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21 July 2021

Mr Andrew Trosic
 Director Development Services
 Shire of Serpentine Jarrahdale
 6 Paterson Street
 Mundijong WA

Dear Andrew,

829 SOUTH WESTERN HIGHWAY SERVICED APARTMENTS - ADDITIONAL INFORMATION

Urbis are pleased to provide further information in relation to the approved serviced apartments development (PA20/939) located at 829 South Western Highway, Byford (subject site). This further information in response to the State Administrative Tribunal (SAT) section 31 notice following the mediation which occurred on 14 July 2021.

BAKCGROUND

The SAT appeal lodged by Urbis on behalf of the landowner (Consolidated Ut Pty. Ltd.) was in relation to 'Condition L' of the abovementioned development approval. Condition L of the approval limits the minimum length of stay for guests to one night and the maximum length of stay to seven nights. It is understood that the justification behind Condition L was to "*ensure the development is maintained strictly for the type of tourist accommodation described by the proponent*". Urbis understands the intent of the condition, however it is considered that the specified timeframes imposed are inconsistent with the provisions and expectations for short stay accommodation and unreasonably restricts the operator in conducting their development to its maximum potential.

The intent of the SAT appeal and mediation was to seek the reconsideration of Condition L. There is no issue with Council's desire to ensure the development operates as described in the development application. However, Condition L places undue burden on the operator and is not based on any policy or legislation. There is no issue with a condition limiting a minimum stay of one night, rather the key issue is the maximum length of stay stipulated by Condition L.

Following a constructive mediation process between Urbis and the Shire of Serpentine Jarrahdale (the Shire) planning officers, it was agreed that Urbis would provide additional information in support of the alteration of Condition L. The additional information provided as part of this response seeks to provide assurance to Council that the development will operate strictly in accordance with the type of tourist accommodation described by the proponent.



REQUEST

Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA), it is requested that Council reconsider this development application with relation to Condition L. Specifically, the following is requested:

- (a) The removal of Condition L from the approval so as to not unreasonably restrict the operator in conducting the development to its potential or;
- (b) Altering Condition L to read the following:

The development shall only be occupied between a minimum of 1 night and a maximum of 3 consecutive months by any one person or one group of persons. The applicant shall maintain an up to date accommodation log that is to be available for viewing at any time by the Shire of Serpentine Jarrahdale, to ensure compliance with this requirement.

The proponent's preference is for option (a) identified above. However, noting the Council's initial reasoning for the implementation of Condition L, option (b) identified above would also be a satisfactory outcome.

Additional clarity on the merit of the operator as well as precedents in which other local governments manage short stay accommodation is provided for below. This seeks to provide assurance that the above request is appropriate and will guarantee the proposed tourist accommodation will operate as described in the development application.

OPERATOR INFORMATION

The proposed development will be run and operated by the Dome Café Group with Nigel Oakey as the head of operations. As part of the evolving Dome Café Group business model, the provision of short stay accommodation in conjunction with Dome Cafes is becoming increasingly common. There are a number of examples within WA whereby the Dome Café Group successfully and lawfully run short stay accommodation premises similar to the approved development.

Nigel Oakey has a proven track record for running high quality short stay accommodation outlets across the State. Ensuring that the development operates within the relevant legislation and requirements is integral to the reputation and future viability of Mr. Oakey's business.

Based, on this, Council can act with absolute assurance that the subject site will operate within all the relevant legal parameters and that there is no risk that the development will facilitate quasi residential or long-term accommodation (i.e. longer than three month stays).

Notable examples that prove a track record of successful and lawful operation of Mr. Oakey's run Dome Café Group run short stay facilities include the following:

- Premier Mill Hotel: Katanning.
 - The Premier Mill Hotel has been successfully operating under the same management since 2018.
- Farmers Hotel: Northam.
 - Farmers Hotel in Northam has been successfully operating under the same management since 2019.



In addition to these existing premises, there are also additional short stay accommodation facilities that are likely to begin operation soon such as the restoration of the Hordern Hotel in Narrogin.

In addition to the above, a number of online sources and news articles detail Mr Oakey's commitment to operating high quality facilities.

- <https://www.theurbanlist.com/perth/a-list/premier-mill-hotel-katanning>
- <https://www.commercialrealestate.com.au/news/what-drives-dome-cafe-groups-nigel-oakey-to-save-was-historic-rural-buildings-863907/>
- https://www.westernaustralia.com/en/plan_your_trip/travelstories/Pages/Western_Australias_best_heritage_hotels.aspx

The above information seeks to provide absolute assurance to Council that the operator at the subject site will operate in full compliance with the required legislation and requirements. The proven track record of the operator demonstrates that this has been done in many other instances with similar operations occurring at the subject site.

EXISTING LOCAL GOVERNMENT POLICY

There are a number of existing policies and local laws pertaining to short stay development across different local government jurisdictions. Importantly, a number of these policies identify a maximum stay of up to three months for short stay accommodation. As identified within the request section above, similar maximum timeframes are sought for this development.

Table 1 below identifies the relevant local governments with such policies in place and identify the maximum length of stay for short stay accommodation permitted.

Table 1 – Local Laws and Policies Relating to Short Stay

Local Government	Short Stay Provision
City of Fremantle <i>Local Law Short Stay Accommodation</i>	<i>“Short stay accommodation” means: accommodation for not more than 6 occupants at a short stay dwelling for no more than 3 consecutive months.</i>
City of Bayswater <i>Short-term Accommodation Local Planning Policy</i>	<i>Short-term accommodation means a premises providing temporary accommodation, either continuously or from time to time with no guest accommodated for periods totalling more than three months in a 12 month period.</i>
City of Stirling <i>Local Planning Scheme</i>	<i>Short Stay Accommodation: Means a dwelling designed or intended to be used for the purpose of human habitation on a temporary basis for a maximum time period of 6 consecutive weeks for a single person or single family, and includes a serviced apartment, but does not include a Residential Building, Hotel or Motel</i>



Local Government	Short Stay Provision
<p>City of Melville</p> <p><i>Local Planning Scheme</i></p>	<p><i>Short-Term Accommodation:</i></p> <p><i>Means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three months in any twelve-month period.</i></p>

Whilst each local jurisdiction takes a slightly different approach, generally the maximum length of stay is between six weeks and three months. Based upon the information provided for in **Table 1**, the condition imposed by Council in relation to the subject site to limit the maximum length of stay to seven nights is considered unreasonable. It is therefore requested that Council reconsider Condition L to provide a more reasonable allowance for the maximum length of stay, consistent with other local government authorities.

CONCLUSION

The above information seeks to provide appropriate justification to Council that Condition L of the development approval for PA20/939 is unreasonable. Based on a demonstrated track record from the operator in running high quality and lawful short stay accommodation facilities and an extensive list of local governments who allow for short stay accommodation facilities to provide up to three-month short stay accommodation, we respectfully requested Council reconsider Condition L in line with the request outlined above.

Should Council wish to discuss this matter further or should they wish to discuss the wording of Condition L, the proponent would be happy to discuss further. It is respectfully requested that Council reconsider this item at the August Ordinary Council Meeting.

Should you require any additional information, please contact Declan Creighan (dcreighan@urbis.com.au) or the undersigned.

Kind regards,

Ray Haeren
Regional Director
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