



SHIRE
of
DANDARAGAN

MINUTES - PUBLIC

of the

ORDINARY COUNCIL MEETING

held at the

CERVANTES PINNACLES MOTEL, CERVANTES

on

THURSDAY 25 NOVEMBER 2021

COMMENCING AT 4.04PM

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

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MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 25 NOVEMBER 2021

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 4.04pm 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 11 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 A Eyre	
Councillor R Glasfurd	
Councillor W Gibson	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

Staff

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

Apologies

Nil

Approved Leave of Absence

Nil

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Observers

M Gazeley, S Randall, B Larkman, F Whitton, C Parker, J Zuccala, R Stewart, P Randall, P Bawden, M Drew, M Ford

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES**6.1 MINUTES OF THE ORDINARY MEETING HELD 28 OCTOBER 2021****COUNCIL DECISION**

Moved Cr Rybarczyk, seconded Cr Gibson

That the minutes of the Ordinary Meeting of Council held 28 October 2021 be confirmed.

CARRIED 9 / 0

7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Marilyn Gazeley from the Cervantes Historical Society thanked the Shire for helping secure the lease on the former Cervantes Health Centre Building.

Murray Ford asked if the Shire could hold off on the auction of the Industrial block Lot 11 Gazeley Way, Cervantes until after the completion of the Cervantes Recreation Precinct Masterplan.

The Chief Executive Officer advised that Council had resolved to sell the property by auction which would occur on Saturday 8 January 2022. He also outlined the reasons for sale and the process for Council to revoke a motion. At the time of the meeting no such motion to revoke Council's decision had been actioned and accordingly the auction was continuing as planned.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 CORPORATE & COMMUNITY SERVICES

9.1.1 ACCOUNTS FOR PAYMENT – OCTOBER 2021

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-28896
Disclosure of Interest:	None
Date:	11 November 2021
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To accept the cheque, EFT, BPAY and direct debit listing for the month of October 2021.

BACKGROUND

In accordance with the Local Government Act 1995, and Financial Management Regulations 1996, a list of expenditure payments is required to be presented to Council.

COMMENT

The cheque, electronic funds transfer (EFT), BPAY and direct debit payments for October 2021 totalled \$1,754,441.70 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the October 2021 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.

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ATTACHMENTS

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

- Cheque, EFT and direct debit listings for October 2021 (Doc Id: SODR-2042075298-28811)

(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Clarke

That the Cheque and EFT listing for the period ending 31 October 2021 totalling \$1,754,441.70 be adopted.

CARRIED 9 / 0

9.1.2 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 31 OCTOBER 2021

Location:	Shire of Dandaragan
Applicant:	N/A
Folder	SODR-1743450996-1841
Disclosure of Interest:	None
Date:	15 November 2021
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 2021.

BACKGROUND

In accordance with 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 2021.

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 2021 was \$8,588,833. 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.

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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 6 (page 13) 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 2021 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 2021 (Doc Id: SODR-1743450996-1859)

(Marked 9.1.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION
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Moved Cr Eyre, seconded Cr Gibson

That the monthly financial statements for the period 31 October 2021 be adopted.

CARRIED 9 / 0

9.2 INFRASTRUCTURE SERVICES

9.3 DEVELOPMENT SERVICES

9.3.1 PROPOSED HOLIDAY HOUSE – LOT 1038 (38) CASUARINA CRESCENT, JURIEN BAY

Location:	Lot 1038 (38) Casuarina Crescent, Jurien Bay
Applicant:	Ray White Jurien Bay on behalf of B & D Hulls
File Ref:	SODR-1262144384-12524
Disclosure of Interest:	Nil
Date:	9 November 2021
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The proponent is seeking development approval for the use of 38 Casuarina Crescent, Jurien Bay as a commercial holiday house.



Location Map – Lot 1038 (38) Casuarina Crescent, Jurien Bay

BACKGROUND

A four-bedroom two-storey dwelling exists on the subject property. The proponent has lodged a development application to seek approval to accommodate up to eight guests for short stay bookings not exceeding three consecutive months.

The application was advertised to immediate neighbouring landowners for a period of 17 days from the 4 October 2021 until 12

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November 2021. A total of two submissions were received, all objecting to the proposal, resulting in a Council determination being required for the application in accordance with Delegation 9.1.2 (Town Planning – Other Use and Development).

The subject property and surrounding area are zoned 'Residential' under the Shire's *Local Planning Scheme No.7* (Scheme). The objective of the Residential zone is to provide for residential development at a range of densities with a variety of housing to meet the needs of different household types through the application of the Residential Design Codes.

The proposed land use of 'Holiday House' is listed within the zoning table of the Scheme as a 'discretionary' land use, meaning the use is not permitted unless Council has exercised discretion in its decision making.

Local Planning Policy 9.12 Holiday Homes (Policy) is adopted by Council to guide the assessment of holiday home development applications. The subject application for up to 8 guests is classified as a 'Holiday Home Large' under the Policy which categorises this as a holiday home for guest numbers between 7 and 12. The Policy has the following objectives:

- *To recognise the increasing market demand for holiday accommodation and to provide operators and other stakeholders with clarity on the issues that the Shire wishes to address.*
- *To establish clear guidelines whereby holiday homes can be permitted and controlled in the Regional Centre and Residential zones of Cervantes and Jurien Bay.*
- *To ensure that these types of uses do not compromise the amenity of Residential zoned areas or nearby residents.*
- *To support the role of holiday homes as part of the tourism industry.*
- *To encourage the provision of good quality, well managed holiday homes.*

COMMENT

Dwellings provide places for people to shelter, to retreat, to eat and to gather. While temporary accommodation (such as a holiday house) may be said to also provide these, the intensity, and the manner of these two land uses is not the same. This is because in the context of a holiday house, the premises are not being occupied as a dwelling (permanent residence) but for tourist accommodation.

For example, it was noted in Hope and City of Joondalup [2007], that outdoor areas are routinely used more intensively and for longer hours in short stay accommodation than would often be the case for permanent residential use. Additionally, each time a booking begins, and ends, people enter and leave the premises; this regular movement of different people into and out of the premises has consequential amenity impacts on the surrounding locality.

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'Amenity' is defined within the Deemed Provisions of LPS7 to mean:
All those factors which combine to form the character of an area and include the present and likely future amenity.

It is for the reasons above that holiday house development applications have to be considered carefully, because if the premises is deemed suitable for use as a holiday house, then those who choose to stay there, should be entitled to use the premises in an ordinary manner that one may use a holiday house.

It is acknowledged that this tourist land use within an established residential area of Jurien Bay can negatively affect the amenity of nearby permanent residents. The submissions received raised concern as detailed in the consultation section below.

The premises will be managed locally by Ray White Jurien Bay who currently operate 14 commercial holiday houses in Jurien Bay with no incidents reported to the Shire to date.

In the nearby locality there is only one other approved commercial holiday house, directly across Casuarina Crescent at 2 Bayview Court as highlighted on the map below. This house is approved for eight guests.



The Policy does not set a standard for how many homes can be approved within given residential localities of the Shire's coastal communities, rather the approach is to rely on the submissions received against each application to understand the reasonable resident amenity of a given locality as each area has a history for every resident that cannot be informed by an objective view.

The Policy does however provide flexibility in the ongoing regulation of holiday homes as all approvals expire annually on June 30. This

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provides the opportunity for staff to review any substantiated complaints against a premises before renewal is granted for another 12-month period.

In terms of guest capacity, under the Shire's *Health Local Laws 2005*, each adult requires 14m² of air space to sleep. Space calculations across the house plans result in the requested eight guest maximum meeting this criterion. However, Council has with recent decisions regarding holiday houses indicated that it will support as a maximum up to two adults less than what a home can contain under the above health ruling to safeguard the amenity of residential areas in instances where objections have been received against a holiday house proposal.

As such, an alternative motion for Council to consider in line with their recent holiday house decisions is presented below. The officer recommends granting development approval until June 30, 2022, as the proposal is in keeping with the provisions of the guiding Policy. On cessation of this period, any complaints received against the premises will be reviewed before renewal for another 12-month period is provided (if forthcoming).

Alternative Motion

That Council refuse the development application for the proposed Holiday House land use of the existing Single House at Lot 1083 (38) Casuarina Crescent, Jurien Bay due to the following reasons:

The development:

- 1. is not compatible with the established residential area in which it is located and is, therefore, inconsistent with the objective of the Residential zone under the Shire of Dandaragan Local Planning Scheme No.7; and*
- 2. would have an adverse impact on the amenity of the locality (clause 67(n) of the Deemed Provisions).*

Council provides the following advice to the applicant regarding this decision:

- A. A revised holiday home development application for the maximum capacity of six (6) guests would be supported in principle by Council.*
- B. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be submitted within 28 days of this determination.*

CONSULTATION

The following comments were received from neighbouring landowners.

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Comments

We are defiantly opposed to this proposal. We chose to buy in Jurien Bay to live out our later days, for the peace and quiet. No antisocial behaviour. We have friends who are of the same mind set. Can you assure us of the tranquillity that now exists?

We ask that you respect our request, and confirm this in writing, so that the matter doesn't have to go further, e.g. The State Administrative Tribunal. Etc Minister for Local Government.

Thankyou for your notice of a development application for the dwelling at 38 Casuarina Crescent to a holiday home for up to 8 guests.

I would like to lodge an objection to the application due to:

- This application is not compatible with the surrounding residential area, and inconsistent with the objective of the Residential zone
- Will have an adverse impact on the amenity of the surrounding area and nearby residents

I understand and support Councils' policy to support the role of holiday homes as part of the tourism industry and I also see value to the community for the provision of well managed holiday homes.

Unfortunately, I have had the recent poor experience with tenants of 36 Casuarina Crescent (neighbouring property) (I assume this dwelling has planning approval for a Holiday Home (Large) given the number of occupants). This dwelling has impacted the surrounding area with very intensive outdoor area use for very long hours into the evening emitting noise, light, smoke and general disruption for most weeknights into the early hours of the morning. I made several complaints to the Property Manager in this regard, as well as kindly asking the tenants to respect the neighbours during weeknights (I understand weekends). I was close to putting my house on the market with the nuisance caused. Luckily for my family and surrounding neighbours the tenants recently moved out.

Given my poor past experience with the neighbour of 38 Casuarina Crescent and Councils policy regarding Holiday Homes that clearly outlines expectations of tenants and the Property Managers, I would support in principle the holiday home development application for the maximum capacity of six (6) guests. The last thing the neighbouring properties require is another poorly managed holiday home (Large) on the same street.

Thank you again for the opportunity to comment in regard to the application. I hope my comments and objection can be received and due consideration given by Council staff and Council.

The first submitter also made contact with the reporting officer by telephone, where it was made clear that their submission would be considered accordingly in assessing the subject development application and that under the applicable *Planning and Development Act 2005* there are no third-party appeal rights to development application decisions made by a responsible authority.

STATUTORY ENVIRONMENT

- Local Planning Scheme No.7 – as outlined.
- Health Local Laws 2005:

Overcrowding

3.2.2 The owner or occupier of a house shall not permit—

- a) a room in the house that is not a habitable room to be used for sleeping purposes; or*
- b) a habitable room in the house to be used for sleeping purposes unless—*

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- (i) for every person over the age of 10 years using the room there is at least 14 cubic metres of air space per person; and
- (ii) for every person between the ages of 1 and 10 years there is at least 8 cubic metres of air space per person; or
- c) any garage or shed to be used for sleeping purposes.

Restriction on use of Rooms for Sleeping

8.2.10 (1) Subject to subsection (3) and Section 8.3.10, a keeper shall not use or permit to be used as a sleeping apartment a room in a lodging house –

(c) which is used as a kitchen, scullery, storeroom, dining room, general sitting room, lounge room or for the preparation or storage of food;

POLICY IMPLICATIONS

Local Planning Policy 9.12 Holiday Homes – as outlined.

FINANCIAL IMPLICATIONS

The applicant has paid the required \$147 fee for the development application.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029:

02 - Prosperity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy
Priority Outcomes	Our Roles
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 93/21 (Doc Id: SODR-1262144384-12275)

(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION

That Council approve the development application for the proposed Holiday House land use of the existing Single House at 1083 (38) Casuarina Crescent, Jurien Bay; subject to following conditions and advice:

Conditions

1. The Holiday House must not cause nuisance or degrade the amenity of the neighbourhood in any way, including by reason of the emission of noise, light, odour, fumes, smoke, vapour or other pollutant, or impact on public safety or otherwise; to the satisfaction of the Shire of Dandaragan.
2. The total number of people to be accommodated in the Holiday House shall not exceed eight (8) guests at all times.
3. The Holiday House shall be operated in accordance with the 'Code of Conduct', and the 'Fire and Emergency Plan' submitted with the subject development application date stamped 9 October 2021.
4. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 9 October 2021.
5. All vehicle parking must be confined to the Holiday House premises.
6. This development approval is valid until the 30 June 2022. The Holiday House land use should cease before or on this date unless otherwise approved in writing by the Shire of Dandaragan.
7. The applicant must not erect or otherwise display on the Holiday House premises any sign with an area exceeding 0.2 square metres. A sign erected under this condition must:
 - a. only name the Holiday House and provide the relevant management contact details;
 - b. be placed on a building, wall, fence or entry statement of the Holiday House; and
 - c. not be illuminated nor use reflective or fluorescent materials.

Advice Notes:

- A. This is a development approval of the Shire of Dandaragan under its *Local Planning Scheme No.7*. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
- B. Development approval does not affect the existing and future use of the premises as a Single House.
- C. Under the *Shire of Dandaragan Health Local Laws 2005* each guest of a holiday home requires fourteen cubic metres of airspace to sleep; additionally, holiday home guests are not permitted to sleep in a room which is used as a kitchen, scullery, storeroom, dining room, general sitting room, lounge room or for the preparation or storage of food.
- D. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be submitted within 28 days of the determination.

COUNCIL DECISION

Moved Cr Scharf, seconded Cr Shanhun

That Council refuse the development application for the proposed Holiday House land use of the existing Single House at Lot 1083 (38) Casuarina Crescent, Jurien Bay due to the following reasons:

The development:

1. is not compatible with the established residential area in which it is located and is, therefore, inconsistent with the objective of the Residential zone under the Shire of Dandaragan Local Planning Scheme No.7; and
2. would have an adverse impact on the amenity of the locality (clause 67(n) of the Deemed Provisions).

Council provides the following advice to the applicant regarding this decision:

- A. A revised holiday home development application for the maximum capacity of six (6) guests would be supported in principle by Council.
- B. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the Planning and Development Act 2005. An application must be submitted within 28 days of this determination.

CARRIED 8 / 1

Note: The officer's recommendation was not adopted for the reasons outlined in the Council decision.

9.3.2 FINAL ADOPTION OF AMENDMENT NO.38 TO LOCAL PLANNING SCHEME NO.7

Location:	Jurien Bay Boat Harbour
Applicant:	Shire of Dandaragan
Folder Path:	SODR-877026889-1387
Disclosure of Interest:	Nil
Date:	8 November 2021
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

For Council to adopt Amendment 38 to the Shire's *Local Planning Scheme No.7* (Scheme) to modify the permissibility of a 'caravan park' from not permitted (X) to a permitted (P) land use in the Harbour zone.

BACKGROUND

The Department of Transport (DoT) manages and operates the Jurien Bay Boat Harbour (JBBH). The JBBH is located on Crown land reserve 39419 and is zoned Harbour in terms of the Scheme.

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The Harbour zone allows for a range of land uses relating to fishing, boat building and maintenance, tourism, commercial activities, public recreation community and club facilities.

DoT prepared the *Jurien Bay Boat Harbour Development Plan* in 2017 that identifies six planning precincts within the Harbour, each having specific objectives and associated uses that contribute to those objectives:

1. Maritime Industry – Waterfront – focused on boat building, commercial fishing, storage and industrial uses which require direct waterfront access for operations.
2. Maritime Industry – Other – focused on boat building, commercial fishing, storage and industrial uses other than those described in Precinct 1.
3. Recreational Boating – for general community boating, boat launching and car-trailer parking.
4. Tourism/ Mixed Use – for non-boating tourism, private and public recreation, commercial and accommodation uses.
5. Coastal Protection – coastal foreshore reserve for protection and limited recreation and access.
6. Seabed – for dedicated commercial and recreational boating and supporting infrastructure.

The Development Plan is currently under review to update the internal harbour planning precincts to the following:

1. Maritime Industry – Waterfront – focused on boat building, commercial fishing, storage and industrial uses which require direct waterfront access for operations.
2. Future Investigation Area – DoT will undertake further investigation to determine the appropriate land uses for this large northern area of the boat harbour.
3. Recreational Boating – for general community boating, boat launching and car-trailer parking.
4. Tourism – tourist/visitor accommodation, resort, caravan park, cabin, related and associated commercial activities, private and public recreation.
5. Coastal Protection – coastal foreshore reserve for conservation, protection and controlled recreational access.
6. Seabed – for dedicated commercial, recreational boating and supporting infrastructure.

DoT recently advertised an Expression of Interest (EOI) to lease 4.5 ha of land within JBBH Precinct 4 – Tourism/Mixed Use. The Lobster Hut Hospitality Group Pty Ltd submitted a response to the EOI to develop a resort/caravan park on Precinct 4 and to enter into a lease agreement with DoT.

DoT seeks to progress the development of the of Precinct 4 and the proposed lease agreement, however, under the current Scheme a 'caravan park' is an 'X' – not permitted use in the Harbour Zone. As such, DoT requests Council's support of the proposed Scheme

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Amendment to modify the Scheme so that the EOI proposal can be considered for development approval in due course.

On 23 September 2021, Council resolved to initiate public advertising of Amendment 38 until 15 November 2021. Three submissions were received as detailed in 'Consultation' section below.

COMMENT

The following high-level strategic planning documents support Amendment 38 as detailed in the attached report:

- Wheatbelt Regional Planning and Infrastructure Framework 2015
- Guilderton to Kalbarri Sub-Regional Planning Strategy 2019
- Central Coast Strategic Tourism Planning Study 2008

The following local strategic documents also support the proposal:

- Local Planning Strategy 2020
- Economic and Tourism Development Strategy 2020
- Local Tourism Planning Strategy 2012

Amendment 38 is a scheme amendment currently noted within planning staff's review of the current Scheme, following adoption of the guiding Local Planning Strategy in 2020. However, the timing of the complete Scheme review is prohibitive to DoT's EOI process, hence, DoT has actioned a standalone amendment.

It is agreed with DoT that Amendment 38 will enable development of JBBH with the potential to boost economic activity, create new jobs, and provide modern contemporary tourism facilities in Jurien Bay to attract a broader range of users, longer stays and more choice in the tourism market in accordance with State and local land use and tourism strategies. Therefore, it is recommended Council adopt the scheme amendment as advertised.

It is also recommended that in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations), it is determined Amendment 38 is a standard amendment for the reason of being consistent with a local planning strategy for the scheme that has been endorsed by the Western Australian Planning Commission (WAPC). The amendment is also not considered a complex or basic amendment as defined by the above regulations.

CONSULTATION

Three public submissions were received, objecting to Amendment 38 as detailed in the attached Schedule of Submissions. The basis for the objections was the concern that the whole of JBBH Precinct 4 would be developed as standalone caravan park. It is staff's understanding based on discussion with DoT, that this is not the intention of the proponent who seeks to develop a significant waterfront resort with the balance of the property being used for 'glamping' and caravan spaces.

It is also noted in the attached officer's response to the submitters that there will be an opportunity to comment on the final development type and design when the development application is lodged in due course. Furthermore, as required under clause 4.16 of the Scheme (as outlined in the 'Statutory Environment' section of this report) an overall Local Structure Plan (referred to as the Development Plan above) for the JBBH still requires approval before a development application can be considered. (Note that in terms of Clause 4.16.3 minor development is exempt from this requirement). This process will provide an additional avenue for the general public to comment on the development proposal in the context of the wider land uses of the JBBH.

As required under Section 81 of the *Planning and Development Act 2005*, Amendment 38 was also referred to the Environmental Protection Authority (EPA). The EPA in complying with Section 48A of the *Environmental Protection Act 1986*, concluded that an environmental assessment of Amendment 38 was not necessary as suitable assessment of environmental parameters would be undertaken in the ensuing development assessment process.

STATUTORY ENVIRONMENT

- **Planning and Development Act 2005:**

Section 75 affords a local government the ability to amend its local planning scheme, which is undertaken in accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

- **Local Planning Scheme No. 7:**

4.16.1 Local government shall not grant development approval to development and recommend approval of a subdivision of any land within the Harbour Zone unless:

- a. *An adequate environmental assessment has been prepared that satisfies Local government that no adverse environmental, engineering, traffic or social problems will arise within the Zone or in related parts of the Scheme Area and satisfies Local government that zoned development can proceed.*
- b. *An overall plan in respect of the Harbour Zone has been prepared and approved by Local government.*

4.16.2 An overall plan shall at least show the overall layout of land use, arterial, sub-arterial and collector road systems, location of major public utilities, community facilities and open space and shall include a report that explains the basis for the locations and layout of the elements of the plan.

4.16.3 Where the Local government is satisfied that a proposed development or subdivision is of a minor nature only and is consistent with the provisions of the Scheme it may grant development approval or recommend approval, as the case may be, before an overall plan has been approved.

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POLICY IMPLICATIONS

There are no local policy implications relevant to this item.

FINANCIAL IMPLICATIONS

The Shire will recoup the costs of advertising Amendment 38 from DoT.

STRATEGIC IMPLICATIONS

- As outlined above and in the attached amendment report.
- Strategic Community Plan (Envision 2029):

02 - Prosperity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
Priority Outcomes	Our Roles
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.

ATTACHMENTS

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

- Scheme Amendment No.38 (Doc Id: SODR-877026889-1395)
 - Schedule of submissions (Doc Id: SODR-877026889-1387)
- (Marked 9.3.2)**

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Glasfurd, seconded Cr Gibson

That Council:

1. **Resolve pursuant to section 75 of the *Planning and Development Act 2005* to amend the *Shire of Dandaragan Local Planning Scheme No.7* by:
Amending Table 1 – Zoning Table by modifying the permissibility of the land use ‘caravan park’ from not permitted (X) to permitted (P) in the Harbour zone.**
2. **Resolves, pursuant to the Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) that Amendment 38 is a standard amendment as the amendment: is consistent with a Local Planning Strategy for the Scheme Area that has been endorsed by the Western Australian Planning Commission; and is not a complex or basic amendment.**

3. **Authorises Council officers to prepare and forward the scheme amendment documentation to the Western Australian Planning Commission for final determination.**

CARRIED 9 / 0

9.4 GOVERNANCE & ADMINISTRATION

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – OCTOBER COUNCIL STATUS REPORT

Document ID: [SODR-1739978813-4271]

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 28 October 2021. **(Marked 9.5.1)**

9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – OCTOBER 2021

Document ID: [SODR-2045798944-374]

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for October 2021. **(Marked 9.5.2)**

9.5.3 SHIRE OF DANDARAGAN – PLANNING STATISTICS – OCTOBER 2021

Document ID: [SODR-2045798944-375]

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for October 2021. **(Marked 9.5.3)**

9.5.4 SHIRE OF DANDARAGAN TOURISM / LIBRARY / COMMUNITY ACTIVITIES REPORT FOR OCTOBER 2021

Document ID: [SODR-1876983588-671]

Attached to the agenda is monthly report for Tourism / Library / Community Activities Report for October 2021. **(Marked 9.5.4)**

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

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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 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 Gibson, seconded Cr Eyre**

That the meeting be closed to members of the public at 4:15pm in accordance with Section **5.23 (2) (c)** of the Local Government Act 1995 and Regulation 4A of the Local Government (Administration) Regulations 1996 to allow Council to consider Item 11.1.1 Jurien Bay Foreshore Pavilion, Item 11.1.2 Jurien Bay Foreshore Café Lease and Item 11.1.3 Jurien Bay Foreshore Electrical Upgrade which involve contracts that may be entered into by the Local Government.

CARRIED 9 / 0

Ms Perkins and all members of the Public left the meeting at the request of the Chief Executive Officer.

COUNCIL DECISION**Moved Cr Shanhun, seconded Cr McDonald**

That Council Suspend Clauses 8.8 and 10.5 of the Shire of Dandaragan Local Government (Council Meetings) Local Law 2019 at 4.16pm to facilitate open discussion on items 11.1.1, 11.1.2 and 11.1.3.

CARRIED 9 / 0**11.1.1 JURIEN BAY FORESHORE PAVILION**

Location:	Reserve 28541 Jurien Bay Foreshore
Applicant:	N/A
Folder Path:	SODR-1287110788-1387
Disclosure of Interest:	None
Date:	9 November 2021
Author:	David Chidlow, Executive Manager Development Services
Senior Officer:	Brent Bailey, Chief Executive Officer

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

OFFICER RECOMMENDATION / COUNCIL DECISION**Moved Cr Eyre, seconded Cr Gibson****That Council:**

- 1. Endorse the ranking of builders for the Jurien Bay Foreshore Pavilion for RFT 02-2021 as follows:**
 - a. Hickey Construction Pty Ltd.**
 - b. No further tenders supported.**
- 2. Authorise the Chief Executive Officer to finalise negotiations with the preferred builder, and if there are no material adverse changes to the submitted component pricing, execute a final building contract.**

CARRIED 9 / 0

11.1.2 JURIEB BAY FORESHORE CAFÉ LEASE

Location:	N/A
Applicant:	Shire of Dandaragan
Folder Path:	SODR-1792953452-18
Disclosure of Interest:	Nil
Date:	15 November 2021
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not applicable

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

OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1

Moved Cr Gibson, seconded Cr Eyre

That Council elect to undertake the capital construction of the Jurien Bay Foreshore Pavilion Café independently and without a capital contribution from the Lobster Hut Hospitality Group Pty Ltd to preserve full market rental yield from the premises throughout the term of any lease associated with the premises.

CARRIED 9 / 0

OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2

Moved Cr Eyre, seconded Cr Scharf

That Council endorse the proposed draft lease of the Jurien Bay Foreshore Pavilion Café between the Shire and Lobster Hut Hospitality Group Pty Ltd for public advertising in accordance with Section 3.58(3) of the Local Government Act 1995 inclusive of the following material terms:

- 1) Land: Portion of Crown Reserves 28541 and 27406**
- 2) Premises: Vacant space (230.9m²) consisting of the areas marked on Annexure A in the lease document as “kiosk tenancy”, “alfresco dining” and “timber decking”.**
- 3) Commencement Date: At practical completion of the Building’s construction.**
- 4) Initial Term: 5 Years.**
- 5) Further Term Options: 2 further terms of 5 Years.**
- 6) Rent: \$56,160 p.a. excluding GST.**
- 7) Rent Review: CPI with Market Rent Review every 3 years.**
- 8) Proposed Business Use: Café / Kiosk for retail sale of food and beverages.**
- 9) Cleaning: Council’s cleaning contract will continue to service the ablution facility once daily in the morning. Lobster Hut Hospitality Group Pty Ltd to carry out cleaning throughout the opening hours of the Business.**

CARRIED 9 / 0

11.1.3 JURIEB BAY FORESHORE ELECTRICAL UPGRADE

Location:	Reserve 28541 Jurien Bay Foreshore
Applicant:	N/A
Folder Path:	SODR-1792953452-19
Disclosure of Interest:	None
Date:	19 November 2021
Author:	Tony O' Gorman, Economic Development Manager
Senior Officer:	Brent Bailey, Chief Executive Officer

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Gibson

That Council:

- 1. Endorse the ranking of preferred contractor for the Jurien Bay Foreshore Electrical Upgrade RFT 03-2021 as follows:**
 - a. Prestige Electrical**
 - b. No further tenders supported.**
- 2. Authorise the Chief Executive Officer to finalise negotiations with the preferred electrical contractor, and if there are no material adverse changes to the submitted component pricing, execute the final contract for construction.**

CARRIED 9 / 0

COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Rybarczyk

That Council reinstate clauses 8.8 and 10.5 of the Shire of Dandaragan Local Government (Council Meeting) Local Law 2019.

CARRIED 9 / 0

COUNCIL DECISION

Moved Cr Scharf, seconded Cr McDonald

That the Meeting be reopened to the public at 4.40pm.

CARRIED 9 / 0

Members of the public re-entered the meeting and the Chief Executive Officer read the Council decisions aloud.

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

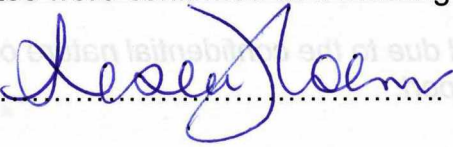
Nil

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13 CLOSURE OF MEETING

The presiding member declared the meeting closed at 4.45pm.

These minutes were confirmed at a meeting on 17 December 2021

Signed 

Presiding person at the meeting at which the minutes were confirmed

Date 17 December 2021

CARRIED 9/0

COUNCIL DECISION

CARRIED 9/0

COUNCIL DECISION

CARRIED 9/0

Members of the public re-entered the meeting and the Chief Executive Officer read the Council decisions aloud.

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil