

REPORTS AND RECOMMENDATIONS

FOR THE

DEVELOPMENT ADVISORY UNIT

MEETING

HELD ON

TUESDAY, 05 MARCH 2024

1. This Meeting makes Recommendations to the Manager Statutory Planning.
2. Should any Elected Member wish to discuss the content of any item included as part of the attached agenda, please contact Gavin Ponton, A/Manager Statutory Planning. Contact should be established as soon as possible after the publication of the agenda to the City of Melville website. Contact details are as follows: Tel 9364 0223 or via the Elected Members Portal.
3. Should an Elected Member propose that an item on this agenda be referred to Council for determination, a request to that effect must be made to the Chief Executive Officer (CEO). This request shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
4. Should any applicant or adjoining property owner object to any proposal included as part of this DAU agenda, then an opportunity exists to request that the application be determined by Council. All such requests should be referred to an Elected Member of Council for the Ward within which the development application is located. An Elected Member may request that the application be determined by Council. Any call up request from an Elected Member shall be made in accordance with the requirements set out by Clause 3.5.4 of Local Planning Policy LPP 1.1 'Planning Process and Decision Making'.
5. In the absence of any referral request, a decision on any application included as part of this DAU agenda can take place under delegated authority to the Manager Statutory Planning, after midday on the second Monday after the Friday publication of the minutes to the City's website. In the event that the DAU minutes are not published to the City's website until the Monday after the DAU meeting, a decision on the application can still take place the following Monday.

DISTRIBUTED: FRIDAY, 8 MARCH 2024



**REPORTS AND RECOMMENDATIONS FROM THE DEVELOPMENT ADVISORY UNIT
MEETING HELD IN, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD,
BOORAGOON, COMMENCING AT 9:00 AM ON TUESDAY, 5 MARCH 2024**

PRESENT

G Ponton
T Geddes
T Cappellucci
H McFeggan

A/Manager Statutory Planning
A/Principal Statutory Planner
Senior Planning Officer
Statutory Planner

DISCLOSURES OF INTEREST

**DISCLOSURE OF FINANCIAL INTERESTS
LOCAL GOVERNMENT ACT 1995**

Members' interests in matters to be discussed at meetings to be disclosed

S.5.65 (1) A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by the member must disclose the nature of the interest -

- (a) in a written notice given to the Chief Executive Officer before the meeting; or
- (b) at the meeting immediately before the matter is discussed.

Penalty: \$10,000 or imprisonment for 2 years.

Meeting to be informed of disclosures

S.5.66 If a member has disclosed an interest in a written notice given to the Chief Executive Officer before a meeting then before the meeting -

- (a) the Chief Executive Officer is to cause the notice to be given to the person who is to preside at the meeting; and
- (b) the person who is to preside at the meeting is to bring the notice to the attention of the persons who attend the meeting.

Disclosing members not to participate in meetings

S.5.67 A member who makes a disclosure under Section 5.65 must not -

- (a) preside at the part of the meeting relating to the matter; or
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,

unless, and to the extent that, the disclosing member is allowed to do so under Section 5.68 or 5.69.

Penalty: \$10,000 or imprisonment for 2 years.

Please refer to your Handbook for definitions of interests and other detail.

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U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- On 26 October 2023, the City refused a development application for Short Term Accommodation at 14 Renton Street, Melville (the subject site).
- This decision was subject to an application for review through the State Administrative Tribunal (SAT). Following mediation, the SAT issued notice for the City to reconsider its decision on or before 2 April 2024.
- The subject application includes various modifications to the originally refused proposal which are outlined in this report.
- The details of the development have been assessed against Local Planning Scheme No. 6 (LPS), relevant local planning policies including Local Planning Policy LPP 1.21 – Short Term Accommodation (LPP 1.21), and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed development requires a performance assessment in relation to the Preferred Characteristics of LPP 1.21.
- The modifications to the original application enhance its compatibility with the residential zone objectives of LPS6 and the development standards contained within LPP 1.21. Approval for a twelve month trial period is recommended.

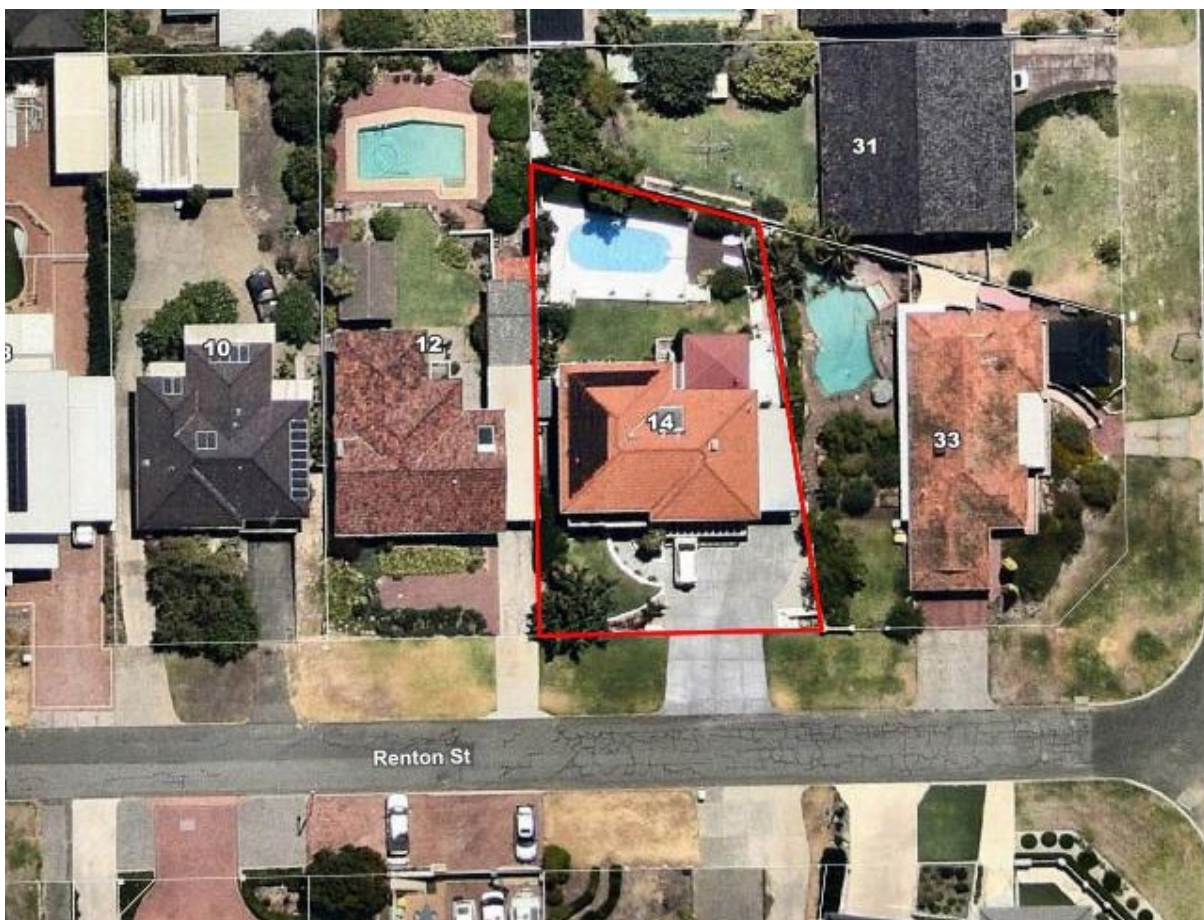


Figure 1 -- Aerial Photo

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)**BACKGROUND****Scheme Provisions**

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R20
Use Type	: Short Term Accommodation
Use Class	: Use Not Listed

Site Details

Lot Area	: 811m ²
Retention of Existing Vegetation	: N/A
Street Tree(s)	: No
Street Furniture (drainage pits etc)	: No
Site Details	: Refer to Figure 1

A copy of the plans forms part of the report and recommendations.

DETAIL

On 26 October 2023, a development application for a Short Term Accommodation at 14 Renton Street, Melville, reference DA-2023-648, was refused by the City. The application was refused on the basis that the Short Term Accommodation did not meet the residential zone objectives as contained within Clause 16, Table 2 of LPS6 and did not meet the Preferred Characteristics of LPP 1.21. The refused application included a maximum of 6 guests visiting the site at any one time and did not propose any limit on check in times.

The applicant chose to seek a review of the decision through the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*. Following the SAT mediation process orders were issued inviting the City to reconsider its decision on or before 2 April 2024, (or later as agreed with the applicant and SAT).

For this application, an applicable use and development class is not included in Table 3 of LPS6 and therefore, the development is classed as a Use Not Listed. The development application was assessed in accordance with the residential zone objectives of LPS6 and LPP 1.21.

As part of the application re-consideration process a number of modifications have been made to the original development application. The modification comprises:

- Maximum of four guests at any one time (as opposed to six in the original application)
- Check ins from 3pm until 7pm (as opposed to unrestricted in the original application).
- Identification of 4 parking bays located within the subject site.
- Enhanced Property Management Plan (PMP) detailing screening processes to ensure compliance with occupancy limits, code of conduct, complaints management procedure, control of anti-social behaviour and potential conflict between guests and neighbouring residences, check in and check out procedures, management of car parking and waste management.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Please see the below summary of community consultation for DA-2023-648 which was carried out through the original application.

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Use Not Listed
 Support/Object: Object

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
1	Noise and other amenity loss, and safety concerns.	Objection	Refer to "comment" section below for further commentary.	This objection was upheld through the original assessment at DAU.

As per Cl. 19.4 of the City's Local Planning Policy LPP1.1 Planning Process and Decision Making, where the SAT invites the City to reconsider an application under Section 31 of the *State Administrative Act 2004 (WA)*, the City will not undertake further advertising unless directed by the SAT to do so. The SAT has not directed that further advertising be undertaken for this application.

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right continue the current review of the decision through the State Administrative Tribunal.

FINANCIAL IMPLICATIONS

This application is currently subject to SAT proceedings. A refusal of this application may lead to a formal Hearing phase in the SAT. City attendance at a SAT Hearing would likely incur legal fees and consultancy fees for expert witnesses if required.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no strategic, risk or environmental management implications with this application.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

There are no policy implications in relation to this proposal.

COMMENT**City of Melville Local Planning Scheme No. 6 (LPS6)**

In accordance with the provisions of Table 3 – Zoning Table of the LPS6, 'short stay accommodation' is a use not listed which is not permitted unless the decision maker exercises its discretion by granting approval after advertising in accordance with Cl.64 of the deemed provisions of LPS6.

In considering the discretionary nature of the use proposed, it is necessary to take into consideration not just the land use table in LPS6, but also the zone objectives table of LPS6 and any relevant state and local planning policies.

The objectives of the Residential Zone are as follows:

- 1. To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;*
- 2. To provide for a range of non-residential uses, which are compatible with and complementary to residential development to promote sustainable residential development; and*
- 3. To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*

The short term accommodation satisfactorily responds to the above residential zone objectives of LPS6 for the following reasons:

- There are no alterations to the type of housing or to the design, form or streetscape as a result of the change of use.
- The location and scale of the proposed short term accommodation have potential to impact on the character and amenity of the surrounding locality. These impacts are considered suitably mitigated based on the additional occupancy and management controls proposed in the current application. Limiting the approval to a 12 month trial period will also provide opportunity to monitor impacts and to refuse continuation of the use should adverse impacts be observed.

Local Planning Policy LPP 1.21 Short Term Accommodation (LPP 1.21)

LPP 1.21 establishes definitions for various forms of short term accommodation, and assessment criteria to ensure appropriate location and management of short term accommodation uses. A key objective of the policy is to ensure appropriate location and management of short term accommodation that protects the amenity of residential areas or nearby residents.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)

The subject site contains a single house on a freehold lot. The proposed accommodation will not be hosted by the landowner as they will live off site. On that basis the best definition for the proposal in LPP 1.21 is “Holiday House”. An assessment of the proposed Holiday House in accordance with the provisions of LPP 1.21 is provided in the table below.

Requirement	Comment
Clause 1 ‘General’	Proposal requires a performance assessment against these provisions. Refer to comment section titled ‘General’ for further commentary.
Clause 2 ‘Site Characteristics’	Proposal requires a performance assessment against these provisions. Refer to comment section below titled ‘Site Characteristics’ for further commentary.
Clause 3 ‘Number of Persons’	Proposal meets the requirements of LPP 1.21. Refer to comment section below titled ‘Number of Person’ for further commentary.
Clause 4 ‘Car Parking’	Proposal meets the requirements of LPP 1.21. Refer to comment section below titled ‘Car Parking’ for further commentary.
Clause 5 ‘Signage’	No signage has been proposed as part of this application.
Clause 6 ‘Site Management Plan’	Proposal meets the requirements of LPP 1.21. Refer to comment section below titled ‘Site Management Plan’ for further commentary.
Clause 7 ‘Public Consultation	Refer to the “Stakeholder Engagement” section above for further commentary.
Clause 8 ‘Temporary Approval’	Where necessary to allow ongoing monitoring of the impacts of short term accommodation, the approval period may be limited in accordance with Clause 72 of Schedule 2 of the <i>Planning and Development (Local Planning Scheme) Regulations 2015</i> . Refer to comment section below titled “Temporary Approval” for further commentary.
Clause 9 ‘Compliance with Other Legislation’	Proposal meets the requirements of LPP 1.21. Refer to comment section below titled ‘Compliance with Other Legislation’ for further commentary.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)

General

LPP 1.21 establishes that short term accommodation is a distinct land use and requires development approval from the City. Whilst it is recognised and acknowledged that the introduction of new land use definitions and associated land use permissibility requirements for applications across the various zones of the City will require an amendment to the City’s planning scheme, in the interim, LPP 1.21 establishes that the City will treat short term accommodation use as a use not listed under LPS6 (It is noted that Council has initiated an amendment to LPS6 to control short term accommodation, however this application has been placed on hold by the Department of Planning, Lands and Heritage). LPP 1.21 establishes that un-hosted uses have the potential to have a greater amenity impact than hosted land uses and that the accumulation of un-hosted uses may have an adverse impact on local amenity.

Site Characteristics

An assessment of the short term accommodation against the preferred and undesirable characteristics of LPP 1.21 can be seen below.

Preferred characteristic	Undesirable characteristic
<p><i>Location within, abutting or opposite to mixed use centres.</i></p> <p>The property does not meet this requirement. Proximity to a mixed use centre and various commercial facilities is noted. The site is located 430m from Hulme Court or an 8-minute walk to Hulme Court where there are Restaurant/Café and Shop land uses operating (refer to figure 2 and 3).</p>	<p><i>Located within cul-de-sacs.</i></p> <p>The property is not located within a cul-de-sac.</p>
<p><i>Well served by footpaths, dual access paths and public transport.</i></p> <p>The property does not meet this requirement regarding pedestrian accessibility. A footpath is not present on Renton Street. The property is 45 metres from the footpath on Joiner Street.</p> <p>In terms of public transport the property has good access being less than 250m or a 10-minute walk from a high frequency bus stop (Marmion Street after Curtis Road) with access to buses 114 and 915.</p>	<p><i>Properties located on battle-axe style rear lots.</i></p> <p>The property is not located on a battle-axe style rear lot.</p>

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Preferred characteristic (Continued)	Undesirable characteristic
<p><i>Located on local distributor and district roads.</i></p> <p>The property does not meet this requirement.</p>	<p><i>Properties comprising grouped or multiple dwelling developments with shared access arrangements.</i></p> <p>The property is not in a grouped or multiple dwelling development.</p>

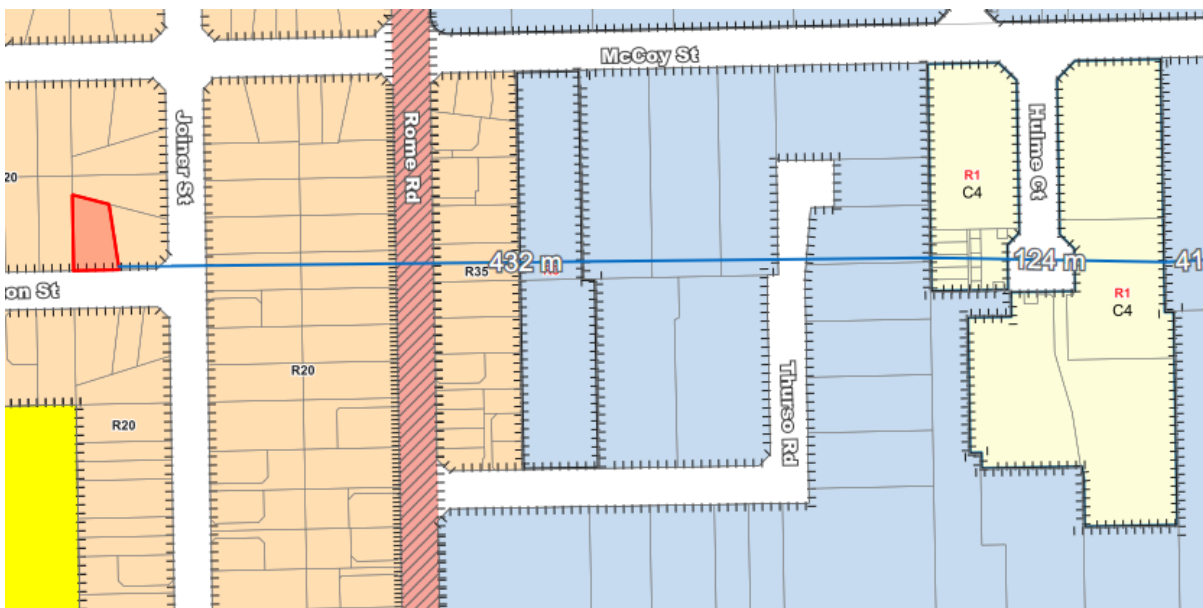


Figure 2 – Distance from the subject site to Hulme Court

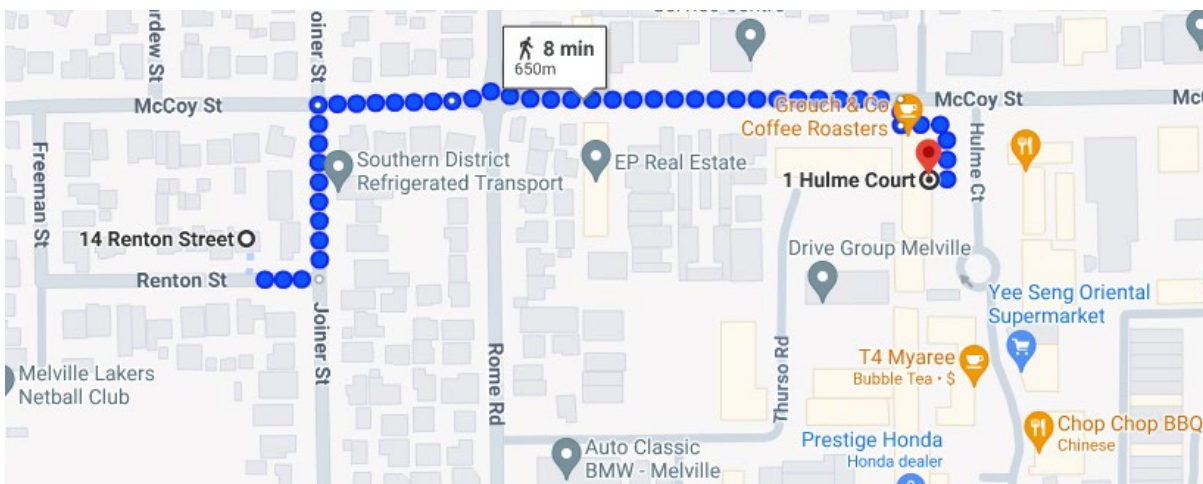


Figure 3 – Walking time from the subject site to Hulme Court

The proposed application does not meet a number of preferred locational characteristics identified in the Policy. The site however has access to public transport and is a walkable distance from a range of amenities and services.

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Number of Persons

LPP 1.21 specifies that no more than six guests may stay at an individual dwelling/unit. This application is for four guests to stay at the short term accommodation. The reduction in capacity from 6 guests to 4 guests will assist in reducing amenity impacts associated with the use.

Car Parking

In accordance with LPP 1.21, the site's car parking is required to be assessed against the R-Codes. The R-Codes require two parking bays for dwellings with two or more bedrooms. The driveway accommodates four parking bays, ensuring that parking from the site will not readily impact the streetscape.

Site Management Plan

The below table is an assessment of the Property Management Plan (PMP) provided by the applicant. The PMP is considered to satisfactorily address the requirements of LPP1.21.

LPP 1.21 requirement To include but not limited the following	Proposed
A code of conduct detailing the expected behaviour and obligations of guests. The code of conduct shall be displayed in a prominent position within the premises	Code of conduct with expected behaviour/requirements, etc to be displayed. This is detailed in the Property Management Plan.
Management of complaints, in the form of a Complaints Management Procedure (which must include the provision of the short-term accommodation owners/managing agents contact telephone number for adjoining neighbours)	Complaints management procedure specified in the Property Management Plan.
Control of anti-social behaviour and the potential conflict between guests and permanent residents of the area, detailing the expected behaviour of guests and control of noise	Expected behaviour detailed in the Property Management Plan.
Details regarding guest check-in and check-out procedures	Details provided in Property Management Plan.
Management of car parking	Sufficient parking in existing driveway for four vehicles.
Details regarding waste management which must include specifying the expectations on guests with regard to general rubbish and bin collection (if applicable)	Expectations for waste management are specified in the Property Management Plan.
Compliance with Strata By-Laws (if applicable) in the form of a Statement of Compliance	Not applicable – freehold lot.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)**Temporary Approval**

The proposed development seeks performance assessment against the provisions of LPP 1.21. A number of elements of the proposal have been found to be outside of the preferred characteristics sought by the LPP. Modifications to the application, in particular the reduced occupancy capacity, is expected to reduce potential amenity impacts. As a safeguard however, it is recommended that a temporary approval be granted for a 12 month period. This will enable the City to monitor the use, consider any complaints and/or observations during the approval period and have regard to these matters when considering a continuation of the use.

A temporary approval will also provide opportunity to review the compliance status of the development having regard to upcoming changes to the short term accommodation approval framework.

Compliance with Other Legislation**Short-Term Rental Accommodation Register**

The State Government has released a position statement and is pursuing planning reforms to the Short Term Rental Accommodation sector. The Short-Term Rental Accommodation (STRA) register is to be implemented in mid-2024 and will require both hosted and un-hosted short-term rentals to register their property by 1 January 2025. The State Government defines STRA as “the practice of renting out a property (or part of a property) for a relatively short period of time, usually on a nightly or weekly basis.”

The register was created to ensure consistency with the rules and regulations for state-wide STRA properties. Revised definitions will be introduced into local government planning schemes to help determine appropriate requirements for the location of STRA properties. A key change includes planning exemptions for un-hosted STRA within the Perth metropolitan area. Development approval will not be required if the property does not intend to rent their property out for more than 90-nights within a 12-month period.

The property is un-hosted and intended to be rented out for more than 90-nights within a 12-month period. Accordingly, it is expected that the property will be added to the STRA register. The STRA will offer additional opportunities to manage the proposed short term accommodation use.

U24/0623 AMENDMENT – SHORT TERM ACCOMMODATION – Lot 73 (No. 14) RENTON STREET, MELVILLE WA 6156 (REC) (ATTACHMENT)**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

This application is proposed to be approved under delegation through the Development Advisory Unit (DAU) process.

Should Elected Members have an alternative view, the DAU 'call-up' procedures provide opportunity to call this matter up for formal Council consideration.

CONCLUSION

Modifications to the previously refused application reduce potential impacts on amenity of the locality. This reduced level of impact is considered sufficient to allow a monitored twelve month trial period of the proposed use. On this basis, it is recommended that the proposal be approved, subject to conditions.

OFFICER RECOMMENDATION**APPROVAL**

1. This Development Approval requires the development to be undertaken in accordance with the submitted application, enclosed plans (referenced Site Plan) stamped as approved on 6 March 2024.
2. Use of the subject property for short stay accommodation is limited to a maximum of four persons at any given time.
3. This development approval is valid for a period of 12 months from the date of this approval. Continuation of this use beyond a period of twelve months shall require submission and approval of a further development application
4. The short stay accommodation is to be operated in accordance with the stamped Property Management Plan dated 29 February 2024, to the satisfaction of the City.

Advice note

- i. In regard to condition 2 if the temporary development is to continue beyond the approved 12 month period, the applicant may submit a separate application for Planning Approval to continue the Short Term Accommodation/Holiday House use. The applicant is encouraged to lodge any such application three months (minimum) prior to the expiry of the approval and include details as to whether any part of the development site or site management plan has been altered since its original approval.

**ATTACHMENTS
OF THE
DEVELOPMENT ADVISORY UNIT
MEETING
HELD ON
TUESDAY, 5 MARCH 2024
U24/0623**

Distributed: Friday, 8 March 2024

U24/0623

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