



ITEMS FOR DEBATE

COUNCIL MEETING 19 APRIL 2023

ADOPTION BY EXCEPTION RESOLUTION

<u>RECOMMENDATION</u>	
That the Committee Recommendations for items 12.1, 12.2, and 12.4 and the Officer Recommendations for items 13.2, 14.1 and 17.1 be adopted en bloc:	
12.1	Finance Committee – 5/4/2023 – FINANCIAL ACTIVITY STATEMENTS – YEAR TO DATE AS AT 28 FEBRUARY 2023
12.2	Finance Committee – 5/4/2023 – LIST OF PAYMENTS MADE – FEBRUARY 2023
12.4	Finance Committee – 5/4/2023 – RATE EXEMPTION – CANCER COUNCIL WESTERN AUSTRALIA INC
13.2	RESOLUTION TO PREPARE NEW LOCAL PLANNING SCHEME AND ASSOCIATED SCHEME AMENDMENT PARTIAL MORATORIUM
14.1	RFT 05/23 BUSSELL HIGHWAY STAGE 1 <i>Supplementary Agenda</i>
17.1	COUNCILLORS INFORMATION BULLETIN

ITEMS TO BE DEALT WITH BY SEPARATE RESOLUTION

Item No.	Item Title	Reason
12.5	Finance Committee – 5/4/2023 – BUDGET AMENDMENTS: ENGINEERING AND WORKS SERVICES – APRIL	Absolute Majority Required
12.6	Finance Committee – 5/4/2023 – BUDGET AMENDMENT REQUEST – AGED HOUSING AND LEGAL SERVICES	Absolute Majority Required
16.1	YOU CHOOSE COMMUNITY FUNDING PROGRAM – PILOT PARTICIPATORY BUDGETING BASED PROGRAM – OUTCOMES	Absolute Majority Required

ITEMS FOR DEBATE

Item No. 12.3	Finance Committee – 5/4/2023 – ADOPTION OF THE LIST OF FEES AND CHARGES FOR THE 2023/2024 FINANCIAL YEAR	Pulled by Officers	Page 63
<p><u>AMENDED RECOMMENDATION</u></p> <p>That the Council endorses the Fees and Charges as detailed in the “Schedule of Fees and Charges - 2023/24” as per Attachment A B – Draft Schedule of Fees and Charges – 2023/24, effective from and including 1 July 2023.</p>			
<p><u>REASONS FOR AMENDMENT</u></p> <p>The Schedule has been updated to revise the Market Stall fee for the cultural precinct from \$40 to \$35 and to adjust the wording of the security staff fee for the Saltwater Performing Arts and Convention Centre to provide clarity as to its application. Additionally some minor formatting amendments have been made for clarity of reading the Schedule.</p>			
<p><u>OFFICER COMMENT</u></p> <p>As per above.</p>			
<p><u>LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT</u></p> <p>Pursuant to regulation 11(da) of the <i>Local Government (Administration) Regulations</i> 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.</p>			

Item No. 13.1	DA22/0754 - EXTENSION TO NON-CONFORMING USE - TOURIST ACCOMMODATION (CARETAKER'S DWELLING AND 9 X ACCOMMODATION UNITS)	Pulled by Cr Carter	Page 169
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ALTERNATIVE RECOMMENDATION

That the Council determines:

- A.** That application DA22/0754 submitted for development of Extension to Non-Conforming Use – Tourist Accommodation (Caretakers Dwelling and Nine Accommodation Units) on Lot 50 (No. 40) Ford Road, Busselton, is considered by the Council to be generally consistent with Local Planning Scheme No. 21 and the objectives of the zone within which it is located.
- B.** That Development Approval is granted for the proposal referred to in (A) above subject to the following conditions:

GENERAL CONDITIONS:

- 1.** The development hereby approved shall be substantially commenced within two years of the date of this decision notice.
- 2.** The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plan(s) (enclosed), including any notes placed thereon in red by the City.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS:

- 3.** The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing:
 - 3.1** Plans that satisfactorily address the following required design changes and as may be indicated in red on the Approved Development Plan(s):
 - Removal of northern facing balconies to Units 3 and 4;
 - Removal of proposed footpath along Duke Street; and
 - Provision of fencing to all adjoining properties to a minimum height of 1.8m, **and**
 - **Inclusion of bays/ embayments on Ford Road and associated relocation of footpaths.**
 - 3.2** Details of the finished treatment of all **crossovers and** hard surfaced areas to be used for the construction of the **access**, parking and maneuvering areas as shown on the Approved Development Plans, **including driveway layout requiring right turn off Duke Street and left turn on to Duke Street.**
 - 3.3** Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of roofed and impervious area.
 - 3.4** Lighting Plan which shall include all awnings, parking areas, footpaths and areas accessible to the public and be consistent with the requirements of Australian Standard AS 4282—2019, *Control of the obtrusive effects of outdoor lighting*.
 - 3.5** Details of the proposed bin storage areas including, but not limited to, the design and the materials to be used in their construction.
 - 3.6** Details of the proposed bicycle parking and end of trip facilities, designed in accordance with the Australian Standard for Parking facilities – Bicycle parking

(AS2890.3-2015). The details shall include, as a minimum, the location, design and materials to be used in their construction.

- 3.7** A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.8** A final Landscaping Plan (LP). The LP shall include the following:
- a) the location, number, size and species of all existing trees to be removed and / or retained;
 - b) proposed trees and shrubs, including calculations for the landscaping area;
 - c) any lawns to be established;
 - d) those areas to be reticulated or irrigated;
 - e) the location, design and materials of any proposed fencing to be installed;
 - f) verge treatments, including hard and soft landscaping treatments; and
 - g) consideration of Designing Out Crime principles.
- 3.9** Details related to the removal of a maximum of one street tree located within the proposed crossover of Lot 50 within the Duke Street road reserve. The street tree is to be relocated or replaced at the applicant's cost in a suitable location within the verge adjacent to Lot 50 to the satisfaction of the City prior to commencement of development. The remaining street trees shall be maintained and protected to the satisfaction of the City.
- 3.10** A Tree Protection Plan (TPP) for the trees identified on the approved plans to be retained on the site and adjoining road reserves. The TPP shall include an Arboricultural Report to address measures to be adopted to ensure the ongoing protection of the identified trees. The Tree Protection Plan shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within the areas so fenced, nothing shall be stored or placed, and the ground levels shall not be altered.
- 3.11** A Construction Management Plan. The Construction Management Plan should address the following issues, where applicable:
- a) public safety and amenity;
 - b) site plan and security;
 - c) contact details of essential site personnel, construction period and operating hours;
 - d) community information, consultation and complaints management Plan;
 - e) temporary realignment of pedestrian access ways (including crossing points and lighting);
 - f) noise, vibration, air and dust management;
 - g) dilapidation reports of nearby properties;
 - h) traffic, access and parking management;
 - i) waste management and materials re-use;
 - j) sanitary facilities;

- k) earthworks, excavation, land retention/piling methods and associated matters;
- l) stormwater and sediment control;
- m) street tree management and protection;
- n) management of asbestos removal;
- o) any other matter deemed relevant by the City.
- p) Construction works shall take place in accordance with the approved details at all times.

3.12 A Tourist Accommodation management plan addressing the management arrangements for the operation of the development, **including:**

- a) **Signage at entrance of property with onsite managers contact details, inclusive of after-hours and weekend contact details;**
- b) **How access to property will be managed;**
- c) **Occupancy limits;**
- d) **Minimum / Maximum lengths of stay;**
- e) **Check-in / Check-out procedures;**
- f) **Visitor management;**
- g) **Control of noise and antisocial behavior, including a displayed Code of Conduct within each unit;**
- h) **Complaints Management;**
- i) **Property Management & Record Keeping;**
- j) **Vehicle management including use of allocated bays, all guest and visitor parking is to be contained within the site, right turn off Duke Street when entering the site and left turn onto Duke Street when leaving the site, and use of low beam headlights within and when leaving the site; and**
- k) **Guest Register will be managed across the site.**

3.13 A Waste Management Plan. The plan shall include specifications of the methods, facilities and management measures to be put in place for the storage, collection and disposal/collection of waste and rubbish generated by the development.

3.14 Satisfactory arrangements shall be made with the City to provide public art works within the development. This entails compliance with the Percent for Art provisions of the City's *Development Contribution Policy* via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD"). Where the value of on-site works is less than 1% of the ECD, a payment sufficient to bring the total contribution to 1% of the ECD is required.

4. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:

4.1 A contribution of \$5,336.23 towards Road Network Upgrading in the Geographe precinct.

4.2 A contribution of \$8,757 towards community facilities in the Geographe precinct.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS:

5. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition(s) 2 and 3 have been implemented; and/or the following conditions have been complied with:
 - 5.1 Crossovers located and constructed to the City's specifications.
 - 5.2 The redundant vehicle crossover is to be removed, the verge reinstated with grass or landscaping and footpath reinstated to the specifications of the City. Crossovers located and constructed to the City's specifications.
 - 5.3 All pedestrian accessway(s) being constructed and drained at the developer's cost.
 - 5.4 All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
 - 5.5 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).
 - 5.6 Landscaping and reticulation shall be implemented in accordance with the approved Landscape Plan and shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

ON-GOING CONDITIONS:

6. The works undertaken to satisfy Condition(s) 2, 3 and 5 shall be subsequently maintained for the life of the development and the following conditions shall be complied with:
 - 6.1 The use hereby approved shall at all times comply with the definition of Tourist Accommodation as provided in Schedule 1 of the City of Busselton *Local Planning Scheme No. 21*, as follows:

"Tourist Accommodation" means single occupancy accommodation units, which may be self-contained and may include associated central facilities for the exclusive use of guests, and includes serviced apartments.
 - 6.2 The maximum number of guests occupying the Tourist Accommodation hereby approved shall be 72 guests at any one time, with no more than eight (8) people to occupy each accommodation unit at any one time.
 - 6.3 The Tourist Accommodation hereby approved is to be made available for temporary accommodation purposes only and shall not be occupied by any one person or family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or cumulatively) within any 12 month period.
 - 6.4 External fixtures, including but not restricted to air-conditioning units, satellite dishes and non-standard television aerials, but excluding solar collectors, are to be integrated into the design of the building, located and/or screened such that they

are not visible from the primary street, secondary street and to protect the visual amenity of neighbouring properties.

6.5 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

6.6 Vehicular entry gates shall be a minimum 50% visually permeable and not obstruct vehicle sight lines or manoeuvring.

6.7 All guest and visitor parking is to be contained within the site.

REASONS FOR ALTERNATIVE

This alternative recommendation aims to address the key concerns of local residents.

The intention is to do this through reducing the traffic and related impact of the development on Duke Street; re-introducing of the original parking embayment on Ford Road for buses, taxis and additional guests, (again to reduce the possible impact on Duke Street), and also addressing potential amenity issues from for all surrounding residents by ensuring that Condition 3.12 – Tourism Accommodation Management Plan (TAMP) strongly focusses on the key amenity issues of concern to adjoining land owners.

Having a TAMP that ensures that adequate records are maintained and procedures in place to ensure traceability of non-compliance so that it is minimised and that where it does occur non-compliance issues occur through this plan and that it is an ongoing condition of approval.

OFFICER COMMENT

The proposed changes to conditions are seen as workable and reasonable, other than proposed Condition 6.7.

Under the City's Parking Local Law, there is a right to park a vehicle on the street carriageway (pursuant to clause 3.2 of the Local Law, provided that at least 3 metres of the carriageway width remains trafficable – which in the case of Duke Street, where there is a relatively narrow road carriageway, would mean that vehicles could only park on one side of the road). Under that Local Law, there is also a right to park on the street verge, if authorised to do so by the owner or occupier of the adjoining premises (pursuant to clause 6.9 of the Local Law).

As the parking of vehicles on the street or verge does not constitute development pursuant to the planning legislation, a condition of development approval that required parking to occur entirely within the site would not be enforceable. The situation is somewhat different to the situation with a registered holiday homes, as the Holiday Homes Local Law, the head of power for which, in common with the Parking Local Law, is the Local Government Act, explicitly allows for conditions related to parking management.

The planning framework also generally provides that, where there is the capacity to park vehicles in on-street locations, and that parking capacity is not already being utilised, that should be considered when determining the level of on-site parking provision that is required.

Condition 6.7 also looks to be at odds, to some degree, with the fourth dot point in proposed condition 3.1 (requiring embayed parking on Ford Rd).

Notwithstanding the above, should the Council form a view that parking should not be allowed on the street or verge adjacent to the site, or with respect to the street only in some broader area, it could apply, through the Parking Local Law, prohibitions on the parking of vehicles on the street and/or verge. It should be noted, however, that a prohibition of that kind would apply to all vehicles, rather than simply vehicles associated with the proposed development.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

Item No. 13.1	DA22/0754 - EXTENSION TO NON-CONFORMING USE - TOURIST ACCOMMODATION (CARETAKER'S DWELLING AND 9 X ACCOMMODATION UNITS)	Pulled by Cr Riccelli	Page 169
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ALTERNATIVE RECOMMENDATION

That the Council determines:

- a) That consideration of application DA22/0754 submitted for development of Extension to Non-Conforming Use – Tourist Accommodation (Caretakers Dwelling and Nine Accommodation Units) on Lot 50 (No. 40) Ford Road, Busselton, be deferred pending the applicant’s consideration of design changes and conditions as set out below.**
- b) Amended plans providing for the provision of embayed parking bays on Ford Rd to accommodate Charter Buses and Taxis (i.e. drop off/pick up zone)**
- c) Amended plans providing for the provision of rubbish bin collection from Ford Rd rather than Duke St.**
- d) Amended plans providing for a left-hand turn only on Duke Street, directing traffic to Ford Road.**
- e) Amended plans providing for reduction of built form and scale in line with what would be permissible if there was NO non-conforming use right i.e. Holiday Homes in the form of 9 grouped dwellings providing for a maximum of 54 occupants and capped at 6 occupants per dwelling.**
- f) The Tourist Accommodation Management Plan addressing, in addition to matters identified in the Officer Recommendation, the management of overflow parking.**

REASONS FOR ALTERNATIVE

Whilst this particular Lot is privy to non-conforming use rights, which enables short term accommodation, it is clear that the original intention when granting this, was *not* to encourage a ‘large-scale’ short stay development.

The Officer report emphasises the need to consider Clause 67 (2) of the Deemed Provisions (LPS Regs 2015). This Clause asks us to give due regard to the proposed development’s compatibility with the setting, with regards to bulk, scale, character, and amenity. Further, that whilst it is within the City’s power to grant approval for this application, we need to use our evaluative judgement and planning discretion to decide if the increase in scale and intensity is acceptable. I note Councillors have been provided with confidential legal advice in relation to these matters.

The inclusion of a ‘left-hand turn only’ on Duke St (directing traffic to Ford Rd) and the provision of rubbish bin collection and embayed parking bays on Ford Rd, will prioritise safety for pedestrians and known wheel chair users on Duke St, as well as lessen traffic impact to a quiet residential street.

The issue of overflow parking has not been addressed by the Applicant to date.

OFFICER COMMENT

It is considered that the changes contemplated by the alternative recommendation are outside the scope of what could reasonably be required via conditions of development approval – noting that conditions cannot be applied if they would require a significant change to a proposal.

If substantial changes are considered necessary, an application should either be refused or, as is proposed in this case, the applicant given an opportunity to modify the proposal to address concerns identified by a decision-maker. Given that, from a process perspective, the alternative motion is seen as an appropriate response, if the Council is of the view that changes or conditions of the kind proposed in the alternative recommendation are both necessary and sufficient to make the proposal acceptable.

An approach of the kind proposed also gives the applicant an opportunity to consider and respond to the issues of concern prior to the Council formally determining the application – noting that once an application has been determined, it can only be further considered if and when an application for review has been lodged in the State Administrative Tribunal (SAT), and if the SAT has made an order allowing reconsideration of an application by the respondent (i.e. the City). Whilst it is considered reasonably likely that a refusal of the application might result in the submission of amended plans and subsequent reconsideration, such a process could take many months – and it is considered likely that the matter would not be fully resolved until the latter part of 2023. Further, if the matter went to formal hearings in the SAT, it is also considered unlikely that a final decision would be made until 2024. A deferral of the kind proposed, however, could result in the matter being resolved in either May or June 2023.

With respect to the particular changes and conditions set out in the alternative recommendation, the following advice is provided –

1. Point b of the alternative recommendation (embayed parking on Ford Rd verge for bus/taxi) – there does appear to be space within the Ford Road verge to accommodate embayed parking of the kind envisaged, although it would require the moving and reconstruction of the footpath, and would also reduce the capacity for street tree planting in the Ford Rd verge.
2. Point c of the alternative recommendation (refuse collection from Ford Rd) – provided it is not compromised by embayed parking for too much of the Ford Rd frontage, and given that the applicant proposes uses of wheelie bins for refuse collection, it appears this could be accommodated. Given that an overall site manager/caretaker is also proposed, it could be practically implementable. If commercial waste collection is required, through use of skip bins, however, this would not be achievable.
3. Point d of the alternative recommendation (left-turn only on Duke Street) – it is assumed this means left-out only, as left-in only would encourage traffic to enter the site by travelling west along Duke Street, rather than via Ford Road, and travelling east a short distance only along Duke Street. It is considered that this could be practically achieved.
4. Point e of the alternative recommendation (maximum occupancy of 6 occupants per unit and 54 occupants across the site as a whole) – given that the proposal currently involves nine 5 bedroom units, maximum occupancy of 6 is not considered reasonable. Whilst a condition capping numbers overall, and potentially per unit too, as per the officer recommendation, is considered reasonable, it is considered that it would need to be tailored to suite the actual design and layout proposed.

5. Point f of the overall recommendation (accommodation management plan to include management of overflow parking) – this is supported.

More broadly, it is considered that the alternative recommendations seems to seek to address two key sets of issues –

1. Traffic impacts; and
2. The scale of the proposed development and associated level of activity on site.

It is considered that both sets of issues relate to amenity considerations, with the traffic issues also having a road safety dimension. It is considered that the elements of alternative recommendation that seek to address traffic impacts look to be achievable, although officers do not consider the changes to be necessary to achieve a satisfactory outcome, in the context of the relevant planning framework.

Significantly, the alternative recommendation does not propose the relocation of the site crossover to Ford Road. Such a proposal could not be supported by officers because, where the option of access from a lower order road (i.e. a secondary street or laneway) is possible, the planning framework clearly sets out that access should be taken from that road, rather than the primary street. The fundamental rationale for that position being taken in the planning framework is that traffic safety overall would be worse with crossovers to higher order streets that carry more traffic, as opposed to having crossovers to lower order streets, and the traffic from those lower order streets then joining the higher order street at fewer places, and more often at a much wider street intersection, where awareness and visibility will almost invariably be better.

With respect to the scale of the proposed development and associated level of activity on site, it is considered that the overall scale of the built form proposed is not significantly larger than what would arise from the most likely alternative redevelopment option for the site – i.e. a nine unit or nine lot residential unit development or subdivision. Whilst it is true that residential development would likely not involve nine 5 bedroom units, it would likely include garage or other spaces not proposed as part of the current development proposal. Also, whilst it is also true that it would probably not involve all dwellings being two storey, it is likely that at least some would be two storey. From a site coverage perspective, the proposal is also very similar to what has eventuated on other sites in the immediate vicinity when those sites have been redeveloped in recent years.

The officer recommendation has proposed a cap of 8 occupants per unit. Unless the applicant agrees to reduce the number of bedrooms in the units, a cap of 6 occupants per unit is not seen as reasonable. Further, whilst it is considered that some reduction in the overall scale of the development might be justifiable in the context of the planning framework, it is considered that a reduction consistent with a cap of 6 occupants per unit, for all units, would not be.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations* 1996, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.

Item No. 13.1	DA22/0754 - EXTENSION TO NON-CONFORMING USE - TOURIST ACCOMMODATION (CARETAKER'S DWELLING AND 9 X ACCOMMODATION UNITS)	Pulled by Cr Ryan	Page 169
<p><u>ALTERNATIVE RECOMMENDATION</u></p> <p>That application DA22/0754 submitted for development of Extension to Non-Conforming Use – Tourist Accommodation (Caretakers Dwelling and Nine Accommodation Units) on Lot 50 (No. 40) Ford Road, Busselton under Local Planning Scheme No 21 be refused.</p>			
<p><u>REASONS FOR ALTERNATIVE</u></p> <ol style="list-style-type: none"> 1. The site is located within the Urban Consolidation area under the Local Planning Strategy, which specifies increases to density, not the increase to activities that are commercially orientated. 2. The site is under Local Planning Scheme is zoned Residential R30, which the proposal is not consistent with zone objectives 3.2 a), b) or c). 3. Clause 3.10 does not permit the extension of a non-conforming use. 4. The proposal is not consistent with the principles of 3.11 in that the proposal is not going to be less detrimental to the amenity of the location, than the current development. 5. The number of units proposed is significantly higher than the current level of development on the site. The number of bedrooms and subsequent proposed level of occupation, has increased from 40 to 90 potential occupants. 6. The proposed impact from traffic generation has not been adequately addressed. 7. The amenity of the area will be affected by the large increase in the number of units and visitors coming and going from the site. 8. The scale of the development is not in keeping with the character of the area. 9. The amount of car parking proposed is not consistent with the number of units and bedrooms provided. 			
<p><u>OFFICER COMMENT</u></p> <p>With respect to each of the proposed reasons for refusal, the following comment is provided –</p> <ol style="list-style-type: none"> a. Point 1 - The Local Planning Strategy does not provide support for the proposed reason for refusal in the manner contemplated, and the particular strategy of the document that this proposed reason could relate to (strategy 7.2 f), needs to be understood in the context of the document as a whole, including strategy 8.2 f. The two strategies referenced here are as follows – <ol style="list-style-type: none"> 7.2 (f) - 			

- f) Support and pro-actively plan for **urban consolidation and redevelopment** (including through increases in permissible residential density) in existing urban areas, especially in areas close to the Busselton City Centre, Dunsborough Town Centre and other activity centres identified in the activity centre framework. Support other proposals for redevelopment/consolidation (including through increases in permissible residential density) in existing urban areas, or for increases in planned development density in urban growth areas, especially in close proximity to activity centres or high amenity areas, such as in coastal locations, adjacent to open space, or which are close to significant community facilities. Planning for consolidation should have regard to Special Character Areas, amenity, streetscape and Western Ringtail Possum habitat.

8.2 (f) -

- f) Support the **development of new tourism accommodation** by allowing development of tourism accommodation in appropriate urban areas.
- b. Points 2, 5, 7 and 8 - It is considered that the overall scale of the built form proposed is not significantly larger than what would arise from the most likely alternative redevelopment option for the site – i.e. a nine unit or nine lot residential unit development or subdivision. Whilst it is true that residential development would likely not involve nine 5 bedroom units, it would likely include garage or other spaces not proposed as part of the current development proposal. Also, whilst it is also true that it would probably not involve all dwellings being two storey, it is likely that at least some would be two storey. From a site coverage perspective, the proposal is also very similar to what has eventuated on other sites in the immediate vicinity when those sites have been redeveloped in recent years.
- Whilst it is considered that some reduction in the overall scale of the development might be justifiable in the context of the planning framework, it is not clear what reduction in scale is contemplated by the proposed reasons for refusal, or whether the contemplated reduction would be reasonable.
- c. Point 4 – this appears to be a reference to clause 3.11.3 of the Scheme. As the proposal is not for a change of non-conforming use, clause 3.11.3 is not relevant to consideration of the application.
 - d. Point 6 – a traffic impact assessment has been prepared by a suitably qualified and experienced traffic consultant, and peer reviewed by another qualified and experienced traffic consultant. There is not considered to be any basis on which to refuse the application in relation to traffic impact.

- e. Point 9 - There is no specific guidance around car parking provision for the Tourist Accommodation land use. There are some standards that provide some guidance, but it is important to note that consideration of car parking provision, unless there is a clear standard and that standard is met, is not simply about applying numerical standards. The decision-maker is required to consider whether the level of parking proposed will be sufficient, including through recognition of the fact that vehicles can, at times, park on the verge (of the development site) or the street, unless there are parking restrictions in place (and no such restrictions are in place), and in most places in the City, there is usually a significant amount of verge and street parking capacity.

As set out in the officer report, it is considered that the proposed provision of 32 bays is sufficient. That provides 3 bays for each of the nine accommodation units, 2 bays for the caretakers dwelling, and a further 3 bays. In excess of 5 vehicles could also be comfortably accommodated in the Duke Street verge if that was necessary.

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS REQUIREMENT

Pursuant to regulation 11(da) of the *Local Government (Administration) Regulations 1996*, if the amended recommendation is adopted by Council, the above Reasons will be recorded in the Minutes.