

Admin, LACO

Subject: FW: Inquiry into Short Stay Accommodation - sub no. 191
Attachments: Report 02 Holiday Homes.docx; Pages from Minutes - Council 18 Dec 2018 Signed.pdf

From: Ann Harrop
Sent: Monday, 11 February 2019 12:26 PM
To: Committee, Economics & Industry Standing
Subject: Inquiry into Short Stay Accommodation

To whom it may concern,

Whilst the submission period for the inquiry into short stay accommodation has closed, it is hoped that the Inquiry may still consider the City of Mandurah's approach to holiday houses in its deliberations.

Council has previously considered this issue in some detail at its meeting held on the 18th December 2018, where it was resolved to continue with the 'responsive action' approach to holiday houses which was originally adopted in June 2015. This 'responsive approach' does not require the registration or approval of holiday homes, rather a list on known holiday homes is maintained by the City, with complaints received against these homes being addressed as a matter of urgency. This approach has been seen to be effective with complaints regarding holiday homes comprising of only a small percentage of the total complaints made with respect to residential properties being dealt with by the City. In total, only five holiday homes have been the subject of complaint since 2015.

The report considered by Council did investigate alternative regulatory mechanisms for holiday homes, however in light of the statistics regarding the numbers and complaints against holiday homes, it was determined that the use of a dwelling as long term rental, short term rental or permanent owner occupied residence, should not need an additional approval beyond the original approval to build the dwelling.

I have attached a copy of the agenda item and minutes of the report for your information. Should you have any queries regarding the above or attached information, please do not hesitate to contact me on the details below.

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*The City of Mandurah acknowledges the Bindjareb people as traditional custodians of this land.
 We acknowledge and respect their continuing culture and the unique contribution they make to the life of this community.*

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2 **SUBJECT:** Holiday Homes
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Summary

In April 2018, Council was presented with a petition containing the signatures of 65 residents requesting that Council consider the regulation of the location, size and management of short stay holiday homes within Mandurah. In June 2018 Council resolved, following a Notice of Motion, "that officers prepare a report that considers the establishment of a register of short term residential accommodation (STRA).

Following Council's resolution, officers have undertaken a review of a number of industry based discussion papers and government position papers to investigate alternative approaches to managing holiday homes. The potential impacts of holiday homes on surrounding neighbourhoods are well documented however the method by which these impacts are managed varies from State to State.

Council adopted a 'responsive' approach to Holiday Homes in June 2015, whereby a list of known holiday homes is maintained, with complaints received against a known holiday home being addressed as a matter of high priority. Since this time, of the 131 homes currently on the City's list of Holiday Homes, five properties have been the subject of noise complaints, with officers having been successful in working with landowners to manage issues through measures such as strengthening guest selection criteria, not allowing leavers, hens or bucks parties, and the provision of clear regulations to guests.

The 'responsive' approach to Holiday Homes is viewed to be an effective method for managing issues arising from Holiday Homes at this stage, with complaints regarding holiday homes comprising only a small percentage of total complaints dealt with by the City. As it is three years since the implementation of this approach however, it is suggested that a re-education campaign be conducted to ensure all owners and of known holiday homes and adjoining properties are;

- (a) Advised of obligations under the Environmental Protection (Noise) Regulations 1997; and
- (b) Advised of the City's complaint handing procedure with regards to Holiday Homes.

Disclosure of Interest

Nil

Previous Relevant Documentation

- G.32/6/18 26 June 2018 Notice of Motion presented to Council requesting officers prepare a report that considers the establishment of a register of short term residential accommodation.
- G.6/4/18 24 April 2018 Council received a petition requesting the regulation of the location, size and management of short stay holiday homes within Mandurah. Council resolved to refer the matter to officers for investigation and inclusion in the reporting process.
- G.12/8/17 8 August 2017 Council considered WALGA's discussion paper on Short Term Accommodation and the Shared Economy, and resolved to advise WALGA that the City has adopted a responsive approach to holiday houses and that it does not consider requiring an additional approval would add value to the process.
- G.19/6/15 23 June 2015 Council adopted a 'Responsive Action' approach to Holiday Homes
- G.17/03/15 24 March 2015 Council resolved that Officers report back to Council to initiate a Local Law and relevant town planning amendment in addition to detailing

observations over Easter and complaints received in relation to Holiday Homes.

Background

At its meeting of 24 April 2018, Council was presented with a petition containing the signatures of 65 residents requesting that Council consider the regulation of the location, size and management of short stay holiday homes within Mandurah. In response to this petition, Council resolved that “the petition be received and referred to officers for investigation and inclusion in the reporting process”.

A Notice of Motion was further considered by Council at its meeting of 26 June 2018 regarding the establishment of a Short Term Residential Accommodation Register (STRA) where it was resolved “that officers prepare a report that considers the establishment of a register of short term residential accommodation (STRA).

Council has previously considered this matter in some detail in March and June 2015, and again more recently in August 2017.

Historically in Mandurah, properties have been used as Holiday Homes, either by families in family owned properties, or by owners renting properties on a short term basis. There appears to be an increasing number of Holiday Homes that are more business based than has previously been the case and these properties are more easily accessible via the many national and international Holiday Home websites that are available. The City maintains an updated list of known Holiday Homes through undertaking an annual review of such websites, which currently lists 131 homes used as Holiday Homes within the City of Mandurah.

In March and June 2015, Council considered reports in relation to issues surrounding the operation of Holiday Homes within the City. A number of options for the management of Holiday Homes were considered at this time including:

1. The introduction of a Local Law similar to the City of Busselton model which would require all Holiday Homes to obtain an approval under the Local law and the planning scheme.
2. Amending the Town Planning Scheme to introduce definitions for Holiday Homes and an approval process akin to that which is currently in place in relation to the operation of Home Occupations.
3. Improving the City’s response procedures to address community concern.

In considering the options presented, Council requested officers assess the performance of known holiday homes over the 2015 Easter holiday period. Officers attended properties on 4 April 2015 (Easter Saturday) and 6 April 2015 (Easter Monday), which involved visits to 48 properties between the hours of 9:00pm to midnight on Easter Saturday and 9:00pm to 11:00pm on Easter Monday. During the visits, Officers made an assessment as to whether any obvious noise issues were present from the street, if there appeared to be street parking proliferation and any other amenity issues such as overflowing bins.

It was noted that during the assessments that five properties had greater than three cars with two properties having five cars. On these occasions the cars were parked behind the property line. No other notable issues were identified during the visits.

In addition, no direct noise or parking complaints were lodged with the City over this period. It was acknowledged during the assessment that it is difficult to determine whether a dwelling is being utilised for holiday purposes or by the owners. It was found that many of these dwellings had no visual differentiation between each other and other residential properties on the street, with car proliferation being minimal and in keeping with expectations for standard residential properties.

Officers also undertook a review of registered complaints between 1 January 2015 and 22 April 2015. During this time, the City received 74 Noise Service Requests (excluding dog barking) of which, there were no registered complaints against known Holiday Homes. In relation to car parking, there were a total of

332 complaints from 1 January to 22 April 2015, with two of these complaints linked to known Holiday Homes.

At its June 2015 meeting, following consideration of the various options for addressing Holiday Homes within the City of Mandurah, Council resolved to adopt a 'Responsive Action' response that included:

- Recording known Holiday Home locations
- Giving complaints in relation to noise, vehicle parking and refuse associated with known Holiday Homes a high priority; and
- Preparing a brochure outline procedures to be followed, if issues in relation to the operation of a Holiday Home should arise.

A copy of the brochure has been included as **Attachment 1**.

In August 2017, Council considered a discussion paper released by the Western Australian Local Government Association (WALGA) on Short Term Accommodation and the Shared Economy. The discussion paper was prepared in order to seek Local Government views on the need to review current guidance provided on Holiday Houses, including the inclusion of 'deemed provisions' relating to the control of holiday houses, and provide clarity on the definitions used to define short term accommodation.

The discussion paper provided an overview of how local governments from across the State are currently dealing with short term accommodation and provided examples of the approach taken in other States. Issues with the current guidance provided by the State Government and conflicts with definitions provided in the Planning and Development (Local Planning Schemes) Regulations 2015 were highlighted.

At this meeting, Council resolved to advise WALGA of Council's position that:

- (a) *The City has adopted a responsive approach to holiday houses and considers that an additional approval for short stay accommodation beyond the original to build the dwelling whether in a single dwelling or grouped or multiple dwelling circumstance does not add additional value to the process.*
- (b) *With regard to definitions, that the City considers that:*
 - *Holiday houses in grouped or multiple housing should be dealt with in the same manner as for a single house;*
 - *Definitions within the Model Provisions for Local Planning Schemes should reflect this position; and*
 - *All 'land use' definitions should be within the Deemed Provisions for Local Planning Schemes and not the Residential Design Codes;*
- (c) *Home sharing, if ultimately defined, should be treated in the same manner as Holiday Houses; and*
- (d) *Party houses are not considered to be an issue within the City of Mandurah*

In addition, Council formalised its responsive position by resolving that:

- (a) *A 'Holiday House' be defined as "means a dwelling used to provide short stay accommodation";*
- (b) *A 'Holiday House' be treated as an 'unlisted use' under Clause 3.2.2 of the Scheme, and that Council determines that for all zones where dwelling is a permitted or discretionary use, determines that a Holiday House is consistent with the zone and is therefore permitted; and*
- (c) *By virtue of being a 'permitted use', are exempt from the need for development approval under Clause 61(2)(b) of the Deemed Provisions for Local Planning Schemes.*

Comment

In order to prepare this report, officers have undertaken a review of a number of discussion papers and government policy positions including:

- NSW parliamentary enquiry on the Adequacy of Regulation of Short Term Holiday Letting 2016
- Short-Term Holiday Letting in NSW Options Paper July 2017
- Planning Responses to online short term holiday rental platforms (Research Project for Australian Coastal Councils Association Inc.) - September 2018
- Planning Directive No. 6 – Exemption and Standards for Visitor Accommodation in Planning Schemes (Tasmania)
- Short Term Accommodation and the Shared Economy (WALGA) 2017
- Planning Bulletin 99 – Holiday Home Guidelines (WA)
- Not Fair BnB (Australian Hotels Association WA)

A copy of these documents can be made available to Councillors on request.

Historically in Mandurah, residential dwellings have been used as Holiday homes, either by families in family owned properties, or by owners renting properties on a short term basis. The introduction of online platforms has however, increased the popularity and ease of offering private dwellings for short term accommodation worldwide. With occupiers of short term accommodation generally prioritising leisure or festive activities, being unfamiliar with local rules to manage amenity and being less concerned about maintaining good neighbourly relations, the increasing prevalence of holiday homes within residential areas has the potential to impact on the amenity of a neighbourhood.

Following a review of the above research, these potential impacts/issues may include;

- Noise – Noise and anti-social behaviour is one of the key issues commonly raised in discussions regarding short term holiday accommodation. Whilst the occurrence of noise complaints may be low, the impact of such occurrences on neighbouring properties should not be dismissed. In WA, noise emissions are regulated by the Environmental Protection (Noise) Regulations 1997 with maximum penalties of \$250,000 able to be applied should breaches occur.
- Waste – Waste generation can be higher for short term occupiers than long term residents due to the likelihood of perishable items being disposed of after a stay. In addition unfamiliarity with waste collection days may result in waste being accumulated over several weeks if a collection is missed.
- Emergency Management – On-line platforms have opened up the short term accommodation market to interstate and overseas visitors, some of whom may have no local knowledge to assist them in the case of an emergency. Information regarding emergency phone numbers, the location of the nearest hospital, bushfire management provisions, presence of smoke alarms, and legal property address, are all details which short term occupants may not be aware of. It should be noted that in WA, under the Building Regulations 2012, all residential properties which are subject to sale, rental or hire are required to ensure compliant hard wired smoke alarms are fitted. Where a dwelling available for hire does not comply with these requirements, the local government may issue an infringement under the Criminal Procedure Act 2004.
- Traffic and Parking – Short term accommodation may attract a higher proportion of independent adults than would be expected by long term residents. This may result in an additional demand for parking than what is provided resulting in car proliferation.

Broader Impacts – The impact of residential short stay accommodation on the holiday accommodation industry as a whole has also been widely discussed. There is the view that there is inequality between the regulated accommodation sector and the residential short stay accommodation sector which is less regulated, particularly in respect to establishment and compliance costs. Conversely however, it has also been argued that residential short stay accommodation caters for a different category of tourist than is catered for by the hotel industry. Impact on property prices has also been raised as a concern in areas where there is limited housing stock available.

City of Mandurah's Current Response

Currently within the City of Mandurah, no additional approval is required to utilise a residential dwelling as a holiday house, as Council has previously resolved to define a 'Holiday House' as a "*dwelling used to provide short stay accommodation*" and determined that this use permitted and therefore exempt from the need to obtain development approval under the Local Planning Scheme.

It should be noted that this does not preclude strata development from restricting short term leases under their own strata by-laws and using the Strata Titles Act as an enforcement mechanism.

Notwithstanding, the City maintain an updated list of known holiday homes through an annual review of on line platforms, 131 homes are currently listed as being utilised for short stay accommodation purposes within the City of Mandurah. A breakdown of the location of these holiday houses is provided below.

Bouvard	4	Madora Bay	6
Coodanup	4	Mandurah	23
Dawesville	6	San Remo	3
Falcon	13	Silver Sands	6
Halls Head	42	Wannanup	8
Lakelands	1		

With 40,000 dwellings in the City of Mandurah, holiday homes make up 0.3% of the housing stock. This percentage is higher than the 0.2% national average, however is substantially lower than the median rate of 4% for coastal communities (University of Sydney, 2018).

The City's list of holiday homes is used to assist officers with the 'responsive approach' to holiday houses adopted by Council in June 2015. Properties are identified within the City's mapping system and can be easily identified by officers. In addition holiday homes are treated as a separate category in the City's Customer Request Management System, where complaints can be logged and recorded as being in association with a holiday home. Complaints received with regards to a known holiday house are given a high priority for response in order to ensure impacts on adjoining neighbourhoods are minimised.

In addition, officers informally receive comments from owners within strata developments that the use of an apartment or townhouse for a holiday home is in conflict with the site's strata by-laws. In these circumstances, advice is provided that the Strata Company is responsible for compliance with the strata by-laws under the Strata Titles Act and that it is a matter for the parties that make up the Strata to enforce.

Since the adoption of the 'responsive' approach to holiday houses, five known holiday houses have been the subject of a noise complaint.

In respect to the number of complaints received, holiday homes represent only a small proportion of total complaints received by the City. In the period between December 2017 and April 2018, generally perceived to be the peak period for holiday rentals in Mandurah, 84 noise complaints were received, of which only 1 complaint was received in relation to a known holiday home.

In general, on receipt of a noise complaint, officers contact the landowners advising them of their obligations under the Environmental Protection (Noise) Regulations 1997, the penalties for breaches of the Regulations (up to \$250 000/person and \$500,000/body corporate), and seek action to resolve any issues.

In addition, Officer's work with the complainant to ensure any further issues can be recorded and addressed through the provision of noise diaries and recording devices. The responsive approach has proved successful with officers working with both the landowners and complaints to resolve issues through measures such as strengthening guest selection criteria, not allowing leavers, hens or bucks parties, and the provision of clear regulations to guests.

Where a complaint relates to parking of vehicles, contact details for the City Rangers are provided in order to enable Rangers to respond at the time of any further reoccurrences.

Council's approach to holiday homes is proposed to be formalised under draft Local Planning Scheme No. 12 which was adopted by Council for the purposes of advertising in January 2018. Under the draft Scheme, Holiday Houses are listed as a 'permitted use' in all zones where a dwelling is permitted, meaning no development approval will be required to use a dwelling as a holiday house.

Alternative Responses in Western Australia

In Western Australia some guidance on Holiday Homes is provided by the Department of Planning, Land and Heritage (DPLH) in the form of Planning Bulletin 99 – Holiday Homes Guidance. Planning Bulletins are prepared by the Department in order to provide advice on legislation, planning practice and policy positions of the WAPC but do not have any statutory powers.

The Planning Bulletin, released in 2009, provides guidance on the considerations that may be relevant to the approval of a holiday home (amenity, building standard), and conditions that may be included on an approval (Management Plan, Fire and Emergency Response Plan, approval periods), however it is left to Local Governments through their schemes to determine whether an approval is required.

This Bulletin is however considered outdated, as there are inconsistencies between definitions provided within the Bulletin and definitions listed within the Model Provisions for Local Planning Scheme, introduced within 2015.

Planning Bulletin 99 suggests Holiday Homes be divided into two categories, standard and large, with standard holiday homes catering for up to 6 people, and large holiday homes catering for between 6 and 12 people. The Model Provisions for Local Planning Schemes defines a holiday house as a "single dwelling on one lot used to provide short-term accommodation, but does not include a bed and breakfast".

The Minister for Planning has recently supported an inquiry into the level of regulation of short-stay accommodation. The Economics and Industry Standing Committee will inquire into and report on matters relating to the regulation of short-stay accommodation in Western Australia, with particular reference to:

1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities;
2. The changing market and social dynamics in the short-stay accommodation sector;
3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms;
4. Approaches within Australian and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The Committee will report to the House by 27 June 2019 and have invited submissions by 25 January 2019. It is expected that the above references will cover issues such as customer safety, insurance, land use planning, building standards, stay length, neighbourhood amenity, registration, licensing and taxation.

A review of the approaches taken by Local Governments in WA has shown requirements for Holiday Homes varies significantly between Local Governments. These include:

- Development Approval Required

The Shire of Augusta Margaret River's Local Planning Scheme reflects the definitions provided within Planning Bulletin 99, requiring development approval for Holiday Houses and Holiday Houses (Large). A local planning policy provides further guidance on the approval requirements for holiday houses and includes locational requirements for Holiday House (Large) to ensure holiday houses catering for more

than 6 guests are located in coastal settlements; in an area identified within the Margaret River townsite, within 50m of a Village Centre zone or on properties greater than 1ha in size.

The local planning policy further specifies that each holiday house shall have one parking bay per bedroom available and have a maximum capacity determined by two guests per bedroom.

A Bushfire Management Plan for holiday houses outside of a residential built up area, and a management plan detailing house rules applicable to the site and identifying a 'property manager' that permanently resides within a 35 minute drive from the site are required to accompany a development application.

Holiday homes are subject to an annual renewal and holiday houses who have received verified complaints relating to impact on amenity are unlikely to retain approval. It should be noted that within the Shire of Augusta Margaret River, changing the use of a dwelling to a 'Holiday House' affects the rating of the property, with properties used for 'Holiday Houses' being rated for commercial purposes.

The Shire of Manjimup defines a holiday house as "a dwelling together with its associated outbuildings designed primarily has a dwelling house for permanent residential purposes whether or not occupied periodically as such and used, whether or not for commercial gain or reward, from time to time for unsupervised, short stay accommodation purposes excluding people that are members of the owners family but include all people where the owner is a company".

A comprehensive Local Planning Policy provides further guidance on the approval of holiday houses and requires a detailed management plan and emergency response plan to be provided. These plans are required to include scaled floor plans, maximum number of guests, location of car parking, method of booking, the provision of a local manager including contact details, cleaning and servicing arrangements, location and type of smoke alarms and information to be provided to guests including firefighting equipment, emergency service numbers, location of nearest hospital and evacuation plans. Approvals are subject to an annual renewal.

- **Development Approval and Compliance with Local Law Required**

Some Local Governments such as the City of Fremantle and City of Busselton, require both a development approval and registration under a local law.

In both local governments, the local law requires registration and annual renewal of all dwellings used for short stay accommodation. Key features of Fremantle's local law are:

- A house made available for short stay accommodation (defined as accommodation for not more than six occupants for no more than three consecutive months) must be registered with the City of Fremantle. In the application for registration the operator of the accommodation must include the name and contact details for the manager of the accommodation who must be contactable 24/7, and must give an undertaking to respond to any contact regarding the accommodation within 12 hours.
- The property being registered must have at least one on-site parking space (unless the registration is for accommodation for four or less occupants).
- Bookings for any short stay accommodation must be for a minimum stay of two consecutive nights (this is intended to deter the booking of this type of accommodation for use as a one-night 'party house').

Within the City of Busselton's Local Law, designated areas in which Holiday Homes are 'preferred' are identified including more coastal portions of the City, rural residential areas and where existing Holiday Homes were located. Holiday Homes are also encouraged in areas of high tourist amenity. Holiday homes that are used by families or are for personal use do not require consent. The City of Busselton's Local Law was designed for the City to monitor complaints and the owner's responsiveness and

therefore if a holiday home was the source of continual complaint and appropriate action is not taken by the owner the City may exercise its option to decline approval of the annual registration.

The City of Busselton Local Law has been designed to complement the role of the Police, who remain responsible for excessive noise, reckless behaviour or threatening behaviour whether this occurs day or night.

For reference, the City of Busselton currently has 1001 AirBnB listings, making up 5.4% of its total housing stock, compared to the City of Mandurah's 131 listings (0.3% of housing stock).

Interstate Responses

In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an inquiry into the adequacy of regulation for short-term holiday letting in New South Wales. The recommendations of the parliamentary enquiry included a recommendation to exempt the short term letting of empty dwellings from the need to obtain approval where the development does not exceed applicable impact thresholds. The enquiry suggested impact thresholds could be determined by individual local governments.

Key findings of the parliamentary enquiry included:

- There is generally a low level of complaints concerning short term letting however given the continuing growth of short term letting, there is potential for more complaints.
- Complaints about the impacts of short term letting on the quiet enjoyment of adjoining properties are real and serious, and can be addressed through the existing regulatory framework.
- Subject to appropriate definitions and conditions, short term letting should be regarded as a residential use and as such, should not trigger any Building Code of Australia requirements.

Following the findings of the parliamentary enquiry, an options paper was released by the NSW Government for public consultation. In June 2018 the NSW Minister for Planning and Housing announced new planning rules for holiday houses which would:

- Provide a single definition for the use
- Exempt the use from approval where a host is present on site;
- Exempt the use from approval where a host is not present on site, and the house is leased for no more than 180 days per year within Greater Sydney or 365 days in the remainder of NSW.

Councils outside of Greater Sydney will be able to decrease, through their local environmental plans, the 365 day threshold to no lower than 180 days per year.

A mandatory Code of Conduct for holiday homes will be introduced that will apply to anyone involved in or using short term holiday houses which will be administered by the State Department of Finance, Services and Innovation.

In South Australia, an Advisory Notice was issued in March 2016 to clarify whether changes to the nature and/or extent of the occupation of a dwelling would constitute a change in use for the purposes of the Development Act 1993 and the Development Regulations 2008. In South Australia, the Act and Regulations make no reference to:

- The length of time a dwelling is occupied or the frequency with which occupation occurs;
- Any short or long term leasing or mutually agreed occupation arrangement/s;
- Platforms or tools used to facilitate and coordinate occupancy/rental; or
- Change in ownership arrangements.

Accordingly, the Advisory notice clarified that a dwelling would remain a dwelling even if it is occupied sporadically; let out during holiday periods to short term occupants; let for short term use; or if the owner lives overseas or interstate and uses it occasionally and then for relatively short periods. Therefore no

additional approval than that required to construct a dwelling is required for the use of a home as a holiday house.

In Tasmania, the use of a dwelling as a holiday house is exempt from the need to obtain development approval only when:

- The dwelling is used by the owner or occupier as their main place of residence, and only let while the owner or occupier is on vacation or temporarily absent; or
- The dwelling is used by the owner or occupier as their main place of residence, and visitors are accommodated in not more than 4 bedrooms.

The University of Sydney recently conducted a study on the planning responses to online short-term holiday rental platforms in Australia. The study found that State planning laws are generally inadequate in providing guidance to local government and recommended that:

- State planning laws should provide a standard definition of holiday rental accommodation and/or enable local councils to develop their own definitions for local planning schemes; and
- Once the use is defined, other planning provisions for regulating holiday rental accommodation should be made on an 'opt in' basis, determined by local councils in response to their specific local contexts and concerns.

The study also found that the need for regulation varied between local governments as the risk of impacts caused by holiday homes in residential areas varied dependant on the typology of the community. For example localities where there is an established tourist accommodation sector; where the local market is characterised by stable or falling demand; or where tourism is generally limited to a few peak periods, online rentals present minimal risk. Conversely, online rentals within closely settled communities, areas subject to high bushfire risk or low environmental capacity, present much greater issues that will likely require a strong regulatory approach.

City of Mandurah Actions

Following investigations into alternative regulatory options for addressing holiday homes, officers remain of the view that the need for an approval to use a dwelling as either a long-term rental, a short-term rental, or a permanent owner occupied residence, should not need an additional approval beyond the original approval to build the dwelling at this stage.

At the present time, the existing approach to holiday homes, in that that are exempt from the need to obtain development approval under the Local Planning Schemes should continue. This option does not preclude strata developments prohibiting the use through their own strata bylaws.

However, it is recognised that improvements to the current 'responsive action' approach can be undertaken.

Education is a key component of the responsive approach and can be used to educate home owners of their obligations under relevant legislation as well as adjoining neighbours of the avenues available should issues arise. Additional information, particularly through the website provides opportunities for the public to be aware of the City of Mandurah's roles in managing holiday homes.

The City has previously produced a 'Holiday Homes' brochure which was distributed to known holiday homes in 2015. It is proposed that should Council resolve to continue with the responsive approach, a re-education campaign be undertaken on an annual basis prior to the commencement of the peak holiday period. It is suggested this campaign would include:

- Reviewing on-line platforms in November and May (either side of the holiday period) of each year to update the City's list of holiday homes;

- Preparing an information pack for home owners outlining obligations under the Environmental Protection (Noise) Regulations 1997 (relating to noise), Building Regulations 2012 (relating to smoke alarms) and the City's Parking and Parking Facilities Local Law to provide advice on recommended information to be provided to guests, and linking home owners to resources available including current industry organisations and voluntary codes of conduct;
- Sending out copies of the City's Holiday Homes Complaint Handling Procedures brochure to adjoining residents of known holiday homes.
- Establishing additional data capture options with the Customer Request Management system in conjunction with the new Enterprise System; and
- Ongoing dialogue and consultation with local police with regard to holiday homes in Mandurah.

In addition to the above, it is recommended that an audit process be established to ensure all identified holiday homes comply with the requirements of the Building Regulations 2012 in regards to the provision of smoke alarms.

Statutory Environment

- Town Planning Scheme No. 3
- Planning Bulletin 99 – Holiday Home Guidelines (Sept 2009)
- Public Health Act 2016

At its meeting held on the 8 August 2017, Council formalised its approach to holiday homes consistent with the 'Responsive Action' approach, by determining in accordance with Clause 3.2.3 of the Scheme, that Holiday Homes are an unlisted use, and that they are consistent with the objectives of the zones in which they are located, and therefore, as a 'permitted (P)' use, are exempt from development approval in the Scheme.

Policy Implications

Should Council resolve to adopt a more regulatory approach to holiday homes, it is recommended that a local planning policy be prepared to clarify the application requirements for a holiday home, the criteria against which an application will be assessed and ongoing conditions that will be applied.

Local planning policies are prepared under Division 2 of the Deemed Provisions for Local Planning Schemes.

Risk Implications

The Minister for Planning has recently provided support for an inquiry into the level of regulation of short-stay accommodation. The Economics and Industry Standing Committee has resolved to investigate and report on the adequacy of the regulation of short term holiday letting in Western Australia, covering issues including customer safety, insurance, land use planning, building standards, stay length, neighbourhood amenity, registration, licensing and taxation.

Dependant on the outcomes of this enquiry, Council may be required to modify its approach to holiday homes.

Economic Implications

The tourism industry is important to Mandurah and holiday homes are a key component of the tourism accommodation available within the region. Increased regulation will add costs to this component of the

industry. The Australian Hotels Associations (WA) branch do however argue that this would put holiday homes on a more equal playing field with existing commercial operations.

Should Council adopt a more regulatory approach, there are cost implications with the processing and assessment of applications for holiday homes, along with ongoing monitoring and compliance of holiday home approvals. The benefits of adding more regulation to holiday homes will need to be weighed against these costs.

Strategic Implications

The following strategies from the *City of Mandurah Strategic Community Plan 2017 – 2037* are relevant to this report:

Social:

- Help build our community's confidence in Mandurah as a safe and secure city.
- Provide a range of social, recreational, entertainment and learning experiences for our residents and visitors.

Economic:

- Develop a strong and sustainable tourism industry.

Identity:

- Encourage active community participation and engagement.
- Promote Mandurah's identity as a unique regional city, based on its waterways, history and future vision.

Organisational Excellence:

- Demonstrate regional leadership and advocacy.
- Listen to and engage with our community.

Conclusion

The rise in online platforms such as AirBnb, has increased the ease in which dwellings within residential areas can be leased as short term accommodation. Whilst short term renting of holiday homes has long been a feature of coastal tourism, including within Mandurah, the potential impacts of short term rentals on the amenity of the surrounding neighbourhood should not be dismissed.

Since 2015, the City of Mandurah has adopted a 'responsive approach' to dealing with impacts arising from holiday houses, with complaints received against known holiday homes being dealt with as a high priority. Legislation such as the Environmental Protection (Noise) Regulations 1997 and the City of Mandurah's Parking and Parking Facilities Local Law can be enforced by officers where necessary to address complaints received.

Known holiday houses currently make up 0.3% of the total housing stock within Mandurah, and were the source of 1% of the total noise complaints made to the City between December 2017 and April 2018.

In light of these figures, officers remain of the view that the need for an approval to use a dwelling as either a long-term rental, a short-term rental, or a permanent owner occupied residence, should not need an additional approval beyond the original approval to build the dwelling at this stage.

The 'responsive' approach to Holiday Homes is viewed to have been effective in managing issues arising from Holiday Homes, however Council has the opportunity of undertake a more proactive role in informing owners of holiday homes of their obligations under relevant legislation. It is therefore recommended that a re-education campaign be conducted to ensure all owners of known holiday homes are advised of their obligations and for this campaign to be rolled out annually prior to the commencement of the peak holiday period.

It is noted that the outcomes of the announced Parliamentary Inquiry into the regulation of Holiday Homes may require modifications to Council's approach in the future. Should this occur, a further report will be presented to Council.

It is further recommended that Council endorse this report as the basis for a submission to the Parliamentary Inquiry.

NOTE:

- Refer **Attachment 1** *Holiday Homes Complaint Handling Procedure*

RECOMMENDATION

That Council:

1. **Reiterates its 'responsive' approach to Holiday Homes as an effective means of managing issues arising from Holiday Homes.**
2. **Request officers continue to maintain and review on a bi-annual basis, a list of known holiday homes.**
3. **Request officers undertake a re-education campaign to ensure all owners of holiday homes are:**
 - 3.1. **Advised of obligations under the Environmental Protection (Noise) Regulations 1997, Building Regulations 2012, and City of Mandurah Local Laws;**
 - 3.2. **Advised of the City's complaint handling procedure with regards to Holiday Homes;**
 - 3.3. **Provided with an information pack detailing recommended management practices;**
 - 3.4. **Update communications material on the City's website to provide relevant information for prospective holiday home operators for individual dwellings and those within strata developments and**
 - 3.5. **Liaise with the local police with respect to dealing with the noise and anti-social behaviour relating to Holiday Homes .**
4. **Request officers notify adjoining neighbours of known holiday homes of the City's Complaint Handling Procedure and ensure website information is updated accordingly.**
5. **Request officers develop an audit process for identified holiday homes to ensure compliance with the Building Regulations 2012.**
6. **Endorse this report as the basis for a submission to the Parliamentary Inquiry into the adequacy of regulation of short term letting in WA.**

As SMTC is not impacted by the recent review, officers recommend the club's lease now be renewed for a term of five years with a five year renewal term option (5+5 years). With the rental fee aligning with the City's fees and charges schedule for community and sporting groups, which is \$1,000 inclusive of GST per annum.

Council is requested to support the new lease agreement with the South Mandurah Tennis Club, over Reserve 45079 Merlin Street, Falcon, for a term of five years with a five year renewal term option (5+5 years), commencing on or after Minister for Lands consent, together with an annual rental fee of \$1,000 which aligns with the City's schedule of fees and charges. All lease terms and conditions are subject to the approval of the Minister for Lands.

MOTION: Lynn Rodgers / Matt Rogers

That Council:

- 1. Approves a lease agreement over Reserve 45079 Merlin Street, Falcon, to the South Mandurah Tennis Club with the following conditions:**
 - 1.1 Tenure term of five years with a five year renewal term (5+5 years);**
 - 1.2 Approval and commencement date subject to the Minister for Lands consent;**
 - 1.3 Annual rent and document preparation fee is to align with the Council approved schedule of fees and charges for sporting and community groups;**
- 2. Authorises the Chief Executive Officer to finalise the conditions of the Lease agreement.**

CARRIED UNANIMOUSLY: 9/0
(*This item was adopted en bloc*)

G.8/12/18 HOLIDAY HOMES (AH) (REPORT 2) (CC.5/12/18)

In April 2018, Council was presented with a petition containing the signatures of 65 residents requesting that Council consider the regulation of the location, size and management of short stay holiday homes within Mandurah. In June 2018 Council resolved, following a Notice of Motion, "that officers prepare a report that considers the establishment of a register of short term residential accommodation (STRA).

Following Council's resolution, officers have undertaken a review of a number of industry based discussion papers and government position papers to investigate alternative approaches to managing holiday homes. The potential impacts of holiday homes on surrounding neighbourhoods are well documented however the method by which these impacts are managed varies from State to State.

Council adopted a 'responsive' approach to Holiday Homes in June 2015, whereby a list of known holiday homes is maintained, with complaints received against a known holiday home being addressed as a matter of high priority. Since this time, of the 131 homes currently on the City's list of Holiday Homes, five properties have been the subject of noise complaints, with officers having been successful in working with landowners to manage issues through

measures such as strengthening guest selection criteria, not allowing leavers, hens or bucks parties, and the provision of clear regulations to guests.

The 'responsive' approach to Holiday Homes is viewed to be an effective method for managing issues arising from Holiday Homes at this stage, with complaints regarding holiday homes comprising only a small percentage of total complaints dealt with by the City. As it is three years since the implementation of this approach however, it is suggested that a re-education campaign be conducted to ensure all owners and of known holiday homes and adjoining properties are;

- (a) Advised of obligations under the Environmental Protection (Noise) Regulations 1997; and
- (b) Advised of the City's complaint handling procedure with regards to Holiday Homes.

MOTION: Lynn Rodgers / Matt Rogers

That Council:

1. **Reiterates its 'responsive' approach to Holiday Homes as an effective means of managing issues arising from Holiday Homes due to the minimal impact of holiday homes in Mandurah.**
 2. **Request officers continue to maintain and review on a bi-annual basis, a list of known holiday homes.**
 3. **Request officers undertake a re-education campaign to ensure all owners of holiday homes are:**
 - 3.1. **Advised of obligations under the Environmental Protection (Noise) Regulations 1997, Building Regulations 2012, and City of Mandurah Local Laws;**
 - 3.2. **Advised of the City's complaint handling procedure with regards to Holiday Homes;**
 - 3.3. **Provided with an information pack detailing recommended management practices;**
 - 3.4. **Update communications material on the City's website to provide relevant information for prospective holiday home operators for individual dwellings and those within strata developments;**
 - 3.5. **Liaise with the local police with respect to dealing with the noise and anti-social behaviour relating to holiday homes; and**
 - 3.6. **Establishing additional data capture options with the Customer Request Management system in conjunction with the new Enterprise System.**
 4. **Request officers notify adjoining neighbours of known holiday homes of the City's Complaint Handling Procedure and ensure website information is updated accordingly.**
 5. **Request officers develop an audit process for identified holiday homes to ensure compliance with the Building Regulations 2012.**
 6. **Endorse this report as the basis for a submission to the Parliamentary Inquiry into the adequacy of regulation of short term letting in WA.**

CARRIED UNANIMOUSLY: 9/0
(This item was adopted en bloc)