenity and character of the immediate low density residential area.**

Recommendation to Committee

Council approves the retrospective development application dated 27 May 2020 for a Holiday House at Lot 96 (No. 37) Strickland Street, Mount Claremont, subject to the following conditions and advice notes:

1. This approval is for a Holiday House. Development shall be in accordance with the land use as defined within Local Planning Scheme No. 3, the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.
2. The approval period for the Holiday House will expire 12 months from the date of this approval.

3. The Management Plan date stamped 24 June 2020 forms part of this approval and is to be complied with at all times to the City's satisfaction.
4. The development shall at all times comply with the application and the approved plans, subject to any modifications required as a consequence of any condition(s) of this approval.
5. The proposed use complying with the Holiday House definition stipulated under the City's Local Planning Scheme No. 3 (refer to advice note a)).
6. A maximum of six (6) guests are permitted on the reside at the Holiday House at any one time.
7. Each booking for the Holiday House must be for a minimum stay of 2 consecutive nights.
8. A maximum of two (2) guest vehicles for guests of the Holiday House are permitted on the premises at any one time.

Advice Notes specific to this proposal:

- a) With regard to condition 1, the applicant and landowner are advised that the use Holiday House is defined as the following in accordance with the City of Nedlands Local Planning Scheme No. 3 and the City of Nedlands Short Term Accommodation Local Planning Policy:

'Holiday House means a single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast'.
- b) In relation to Condition 2, the applicant is advised that if the applicant wishes to continue the use of the land for the Holiday House after the expiry period (30 June 2022), an application to renew the approval must be submitted to the City's Planning Department for assessment prior to the completion of the initial approval period. The applicant is advised to contact the City's Planning Services closer to the expiry date for assistance in lodging an Amendment Development Application and the required fees for the application.
- c) A separate development application is required to be submitted to and approved by the City prior to any increase in the maximum number of guests at the Holiday House.
- d) The applicant is advised that any increase to the number of guest vehicles which are parked at the Holiday House will require further Development approval by the City of Nedlands.

- e) This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.
- f) This planning decision is confined to the authority of the *Planning and Development Act 2005*, the City of Nedlands' Local Planning Scheme No. 3 and all subsidiary legislation. This decision does not remove the obligation of the applicant and/or property owner to ensure that all other required local government approvals are first obtained, all other applicable state and federal legislation is complied with, and any restrictions, easements, or encumbrances are adhered to.
- g) Noise levels are to comply with the *Environmental Protection (Noise) Regulations 1997*.
- h) All solid waste and refuse and waste to be managed so as to not create a nuisance to neighbours (in accordance with City requirements).
- i) No materials and/or equipment being stored externally on the property, which is visible from off site, and/or obstructs vehicle manoeuvring areas, vehicle access ways, pedestrian access ways, parking bays and/or (un)loading bays.
- j) Emergency exits and safety of premises to be assessed for adequacy by the Department of Fire and Emergency Services (DFES).
- k) Should the occupancy capacity of the proposal exceed 6 persons (exclusive of the property owners) the proposal will require reassessment as a "lodging house" under the *Health (Miscellaneous Provisions) Act 1911* and the *City of Nedlands Health Local Laws 2017*.
- l) Where applicable the applicant shall upgrade the premises to comply with the relevant provisions applicable for a Class 1b Building, please contact the City's Building Services for further advice.