



**SHIRE**  
*of*  
**DANDARAGAN**

**MINUTES - PUBLIC**

**of the**

**ORDINARY COUNCIL MEETING**

**held at the**

**CERVANTES PINNACLES MOTEL, CERVANTES**

**on**

**THURSDAY 28 NOVEMBER 2019**

**COMMENCING AT 4.07PM**

*(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)*

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## 1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

### 1.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 4.07pm and welcomed those present.

*"I would like to acknowledge the traditional owners of the land we are meeting on today, the Yued people of the great Nyungar Nation and we pay our respects to Elders both past, present and emerging."*

### 1.2 DISCLAIMER READING

The disclaimer was read aloud as there were 5 members of the public present.

*"No responsibility whatsoever is implied or accepted by the Shire of Dandaragan for any act, omission, statement or intimation occurring during this meeting."*

*It is strongly advised that persons do not act on what is heard, and should only rely on written confirmation of Council's decision, which will be provided within fourteen days."*

## 2 RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

### Members

Councillor L Holmes	(President)
Councillor P Scharf	(Deputy President)
Councillor J Clarke	
Councillor W Gibson	
Councillor D Richardson	
Councillor R Rybarczyk	
Councillor R Shanhun	
Councillor D Slyns	

### Staff

Mr B Bailey	(Chief Executive Officer)
Mr S Clayton	(Executive Manager Corporate & Community Services)
Mr D Chidlow	(Executive Manager Development Services)
Mr R Mackay	(Planning Officer)
Ms T O'Gorman	(Economic & Club Development Officer)
Ms M Perkins	(Manager Community & Customer Service)
Mr B Pepper	(Coordinator Infrastructure Services)

### Apologies

### Approved Leave of Absence

Councillor A Eyre

**Observers**

Mr K Howe, Ms S McMahon, Ms C Hayman, Ms L Waters and Mr P House

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4 PUBLIC QUESTION TIME**

Mr Ian Kelly asked the following questions:

1. Have the Shire conducted a survey to find out whether the ratepayers and residents of Jurien Bay would agree for the Shire to give a developer part of a road and road reserve that belongs to the general public, that no developer has any entitlement to?

*The Planning Officer responded by outlining the land swap/road realignment was first put forward as part of the 2008 Jetty Redevelopment Masterplan by landscape architects contracted by the Shire. Based on Council's endorsement of the masterplan the developer of Lot 62 Roberts Street proposed the subject design basis for their development. The resulting statutory planning dealings of the initial development application, rezoning of the property, endorsement of the local development plan and the this item, have all sought consultation in accordance with State planning legalisation with a number of community engagement sessions where seen fit.*

*The Executive Manager Development Services further stated Council is not the decision maker for item, but only a recommending body as the decision rests with the Midwest Wheatbelt Joint Development Assessment Panel.*

2. Have the Shire conducted a survey to find out whether the ratepayers and residents of Jurien Bay was to have a group of multi storey developments in town that are above 2 storeys in height?

*The Executive Manager Development Services stated the answer to this question is of the same reasoning for the first answer. Nonetheless, it was outlined in the drafting of the rezoning documentation a Tourism Taskforce consisting of Shire, Tourism WA and Department of Planning staff was formed to ensure a good planning outcome for the site (and Jurien Bay on the whole) in terms of the major design aspects.*

3. Have the Shire formulated a parking plan that will be able to accommodate public car-parking for cars, tourist buses, caravans and motorhomes for the people that wan to view the bay of Jurien Bay or to utilise Dobbyn Park, the BBQ's, the jetty & the beaches that are all currently accessed from Heaton Street? Can the Council confirm that the car-parking that has already been provided in the commercial district to service the shops & businesses, will not be utilised for public car / vehicle parking for those wanting to visit the above mentioned areas, should the proposed development proceed?

*The Planning Officer stated in regards to proposal that a condition of approval has been put forward to ensure the upgrade/replacement of street parking on the streets of Roberts, Heaton and Sandpiper will be undertaken prior to the realignment of Heaton Street and the commencement of Building H.*

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*He further outlined street parking in the vicinity of the development is currently being considered in the current Jurien Bay Foreshore Masterplan project and noted interested people had been directed to engage in this project for their current parking concerns.*

*The Planning Officer also stated the Shire has been undertaking a signage review via a working group, with modern way-finding being considered to direct traffic more efficiently throughout Jurien Bay.*

Mr Kerry Howe enquired about the progress of public consultation on Memorial Park.

*The Executive Manager Development Services responded by saying that the Shire had a number of other public consultation projects underway at present however the consultation on Memorial Park was scheduled for December.*

## **5 APPLICATIONS FOR LEAVE OF ABSENCE**

### **COUNCIL DECISION**

**Moved Cr Gibson, seconded Cr Slyns**

**That the following request for leave of absence be approved:**

**Cr Richardson – 8 December 2019 to 17 January 2020 inclusive**

**Cr Clarke – 19 December 2019**

**CARRIED 8 / 0**

## **6 CONFIRMATION OF MINUTES**

### **6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD 24 OCTOBER 2019**

#### **COUNCIL DECISION**

**Moved Cr Scharf, seconded Cr Richardson**

**That the minutes of the Ordinary Meeting of Council held 24 October 2019 be confirmed.**

**CARRIED 8 / 0**

## **7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Cr Holmes made note of the recent report prepared by the University of Western Australia, commissioned by Local Government Professionals WA titled From Workplace Stress to Workplace Wellness.

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**8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

## 9 REPORTS OF COMMITTEES AND OFFICERS

### 9.1 CORPORATE & COMMUNITY SERVICES

#### 9.1.1 ACCOUNTS FOR PAYMENT – OCTOBER 2019

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Business Classification Scheme / Financial Management / Creditors / Expenditure
Disclosure of Interest:	None
Date:	15 November 2019
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

To accept the cheque, EFT and direct debit listing for the month of October 2019.

#### BACKGROUND

As part of the Local Government Act 1995, Financial Management Regulations 1996, a list of expenditure payments is required to be presented to Council.

#### COMMENT

The cheque, electronic funds transfer (EFT) and direct debit payments for October 2019 totalled \$986,053.49 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the October 2019 Accounts for payment, please do not hesitate to contact the Executive Manager Corporate and Community Services prior to the Council Meeting, in order that research can be undertaken and details provided either at the time of the query or at the meeting.

#### CONSULTATION

- Chief Executive Officer

#### STATUTORY ENVIRONMENT

- Regulation 13 of the Local Government Financial Management Regulations 1997.

#### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

#### FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

#### STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

#### ATTACHMENTS

Circulated with the agenda are the following items relevant to this report:



- Cheque, EFT and direct debit listings for October 2019  
(Doc Id: 144455)

**(Marked 9.1.1)**

#### VOTING REQUIREMENT

Simple majority

#### OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Shanhun, seconded Cr Richardson**

**That the Cheque and EFT listing for the period ending 31 October 2019 totalling \$986,053.49.**

**CARRIED 8 / 0**

### **9.1.2 LEASE OF FAMILY RESOURCE CENTRE TO COASTAL KIDS CARE INC**

Location:	Jurien Bay
Applicant:	Coastal Kids Care Inc.
Folder Path:	Business Classification Scheme / Council Properties / Leasing Out / Community Centres
Disclosure of Interest:	Nil
Date:	31 October 2019
Author:	Tony O’Gorman, Economic and Club Development Officer
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

To provide Coastal Kids Care with a lease over the entire Family Resource Centre located at Lot 128 Bayliss Street.

#### BACKGROUND

Coastal Kids Care (CKC) has held a lease over a portion of the Family Resource Centre Lot 128 Bayliss Street since 2004 on five year lease terms. The remaining part of the building not under formal lease consists of a multipurpose room, internal and external store area, toilets and three small offices.

CKC hire the multipurpose room on a three year rotational basis to conduct afterschool and vacation care. The lease is now due for renewal and it is proposed that a lease over the entire building is entered into given they are the primary user of the facility and most other community groups now utilise the civic centre for meetings and functions.

This proposal would see CKC responsible for hiring, cleaning and management of the multipurpose room, toilets and offices located in the western end of the building rather than the Shire managing this end of the building.

Fees for the hire of the multipurpose room are currently paid to the Shire, with fees set as part of the Shire budget under fees and charges.

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The only other group regularly using the multipurpose room is the Jurien Bay Playgroup Inc. CKC sees the Playgroup as an essential part of their future as the participants of the playgroup are also likely to utilise the services offered by CKC. While there has been some issues between the two groups in the past the author has met with both parties and the groups now see this proposal as means to work closer together and this expanded lease is seen by both groups as a positive step forward.

**COMMENT**

The Shire currently provides maintenance to the building and grounds. Cleaning to the western end of the building not currently under the lease agreement with CKC and is undertaken by the Shire. This proposal would hand over the cleaning obligations for the entire building to CKC. The additional costs of cleaning would be offset by occasional hire of the multi-purpose room but is not expected to increase their costs materially.

The proposed lease arrangement provides a subsidy for energy usage, water usage and insurance for the building in line with the Shire's existing levels of expenditure on the facility. This is funded by the Department for Communities who provide an annual contribution towards the facility to the Shire. The arrangement is in place until 2027 and this lease has been drafted with an end date to coincide with this funding period.

The core aims of this lease arrangement is to reduce the tenure complexities associated with the facility. At present while there is generally only one primary user of the facility, access to the facility is managed by a lease, hire arrangement and requires multiple parties to coordinate cleaning and basic maintenance. The change in tenure arrangements will set the CKC as the building manager who will liaise with Shire staff to ensure regular maintenance obligations are met. Protections have been written into the lease document to ensure Playgroup retains regular access at an affordable cost.

In addition, given the whole facility will be managed by CKC, this should simplify their licensing arrangements and allow them more space to provide a better standard of service to the community.

**CONSULTATION**

- Coastal Kids Care Inc.
- Jurien Bay Playgroup Inc.

**STATUTORY ENVIRONMENT**

Local Government Act 1995 Section 3.58 requires that the disposal of property whether by sale or lease be advertised for a period of two weeks.

There is an exemption provided under Functions and General Regulations, regulation 30 which is appropriate for not profit community groups as applicable in this case.

### **3.58. Disposing of property**

(1) *In this section —*

**dispose** includes to sell, lease, or otherwise dispose of, whether absolutely or not;

**property** includes the whole or any part of the interest of a local government in property, but does not include money

### **30. Dispositions of property excluded from Act s. 3.58**

(1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*

(2) *A disposition of land is an exempt disposition if —*

(b) the land is disposed of to a body, whether incorporated or not —

(i) **the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and**

(ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

### POLICY IMPLICATIONS

This piece of land is freehold as the Shire does not have a policy specifically dealing with freehold the Shire's Reserve Policy has been used as a guide.

6.2 - C-6R02 – Reserves

#### **OBJECTIVE**

*To provide guidance regarding the usage and leasing arrangement of Shire Reserves*

### **Policy Statement**

#### **1. Lease Provisions - Reserves**

*Where Council resolves to lease a Reserve Vested in its control or resolves to lease land owned by it to a local sporting or community organisation, the following notes are to form the basis for the lease agreement:*

(a) *Length of lease to be for twenty-one (21) years unless otherwise terminated. (Maximum permissible under management order).*

(b) *Annual rental to be "a peppercorn".*

(c) *The Lessee shall not carry out any permanent structural improvements on the reserve without the prior written approval from the Council.*

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- (d) *All structural improvements on the reserve shall be and remain at law, the property of the Shire. The Club shall have the sole use, benefit and enjoyment of the reserve and all structural improvements thereon during the operation of the lease.*
- (e) *The Lessee shall comply with all Acts of Parliament, Orders, Regulations, Local Laws, etc, that apply to the reserve and structural improvements.*
- (f) *The Lessee shall keep the Reserve area and all structural improvements in a maintained, clean and tidy condition at all times and shall comply with any directions of the Council that may be issued requiring works to have the Reserve area and structural improvements placed in a maintained, clean and tidy condition.*
- (g) *The Lessee shall not disturb the surface soil and vegetation in a manner likely to cause erosion. If erosion damage does occur, the Club shall take remedial action as directed by the Council.*
- (h) *The Lessee shall permit the Shire's officers access to the Reserve and structural improvements at all reasonable times to ensure that the lease conditions are being complied with.*
- (i) *The lease may be terminated by the Council if the Club fails to comply with provisions of the lease agreement. The Council shall give the Lessee at least thirty (30) days notice in writing requiring the Club to rectify the breach of lease before taking action to terminate the lease under this provision.*
- (j) *The Lessee shall not assign or part with possession of any Crown lease without prior approval from the Council and the responsible Minister.*
- (k) *The Lessee shall meet all costs in relation to preparing and stamping the lease document.*
- (l) *Any leases entered into relating to Council's Reserves are to include a plan completed by a licensed surveyor depicting the area of land to be leased as an attachment to the lease document.*

#### FINANCIAL IMPLICATIONS

The Shire will lose the income associated with the fees paid by the Jurien Bay Playgroup Inc. currently around \$1,500pa. This will be offset as the cleaning operation will be taken over by the CKC under this proposal.

Current costs listed below provided through an annual subsidy from The Department for Community Services.

Energy Costs up to \$6,600pa

Water usage up to \$3,000pa

Insurance \$4,400pa

#### STRATEGIC IMPLICATIONS

Strategic Community Plan - Envision 2029

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04 – Community	The Shire's resident population will grow more than the WA regional average supported by increased community recreation and cultural opportunities and access to key liveability factors such as health and wellbeing services and educational opportunities
<b>Priority Outcomes</b>	<b>Our Roles</b>
A region that develops and supports community leadership and collective values	Provide governance support for community groups to deliver their objectives

ATTACHMENTS

Circulated with the agenda is the following item relevant to this report:

- Coastal Kids Care Inc. Draft Lease (Doc Id: 141557)  
**(Marked 9.1.2)**

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Slyn, seconded Cr Gibson**

**That Council authorise the Chief Executive Officer to finalise a lease for Lot 128 Bayliss Street, Jurien Bay with Coastal Kids Care Inc. with the following material terms:**

- a. Authorised Use: Child Care and Associated Family Services.**
- b. Term: 7 years**
- c. Annual Rent: \$1**
- d. Annual Shire Provided Subsidies:**
  - i. Electricity cost to a maximum of \$6,600 annually**
  - ii. Water to a maximum of \$3,000 annually**
  - iii. Building insurance \$4,400 annually**

**CARRIED 8 / 0**

### **9.1.3 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 31 OCTOBER 2019**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder:	Business Classification Scheme / Financial Management / Financial Reporting / Periodic Reports
Disclosure of Interest:	None
Date:	18 November 2019
Author:	Scott Clayton, Executive Manager Corporate and Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To table and adopt the monthly financial statements for the period ending 31 October 2019.

BACKGROUND

As part of the Local Government Act 1995 and Financial Management Regulations (1996), monthly financial statements are required to be presented to Council. Circulated are the monthly financial statements for the period ending 31 October 2019.

COMMENT

Regulation 34 of the Financial Management Regulations (1996) requires the following information to be provided to Council:

1. Net Current Assets

Council's Net Current Assets [i.e. surplus / (deficit)] position as at the 31 October 2019 was \$7,213,917. The composition of this equates to Current Assets minus Current Liabilities less Cash Assets that have restrictions on their use placed on them, in this case Reserves and Restricted Assets. The current position indicates that Council can easily meet its short-term liquidity or solvency.

The Net Current Asset position is reflected on page 12 and reconciled with the Statement of Financial Activity on page 3 of the financial statements.

The amount raised from rates, shown on the Statement of Financial Activity (page 3), reconciles with note 5 (page 12) of the financial statements and provides information to Council on the budget vs actual rates raised.

2. Material Variances

During budget adoption a 10 percent and \$10,000 threshold for these variances to be reported was set.

Note 12 of the attached report details any significant variances. Should Councillors wish to raise any issues relating to the 31 October 2019 financial statements, please do not hesitate to contact the Executive Manager Corporate and Community Services prior to the Council Meeting in order that research can be undertaken and details provided either at the time of the query or at the meeting.

CONSULTATION

- Chief Executive Officer

STATUTORY ENVIRONMENT

- Regulation 34 of the Local Government Financial Management Regulations (1996)

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

Circulated with the agenda is the following item relevant to this report:

- Financial statements for the period ending 31 October 2019  
(Doc Id: 144503)  
**(Marked 9.1.3)**

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Shanhun, seconded Cr Clarke**

**That the monthly financial statements for the period 31 October 2019 be adopted.**

**CARRIED 8 / 0**

**9.2 INFRASTRUCTURE SERVICES****9.3 DEVELOPMENT SERVICES**

*Cr Scharf declared an proximity interest in Item 9.3.1 being a neighbour of the proponent and left the meeting at 4.23pm*

**9.3.1 RETROSPECTIVE DEVELOPMENT APPLICATION – LOT 165 WREN WAY, JURIEN BAY HEIGHTS**

Location:	Lot 165 Wren Way, Jurien Bay Heights
Applicant:	C & B Hysen
File Ref:	Development Services Apps/ Development Applications/ 2019/ 98
Disclosure of Interest:	Nil
Date:	18 November 2019
Author:	Rory Mackay, Planning Officer
Senior Officer:	David Chidlow, Executive Manager of Development Services

PROPOSAL

The proponent is seeking retrospective development approval for conversion of the existing dwelling to an ancillary holiday house and the existing outbuilding to the principle dwelling at Lot 165 (RRN159) Wren Way, Jurien Bay Heights (the Site).

BACKGROUND

Building approval for 72m<sup>2</sup> transportable dwelling and 162m<sup>2</sup> outbuilding on the site was granted in 2008. No further property

improvements were made until the site was purchased by the applicant in December 2017.

Shire staff were alerted to possible unauthorised development on the Site during their review of online short stay accommodation providers in their drafting of the recently adopted Holiday Homes Local Planning Policy. It was identified in 2018 the whole dwelling was listed for short stay accommodation, but the landowners' mail address remained the same. Shire staff made contact with the landowners and were advised that the existing dwelling was listed as an entire premise for short accommodation and that they had fitted out 67m<sup>2</sup> of their 162m<sup>2</sup> outbuilding for their permanent accommodation and attached a 26m<sup>2</sup> patio as shown in the attached plans (Doc Id 144432). Shire staff, to date, have been working with landowners to rectify this unauthorised work and use.

As such, a wastewater system for the outbuilding was granted approval in April 2019. The applicant has then been working with building consultant, Barron Building Surveying to lodge this subject retrospective development application.

The subject property is located within Local Planning Scheme No.7's (LPS7) Special Use Area 1 – Rural Development, which is commonly known by its estate name of 'Jurien Bay Heights'. This estate is divided into three categories with specific LPS7 conditions universal to the whole estate and further conditions specific to each category.

The subject property is within Category 3 of the estate, where the proposed land use of holiday home is a land use not listed. Clause 3.4.2 of LPS7 states the following procedure for such an event:

*If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —*

- a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or*
- c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The overarching objective for Jurien Heights is: *to guide subdivision and development in a manner which will maximise economic output of the land, facilitate a range of rural residential opportunities and other tourist and recreational uses but at all times having due regard for the relative capabilities of the land.*



The objective of Category 3 is: *to facilitate Rural Residential development and provide an alternative form of housing to that provided within the Jurien Townsite.*

‘Holiday Home’ is defined as the following under *Local Planning Policy 9.12 Holiday Homes*: *means a single house which might also be used from time to time for short stay accommodation for no more than six (6) people but does not include a bed and breakfast, guesthouse, chalet and short stay accommodation unit.*

‘Dwelling’ is defined as the following under LPS7: *means a building or portion of a building used, adapted, designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.*

‘Single House’ is defined as the following under LPS7: *means a dwelling standing wholly on its own green title or survey strata lot, together with any easement over adjoining land for support of a wall or for access to services and excludes dwellings on titles with areas held in common property.*

‘Ancillary Dwelling’ is defined as the following under *State Planning Policy 7.3 Residential Design Codes (R-Codes)*: *self-contained dwelling on the same lot as single house which may be attached to, integrated with or detached from the single house.*

Assessment of the above led the officer to determine the use may be consistent with the objectives of the particular zone. Therefore, the advertising procedure of clause 64 of the Deemed Provisions of LPS7 was undertaken, as detailed in the consultation section below.

#### COMMENT

Clause 1.3 of the LPS7 conditions for Jurien Bay Heights state: *not more than one dwelling house may be constructed on any lot and all buildings shall be located within the designated building envelope as shown on the approved plan of building envelopes.*

The Site was not provided with a designated building envelope on the approved plan of subdivision, however neighbouring properties were designated with a 3000m<sup>2</sup> building envelope. By use of mapping of tools, the current cleared envelope of the Site measures to 2250m<sup>2</sup>.

On Residential zoned land the R-Codes provides for ancillary accommodation to be constructed and used in conjunction with a single house provided the ancillary dwelling does not exceed 70m<sup>2</sup> of internal living space. Generally, Shire staff have extended this interpretation to Rural Residential and Special Use – Rural Development (Jurien Bay Heights) zoned land as the larger property sizes aid to reduce any adverse amenity impacts (subject

to assessment of the environmental effect). To date there has not been a large uptake of ancillary accommodation by the market in the Shire, even though a 2015 change to the R-Codes allowed ancillary dwellings to be rented to non-family members.

With the fit out of the outbuilding equating to 93m<sup>2</sup> of aggregate living space and the current transportable dwelling being of 72m<sup>2</sup> living space there is no functional reason why the outbuilding fit out to a permanent residence could not become the principle dwelling (single house) and the existing transportable dwelling become the ancillary dwelling as defined previously.

There is another aspect to this retrospective application as the exiting dwelling to become the ancillary dwelling is to be used as holiday home for short stay accommodation guests. There is a precedence within the estate for this form of land use. Nearby Lot 155 Jurien Bay Vista (also with Category 3 of the estate) also known as the 'Heights B&B' was given approval to operate a bed and breakfast establishment from an ancillary dwelling in January 2013. In November 2018 this approval was extended to allow for the construction 16 eco self-contained cabins to service the growing business demand.

It's commonly assumed that where land is being used for a holiday house the intensity and manner in which the premises are used are likely to be different to Residential land uses. For example, outdoor areas are routinely used more intensively and for longer hours in temporary accommodation than would often be the case for permanent Residential use. Additionally, the regular movement of people into and out of the premises also has the potential for consequential amenity impacts on the surrounding locality.

However, this proposal adds another facet to the holiday home land use as the landowners remain on site as permanent residents within their own dwelling while guests are present within the ancillary holiday home. Therefore, it's assumed the landowners would act swiftly to stop any unruly behaviour or property disrespect from their holiday home guests, because, simply, they are living metres away themselves. Somewhat comparable, Residential holiday homes within the Shire are exempted from development approval when they only list room(s), and not the entire premise for short term accommodation. Consequently, this ongoing informal on-site management results in the proposal being considered compatible with the context of the estate.

Nevertheless, the only submission received raised concerned of past guests using recreational vehicles on the property in an unpleasant manner in terms of dust, noise and trespassing. It is also noted the online advertisement states the premise is welcoming to caravans. Considering this information Council is requested to impose conditions to prohibit guests from utilising recreational vehicles, caravans and the like on the premise as they severely increased amenity impacts and are not keeping with the

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 NOVEMBER 2019**

holiday home land use and the estate planning framework as a whole.

In a physical sense the principle dwelling is setback 40m from Wren Way and the holiday home 35m. A central car park area measuring 25m separates each dwelling from one another and provides access to the single property driveway. The existing access point off Wren road will be maintained in good condition and consist of compacted gravel/blue metal.

As the property is located within a 'Bushfire Prone Area' a 'Bushfire Attack Level Assessment' (BAL) was required to be submitted with the development application. The BAL recorded was 'Flame Zone', an unacceptable planning outcome. Therefore, the applicant has also provided 'Bushfire Management Statement' (BMS) from a bushfire consultant. If the BMS is implemented the BAL is reduced to an acceptable outcome of BAL-29. The conditions of approval will ensure the BMS works are undertaken for the life of the development. Additional to the BMS, a 'Bushfire Emergency Evacuation Plan' has also been supplied for the development, this is essential as short term accommodation is recognised as high bushfire risk development as guests are unfamiliar with their accommodation and the wider localities.

The property has an existing water storage combination of 47,000-litres and the holiday home will be provided with an additional 25,000-litre tank. A bore is located on site to fill these tanks. An auto float pressure pump enables a secure water supply and is deemed sufficient for firefighting purposes.

These discussed physical parameters are consistent with the Western Australian Planning Commission's *Position Statement: Tourism land uses in bushfire prone areas*.

With all the above information in mind, it is the Officer's view that if the site is well managed to the protocols listed, there will be minimal impact to neighbouring properties and is therefore supported with conditions.

#### CONSULTATION

The development application was advertised to surrounding landowners from 28 October to 18 November 2019. One submission was received from an adjoining neighbour. This submitter did not object to the proposal, but some management concerns of the premise were raised. These concerns have been covered by recommended conditions of approval.

#### STATUTORY ENVIRONMENT

- Local Planning Scheme No.7
- Transfer of Land Act 1893
- Bush Fires Act 1954

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**POLICY IMPLICATIONS**

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- Guidelines for Planning in Bushfire Prone Areas
- Position Statement: Tourism land uses in bushfire prone areas
- State Planning Policy 2.5 – Rural Planning
- Rural Planning Guidelines
- Local Planning Policy 9.12 – Holiday Homes

**FINANCIAL IMPLICATIONS**

The proponent has paid the standard development application fee of \$147.

**STRATEGIC IMPLICATIONS**

- Local Planning Strategy (Draft 2019)
- Strategic Community Plan – Envision 2029:

02 – Propensity	The Shire will experience broad economic and population growth with decreasing economic barriers, diversified agriculture and fisheries output and vibrant visitor economy.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

**ATTACHMENTS.**

Circulated with the agenda are the following items relevant to this report:

- Development Application (Doc Id: 142295 & 144432)
- Bushfire Management documents (Doc Id: 144428)

**(Marked 9.3.1)**

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr Rybarczyk, seconded Cr Shanhun

**That Council:**

1. **Determine in accordance with clause 3.4.2(b) of *Local Planning Scheme No.7* that the proposed land use is consistent with the statement of intent for Special Use Zone 1 – Rural Development; and**
2. **Approve the development application for conversion of the existing dwelling to an ancillary holiday house and the existing outbuilding to the principle dwelling at Lot 165 Wren Way, Jurien Bay Heights subject to the following conditions and advice:**
  - a) **All development shall be in accordance with the attached plans date stamped 28 November 2019 subject to any modifications required as a consequence of any conditions of this approval and shall not be altered without the prior written approval**

- of the local government.
- b) Guests are to be short stay only, meaning no one guest is to be accommodated for a period totally more than three (3) months in any twelve (12) month period.
  - c) All internal access-ways and carpark surfaces within the site are to be constructed of a suitable material such as paving, road base, limestone or coarse gravel and compacted to limit dust generation to the satisfaction of the local government.
  - d) Crossovers, access and egress to the subject site from Wren Way and any road works shall be located and constructed to the satisfaction of the local government and include all necessary drainage.
  - e) The applicant is to carry out of each of the elements of the 'Bushfire Management Statement' for the subject property, including the lodgement of the following notification on the certificate title under section 70a of the *Transfer of Land Act 1893*:  
 "The lot is located in a Bushfire Prone Area and is subject to a Bushfire Management Plan". Within three (3) months of this approval.
  - f) The applicant is to ensure all guests of the holiday home are made aware of the evacuation procedures listed within the 'Bushfire Emergency Evacuation Plan' for the subject property.
  - g) Guests of holiday home are not permitted to use recreational off-road vehicles on the property due to this activity causing adverse amenity impacts to neighbouring properties.
  - h) All guests are to be contained within the holiday home. Guests are not permitted to occupy tents, motorhomes and/or caravans on the subject property.
  - i) The operation of the holiday home shall not result in adverse impacts on the amenity of neighbouring properties or the surrounding area.
  - j) The Shire should be notified of any changes to the holiday home that may be deemed to affect the approval of the dwelling for such a use.
  - k) The total number of people to be accommodated in the holiday home shall not exceed six (6) guests at all times.
  - l) The landowner is to immediately cease advertising their accommodation options that include those referred to in condition h above.

**Advice Notes:**

1. The applicant is advised this is planning approval only and not a building permit. A building permit must be obtained for conversion of the outbuilding to the principle dwelling.
2. The applicant be advised that "should you be aggrieved by this decision, or any conditions imposed, there is a Right of Review under the Planning and Development Act 2005.

**An application for Review must be submitted in accordance with Part XIV of the Planning and Development Act within 28 days of the date of this decision to:**

**The State Administrative Tribunal  
GPO Box U1991  
PERTH WA 6845”**

**CARRIED 7 / 0**

*Cr Scharf re-entered the meeting at 4.29pm*

### **9.3.2 PROPOSED UPGRADES TO LIBERTY OIL CATABY ROADHOUSE**

Location:	Lot 100 (#10805) Brand Highway, Cataby
Applicant:	Planning Solutions on behalf of Liberty Oil
File Ref:	Development Services Apps\Development Application/2019/94
Disclosure of Interest:	Nil
Date:	18 November 2019
Author:	Rory Mackay, Planning Officer
Senior Officer:	David Chidlow, Executive Manager of Development Services

#### PROPOSAL

To consider a development application for upgrades to the Liberty Oil Cataby Roadhouse (the Site) and make a recommendation to the Midwest Wheatbelt Joint Development Assessment Panel (JDAP).

#### BACKGROUND

Shire records detail the Site was last redeveloped in 1974 when the following facilities were installed:

- restaurant and retail building;
- refuelling facilities;
- car parking, access and landscaping areas;
- caretaker's accommodation and courtyard;
- vehicle repairs service bay; and
- southern accommodation block.

Given the time that has transpired since these works the landowner has recognised a contemporary upgrade of the Site is required. The upgrades will include a dedicated heavy vehicle access, upgraded refuelling facilities, resting and eating facilities, landscaping and signage.

As the estimated cost of the development is \$2.1 million the applicant has the option on who the decision maker is, between the Shire Council (relevant authority) or the JDAP. The threshold for this option for a development outside of the City of Perth is an estimated cost between \$2 - \$10 million as per Regulation 6 of the *Planning and Development (Development Assessment Panels) Regulations 2011*. The applicant has chosen the JDAP, therefore

the purpose of this item is for Council to make comment to the JDAP.

A Development Assessment Panel (DAP) is an independent decision-making body comprised of three technical experts and two elected local government members. JDAPs are established to service two or more local government districts where those local governments are not considered to have enough development to support their own DAP.

The Site is zoned Rural under the Shire's *Local Planning Scheme No.7 (LPS7)*. The Rural Zone has the following objective:

*To provide for a range of rural activities such as broadacre and diversified farming so as to retain the rural character and amenity of the locality, in such a way as to prevent land degradation and further loss of biodiversity.*

The existing land use is for a 'Roadhouse' which is defined by LPS7 as:

*means only land and a building or buildings used for the predominant purposes of a service station but incidentally included rest facilities, café, restaurant and/or shop.*

This land use is listed as an 'X' (not permitted) use class for the Rural Zone within the Zoning Table of LPS7. However, given the land use is recorded as being operational for several decades it is classified as a non-conforming land use. Clause 3.8 of LPS7 outlines the function of a non-conforming use, in that, no provision of LPS7 is to be taken to prevent the continued use of any land for the purpose for which it was being lawfully used prior to the adoption date of the planning scheme.

LPS7 Clause 3.9 "Extensions and changes to a non-conforming use" states the following:

3.9.1. *A person must not —*

- a) alter or extend a non-conforming use;*
- b) erect, alter or extend a building used in conjunction with or in furtherance of a non-conforming use; or*
- c) change the use of land from a non-conforming use to another non-conforming use, without first having applied for and obtained development approval under the Scheme.*

3.9.2. *An application for development approval under this clause is to be advertised in accordance with clause 64 of the deemed provisions.*

3.9.3. *Where an application is for a change of use from an existing non-conforming use to another non-conforming use, the local government is not to grant its development approval unless the proposed use is less detrimental to the amenity of the locality than the existing non-conforming use and is, in the opinion of the local government, closer to the intended purpose of the zone.*

Given the proposal consists only of a works component and no change of the historical land use as a 'Roadhouse', the application is considered consistent with the above LPS7 provisions and may be considered for development approval.

The Shire's Local Planning Strategy (Draft 2019) further supports the above by recognising Cataby in the strategic direction for settlements as a highway service centre for Brand Highway and the surrounding rural based community.

#### COMMENT

The following Officer comments address to the major factors and variations the proposal seeks to the applicable planning framework, whilst considering submissions received.

#### **Access & Vehicle Parking**

LPS7 provision 4.8.1.4 states all parking spaces and accessways shall be paved unless discretion is shown by the local government. The proposal is consistent with provision except for the proposed heavy vehicle accessway which circulates the rear of the retail building which will comprise of a gravel surface. The justification for discretion to be shown by the Shire is that heavy vehicles have slowed on entry to the Site and traverse towards the bowsers of the heavy vehicle refuelling area at slow speed for practical and safety reasons. This justification is not supported as a sealed accessway is preferable and a better planning outcome.

No additional crossovers are proposed as the proposal will utilise the Site's existing crossovers to the Brand Highway service road and the portion of Caro Road that connects to the service road. The Traffic Impact Assessment undertaken by Transcode supplied as part of the application concluded these access arrangements to the Site can accommodate the predicted traffic flow generated from the upgraded Roadhouse. The applicant has outlined that the formalisation of the existing crossovers will facilitate a one-way traffic flow throughout the Site to ensure functionality and safety; as the positioning of both new refuelling canopies and the upgraded retail shop with the existing crossovers to the service road results in separation of heavy vehicles from passenger vehicles. This is seen as best practice roadhouse/service station design.

Adjoining landowner of Lot 3 ('Glassy's Hat Hotel'), Southwest Properties Pty Ltd raised the following concerns with the internal accessway of the development:

- the proximity of the motel accommodation on Lot 3 to the proposed heavy-vehicle refuelling area, particularly in circumstances where 24/7 refuelling facilities are contemplated; and
- the ability of heavy-vehicles to exit the proposed heavy-vehicle refuelling area without crossing Lot 3.



To alleviate these concerns the applicant has advised that they will install a combination of acoustic fencing and bollards along the common boundary. It is recommended this action be reinforced as a condition of approval.

### **Front Setback**

As there are no development standards prescribed for the Roadhouse land use under the Site and Development Requirements Table of LPS7 the applicant provided an assessment against the Service Station requirements. It was identified there is variance of the prescribed front setback of 7.5m as the new light vehicle canopy will have a nil setback to the front property boundary. However, this nil setback is to the Brand Highway service road, with the distance of the canopy to the edge of Brand Highway roadway being 27m. This variation sought is supported by the Officer given the canopy is a visually permeable structure comprising of no side walls, and that Council has approved similar nil canopy front setbacks for retail fuel providers in Jurien Bay.

### **Bushfire**

The Site has been designated as a Bushfire Prone Area by the Fire and Emergency Services Commissioner and, *State Planning Policy 3.7 Planning Bushfire Prone Areas* (SPP3.7) classifies a Roadhouse as a high-risk land use due to the possibility it may lead to the potential ignition, prolonged duration and/or increased intensity of a bushfire. Therefore, it was essential a Bushfire Attack Level (BAL) Assessment was completed for the Site. The result of this assessment was a BAL rating of 12.5 for the Roadhouse. To ensure the development will manage this level of bushfire risk, a Bushfire Management Plan (BMP) and Bushfire Risk Management Plan (BRMP) have been prepared in accordance with SPP3.7 and the policy's associated guidelines. It is recommended the management plan be enforced by conditions of development approval.

### **Wastewater**

As a reticulated sewerage service is not available to the Site, the Roadhouse has operated its own oxidation ponds to the rear of the property for a number of years. The proposal seeks the continued use of this on site disposal system for the upgraded facilities. Technical advice on the capacity of the system to handle the proposed upgrades was sought and is included in the applicant's attached report as an appendix. It was concluded by the technician that existing oxidation ponds are sufficient to cater for the estimated hydraulic loads resulting from the future operation of the roadhouse.

### **Stormwater**

In accordance with standard industry practice the stormwater runoff beneath the fuel canopies will be treated by an underground

treatment system which separates fuels/oils from stormwater runoff to prevent potential environmental impacts.

### **Fuel Vapours**

The proposal will incorporate a Stage 1 Vapour Recovery System to ensure odours and fumes are appropriately captured and managed in accordance with standard industry practices.

### **Signage**

A signage overhaul of the Roadhouse is proposed to modernise the existing development and reflect the fuel retailer's corporate specifications. The only new signage that does not comply with LPS7 and *Local Planning Policy 9.5 Advertising Devices (LPP9.5)* is the proposed 10m high fuel price pylon sign at the north-western corner of the site, adjacent to the western crossover. LPP9.5 stipulates such signs are to a maximum of 8m high. Explanation for the variance is that this pylon sign will be the only price board of the development to avoid sign proliferation and the extra height is requested to landmark the Roadhouse to approaching highway traffic. The intent of the sign is to enable heavy vehicles to identify, slow and access the Site in a safe and coordinated manner. The applicant reinforces that early identification of the Site is essential as the upgraded Roadhouse will cater to B-triple sized vehicles, which due to their weight, have long stopping distances. Furthermore, the applicant states that the established high vegetation on the highway roadside would undermine smaller price board designs. Conversely, *State Development Control Policy 1.10 freeway service centres and roadhouse, including signage*: encourages highway service centre to have such price board pylon signs to be 10m high along State Roads, of which Brand Highway is. Given the above and that the location of the proposed price board does not impact safety in the form of vehicle sightlines from the Brand Highway crossovers or service road, the variation has merit and is supported at an Officer level.

In summary, the proposal is generally compliant with the relevant local and State planning framework with all variations justified and supported by the reporting Officer and/or expert assessors. The upgrades are consistent with the established roadhouse land use of the site and will provide a significant improvement to function and appearance of the roadhouse to align with industry best practice.

### **CONSULTATION**

The application was advertised in accordance with Clause 64 with the Deemed Provisions of LPS7 from 21 October to 15 November. One submission was received during this period from the adjoining hotel landowner, who's concerns have been met by recommended conditions of approval.

The State authorities of Main Roads WA and the Department of Water and Environmental Regulation requested a week extension

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to the comment period, meaning the submissions will be received after the drafting date of this item. Both expert comments will be forwarded to Councillors for their reference prior to this meeting.

**STATUTORY ENVIRONMENT**

- Local Planning Scheme No. 7

**POLICY IMPLICATIONS**

- Local Planning Policy 9.6 – Car Parking
- Local Planning Policy 9.5 – Advertising Devices (Signage)
- State Planning Policy 3.7 – Planning in bushfire prone areas
- Development Control Policy 1.10 – Freeway services centres, roadhouses, including signage
- Development Control Policy 5.1 – Regional roads (vehicular access)

**FINANCIAL IMPLICATIONS**

The applicant has paid a total sum of \$11,415, of which \$5,603 has been paid to the JDAP and the remaining \$5,812 has been retained by the Shire.

**STRATEGIC IMPLICATIONS**

- Local Planning Strategy (Draft 2019)
- Strategic Community Plan – Envision 2029:

02 – Propensity	The Shire will experience broad economic and population growth with decreasing economic barriers, diversified agriculture and fisheries output and vibrant visitor economy.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

**ATTACHMENTS**

Circulated with the agenda are the following items relevant to this report:

- Development Application Report (Doc Id: 141782)
- Adjoining Neighbour Submission (Doc Id: 144456)
- Health Department Submission (Doc Id: 144491)
- Department of Water and Environmental Regulation (Doc Id: 144686)
- Responsible Authority Report (Doc Id 144749)

***(Marked 9.3.2)***

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr Gibson, seconded Cr Clarke****That Council endorses the Responsible Authority Report (Doc Id: 144749) to the Midwest Wheatbelt Joint Development Assessment Panel, which recommends development approval for upgrades to the existing roadhouse upon Lot 100 Brand Highway, Cataby.****CARRIED 8 / 0****9.3.3 PROPOSED MIXED-USE TOURIST DEVELOPMENT – LOT 62 ROBERTS STREET, JURIE BAY**

Location:	Lot 62 (#20) Corner Roberts and Heaton Streets
Applicant:	Burgess Design Group on behalf of Carl Aloï
Folder Path:	Development Services Apps / Development Application / 2019 / 92
Disclosure of Interest:	Nil
Date:	18 November 2019
Author:	Rory Mackay, Planning Officer
Senior Officer:	David Chidlow, Executive Manager of Development Services

**PROPOSAL**

For Council to consider a development application for a mixed-use tourist development upon Lot 62 Roberts Street, Jurie Bay and a portion of the Heaton Street Road Reserve (the Site) and make a recommendation to the Midwest Wheatbelt Joint Development Assessment Panel (JDAP).

**BACKGROUND**

As the development has an estimated cost over the \$10 million local government planning decision threshold the application is required to be determined by the JDAP. Therefore, Council can only make a recommendation to the JDAP, the purpose of this item.

In 2012 the subject development was approved but did not proceed as a scheme amendment (rezoning) to lawfully progress the development was required. As such, the development approval was allowed to lapse by the developer as they sought the adoption of Scheme Amendment 21 to rezone the land to Special Use Zone 4 (SUZ4). Approval of Amendment 21 was granted in September 2015.

A development application was lodged with the JDAP in September 2017. However, this application was later withdrawn as the Shire's responsible authority assessment of the application discovered that several of the gazetted conditions of SUZ4 required modification to allow some outstanding issues to be resolved later in the planning process. As such, Scheme Amendments 33 and 34 were initiated and adopted to modify the wording of conditions 5, 6, 10 and 11 of SUZ4.

The previous SUZ4 conditions 5, 10 and 11 required the following matter/actions to be undertaken “prior to approval of development”:

1. remediation of the site in accordance with the *Contaminated Sites Act 2003*;
2. the closure, realignment and land transfers of a portion of the Heaton Street road reserve; and
3. completion of the ceding of a minimum 11-metre-wide street along the north east boundary of the land, providing a connection between Heaton and Sandpiper Streets.

Scheme Amendments 33 & 34 (approved by the Minister for Planning on 15 May 2018) enables these issues to be progressed and completed at a later stage, while a new development application is considered, assessed, and if satisfactory, conditionally approved (this application).

Scheme Amendment 34 also corrected an additional administrative error of condition 8 of SUZ4 which was ambiguous and inconsistent with Condition 2 (xiv. Whereby, condition 8 specified:

*Any proposed ‘Hotel’ or ‘Motel’ on the land shall provide 100% short-stay accommodation. For all other accommodation units proposed on the land, the maximum proportion of permanent residential units relative to the total number of short stay units on the site shall be equal to or less than 45%.*

Condition 2 (xiv) specifies:

*Evidence that the proportion of permanent residential accommodation units relative to the total number of accommodation units on the site will be equal to or less than 45%.*

The Shire’s intent has always been to calculate the totals across the Site, to include any hotel and motel units as part of the short-stay unit calculation. This is evident in the original planning approval that recommended the following wording of the condition:  
*The proportion of permanent residential units relative to the total number of accommodation units on the site shall be equal to or less than 45%, unless otherwise approved by the local government.*

As such, Scheme Amendment 34 corrected the administrative error by deleting the word “other” to ensure that the Hotel and Motel Units are included in the calculation of the permanent/short stay ratio.

With these administrative errors correct the Local Development Plan (LDP) required for the Site under SUZ4 was formally adopted by Council on 28 June 2018. The Local Development Plan sets out the specific and detailed development requirements for the strategic Site, of which the subject development application is to be consistent with. Essentially, the LDP reflects the initial

development, which was approved in 2012, and considers the legislative changes discussed above.

A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) for the Site was prepared by M P Rogers and Associates in accordance with Condition 6 of SUZ4 and was subsequently adopted by Council on 28 February 2019. In summary, the CHRMAP assesses the coastal hazard risks, denotes the subsequent adaptation options and provides an implementation plan for the proposed development on the Site. The strategies to be implemented adequately address the potential coastal hazard risks associated with the development in accordance with State planning policy. This was the last remaining matter which had to be formally concluded before the lodgement of the subject development application.

The State Government has recently completed stage one of their Design WA initiative which aims to ensure good design is at the centre of all development in Western Australia. Under this initiative State Planning Policy 7.0 Design of Built Environment (SPP7) has been implemented. SPP7 sets out the objectives, measures, principles and processes which apply to the design and assessment of built environment proposals through the planning system. It encourages early and ongoing discussion of design quality matters, during the concept, pre-lodgement and determination stages of a proposal by creation of design review panels. However, given this proposal has been ongoing for over a decade now and is at the determination stage, it would be onerous to expect the applicant to seek a design review and modify the design accordingly.

The Department of Planning, Lands and Heritage (DPLH) state via their Design WA frequently asked questions that Councils cannot refuse to accept a development application that has not been through a design review process as they are not mandatory in operation. Similarly, a design statement is not a requirement for a development application but may be beneficial for many projects particularly for complex proposals.

Under Design WA the onus is on the proponent to demonstrate that the proposal is meeting the design principles in SPP7. Given the applicant has worked extensively with other built environment professionals in Lawrence Scanlan and Associates Architects, and AECOM Australia over the lengthy pre-development approval works the Officer has applied SPP7 retrospectively in the assessment of the application and has attached a copy of SPP7 for Council's reference.

#### COMMENT

When considering this item, it is important to note that;

- This application has previously been approved by the Council, the approval process at that time included a panel of state

agencies (including the Department of Planning), architects and community members.

- There have been no changes to the plans.
- There have been at least 5 community consultation processes over the duration of the project
- The decision maker is the Midwest Wheatbelt JDAP
- The special use zone that applies specifically to this property under the local planning scheme and the approved local development plan set out the land uses and conditions for this development. Council and the community had input into these processes.
- The application complies with both the scheme provisions and the Local Development Plan

The mixed-use tourism proposal consists of a hotel, motel, retail and other commercial activities, 171 short stay units (inclusive of hotel and motel units) and 122 permanent residential units, and car parking.

This development will be separated across the following eight buildings:

**Building A (refer to drawings DA06 - DA10)**

Located in the centre of the site, with frontage to Roberts Street and the realigned Heaton Street. Building A is eleven storeys in height and is comprised of a total of 79 residential units, thirteen of which are for short stay accommodation on Levels one and two. Above this are the remaining 66 permanent residential units. Level one of Building A also contains a lobby, three function rooms, and restaurant.

**Building B (refer to drawings DA11 - DA14)**

Sited between Building A and Building F and fronts the adjacent Seafront Estate development. Building B is seven storeys high and accommodates a total of 45 residential units, comprising sixteen short stay residential dwellings on Ground Level, and Levels one and two, and a further 29 permanent dwellings above Level one. Building B will also contain a day spa with therapy rooms, associated change facilities and small private gardens and pools. The spa is accessed from Level one and will be available for use by the public as well as hotel patrons and residents.

**Building C (refer to drawings DA15 & DA16)**

Located in the southern corner of the site with frontage to both Roberts Street and Sandpiper Street. Building C is four storeys high and contains eight retail tenancies and a cinema at Ground Level, and five office tenancies and a health club at Level one. Levels two and three comprise a total of eight residential units (four short stay dwellings and four permanent).

Building D (refer to drawing DA17).

Sited on the eastern boundary with frontage to Sandpiper Street. Building D is four storeys high and comprises 36 motel rooms (classified as short stay units) and one retail space.

Building E (refer to drawing DA18)

Located near the north eastern corner of the site and it is the reception and administration/housekeeping centre for short stay tenancies and the resort Building E is four storeys high and comprises a two office tenancies and staff room at Ground Level. Levels 1-3 of Building E comprise nine short stay residential units.

Building F (refer to drawing DA19)

Located near the northern site boundary and fronts the adjacent Seafront Estate. Building F is two storeys high and comprises four permanent town house dwellings each with ground level courtyards and terraces fronting the pedestrian access way.

Building G (refer to drawings DA20 - DA22)

Located near the north western site boundary with frontage to Heaton Street. Building G has a building height of five storeys. The ground level comprises of eleven retail tenancies, and two permanent residential dwellings, each with private courtyards. Levels 1-4 comprise a total of seventeen permanent dwellings.

Building H (refer to drawings DA23A - DA23B)

Located on the portion of the Site divided by the realignment of Heaton Street (the western portion). Building H is a six storey hotel development and comprises 93 hotel rooms (classified as short stay). A restaurant and lounge/bar are proposed at Ground Level fronting the Jurien Bay. At the roof level, recreation facilities including a small gym and pool will be provided for exclusive use of hotel patrons.

All proposed land uses can be considered and approved by Council under SUZ4 (permitted or discretionary land uses).

The following are comments on the major components of the development.

### **Visual presentation and local character**

Council needs to be satisfied the architectural design and overall presentation (including height) of the proposed development is in keeping or adverse to the local character of Jurien Bay, now and into the future. As the proposal trade-offs between integrating into the existing townscape and being sympathetic to local building forms and patterns of development versus responding positively to the intended future character of Jurien Bay, in relation to predicted population growth and infrastructure demand. To achieve a balance the development is targeted to be distinctive and memorable, with a character that people can appreciate easily; attributes of a successful place.

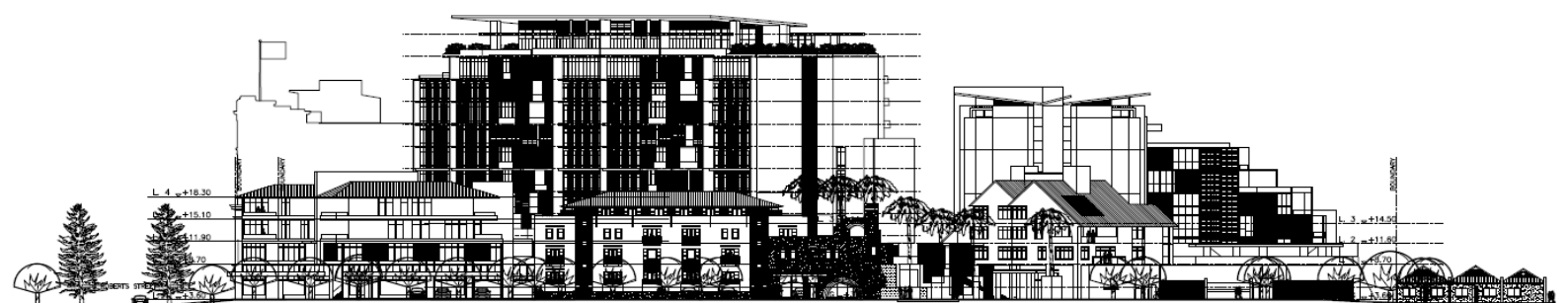


The State Government's *Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design* provides support for the proposed building design by stating: Buildings may visually dominate the coastline, particularly in nodes of more intensive use. However, where feasible the character of the natural landform and vegetation should be acknowledged in the design of buildings, infrastructure and plant selection, such as in the choice of materials and colour.

In consideration of the above the contemporary architectural theme, variation in building design, and stated commitment to use of local material finishes and muted colour tones by the applicant appears acceptable and generally consistent with the above statement. However, it is imperative further finalised and detailed information on external building finishes, streetscape design, landscaping and street furniture be presented to Council prior to the issue of a building permit for endorsement.

### Building height

The selected site being central to the town and adjacent foreshore lends itself to an iconic development. This has clearly been denoted in several land use planning and economic development strategies completed to date for Jurien Bay. However, relative to the existing built form, the proposed development will prove to be significantly large, although it is acknowledged careful design consideration has been provided by the applicant in the variation in scale, depth and height of the individual buildings in order to avoid total domination of the skyline and respond positively to that of the adjoining buildings, the topography, and the views, vistas and landmarks of Jurien Bay. Nonetheless, the significance between the existing and proposed built form will be clearly obvious, as indicated in the Sandpiper Street elevation below:



SE ELEVATION (SANDPIPER STREET)  
SCALE 1:200 @ A1

SUZ4 Condition 12 states no structure shall exceed 40 metres in height measured from natural ground level, unless it forms part of any telecommunications infrastructure. The approved LDP specifies a range of possible building heights from 2 to 5 storeys adjacent to Roberts and Sandpiper Streets, and Seafront Estate;

and 5 to 11 storeys in the centre of the Site and towards Heaton Street. All proposed building heights of the development are consistent with these provisions. Taller buildings are located towards the centre of the site to reduce their scale and maintain the pedestrian scale of the surrounding streets. In this sense, the orientation, proportion, composition, and articulation of built form elements of the development deliver an outcome that is suited to the purpose of the Site as major tourism drawcard for the sub-regional centre of Jurien Bay.

### **Overshadowing**

It is evident the proposal has been designed to minimise overshadowing. The height of development recognises the need for daylight and solar access to adjoining and nearby residential development, communal open space and in some cases, public spaces. Nevertheless, there will be some partial overshadowing to Dobbyn Park for a few hours in the morning. Similarly, a late afternoon shadow will be cast across Sandpiper Street that may have some minor effect on the adjacent commercial development. An overshadowing diagram for Winter Solstice from the initial 2011 development application is shown below:



JUNE 20 - 9:00 AM



JUNE 20 - 12:00PM



JUNE 20 - 3:00 PM

**Setbacks, visual privacy & passive surveillance**

SUZ4 and the LDP do not prescribe setbacks for the site. As such, the JDAP has discretion to approve the development as proposed; of which all setbacks of the development are nil other than the 4.5m setback via public accessway to the adjoining Seafront Estate.

While the proposed development will dominate the town centre and prove to be pivotal it is accepted that visual permeability will be maintained looking north west down Roberts Street to the foreshore area jetty, along Heaton Street looking west across the bay, and west/east between Seafront Estate and the development along the 4.5m pedestrian way to be constructed. This aspect of the design defines the public domain, contributes to the character of adjacent streetscapes and parks, and provides good amenity for people at ground level.

As the bulk of the development overlooks internal public spaces and external streets it lends itself to positive passive surveillance outcomes. Additionally, active retail and other commercial frontages are incorporated into the development to ensure a

suitable level of passive surveillance of the public domain, and all buildings are designed with windows or balconies facing the street. In fact, the design is environmentally sensitive. Buildings are oriented between 18° east of north to promote morning winter solar gain and have a longer north south facade and short east-west façade as detailed in the submitted Environmental Sensitive Design Report.

Building F is the nearest and only building that overlooks adjoining private property. To reduce the visual privacy impact, the applicant has proposed a 4.5m wide public accessway between Building F and adjoining Seafront Estate. Balconies on Building F overlook the public accessway for passive surveillance and provide visual relief to the building. The setback to the boundary of Seafront Estate varies between 4.5m and 7.5m. Buildings are angled to ensure there is no direct sight line into the adjoining private spaces of Seafront Estate. The applicant also outlines the proposed balconies are not expected to be the primary outdoor space area, with ground level courtyards providing this amenity. As such, this design aspect is supported at an Officer level.

#### **Short stay and permanent units**

The overall proportion of permanent residential units is 41.64%, and 58.36% short stay units. This make-up is consistent with the SUZ4 Condition 8 and LDP Condition XIV that the total number of permanent units relative to the total number of short stay units on the Site will be less than 45%. The majority of the short stay units are located on levels 1 and 2 and permanent residential units above to limit any amenity issues. The proposed motel (Building D) and hotel rooms (Building H) are 100% short stay accommodation.

#### **Carparking**

Commercial car parking

The application seeks a reduction to the number of commercial car parking bays required under LPS7 and Local Planning Policy 8.7 – Car Parking (LPP9.6) for the various land uses proposed.

A total 408 bays are required on calculation; however, the applicant has only put forward 269 bays, a shortfall of 139 commercial bays. The applicant's justification for the reduction is that the above calculation does not consider reciprocal car parking, on-site usage, and the site's proximity to the town centre that substantially reduces the amount of commercial parking required.

A reciprocal parking arrangement is proposed based on an accepted yearly hotel/motel occupancy rate of around 65% and that 30-40% of guests arrive by coach or other shared means. Additionally, the applicant anticipates that 15-20% of permanent residents within the complex will use the facilities on a daily basis, representing approximately 20-50% of the potential patronage of

the various premises. Furthermore, a significant number of patrons frequenting the retail outlets, restaurant and bar facilities, will be either on-site apartment owners or short term tenants, who will not require an additional commercial car bay. In this regard, the applicant considers the proposed 269 car bays on site sufficient. Concession is also provided given the applicant has proposed two bus bays when only one is required for the development.

### **Residential car parking**

LPS7 stipulates car parking for multiple dwellings is to be provided in accordance with the Residential Design Codes (R-Codes). The calculated number of residential car bays required is 286, however the applicant only proposes 235, a shortfall of 51 car bays.

Reasoning for this variance is that the R-Codes are intended for single and multiple residential developments located in largely residential areas. A design principle of the R-Codes provides for a reduction in the minimum number of on-site car parking bays where there is nearby street parking under the control of the local government. Based on this, the applicant states the need for private residential vehicle parking is reduced given the central location within the Tourism precinct, the availability of street parking along Roberts and Heaton Street and that the majority of the apartment owners/tenants will be 'weekenders' who only use one vehicle whilst in Jurien Bay.

To support this position, the applicant has provided a new residential parking hierarchy similar to that of Appendix 1 – Car parking requirements for resort developments of the Shire's *Local Tourism Planning Strategy*. The new allocation provides one car bay for one or two bed apartments, and two car bays for every three bedroom, four bedroom and penthouse apartment. This new calculation method results in only 204 residential bays being required. This classes the 235 bays proposed as just and allows 31 of the one and two bedroom apartments to be allocated with two bays instead of one bay. In summary, the final long-term residential parking hierarchy will see:

- 100% of the three bed/four bed/penthouses have two car bays each;
- 75% of all one and two bed apartments have one car bays each; and
- 25% of all one and two bed apartments have two car bays each.

This parking hierarchy is supported by the Officer is recommended to be reinforced as condition of development approval.

### **Collective car parking**

In preparation of car parking discussion paper, the Western Australian Local Government Association and the Department of Transport commissioned Cardno in 2018 to examine the rationale being used by local governments to identify and apply minimum car parking ratios. The report found that minimum parking ratios are likely to be poorly related to demand generated by new

development. This is largely because existing ratios have usually been informed by a patchwork of sources and while these sources provide a convenient set of tools for identifying and codifying parking requirements, they are not specifically designed to meet the demand for parking and travel generated by a particular development. Therefore, the application of minimum parking ratios as a policy instrument may be impeding the optimal use of land and the achievement of a community's environmental, economic and social objectives.

Both LPS7 and LPP9.6 provide for the discretionary approval of reciprocal use of commercial car parking bays if the rationale is deemed adequate. Clause 4.8.1.8 of LPS7 also provides the following function for Council to utilise:

*Where a developer can satisfy the Local government that the minimum car parking requirements cannot be provided on the site the Local government may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause:*

- (i) A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing the land and constructing the parking spaces required by the Scheme. The value of that area of his land which would have been occupied by the parking spaces may be stated by the Valuer General or by a licensed valuer appointed by Local government.*
- (ii) Before the Local government agrees to accept a cash payment in lieu of the provision of parking spaces the Local government must have already provided a public car park nearby, or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen months from the time of agreeing to accept the cash payment*
- (iii) Payments made under this clause shall be paid into a special fund to be used to provide public car parks.*

However, the submitted site plan denotes several changes to street parking on the streets of Roberts, Heaton and Sandpiper which surround the development. This parking will be constructed at the cost of the applicant as part of the land transfer for the portion of Heaton Street for development of Building H. Therefore the Officer position is to not request a cash in lieu payment, but instead enforce a condition of approval for the upgrade/replacement of street parking to be constructed by applicant be agreed later in the development process prior to the construction of Building H on the portion of land to be transferred to the applicant (existing Heaton Street Road Reserve). This will provide Council with the opportunity to ensure the future street parking in the vicinity of the development is consistent with the Jurien Bay Foreshore Masterplan and pending redevelopment of the Jurien Bay Tourist Development.

**Road network**

Several new access points are proposed to connect the site to Heaton Street and Sandpiper Street. The basement parking and loading bay are to be accessed separately from Roberts Street.

It is expected the development will impact on traffic volume and flow through the town centre, particularly increasing the volume of vehicle movements in the main commercial and foreshore area of Jurien Bay, with the need to consider measures to manage vehicle and pedestrian access, speed, direction and flow. However, it is not envisaged that the proposed development will restrict or significantly inhibit public access to Dobbyn Park or the jetty, as has been suggested through the public consultation process. As the surrounding road network, especially the focal point at the foot of the jetty is to be considered by the Shire's Jurien Bay Foreshore Masterplan project which is to be completed in the near future.

Therefore, the applicant stated the recommendations of the masterplan project will guide realignment of Heaton Street and any improvements to street parking, and bicycle and pedestrian access and facilities adjoining Building H.

On assessment there appears to be no significant functionality and safety issues with the proposed access arrangements. However, a recommended condition of approval will ensure these access arrangements are clearly lined marked with traffic calming measures and advance warning signs to ratify these access arrangements.

**Site remediation**

The Site has been classified as 'contaminated - remediation required' under the *Contaminated Sites Act 2003*. Condition 5 of SUZ4 requires the Site to be remediated to the satisfaction of the Department of Water and Environmental Regulation prior to the issue of a building permit. However, an exception is approval to commence the bulk earthworks which will form part of the remediation and foundation works for the proposed development.

**Waste management, stormwater & dewatering**

The applicant has acknowledged that further information is required to address the issues of waste outlining the intent is to apply where practical the latest technology in waste management; including storage, disposal and recycling.

As this information is not available a condition should be applied requiring a waste management plan be submitted for endorsement prior to commencement of development.

Similarly, further engineering details are required for the stormwater management of the Site and dewatering during construction of the commercial basement carpark at 1.7 AHD, given groundwater has been measured at between 1.5m – 2.2m

below ground level of the Site. A condition of approval each for both these aspects is recommended.

It is noted service infrastructure (i.e. water, power, sewerage, telecommunications) required to support the development, where required, will be upgraded at the developer's cost.

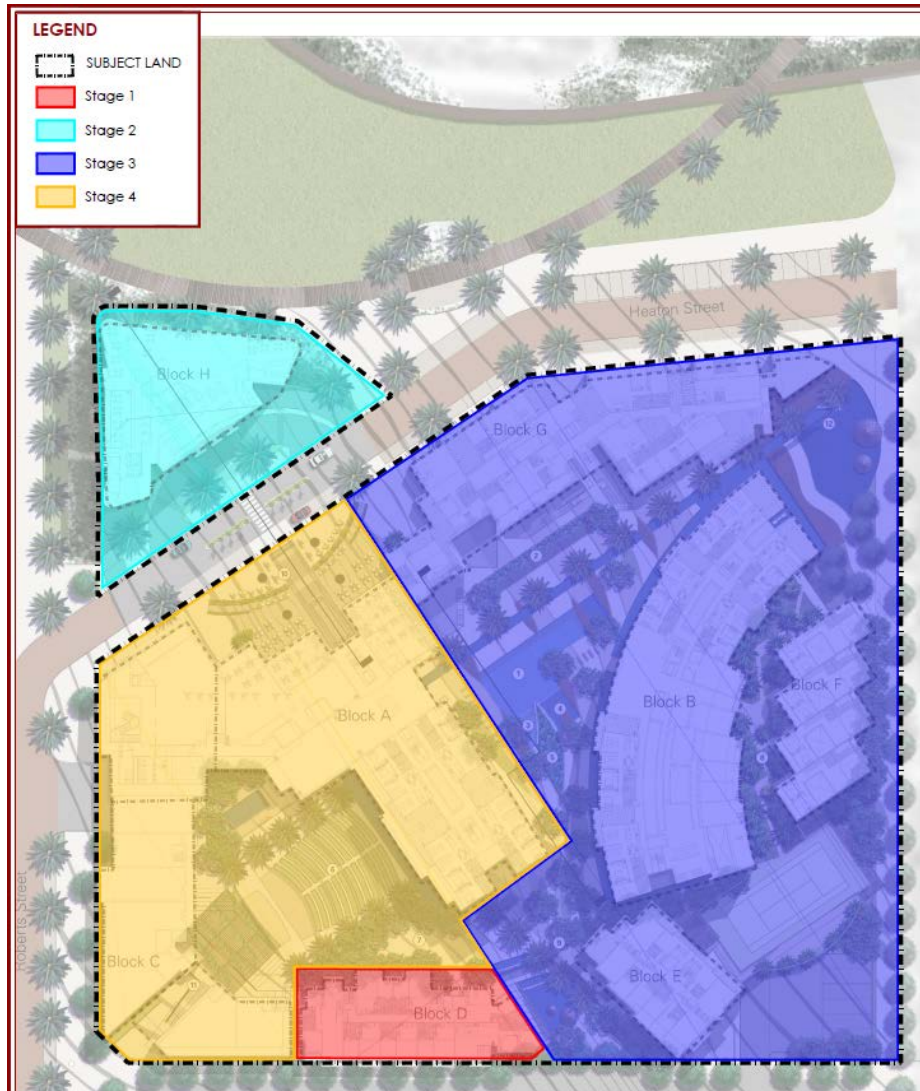
### **Staging of development**

The applicant seeks Council and JDAP support for a development approval period of four years. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect. Given the scale of the proposed development and time required to prepare all of the detailed building and engineering plans along with the extensive earthworks that will be required there is a concern that the proponent will not achieve substantial commencement within the standard two year development approval timeframe. As such, this application seeks an extended approval of four years to ensure that the approval will not lapse during the construction period.

Council has previously approved by way of adoption of the LDP a four-phase staging plan for construction of the development. This plan is shown below.



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It is noted prior to stage one commencing, the commercial basement and ground level Residential car parks will be completed.

### CONSULTATION

The development application was advertised directly by mail to surrounding landowners and relevant State agencies, in addition to the wider stakeholder community via the Shire's website, social media and Shire Matters newsletter from 18 October to 14 November.

A summary of each submission and the Officer's response to each is contained in the attached Schedule of Submissions.

### STATUTORY ENVIRONMENT

- Local Planning Scheme 7 – Special Use Zone 4
- Land Administration Act 1997
- Contaminated Sites Act 2003

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POLICY IMPLICATIONS

- State Planning Policy 2.6 State Coastal Planning Policy
- State Planning Policy 7.0 Design of the Built Environment
- State Planning Policy 7.3 Residential Design Codes Volume 2 - Apartments
- Local Development Plan Lot 62 Roberts Street, Jurien Bay
- Coastal Hazard Risk Management and Adaptation Plan Lot 62 Roberts Street, Jurien Bay
- Local Planning Policy 9.6 Car Parking

FINANCIAL IMPLICATIONS

The applicant has paid a total application fee \$44,682 of which \$10,486 will be transferred to the JDAP and the remaining \$34,196 will be retained by the Shire.

STRATEGIC IMPLICATIONS

There is a need for Lot 62 Roberts to be a highly intensive development for a tourism use, given its strategic location. The future development for Lot 62 is focused on tourism as a land use, conforming to the objectives of the Tourism Planning Strategy, Jurien Bay City Centre Strategy and the Local Planning Strategy Draft (2019).

## Strategic Community Plan – Envision 2029:

02 – Propensity	The Shire will experience broad economic and population growth with decreasing economic barriers, diversified agriculture and fisheries output and vibrant visitor economy.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities. Identify and activate underutilised economic and land assets to promote employment and economic activity.
The Shire is home to a successful and growing market for domestic and international tourism.	Support the development of new products and services that increase the attraction of the region to the tourism market, in particular Indigenous cultural experiences.
Jurien Bay continues to grow as a regional centre that services and delivers benefits throughout the Shire.	Leverage public and private sector partnerships to deliver new infrastructure required to achieve sustainable economic and population growth.

ATTACHMENTS

Circulated with the agenda are the following Items relevant to this report:

- Development Application Report (Doc Id: 133732)
- Schedule of Submissions (Doc Id: 144476)
- State Planning Policy 7.0 Design of the Built Environment (Doc Id: 144217)
- Responsible Authority Report (Doc Id: 144743)

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr Scharf, seconded Cr Gibson****That Council endorses the Responsible Authority Report (Doc Id: 144743) to the Midwest Wheatbelt Joint Development Assessment Panel, which recommends development approval of a mixed use tourist development upon Lot 62 Roberts Street and portion of Heaton Street Road Reserve, Jurien Bay.****CARRIED 8 / 0****9.4 GOVERNANCE & ADMINISTRATION****9.4.1 SHIRE OF DANDARAGAN – CORPORATE BUSINESS PLAN**

Location:	Shire of Dandaragan
Applicant:	Not Applicable
Folder Path:	Business Classification Scheme / Corporate Management / Planning / Corporate Business Plans
Disclosure of Interest:	Nil
Date:	5 November 2019
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not Applicable

PROPOSAL

The purpose of this report is for Council to endorse the Corporate Business Plan following the Draft document being advertised and undergoing minor updates.

BACKGROUND

Since Council adopted the new Strategic Community Plan in June 2019 staff have been working on the supporting suite of integrated planning documents. The Corporate Business Plan provides an active link between the longer term direction and objectives of the Strategic Community Plan and the annual Shire budget.

A Corporate Business Plan is generally reviewed at a desktop level annually to “roll forward” 1 year and may also be updated in coordination with the SCP’s major and minor reviews. In addition, the Corporate Business Plan will form the basis of the Shire’s annual report in future years to provide detailed review and feedback on the organisation’s progress towards its strategic targets.

COMMENT

Many of the Shire’s projects are not initiated and completed within a 12 month budget cycle and accordingly require a more considered planning approach. The Corporate Business Plan gives the community and organisation direction about the prioritised projects over a 4 year cycle and guides the work flow of

senior staff involved in larger projects.

The Corporate Business Plan also provides an overview of the operating environment for the Shire and highlights some of the key external influences that will influence growth and development in the region.

A major projects page has been included to clearly identify the projects which Council considers of the highest importance. The current major projects list consists of:

- 1) Jurien Bay Foreshore and Youth Precinct
- 2) Turquoise Path – Cervantes to Hill River Extension
- 3) Badgingarra Truck Stop and Sample Station
- 4) Dandaragan Streetscape Beautification and BMX Track
- 5) Cervantes Foreshore Reserve and Parking

While there is no statutory requirement for formal advertising of a draft CBP, given this CBP has been derived from the major SCP review process it has been advertised for public comment to reaffirm the strategic importance of the Integrated Planning process and to demonstrate the alignment of Council's strategic direction with the initial public consultation cycle. The following comments were received and have been addressed with officer comment:

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Summary of Comments	Officer Comment
<p><u>Mr Ron Snook</u></p> <p>Comments that the content is skewed towards business community and tourism industry while not addressing the retired community. Promotes the necessity for a Bypass road to maintain unique local environment.</p>	<p>Noted. The CBP and supporting strategies (e.g. Aged Friendly Plan, Youth Plan) have identified a number of initiatives that will respond to the needs of retirees and other community groups. These are being actively pursued throughout the organisation.</p> <p>Councillors have considered the necessity for a bypass and while an alignment is currently gazetted the project is not considered as a priority for the term covered by the CBP.</p>
<p><u>Jurien Bay Chamber of Commerce</u></p> <p><b>Integration of Commissioned Strategic Plans</b></p> <p>Notes the current development of a suite of supporting plans and strategies – e.g. Economic Development Strategy. Recommends regular review of CBP to ensure key strategies and actions are resourced.</p> <p><b>Initiative Filtering</b></p> <p>Notes the wide consultation process and generation of community driven initiatives. Recommends proposals be subject to a rigorous assessment to demonstrate a viable business case that substantiates community need (over and above existing assets), and the ability to fund and maintain the asset.</p> <p>Recommends any proposals that cannot meet an assessment should be discarded from the Corporate Business Plan at the earliest opportunity.</p> <p><b>External Funding</b></p> <p>Recommends greater clarity is provided on estimated budget impacts and consideration of the impacts of multiple projects competing for the same grant pools.</p> <p><b>Chamber Priorities</b> <i>Economic Development Officer (Independent)</i> <i>Events Promotion</i></p>	<p>Noted. The CBP is also updated annually to “roll forward” Council’s Long Term Financial Plan and takes guidance from other strategies developed since the last review.</p> <p>Noted. Differing projects and expenditure commitments are subject to varying levels of cost-benefit analysis. Council ultimately takes responsibility for balancing priorities through the decision making process.</p> <p>CBP has been updated to provide greater detail where available however forward planned projects may not have this level of detail in advance of a project plans being developed.</p>

In response to the comments made, minor amendments have been made to the final proposed document provided within the attachments.

**CONSULTATION**

The Shire of Dandaragan community has been consulted throughout the Envision 2029 process. This item addresses further

consultation following the advertising of the draft Corporate Business Plan for community comment.

### STATUTORY ENVIRONMENT

Local Government (Administration) Regulations Part 5

### **Division 3 — Planning for the future**

#### **19DA. Corporate business plans, requirements for (Act s. 5.56)**

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
  - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
  - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
  - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.
 

\*Absolute majority required.
- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

### POLICY IMPLICATIONS

The process undertaken during Envision 2029 has been consistent with Council's Policy - C-5CE02 – Community Engagement. The public participation associated with this item will be consistent with level 2 – consult.

### FINANCIAL IMPLICATIONS

Projects identified within the CBP that require additional funding beyond current budgets have been identified. This will be developed further through the finalisation and maintenance of the Long Term Financial Plan.

### STRATEGIC IMPLICATIONS

This item addresses a component of the major review of the Shire's Strategic Community Plan. The Corporate Business Plan links Council's long term strategy to short-medium term deliverables.

### ATTACHMENTS

Circulated with the agenda are the following items relevant to this report:

- Corporate Business Plan – Envision 2029 (Doc Id: 142697)
- Public Submission – Ron Snook (Doc Id: 141376)
- Public Submission – Jurien Bay Chamber of Commerce (Doc Id: 144468)

**(Marked 9.4.1)**

### VOTING REQUIREMENT

Absolute Majority

### OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Slyns, seconded Cr Shanhun**

**That Council adopt the Shire of Dandaragan Corporate Business Plan – Envision 2029 Doc Id 142697.**

**CARRIED 8 / 0**

## **9.4.2 2019 REVIEW OF DELEGATIONS REGISTER**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Business Classification Scheme / Governance / Authorisations / Delegations Register
Disclosure of Interest:	None
Date:	19 November 2019
Author:	Julie Rouse, Executive Secretary
Senior Officer:	Brent Bailey, Chief Executive Officer

### PROPOSAL

To review the Shire of Dandaragan's Delegations Register in accordance with the Local Government Act 1995.

### BACKGROUND

The Local Government Act 1995 provides for a local government to delegate some of its powers and duties to the Chief Executive Officer and in some circumstances a committee. The Act also provides for the Chief Executive Officer to delegate any of his powers or functions to any employee of the local government. All of the mentioned delegations are required to be recorded in a

register of delegations and that register must be reviewed on an annual basis.

#### COMMENT

The review of the Delegations Register proposes a number of minor changes, mostly formatting of the relevant legislation for consistency across the document.

Additionally, there are some other changes within the document following the Executive Management Teams review of the Register and as suggested by Darrell Forrest, the consultant who assisted in the holistic review of the Shire's Delegation Register late last year, as follows:

- Recent amendments to the *Building Regulations 2012* (Gazetted 26 April 2019) created new offences for which Local Government Permit Authorities may issue infringement notices.

*Building Regulation 70* was also amended, correcting its reference to and alignment with sections 9.19 and 9.20 of the *Local Government Act 1995* (which were amended in 2016 and created the misalignment with the previous *Building Regulation 70*. This created confusion amongst several local governments as to how this amended *Building Regulation 70* was to be implemented.

Given these amendments to *Building Regulation 70*, Council delegation 1.2.1 Appointment Authorised Persons and has been updated accordingly.

CEO delegation 1.3.8 Infringement Notices relating to Vehicles has been renamed to 1.3.18 Infringement Notices in order to incorporate this reference to *Building Regulation 70*.

- New Delegation 5.1.7 Dog Control to be created as per the *Dog Act 1976 s33* and *Dog Regulations 2013 Part VI* for issuing infringements.
- Delegation 9.1.2 Town Planning - Other Use and Development has been updated with a new zoning table from pages 16 and 17 of the Shire of Dandaragan's amended Local Planning Scheme No. 7.

Point 3, dot point 1 of Delegation 9.1.2 Town Planning – Other Use and Development be amended to read as follows:

- *The proposal generally accords with the matters set out in Clause 67 of the Deemed Provisions of the Shire of Dandaragan Local Planning Scheme No. 7; and*



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Dot Point e) to be removed completely as this information is provided to Councillors each month through the Council Information Bulletin.

- Delegation 9.1.4 Town Planning – Signage to be amended as follows:

Amend Point 1 to read as: *To approve applications for signage in accordance with Local Planning Policy 9.5 – Advertising Devices (Signage); and*

Amend Point 2 to read as: *To enforce the provisions under Clause 80 of the Deemed Provisions of the Shire of Dandaragan Local Planning Scheme No. 7*

Amend Compliance Link to *Local Planning Policy 9.5 – Advertising Devices (Signage)*.

- Remove Delegation 10.2.2 Development Control Powers – Metropolitan Region Scheme and Delegation 10.2.3 Development Control Powers – Greater Bunbury Region Scheme in their entirety as both these schemes do not apply to the Shire of Dandaragan for geographic reasons.

The Delegation Register has tracked changes which enables Councillors to view what alterations are proposed.

#### CONSULTATION

- Executive Management Team
- Executive Manager Corporate and Community Services
- Executive Manager Development Services
- Principal Environmental Health Officer
- Manager Building
- Manager Customer and Community Services
- Planning Officer
- Executive Secretary

#### STATUTORY ENVIRONMENT

The Local Government Act 1995 Section 5.46 establishes the requirement to maintain a delegations register.

Other legislative requirements and references are incorporated within the Delegations Register itself.

#### POLICY IMPLICATIONS

There are no policy implications relevant to this item

#### FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item

#### STRATEGIC IMPLICATIONS

Not applicable.

ATTACHMENTS

Circulated with the agenda is the following item relevant to this report:

- Amended Shire of Dandaragan Delegations 2019 Review (Doc Id: 144704)

**(Marked 9.4.2)**

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr Richardson, seconded Cr Gibson

That Council amends its Delegations Register in accordance with the proposed changes shown in the Amended Shire of Dandaragan Delegations 2019 Review (Doc Id: 144704) document.

**CARRIED 8 / 0**

## **9.5 COUNCILLOR INFORMATION BULLETIN**

### **9.5.1 SHIRE OF DANDARAGAN – OCTOBER 2019 COUNCIL STATUS REPORT**

Document ID: 142248

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 24 October 2019. **(Marked 9.5.1)**

### **9.5.2 SHIRE OF DANDARAGAN – INFRASTRUCTURE REPORT – NOVEMBER 2019**

Document ID: 144530

Attached to the agenda is a copy of the Shire of Dandaragan's Executive Manager Infrastructure Report for November 2019. **(Marked 9.5.2)**

### **9.5.3 SHIRE OF DANDARAGAN – BUILDING STATISTICS – OCTOBER 2019**

Document ID: 144477

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for October 2019. **(Marked 9.5.3)**

### **9.5.4 SHIRE OF DANDARAGAN – PLANNING STATISTICS – OCTOBER 2019**

Document ID: 144469

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for October 2019. **(Marked 9.5.4)**

### **9.5.5 SHIRE OF DANDARAGAN TOURISM / LIBRARY REPORT FOR OCTOBER 2019**

Document ID: 144443

Attached to the agenda is monthly report for Tourism / Library for October 2019. **(Marked 9.5.5)**

### 9.5.6 DEPARTMENT OF WATER AND ENVIRONMENTAL REGULATION – CLIMATE CHANGE

Document ID: 144558

The Government of Western Australia is [seeking public comment](#) on climate change issues and opportunities, and has released an issues paper on 4 September 2019.

You are invited to share your views by making a submission to the Department of Water and Environmental Regulation.

The submission period closes on 29 November 2019.

### 9.5.7 LGIS 2019 SURPLUS DISTRIBUTION

Document ID: 142149

Attached to the agenda is a copy of the Shire of Dandaragan LGIS 2019 Surplus Distribution (**Marked 9.5.7**)

### 9.5.8 ASTROTOURISM CERVANTES REPORT

Document ID: 144328

Attached to the agenda for your information is a copy of the Astrotourism Cervantes Report (**Marked 9.5.8**)

## 10 NEW BUSINESS OF AN URGENT NATURE – INTRODUCED BY RESOLUTION OF THE MEETING

## 11 CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC

Section 5.23 of the Local Government Act 1995 stipulates that all Council Meetings are generally open to the public. Section 5.23 goes on to identify specific situations in which the Council or committee may close to members of the public the meeting, or part of the meeting.

In situations where it is deemed that a meeting or part of a meeting must be closed to the public, Section 5.23 (3) states “A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.”

*For a decision to be recorded in the minute a formal motion must be passed by Simple majority clearly stating the reason for the closure in accordance with Section 5.23 of the Local Government Act 1995.*

Local Government Act 1995

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
  - (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the

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- public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Local Government (Administration) Regulations 1996

*4A. Meeting, or part of meeting, may be closed to public — s. 5.23(2)(h)*

The determination by the local government of a price for the sale or purchase of property by the local government, and the discussion of such a matter, are matters prescribed for the purposes of section 5.23(2)(h).

## 11.1 GOVERNANCE & ADMINISTRATION

### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Scharf, seconded Cr Shanhun**

**That the meeting be closed to members of the public at 4:34pm in accordance with Section 5.23 (2) (a) and 5.23 (2) (c) of the Local Government Act 1995 and Regulation 4A of the Local Government (Administration) Regulations 1996 to allow Council to discuss Item 11.1.1 Appointment of Senior Employee - Executive Manager Infrastructure', Item 11.1.2 Chief Executive Officer's 2019 / 2020 Key Performance Indicators and Item 11.1.3 Jurien Bay Foreshore Commercial Request for Proposal (RFP 19/001).**

**CARRIED 8 / 0**

*The Executive Manager Corporate & Community Services, Executive Manager Development Services, Economic & Club Development Officer,*

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*Manager Community & Customer Services, Planning Officer and members of the public left the meeting at 4.34pm*

### **11.1.1 APPOINTMENT OF SENIOR EMPLOYEE - EXECUTIVE MANAGER INFRASTRUCTURE**

Location:	Shire of Dandaragan
Applicant:	Not applicable
Folder Path:	Human Resources / Personnel File / Brad Pepper
Disclosure of Interest:	Nil
Date:	11 November 2019
Author:	Mr Brent Bailey, Chief Executive Officer
Senior Officer:	Not applicable

*This report has been abridged to the confidential nature of the content that is contained within this report.*

#### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Gibson, seconded Cr Richardson**

**That Council agrees to accept the recommendation of the Chief Executive Officer, in accordance with Section 5.37(2) of the Local Government Act 1995, to appoint Mr Brad Pepper to the position of Executive Manager Infrastructure for the Shire of Dandaragan.**

**CARRIED 8 / 0**

### **11.1.2 PRIVATE AND CONFIDENTIAL – CHIEF EXECUTIVE OFFICER 2019/2020 KEY PERFORMANCE INDICATORS**

Location:	Shire of Dandaragan
Applicant:	Not Applicable
Folder Path:	Human Resources / Personnel File / Brent Bailey
Disclosure of Interest:	Financial Interest – This item has a direct influence on the review of the CEO's annual performance and contractual commitments.
Date:	13 November 2019
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not Applicable

*This report has been abridged to the confidential nature of the content that is contained within this report.*

#### **RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Shanhun, seconded Cr Richardson**

**That Council endorse the following suite of KPI's for the Chief Executive Officer for the 2019/2020 review period.**

Envision 2029	Delivery of the <ul style="list-style-type: none"> <li>• Corporate Business Plan</li> <li>• Workforce Plan</li> <li>• Long Term Financial Plan</li> </ul>
Foreshore Developments	<ul style="list-style-type: none"> <li>• Finalise the Jurien Bay Foreshore Commercial RFP process</li> <li>• Develop foreshore masterplans for Jurien Bay</li> </ul>

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	and Cervantes to guide future investment decisions in public infrastructure and place activation
Aged Care	• Advocate for the development of a privately operated aged care facility to be located within the Shire
Economic Development	• Prepare an economic development plan to guide the Shire's economic development investments
Turquoise Way Shared Path	• Advocate for the State Government and private sector to fund the second stage of the Turquoise Way Shared Path
Tourism Development	• Develop a detailed scope for a Shire wide tourism development plan to provide market research and facilitate future destination marketing plans that respond to consumer demand
Waste Management	• Commence a strategic waste management review to address key issues including the Shire's future capacity, constraints, demand and opportunities for economically viable infrastructure and services
Financial and Risk Management	▪ Lead the management and implementation of appropriate frameworks, systems and procedures to identify, assess and address risks

**CARRIED 8 / 0**

### 11.1.3 JURIEN BAY FORESHORE COMMERCIAL REQUEST FOR PROPOSAL (RFP 19/001)

Location:	Jurien Bay Foreshore portion of Reserve 28541 and Reserve 26939
File Ref:	Business Classification Scheme / Parks & Reserves / Design & Construction / Jurien Bay Foreshore Recreation Management
Disclosure of Interest:	None
Date:	12 November 2019
Author:	David Chidlow, Executive Manager Development Services
Senior Officer:	Brent Bailey, Chief Executive Officer

*This report has been abridged to the confidential nature of the content that is contained within this report.*

#### **OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Shanhun, seconded Cr Scharf**

**That Council decline all offers submitted for Request for Proposal (RFP 19/001) being the proposed Jurien Bay Foreshore Commercial Development and;**

- 1. Notifies all respondents that a further consultation process is being undertaken on the foreshore development. The respondents' input will be sought as part of this process;**
- 2. Following completion of the consultation process, the Chief Executive Officer be delegated approval to negotiate with**

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**the Respondents and bring a suitable proposal/s back to Council for endorsement in accordance with Sections 11 and 14 of the Local Government (Functions and General) Regulations 1996.**

**CARRIED 8 / 0**

**COUNCIL DECISION**

**Moved Cr Scharf, seconded Cr Rybarczyk that the Meeting be reopened to the public at 4.49pm.**

**CARRIED 8 / 0**

*Staff and members of the public re-entered the meeting at 4.49pm and the CEO read the motions aloud.*

**12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13 CLOSURE OF MEETING**

The presiding member declared the meeting closed at 4.51pm.

These minutes were confirmed at a meeting on .....

Signed .....

Presiding person at the meeting at which the minutes were confirmed

Date .....