

### 5.3.8 Leederville Gardens Retirement Village – Village Manager

<b>Ward:</b>	North	<b>Date:</b>	4 November 2016
<b>Precinct:</b>	Leederville (3)	<b>File Ref:</b>	SC313 & SC308
<b>Attachments:</b>	<a href="#">1</a> – Confidential Report 10.4.5 (20 November 2001)		
<b>Tabled Items:</b>	Nil		
<b>Reporting Officer:</b>			
<b>Responsible Officer:</b>	J Paton, Director Corporate Services		

#### RECOMMENDATION:

That Council **ADVISES** the Board of Leederville Gardens Inc. that the City:

1. **INTENDS** to withdraw from the role of Village Manager no later than 1 July 2017;
2. **Will assist the Board in developing and undertaking an appropriate procurement process to identify suitably qualified and experienced providers to undertake the role of Village Manager, with a transition/handover period prior to the end of the financial year; and**
3. **REAFFIRMS** its commitment to maintain a stewardship role with the Board, which could include providing ex-officio support to the Board or Board meetings.

#### PURPOSE OF REPORT:

To consider the City's ongoing management role of the Leederville Gardens Retirement Village.

#### BACKGROUND:

The Leederville Gardens Retirement Village (the Village) is a 66 unit independent living retirement village that was opened in 1993. The Village is located at 37 (Lot 100) Britannia Road, Leederville, which is owned in freehold by Leederville Gardens Inc. (the Association).

Administration has previously provided the following reports to Council dealing with the City's involvement with the Association, Board and the Village management:

- Item 9.4.1 to the Ordinary Council Meeting of 22 September 2015
- Item 14.1 to the Ordinary Council Meeting of 17 November 2015 (Confidential Report)
- Item 9.3.5 to the Ordinary Council Meeting of 8 March 2016
- Item 14.1 to the Ordinary Council Meeting of 3 May 2016 (Confidential Report)

In summary, key points of note are:

- The original Constitution and the Association was established by the City of Perth in the early 1990's when it provided land in Leederville for the establishment of the Village;
- The Objects of the Association were established on broad 'benevolent' principles, however over time and successive amendments to the Constitution the breadth of the Objects have been significantly reduced.
- The Constitution provided for a continuing 'stewardship' role for the City (originally Perth, now Vincent) to nominate 50% of the membership of the Board, with the Chairperson selected from those nominees. The Chairperson exercises a casting vote when necessary.
- Until 2015, the City's nominees to the Board had always been members of Council, however in November 2015 (item 14.1), the nominees were selected from a public expression of interest process.

In addition to the past involvement of Council members on the Board, the City has since 2002 also had a role in the operational management of the Village. Relevant background on how this came to be is detailed below:

A confidential report (Item 10.4.5 – See **Attachment 1**) was presented to the Ordinary Council Meeting of 20 November 2001 on the subject of the management of the Village. At that time, the Village had since 1995 been managed by Eldercare Pty Ltd, which was part of the St Ives Group.

The report stated that this “*report has been prepared at the request of some Elected Members who have been approached by residents of the Village who have raised concerns regarding the level of the Common Service Fee for residents, the lack of sales in the Village for properties on the market. As a result it was advised by the Mayor at the Annual General Meeting of the Leederville Gardens Retirement Village to review the operations of the Village and assess the possibility of management of the village being transferred to the Town of Vincent.*”

In presenting a case for the Town to undertake the management of the Village, the following table of perceived advantages and disadvantages was included in the report:

<b>Advantages</b>	<b>Disadvantages</b>
<ul style="list-style-type: none"> <li>• Single focus on the requirements of Leederville Gardens.</li> </ul>	<ul style="list-style-type: none"> <li>• No specific experience in management of Retirement Villages.</li> </ul>
<ul style="list-style-type: none"> <li>• Full Council resources available to the Village.</li> </ul>	<ul style="list-style-type: none"> <li>• Possible priority of work conflicts with maintenance work at the Village.</li> </ul>
<ul style="list-style-type: none"> <li>• Allay resident’s concerns of perceived conflicts of interest with the Management Group.</li> </ul>	
<ul style="list-style-type: none"> <li>• Additional communications available through Council network.</li> </ul>	
<ul style="list-style-type: none"> <li>• Envisaged reduction in operating costs.</li> </ul>	
<ul style="list-style-type: none"> <li>• Council management removes profit component from operation.</li> </ul>	
<ul style="list-style-type: none"> <li>• Increased focus on requirement Leederville Gardens residents as only one (1) village under Council management.</li> </ul>	
<ul style="list-style-type: none"> <li>• Proven track record in Administration.</li> </ul>	
<ul style="list-style-type: none"> <li>• Anticipated reduction in management fees.</li> </ul>	
<ul style="list-style-type: none"> <li>• Use of existing Council contracts for required work.</li> </ul>	
<ul style="list-style-type: none"> <li>• Ability to subsidise costs through use of Council funds.</li> </ul>	

As a result, Council resolved:

“That;

- (i) *the report on the Management of Leederville Gardens Retirement Village Inc be received;*
- (ii) *this report be submitted as an agenda item for the next Leederville Gardens Retirement Village Inc Board;*
- (iii) *the Council instructs the Town of Vincent Board Members to support the proposal for the management of the Leederville Gardens Retirement Village Inc to be awarded to the Town of Vincent;*
- (iv) *in the event that (ii) and (iii) above are approved, the Chief Executive Officer be authorised to implement the necessary legal and administrative arrangements to manage the Leederville Gardens Retirement Village Inc;*
- (v) *the Chief Executive Officer be authorised to make public this report (or any part thereof) at the appropriate time; and*

- (vi) *the Council write to all Board Members and the Management organisation and inform them of Council's decision and that the Council wishes to assume responsibility for management of the Leederville Gardens Retirement Village Inc."*

In accordance with recommendation (v) above, the Chief Executive Officer has now authorised release of Confidential Report 10.4.5, which is included as **Attachment 1**.

On 23 April 2002, a further report (Item 10.4.3) was presented to Council, outlining:

- the outcome of the establishment of a working group by the Leederville Gardens Board, which included the then Town's Chief Executive Officer; and
- a proposed administrative structure for the Town to undertake the management role for Leederville Gardens.

The report included the following recommendation which was adopted unanimously:

*"That the Council;*

- (i) *ENDORSES the action taken by the Chief Executive Officer to implement the necessary legal and administrative arrangements for the Town's management of the Leederville Gardens Retirement Village (Inc); and*
- (ii) *NOTES that the Town's management of the Village is effective from 1 July 2002."*

The Council resolutions make reference to the Chief Executive Officer implementing the "necessary legal and administrative arrangements". Despite the City undertaking the management role for the past 14 years, there is no record that a contract was ever developed and executed, nor any form of agreement entered into that defines the scope of the role, resources to be provided, financial arrangements and contract period.

Whilst the 20 November 2001 report included a financial table outlining the estimated operating costs for the Village under the Town's management, including an entry for 'Administration' of \$60,000 (down from \$67,596), there was no explicit reference to what the service would cost the Town to undertake or indeed the overall resourcing level or expertise required to perform that role

In undertaking the Village Manager role, the City invoices the Board an annual management fee. A review of records reveals the following fees were levied between 2010 and 2015:

2010/11	\$40,000
2011/12	\$41,200
2012/13	\$46,200
2013/14	\$48,000
2014/15	\$55,000

In the lead up to the 2015/16 budget, it was identified that the actual cost incurred by the City was (conservatively estimated) in the order of \$150,000, therefore the service charge was increased accordingly.

#### **DETAILS:**

Over the last 12 months, significant change has been occurring, impacting on the management of the Village, including:

- Changes to legislation – introduction of the Retirement Villages Amendment Regulations 2015 and the Code of Fair Practice for Retirement Villages 2015 (the Code) which sets out the practices that apply to the promotion, sale and operation of retirement villages. The Code had a phased introduction through to 1 July 2016 and has implications on financial reporting, budgeting, disclosure requirements and residence contracts.
- Board induction – the appointment of independent Board members by the City has required the provision of significant information on the background, financial position, operations, legislation and tenancies to ensure the Board is in a position to make informed decisions and operate strategically.

- Termination of tenancies – a number of residential units have progressively been vacated, requiring Board decisions on refurbishment standards and sales processes, together with contract management of the refurbishment works.
- Operational changes – a review of service contracts to ensure best value.

Changes within the City's Administration over the last 12 months have compounded the challenges confronted by Administration in fulfilling its obligations as Village Manager. Personnel turnover has impacted on the level of knowledge and relevant expertise to effectively manage the Village in an efficient and compliant manner. In view of these challenges, it has been necessary for the City to enter into a short term contract with Village Solutions Australia (VSA) to provide support to the City in its ongoing role of Village Manager.

VSA specialises in the management of retirement villages and therefore brings a degree of expertise that does not otherwise exist at the City. The scope for VSA has included a review of current management practices, systems and compliance audit and support in updating those systems as required. The contract was initially for 3 months, however it has been necessary to extend it for a further 3 months, expiring 10 January 2017.

Notwithstanding the temporary appointment of VSA, the City is still the principal contractor to the Village, therefore routine operational oversight is still required. In addition, the City retains full responsibility for all financial bookkeeping, Board secretarial and reporting functions.

#### **CONSULTATION/ADVERTISING:**

At various times over the last 12 months the City has advised the Board and residents of the Village that the City considers there are more qualified organisations, better suited and resourced to undertake the role of Village Manager, however it has been reiterated the City would not simply withdraw from the service.

At the latest Board meeting on 10 October 2016, this matter was again discussed and advice given that the matter would be presented to Council for consideration. The Board indicated a 30 June 2017 / 1 July 2017 implementation would be appropriate.

#### **LEGAL/POLICY:**

Not applicable

#### **RISK MANAGEMENT IMPLICATIONS:**

**Medium** Due to the City's resourcing capacity and limited technical knowledge of the retirement village industry and associated legislation, the risks are primarily associated with the City remaining the Village Manager, not in exiting from the service, which is the recommendation of this report.

#### **STRATEGIC IMPLICATIONS:**

Strategic Plan 2013-2023

*"4.1 Provide good strategic decision-making, governance, leadership and professional management*

*4.1.2 Manage the organisation in a responsible, efficient and accountable manner."*

#### **SUSTAINABILITY IMPLICATIONS:**

Not applicable.

### **FINANCIAL/BUDGET IMPLICATIONS:**

The 2016/17 Annual Budget included Management Fee income of \$75,000, which was calculated by allowing for a six month proportion of the fee charged in 2015/16. This was on the basis that it was anticipated the City would work with the Board over that period and have implemented a process to transition to an external provider by the midway point of the 2016/2017 Financial year. This will need to be reviewed if the transition period is extended to the end of the current financial year.

### **COMMENTS:**

Increasingly over the last 12 months, the Board has been demonstrating its capacity to operate independently, whilst the administrative processes have been progressively refined and brought up to an appropriate standard through the efforts of the City's Administration and with the support of VSA.

It is therefore timely to give consideration to the City's withdrawal from the Village Manager function. There are significant factors that support a withdrawal, including:

1. Liability – the role of Administrator of a retirement village is covered by the *Retirement Villages Act 1992*, *Retirement Villages Regulations 1992* and *Code of Fair Practice for Retirement Villages 2015*. In addition, in supporting the Board, it is necessary to understand the Constitution and comply with the requirements of the *Association Incorporations Act 2015*. These are specialist knowledge areas in which the City does not possess the required expertise and experience.
2. Cost recovery – the current Management Fee charged by the City is \$150,000. Whilst that is a substantial increase over the fee of \$55,000 charged in 2014/15, it is unlikely to be covering the full cost of the service provided by the City, particularly given the requirement for the City to supplement existing skills and capacity through the contract with VSA.

It is noted that two of the original arguments supporting the City undertaking the management role for the Village were:

- *Council management removes profit component from operation*
- *Ability to subsidise costs through use of Council funds*

Administration does not support these arguments because it is considered inappropriate and inequitable for the City to subsidise the service and external professional providers are now likely able to provide the service directly at a lower cost to the Village residents than on a full cost recovery fee from the City.

3. Resourcing – related to the cost recovery issue, the City has limited resources to sustain the management function and despite the temporary subcontracting of functions to VSA is still required to divert valuable resources to the Village and Board, rather than providing and improving services to the benefit of the entire community.

In addition, as Village Manager, there is an expectation of 24 hour support, which imposes significant responsibility on the respective City officer(s), beyond that normally required in their roles. Through the contract with VSA, this level of service is able to be provided, however in the absence of that temporary contract, this could lead to a conflict with the Award or relevant Contract of Employment, or flow on to the performance of regular City duties.

In the absence of a management agreement or contract between the City and the Board Council may resolve to withdraw from the management function without the need for Board endorsement. Equally the Board may terminate the City's management of the Village without the need for Council endorsement.

It is increasingly clear, that whilst there is merit in the City maintaining a stewardship role at the Board level, there are more appropriate options for the ongoing operational management of the Village. It is therefore recommended that Council advises the Board of the following: to provide for a smooth transition to an alternative provider:

- The City intends to withdraw from the role of Village Manager no later than 1 July 2017;
- The City will assist the Board in developing and undertaking an appropriate procurement process to identify suitably qualified and experienced providers to undertake the role of Village Manager, with a transition/handover period prior to the end of the financial year; and
- Reaffirms that the City is committed to maintain a stewardship role with the Board, which could include providing ex-officio support to the Board.