



Ref No. 2093048

11 November 2014

Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Chairman O'Brien

PETITION NO. 60 – OCEAN GARDENS RETIREMENT VILLAGE

I refer to your letter dated 16 October 2014 requesting comments on the above petition.

The petition raises two issues relating to:

1. Board Representation and implications of the Ocean Gardens (Inc) Act 2004; and
2. Development for the expansion of the Ocean Gardens Retirement Village

The Ocean Gardens (Inc) Act (the Act) was enacted as an intermediary piece of legislation to correct the actions taken by the City of Perth in 1995 to reduce the Town of Cambridge's representation on the Ocean Gardens Board from three elected members with one being the chairman to two elected members of the six member Board. This occurred during the split of the former City of Perth after the three new Towns were created and the Commissioners appointed to oversee the restructuring had completed their role and new councils were elected. The Commissioners had decided that the Town of Cambridge would continue its role on the Ocean Gardens Board similar to the City of Perth. This decision was not acted upon and the new council of the City of Perth agreed to the changes to the constitution.

The effect of the Act in 2004 was to reverse the changes to the constitution agreed to by City of Perth and reinstate the Town's representation on the Board of Ocean Gardens. The Act also provided the rules that would govern the organisation. After the Board was established the purpose of the Act had been fulfilled and it serves no further purpose in governing Ocean Gardens (Inc).

The constitution of Ocean Gardens provides the governing rules and has the ability to be amended without any restrictions being imposed by the Act. Clause 46 of the constitution states subject to prior approval of the Town the constitution may be altered at a general meeting of the association by a special resolution passed by the members at that meeting.

In 2010 the Town considered a proposal by the Board of Ocean Gardens to make a number of alterations to the constitution. In part, these alterations changed the way directors are appointed to the Board resulting in the Town no longer having direct representation on the Board. To ensure the Town maintained an oversight role of the Board new director appointments are to be nominated by the Board based on skills and experience and appointments to be made at the **absolute discretion** of the Town.

Other changes were introduced to improve the governance arrangements such as putting in place three year terms for directors with a maximum term of nine years. Previously the non-Council appointed directors did not have any limit on their appointment. The quorum was increased to four members and the Town has the ability to appoint directors should there be a lack of a quorum without a nomination from the Board.

The Town approved these changes in December 2010 after giving proper consideration to all the governance issues as documented in the council report and minutes. A general meeting of members of the association passed these alterations in 2011. These arrangements are detailed in clause 11 of the constitution relating to the composition of the Board. The Board sought to change this requirement of the Town's ability to reject a nomination of a director in its absolute discretion in October 2013 however, this request was refused and the Town maintains this ability.

Council minutes (December 2010 and October 2013) related to this matter are attached that outline the background and reasons for the decisions taken by the Council. The Council also considered a request from the Minister for Local Government to advise if the Town has any objection to the repeal of the Ocean Gardens (Inc) Act. The minutes of the meeting held in March 2013 are attached of the Town's decision not to object to the repeal of the Act.

In relation to the development of the village expansion the Town considered a development application in its role as a planning authority and not in an oversight capacity in the effectiveness of the Board of Ocean Gardens in engaging its residents. The Town does not have any direct control over the affairs of Ocean Gardens (Inc) and the Board manages the village and its assets. The development application was assessed in accordance with the Town's planning controls. The Board of Ocean Gardens is responsible for decisions related to how future development will occur on the land owned by the Ocean Gardens (Inc). The minutes of Council relating to the assessment and decision concerning the development are attached.

I hope the above information assists you in undertaking your inquiry relating to the petition. Please contact me should you require any further information.

Yours sincerely

JASON BUCKLEY
CHIEF EXECUTIVE OFFICER