



SHIRE
of
DANDARAGAN

MINUTES
of the
ORDINARY COUNCIL MEETING
held at the
COUNCIL CHAMBERS, JURIEN BAY
on
THURSDAY 16 DECEMBER 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 16 DECEMBER 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."

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 W Gibson	
Councillor R Glasfurd	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

Staff

Mr B Bailey	(Chief Executive Officer)
Mr S Clayton	(Executive Manager Corporate & Community Services)
Mr B Pepper	(Executive Manager Infrastructure)
Mr L Fouché	(Executive Manager Development Services)
Mr R Mackay	(Planning Officer)
Ms R Headland	(Council Secretary & Personal Assistant)
Ms M Perkins	Manager Customer & Community Services)

Apologies

Nil

Approved Leave of Absence

Nil

Observers

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 16 DECEMBER 2021**4 PUBLIC QUESTION TIME**

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE**COUNCIL DECISION**

Moved Cr Shanhun, seconded Cr McDonald
That the following request for leave of absence be approved:
Cr Clarke - January 2022

CARRIED 9 / 0

6 CONFIRMATION OF MINUTES**6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD 25 NOVEMBER 2021****COUNCIL DECISION**

Moved Cr Gibson, seconded Cr Eyre
That the minutes of the Ordinary Meeting of Council held 25 November 2021 be confirmed.

CARRIED 9 / 0

7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 CORPORATE & COMMUNITY SERVICES

9.1.1 ACCOUNTS FOR PAYMENT – NOVEMBER 2021

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-28896
Disclosure of Interest:	None
Date:	3 December 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 November 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 November 2021 totalled \$2,155,699.11 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the November 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.

ATTACHMENTS

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

- Cheque, EFT and Direct Debit listings for November 2021(Doc Id: SODR-2042075298-29614)
(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUCNIL DECISION

Moved Cr Shanhun, seconded Cr Eyre

That the Cheque and EFT listing for the period ending 30 November 2021 totalling \$2,155,699.11 be adopted.

CARRIED 9 / 0

9.1.2 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 30 NOVEMBER 2021

Location:	Shire of Dandaragan
Applicant:	N/A
Folder	SODR-1743450996-1841
Disclosure of Interest:	None
Date:	6 December 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 30 November 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 30 November 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 30 November 2021 was \$6,887,628. 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 30 November 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 30 November 2021 (Doc Id: SODR-1743450996-1859)

(Marked 9.1.2)

VOTING REQUIREMENT

Simple majority

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

That the monthly financial statements for the period 30 November 2021 be adopted.

CARRIED 9 / 0

9.2 INFRASTRUCTURE SERVICES

9.3 DEVELOPMENT SERVICES

9.3.1 PROPOSED WORKFORCE ACCOMMODATION – LOT 4113 WONGONDERRAH ROAD, NAMBUNG

Location:	2269 Wongonderrah Road, Nambung
Applicant:	Tecon Australia
Landowner:	Genocanna Nominees Pty Ltd
Folder Path:	SODR-1262144384-12708
Disclosure of Interest:	Nil
Date:	1 December 2021
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouche, Executive Manager Development Services

PROPOSAL

The applicant is seeking development approval for an 84-bed workforce accommodation camp at Lot 4113 (2269) Wongonderrah Road, Nambung.

BACKGROUND

The subject property which is also known as 'Nambung Station' is zoned 'Rural' under the *Shire of Dandaragan Local Planning Scheme No.7* (Scheme). The property currently has a non-conforming land use approval as a caravan park and hosts the annual Nambung Country Music Muster.

The caravan park land use is non-conforming as such a land use is now not permitted in the Rural zone of the Scheme. However, clause 3.8 of the Scheme states that no provision of the Scheme is to be taken to prevent the continued use of any land for the purpose for which it was being lawfully used immediately prior to the Gazettal date of the Scheme.

The proposed workforce accommodation camp will be sited away from the existing property improvements but will utilise the exiting property driveway for access to Wongonderrah Road. 21 transportable dwellings will make up the proposed 84-bed camp over a 1ha (10,000m²) footprint. Communal kitchen, dining and laundry facilities will also be provided.

A dedicated onsite manager of the camp will oversee and be responsible for the daily running operations of the camp. The daily running of this camp, where feasible, will utilise the contractors and services of the nearby towns including provision of food, cleaning, and maintenance.

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Wastewater is to be dealt with via an onsite system, approved to the requirements of the Department of Health and the Shire. Power supply to the camp is currently the subject of negotiation and further studies to be undertaken through Western Power.

The proposed camp would be required for the life of the mining operations which the applicant advises, is expected to be three to four years with possibilities (subject to further studies) of an extension to the north.

The proposed land use of 'workforce accommodation' is a land use not listed under the Zoning Table of the Scheme. In accordance with Clause 3.4.2 of the Scheme, Council is to either:

- 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 Rural zone of the Scheme 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 *Planning and Development (Local Planning Schemes) Regulations 2015* define 'workforce accommodation' as a: *premises, which may include modular or relocatable buildings, used:*

- (a) primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and*
- (b) for any associated catering, sporting and recreation facilities for the occupants and authorised visitors.*

The Western Australian Planning Commission (WAPC) have additionally released a position statement on workforce accommodation. The purpose of the Position Statement is to provide guidance to local governments on the role of the planning framework in the planning and development of workforce accommodation. The position statement states that where practicable, workforce accommodation should be provided in established towns.

A 1.3ha suitably sized site zoned 'Tourist' at 97 Seville Street, Cervantes could be utilised for the development if cleared by the Development WA as the land manager. However as outlined in the WAPC's *Making Good Planning Decisions*, Council in its Quasi-judicial role of determining development applications is not to

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determine whether the proposed development is the best possible development, as a 'better development' is not a relevant planning consideration. Council as a planning decision-maker is to determine the application before it, and not what other land uses could be achieved on this site or another.

The Shire's *Local Planning Strategy 2020* (Strategy) states the following in regard to workforce accommodation:

The Shire encourages operators to locate non-key permanent staff in established townsites. Where this is not possible due to the remoteness of a mining activity, Shire will consider the on-site provision of temporary and permanent workers accommodation based on the merits of specific applications by considering the following:

- *suitable access to the property being provided;*
- *the availability of services and infrastructures;*
- *the management of potential adverse impacts and land use conflict;*
- *consideration of fire risks and management;*
- *adequate landscaping and screening;*
- *the need for security and lighting and associated impacts; and*
- *rehabilitation of the site after the cessation of operations.*

COMMENT

The proposed camp location is only approximately 2km from the mine site, while the nearest town of Cervantes is some 30 minutes away by light vehicle. The applicant has stated that the camp location is required on practical grounds, as accommodating workers for the Atlas Project in towns some 40km away is not amenable to Image Resources' operations perspective. Additionally, the applicant states that Cervantes and Jurien Bay are limited in their ability to accommodate the proposed workforce within existing facilities as they are tourist towns and accommodation facilities within these towns could be compromised from a tourism perspective if workers were to occupy existing hotels, motels, campgrounds, etc.

A substantial property driveway exists to serve the existing caravan park land use. While the proposed camp will also utilise a small portion of this driveway a new looped accessway and vehicle parking area will be constructed to the same gravel standard to one side. 56 light vehicle bays and three long vehicle bays will be constructed. The applicant has outlined that though the camp can accommodate up to 84 workers, not every worker has a vehicle on site and communal travel to the camp is encouraged. A light bus will transport workers to and from the mine site on shift changes. It is recommended that an overflow parking area is constructed to a suitable standard to cater for high accommodation periods given there is a shortfall of 25 parking bays to the number of camp beds.

The applicant commissioned Shawmac to prepare a Transport Impact Statement (TIS) to support the development. The TIS

concluded that the proposed camp will result in a minor increase in light vehicle traffic and that it is considered the existing road formation in the vicinity of the camp is adequate. Some minor upgrades to roads and intersections may be required for the camp's light vehicle traffic and as such will be monitored with measures implemented if required as detailed below:

Roads

- Bibby Road: deemed adequate.
- Munbinea Road: unsealed Section: may require pavement upgrades and/or monitoring and maintenance.
- Munbinea Road: sealed Section: deemed adequate.
- Wongonderrah Road: Image Resources are encouraging personnel to not use this road. Road condition and traffic to be monitored.
- Jurien Road: deemed adequate.
- Cervantes Road: deemed adequate.

Intersections

- Bibby Road & Brand Highway: deemed adequate.
- Wongonderrah Road & Brand Highway: Non-conforming approach sight distance. Image Resources are encouraging personnel to not use this road. Consideration to be made for improvement to advance warning signage.
- Bibby Road & Munbinea Road: Consider extending seal length to 100m for the southern Munbinea Road length to reduce dust tracking at intersection.
- Wongonderrah Road & Munbinea Road: consider pavement upgrades and/or monitoring and maintenance including bend at camp access approach.
- Munbinea Road & Cervantes Road: deemed adequate.
- Cervantes Road & Indian Ocean Drive: deemed adequate.
- Jurien Road & Indian Ocean Drive: deemed adequate.
- Jurien Road and Munbinea Road: deemed adequate.

It is recommended that Council enter into a road user agreement for Wongonderrah Road and the unsealed portion of Munbinea Road regarding the development's regular light vehicle traffic which will increase current traffic counts on this road significantly. A further agreement is in negotiations for the mine site's heavy haulage use of the Shire's local roads outside of this development application. Infrastructure Services advise that generally unsealed gravel roads are typically graded three times each year. Those being a maintenance winter grading, a summer grading and a minor touch up grading in between. The applicant should be required to cover the cost of any additional grading and pavement works required.

The proposed development site is not located in a designated bushfire prone area, however given the camp will house people unfamiliar with their surroundings, the proponent has submitted a Bushfire Management Plan in the event of a nearby bushfire. This management plan has been prepared to a sufficient standard as

confirmed by the Emergency Management Coordinator.

As the adjoining Pinnacles and wider Nambung National Park are identified as a prominent dark sky and astrotourism location, it is recommended the applicant submit and have approved, and thereafter implement for the life of development management plans for construction and dust management. All external lighting should be consistent with the WAPC's dark sky and astrotourism principles of limiting light pollution by eliminating light spill; avoiding over-lighting; using energy-efficient bulbs; ensuring lights are not directed towards reflective surfaces; and using warm white colours.

It is not considered that the development will have an impact on the visual and landscape qualities of Nambung National Park due to the development's location on the subject property, in excess of 6kms away from the eastern edge of the Pinnacles Desert. The development is also sited at a position some 30m below the Australian Height Datum of the Pinnacles Desert.

A search of Aboriginal Heritage surveys found that the nearest known heritage site is 5kms from the proposed development.

The applicant has stated that the mine site may be operational for 3-5 years. As such it is advisable that should development approval be forthcoming for the workers accommodation camp, that the approval be time limited for a maximum period of 5 years. On the cessation of this period, the camp shall be removed entirely, and the land returned to its pre-development state. It is further recommended that the work camp is only used for mine site staff and no other third parties outside of the construction phase for the work camp.

The limited time needed for the work camp has influenced the officer's recommendation which is consistent with the two other like developments (Tronox's and Iluka's workforce camps on Cataby Road, Cataby) approved by Council through the same process on Rural zoned land. The property also already has an approved accommodation use established on site. Council is therefore recommended to first determine that the development is consistent with the Rural zone it is located within and secondly, provide conditional development approval to the proposal.

The applicant has the right to lodge an application for review to the State Administrative Tribunal regarding Council's decision on the development application or if Council finds that the development is not compatible with the Rural zone.

Alternative Motion for Officer Recommendation 2

Refuse the development application for Workforce Accommodation upon Lot 4113 (2269) Wongonderrah Road, Nambung for the reason that the development is inconsistent with the Shire's *Local Planning Strategy* and the Western Australian Planning

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Commission's *Workforce Accommodation Position Statement* to provide workforce accommodation in the nearby established towns to facilitate the ongoing sustainability through integration of the mining activity's workforce into such towns.

CONSULTATION

As the reporting officer considered the use may be consistent with the objective of the Rural zone, the application was advertised to adjoining neighbours and the wider public from 27 October to 3 December 2021.

All submissions received and the officer's response to each are detailed in the attached Schedule of Submissions.

STATUTORY ENVIRONMENT

- Local Planning Scheme No 7
- Planning and Development (Local Planning Schemes) Regulations 2015.

POLICY IMPLICATIONS

Western Australian Planning Commission – Position statement: Workforce accommodation January 2018:

Under the *Planning and Development Act 2005* planning decision-makers can control the following in regard to workforce accommodation development applications:

1. The terms of an approval related to: timeframe; setbacks; landscaping; parking and access; location and appearance of buildings; integration with surrounding areas; and any other land use planning matters relevant to the site.
2. The ability to approve/refuse a proposal considering local planning scheme requirements.

FINANCIAL IMPLICATIONS

The applicant has paid the required development application in accordance with the Shire's Fees and Charges.

STRATEGIC IMPLICATIONS

- Local Planning Strategy (Draft 2019) – as outlined.
- 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.
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.

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ATTACHMENTS.

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

- Development application 97/21 (SODR-1262144384-12312)
- Schedule of Submissions (SODR-1262144384-12709)

(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Eyre, seconded Cr Gibson

That Council:

1. Determine that the proposed land use of 'Workforce Accommodation' is consistent with the objectives of the 'Rural' zone and therefore can be considered for development approval in accordance with provision 3.4.2 of the *Shire of Dandaragan Local Planning Scheme No.7*.
2. Grant development approval for Workforce Accommodation upon Lot 4113 (2269) Wongonderrah Road, Nambung subject to the following conditions and advice:
 - a) All development shall be in accordance with the approved development plans (attached), which form part of this development approval, to the specifications and satisfaction of the Shire of Dandaragan.
 - b) This approval is for 'Workforce Accommodation' as shown on approved plans and defined in Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
 - c) All external lighting shall comply with the requirements of *AS4282 – Control of Obtrusive Effects of Outdoor Lighting* and the Western Australian Planning Commission's Dark Sky and Astrotourism Policy Measure Principles to prevent light pollution from the site to the satisfaction of the Shire of Dandaragan.
 - d) The proponent shall provide and maintain a potable water supply to the development with sufficient on-site storage for a minimum of 48 hours peak usage to the satisfaction of the Shire of Dandaragan.
 - e) All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.
 - f) This development approval is valid for a period of five (5) years. On or prior to the end of this period, the development is to be permanently removed from the lot and the land reinstated to its original condition.
 - g) Prior to the occupation or use of the development the approved parking plan for 56 light vehicles and 3 long vehicle parking bays are to be constructed and thereafter maintained to the satisfaction of the Shire of Dandaragan, for the life of the development.
 - h) Prior to the occupation or use of the development an overflow parking area of sufficient size for the shortfall of

- 25 light vehicle parking bays is to be constructed and thereafter maintained to the satisfaction of the Shire of Dandaragan, for the life of the development.
- i) Prior to commencement of the approved use, the proponent is to enter into a Road User Agreement with the Shire of Dandaragan regarding the development's traffic utilisation of unsealed local roads to establish contributions by the proponent necessary to achieve the Shire of Dandaragan's desired infrastructure standard for such roads for the life of the development.
 - j) The development shall only be occupied by mine site workers to the satisfaction of the Shire of Dandaragan. No accommodation is permitted to third parties without written confirmation from the Shire of Dandaragan.
 - k) Prior to commencement of the approved use, the proponent must submit and have approved by the Shire of Dandaragan, and thereafter implement to the satisfaction of the Shire of Dandaragan, an Operational Management Plan addressing the following matters:
 - i. Operating Strategy;
 - ii. Emergency Evacuation Plan; and
 - iii. Management Plans for the operational Waste, Wastewater, Dust and Noise of the development.
 - l) Prior to commencement of construction, the proponent must submit and have approved by the Shire of Dandaragan, and thereafter implement to the satisfaction of the Shire of Dandaragan, a Construction Management Plan addressing the following matters:
 - i. How materials and equipment will be delivered and removed from the site;
 - ii. How materials and equipment will be stored on the site;
 - iii. Parking arrangements for contractors;
 - iv. Construction waste disposal strategy and location of waste disposal bins;
 - v. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works; and
 - vi. Other matters likely to impact on the surrounding properties.

Advice notes:

- a) Waste/rubbish (e.g. plastic, spoilt food, kitchen waste etc.) should be stored as to prevent animals or humans from dispersing the contents. The bins should be located on a hard stand and constructed in a way as to prevent liquids and other forms of waste from escaping into the environment and contaminating the site. Segregation of waste materials should be undertaken to ensure they are appropriately disposed of.
- b) This approval is not an authority to ignore any constraint to development on the land which may exist through contract

or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.

- c) 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.
- d) If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- e) Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
- f) Should you be aggrieved by this decision, or any conditions imposed, 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.

CARRIED 9 / 0

9.4 GOVERNANCE & ADMINISTRATION

9.4.1 PROPOSED LEASE – JURIEBAY FORESHORE CAFÉ

Location:	N/A
Applicant:	Shire of Dandaragan
Folder Path:	SODR-1792953452-20
Disclosure of Interest:	Nil
Date:	6 December 2021
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not applicable

PROPOSAL

The purpose of this item is for Council to consider public submissions associated with the proposed disposal (lease) of property being the Juriebay Foreshore Café to the Lobster Hut Hospitality Group Pty Ltd which required public advertising in accordance with Section 3.58(3) of the Local Government Act 1995. It is recommended that Council proceed with the lease and authorise the CEO to finalise lease negotiations.

BACKGROUND

The Jurien Bay Foreshore Masterplan included provision for a new Café / Kiosk within the new foreshore pavilion. The pavilion construction is budgeted for development this financial year and Council awarded the construction contract to Hickey Construction Pty Ltd at the November Ordinary Council meeting.

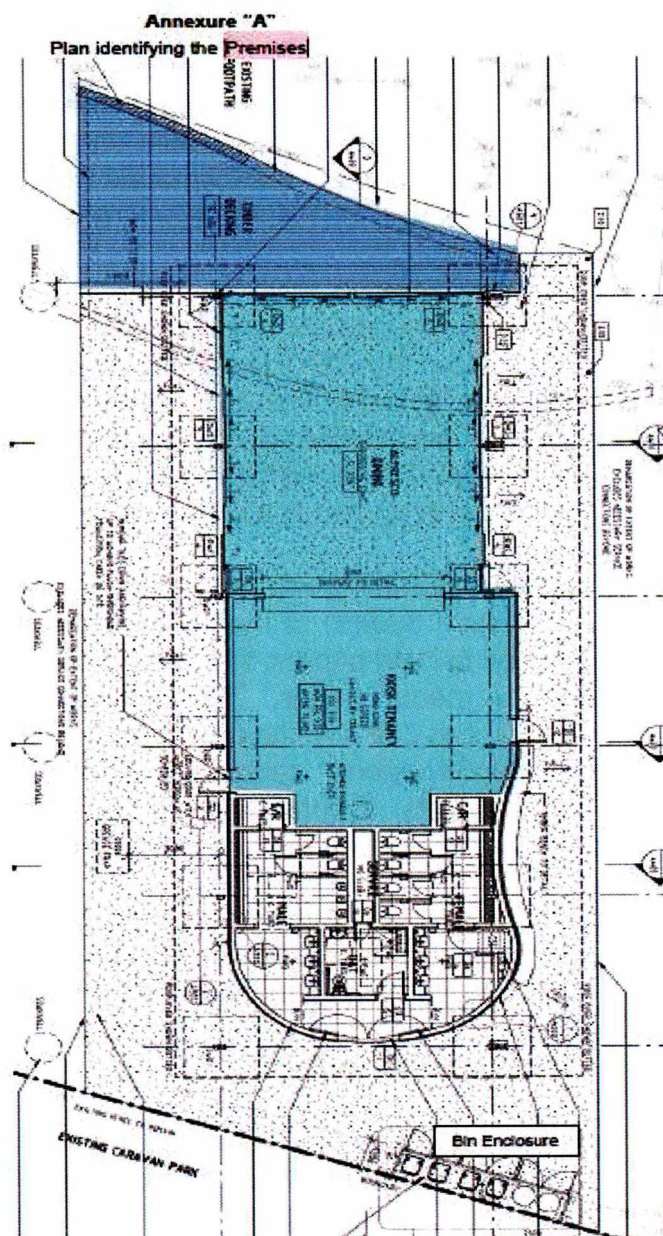
At a Special Council Meeting on 26 March 2021 Council considered proposals for the lease of the café / kiosk space which included provision for a license over a negotiated portion of the alfresco area underneath the pavilion. The space is offered empty for the lessee to fit out. The Lobster Hut Hospitality Group Pty Ltd (LHHG) were selected by Council as the preferred respondent and the CEO was authorised to negotiate a draft lease with the proponent.

In issuing its response to the proposed lease opportunity LHHG outlined a proposal for increasing the footprint of the café and alfresco area and worked with Shire staff and the architect to amend the design of the building. Key alterations to the original building design include:

1. Increase in floor area of kitchen / café space.
2. Inclusion of a decked area on the western / ocean side of the building.
3. Amended design of the glass sliding doors around the alfresco area to allow full enclosure via sliding / stacking glass panels for protection of patrons in adverse weather conditions.
4. Addition of a new bin locker closer to the road verge and away from the main building.

The revised floor plan of the building, and associated increase in functionality as a business venture is shown below and the exclusive use of this area has been revalued by an independent licensed property valuer which materially increased the return on the lease from \$21,000 to \$56,160.

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COMMENT

The lease area is shown in the building floor plan above and is 230.9m². As outlined in the agenda item considered by Council in November the lease value is \$56,160 which was determined by an independent market valuation which will be indexed annually to CPI and with a full market revaluation every three years.

The proposed terms are considered reasonable, commercially realistic and would allow the Shire to achieve the objective of having a significant food and beverage offering within the foreshore area of Jurien Bay. As a guide, total rental return in today's dollars and without rent price escalation would yield \$842,400 over the lease if both 5-year options are exercised (15 years total).

At the November Ordinary Council meeting, after evaluating the financial outcomes of the building construction tender, Council

determined that it would undertake the construction of the project without any private capital contribution from the LHHG. This decision supported negotiations for the lease of the commercial site being on full market based rental terms. It also allows Council to consider any of the public submissions received through the advertising period, and ultimately whether to enter into a lease with LHHG without the influence or a reliance on external funds to deliver the project.

A minor amendment to the proposed terms is recommended which is to allow the CEO to determine the commencement day of the lease to coincide with the café's opening day. This provision will provide reasonable opportunity and flexibility for the lessee to fit out and prepare the premises for operation and not incur lease costs while the business is not earning revenue.

Public advertising was carried out in accordance with the provisions of section 3.58(3) of the Local Government Act 1995 with notices placed in local papers, the West Australian, the Shire's website and social media pages. The closing date for submissions is 15 December 2021. At the time of writing this agenda report there were no submissions received which are provided within the attachments. Councillors will be updated with any additional submissions once the public advertising period closes.

It should be noted that the lease is still subject to the completion of construction of the facility and will not come into effect until the following remaining matters have been satisfied.

These matters are:

- This decision by Council pursuant to section 3.58(3) of the Local Government Act 1995 to proceed with the transaction, after the public advertising period and consideration of any public submissions.
- Final signing, execution, and lodgement of the lease with the Minister for Lands.

CONSULTATION

- MCG Architects
- Council Solicitors

STATUTORY ENVIRONMENT

Local Government Act 1995 S3.58 – Disposing of Property
 Local Government (Functions and General) Regulations 1996
 Section 30

3.58. *Disposing of property*

(1) In this section —

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

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- property** includes the whole or any part of the interest of a local government in property but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
- (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) **A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property—**
- (a) **it gives local public notice of the proposed disposition—**
 - (i) **describing the property concerned; and**
 - (ii) **giving details of the proposed disposition; and**
 - (iii) **inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;**

and
 - (b) **it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision, and the reasons for it are recorded in the minutes of the meeting at which the decision was made.**
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

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POLICY IMPLICATIONS

The outcomes of this lease and the development of a permanent commercial venture at the Jurien Bay foreshore is consistent with Policy 9.13 Jurien Bay Commercial Development Plan.

FINANCIAL IMPLICATIONS

Revenue associated with this lease has been outlined above.

STRATEGIC IMPLICATIONS

Strategic Community Plan - Envision 2029

01 - Infrastructure	The Shire will work cooperatively with private enterprise and government agencies to develop and maintain a dynamic infrastructure network responsive to usage demand that attracts and retains residents and businesses.
Priority Outcomes	Our Role
Our communities contain vibrant, activated public open space and buildings with high levels of utilisation and functionality.	To manage and facilitate community assets that are flexible, vibrant adaptable and enjoyable places to occupy employing the principals of placemaking and design thinking.
Our investments in public assets are based on responsible and sustainable asset custodianship	Increase activation of our public open space and buildings rather than increasing quantity without a demonstrated need.

ATTACHMENTS

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

- Draft Lease – Jurien Bay Beach Café (Doc Id: SODR-1540645505-1317)

(Marked 9.4.1)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr McDonald, seconded Cr Eyre

That Council:

1. **After considering public submissions in accordance with Section 3.58(3) of the Local Government Act 1995, authorise the disposal of property and approve the proposed lease of the Jurien Bay Foreshore Pavilion Café between the Shire and Lobster Hut Hospitality Group Pty Ltd inclusive of the following material terms:**

- a. **Land: Portion of Crown Reserve 28541, Lot 303 on Deposited Plan 414324 (Volume LR31731, Folio 254) situated at Corner of Roberts Street and Heaton Street, Jurien Bay**

- b. 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”.
 - c. Initial Term: 5 Years.
 - d. Further Term Options: 2 further terms of 5 Years.
 - e. Rent: \$56,160 p.a. excluding GST.
 - f. Rent Review: CPI with Market Rent Review every 3 years.
 - g. Proposed Business Use: Café / Kiosk for retail sale of food and beverages.
 - h. 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.
2. Authorise the CEO to finalise lease negotiations which will include determining the commencement date of the lease to coincide with the opening date of café to the public.
 3. Authorise the CEO to submit the lease to the Minister for Lands for final approval.

CARRIED 8 / 1

9.4.2 ENDORSE DRAFT PUBLIC ART AND PERCENT FOR ART POLICY FOR PUBLIC COMMENT PERIOD

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-437506902-6478
Disclosure of Interest:	Nil
Date:	30 November 2021
Author:	Michelle Perkins, Manager Customer and Community Services
Senior Officer:	Scott Clayton, Executive Manager Corporate and Community Services

PROPOSAL

To seek Council approval to release for public comment the draft Shire of Dandaragan Public Art and Percent for Art Policy for a period of one month.

BACKGROUND

The drafting of the Shire of Dandaragan’s first Public Art and Percent for Art Policy was discussed at the 27 August 2020 Council forum. This followed a recommendation from the Vibrant Communities Arts and Culture Plan, adopted by Council in August 2020, to “Adopt [a] Public Art Policy to support co-creation and commissioning of public art on foreshores, Turquoise Way, DS4A art trail and all public art installation”. Currently the Shire has no adopted policy around development and/or support of public art or a percent for art scheme.

At the August 2021 Ordinary Council Meeting (OCM), Council were presented with a draft Public Art and Percent for Art Policy after the public were given the opportunity to view and provide feedback on

the draft policy. At the meeting, the officer recommendation to “adopt the Public Art and Percent for Art Policy” was not passed. Council’s preference was that the policy remove the requirement of private developers to contribute funds toward public art, but instead encourage and recommend developers participate in a percent for art component to their developments. Council resolved:

COUNCIL DECISION

Moved Cr Shanahun, seconded Scharf

That Council defer adoption of the Public Art and Percent for Art Policy to enable further consideration, by staff and Council, of issues raised through the public consultation process.

CARRIED 7 / 0

COMMENT

Currently, the approach by the Shire for art projects has been predominantly community-driven with no clear thematic or strategic direction on the surrounding environment or site, and although Shire officers have developed procedures to review any submissions, the Officer recommends a more strategic approach to art project support, development, and funding throughout the Shire.

Subsequent to the August 2021 OCM resolution, which related to Council’s concerns that a developer-contribution to the percent for art policy would be a detriment to development in the Shire and would produce a barrier to the Shire being seen as an attractive place for new industries and commercial developments, changes to the draft policy from the original version include:

- Change from the percent for art contribution for new private developments being a requirement, to being a non-mandatory recommendation
- Change to two streams of funding allocation by the Shire of Dandaragan, being:
 1. Addition of a commitment to allocate 1% of the gross yield of budgeted rates income to the Shire of Dandaragan Public Arts Fund (Percent for Public Art) to be expended in accordance with this policy rather than contributions from private developers. An indicative figure for this Shire contribution would be approximately \$65,000 annually: and,
 2. the allocation of funds for public arts to be included within each Shire of Dandaragan public building, urban planning, or urban landscape project as a percentage of capital cost for projects of \$500,000 or more. One per cent for public art will be applied to urban planning, public open space and public building projects involving either new developments or redevelopments.
- Requirement for selection of successful artist and concepts to be endorsed by Council when the project has a value of over \$10,000. These two opportunities for Council’s endorsement may take place at different stages of the project.

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Funding stream 1 mentioned above, would be considered annually during budget deliberations, and placed in a Shire of Dandaragan Public Arts Fund (percent for public art) reserve account at the start of each financial year. Any unspent funds will remain in the Reserve for the purposes of future public art projects.

Given the significant changes to the draft policy, it is the officer's recommendation that the public is given an opportunity to provide further feedback prior to adoption of the policy.

CONSULTATION

A comprehensive community consultation phase was held during the development of the Vibrant Communities Arts and Culture Plan which highlighted the need for a public art policy.

In April / May 2021, a draft Public Art and Percent for Art Policy was advertised to the public for a period of 25 days, prior to being presented to Council for consideration. A schedule of submissions was presented to Council at the 26 August 2021 Ordinary Council Meeting which contained 9 submissions from individuals and community organisations from around the Shire.

It is recommended that the edited draft Public Art and Percent for Art Policy be advertised for public comment prior to being considered for adoption at a future Ordinary Council meeting.

STATUTORY ENVIRONMENT

Local Government Act 1995 S6.11 - Reserve Accounts

6.11. Reserve accounts

- (1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*
- (2) *Subject to subsection (3), before a local government —*
 - (a) *changes* the purpose of a reserve account; or*
 - (b) *uses* the money in a reserve account for another purpose, it must give one month's local public notice of the proposed change of purpose or proposed use.*

** Absolute majority required.*

- (3) *A local government is not required to give local public notice under subsection (2) —*
 - (a) *where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or*
 - (b) *in such other circumstances as are prescribed.*

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- (4) *A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.*
- (5) *Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.*

POLICY IMPLICATIONS

This item recommends the advertising of a draft policy.

FINANCIAL IMPLICATIONS

There are financial implications if the Shire adopts the Public Art and Percent for Art Policy in relation to promotion and advertising of the draft policy.

The policy commits to an allocation of funds for public art of 1% of the value of any future capital project where the capital cost is \$500,000 or more.

In addition, the Shire will allocate 1% of the gross yield of budgeted rates income (indicative contribution is \$65,000 per year) to the Shire of Dandaragan Public Arts Fund (Percent for Public Art) to be expended in accordance with this policy if adopted at a future OCM.

This policy does not, by default, apply to capital transport infrastructure assets, unless determined otherwise by Council.

At annual budget deliberations, to ensure a balanced budget and avoid a reduction in services in other areas, Council would need to consider funding the increased costs as a result of this policy with a 1% increase in rates, to fund the 1% of proposed rateable income allocation to public arts.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029

04 Community	The Shire's resident population will be the fastest growing population in the region supported by increased community recreation and cultural opportunities and access to key liveability factors such as health and wellbeing services and educational opportunities.
Priority Outcomes	Our roles
A Shire built on the strengths of community spirit and resilient, connected communities.	Recognise the value of creative and cultural arts and support its continued growth in our communities.

ATTACHMENTS

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

- Shire of Dandaragan Draft Public Art and Percent for Art Policy (Doc Id: SODR-437506902-6831)

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- Vibrant Communities Arts and Culture Plan (Doc Id: SODR-437506902-6820)
(Marked 9.4.2)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / MOTION

Moved Cr Eyre, seconded Cr Glasfurd

That Council endorse the draft Public Art and Percent for Art Policy for public advertising and consultation.

AMENDMENT

Cr Shanhun, seconded Cr Gibson

That the motion be amended to include adjustments the draft policy to remove the % contribution from the Shire of Dandaragan towards public art as applied to public urban planning, open space and building projects with a capital cost of \$500,000 or more to public arts as a policy statement. The following changes will be required in the policy document to reflect this change:

- a. In Policy Statement Objective 1, delete
“The Shire of Dandaragan will allocate funds of 1% of any new or redevelopment of Shire public building, urban planning, or urban landscape projects with a capital cost of \$500,000 or more to public arts as a policy statement.”
- b. Policy Statement Objective 2, will become Policy Statement Objective 1
- c. Policy Statement Objective 3 will become Policy Statement Objective 2.

CARRIED 9 / 0**COUNCIL DECISION**

Council endorse the draft Public Art and Percent for Art Policy for public advertising and consultation subject to the draft policy being modified as follows:

- a. In Policy Statement Objective 1, delete
“The Shire of Dandaragan will allocate funds of 1% of any new or redevelopment of Shire public building, urban planning, or urban landscape projects with a capital cost of \$500,000 or more to public arts as a policy statement.”
- b. Policy Statement Objective 2, will become Policy Statement Objective 1
- c. Policy Statement Objective 3 will become Policy Statement Objective 2.

CARRIED 9 / 0

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Note: The officer's recommendation was not adopted as Council chose to make changes reducing the scope and financial impact of the draft policy.

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – NOVEMBER COUNCIL STATUS REPORT

Document ID: [SODR-1739978813-4352]

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held Thursday 25 November 2021. **(Marked 9.5.1)**

9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – NOVEMBER 2021

Document ID: [SODR-2045798944-423]

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

9.5.3 SHIRE OF DANDARAGAN – PLANNING STATISTICS – NOVEMBER 2021

Document ID: [SODR-2045798944-424]

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

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

10.1 CORPORATE & COMMUNITY SERVICES

Any new business of an urgent nature requires a resolution of Council in order to be considered.

The following item requires urgent consideration by Council To ensure that the Annual Report is accepted by Council within the timeframe specified in Section 5.54 of the Local Government Act 1995.

Annual Report and Annual Financial Statement inclusive of Auditors Report.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Shanhun

That the following new business of an urgent nature be considered by Council:

Annual Report and Annual Financial Statement inclusive of Auditor's Report.

CARRIED 9 / 0

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10.1.1 ANNUAL REPORT AND ANNUAL FINANCIAL STATEMENT INCLUSIVE OF AUDITOR'S REPORT

Location:	Shire of Dandaragan
Applicant:	N / A
Folder	SODR-1739978813-4561
Disclosure of Interest:	None
Date:	9 December 2021
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To accept the 2020 / 2021 Annual Report inclusive of the 2020 / 2021 Annual Financial Statements and the Auditors Report for the Shire of Dandaragan and to set a date for the Annual General Meeting of Electors.

BACKGROUND

The *Local Government Act (1995)* requires a local government to prepare an annual report for each financial year.

COMMENT

The Shire of Dandaragan finished 2020 / 2021 with a surplus of \$1,409,809, however, the majority of this surplus is as a result of large advance grants and incomplete capital works projects. Therefore, this surplus does not constitute a surplus of funds after all requirements have been met in the true definition of a surplus. It reflects the outstanding commitments that were reprogrammed into the 2020 / 2021 budget.

The primary sources of income for 2020 / 21 were:

- \$6,331,039 of rate income.
- \$7,374,648 in grants.

The Auditors report states the following;

Opinion

I have audited the financial report of the Shire of Dandaragan (Shire) which comprises:

- the Statement of Financial Position at 30 June 2021, the Statement of Comprehensive Income by Nature or Type, Statement of Comprehensive Income by Program, Statement of Changes in Equity, Statement of Cash Flows and Rate Setting Statement for the year then ended
- Notes comprising a summary of significant accounting policies and other explanatory information
- the Statement by the Chief Executive Officer.

In my opinion the financial report of the Shire of Dandaragan:

- is based on proper accounts and records

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- fairly represents, in all material respects, the results of the operations of the Shire for the year ended 30 June 2021 and its financial position at the end of that period in accordance with the *Local Government Act 1995* (the Act) and, to the extent that they are not inconsistent with the Act, Australian Accounting Standards.

The Annual General Meeting of Electors must be held within 56 days of the annual report being accepted. Traditionally this meeting is held after the scheduled Ordinary Council Meeting in January. The January meeting is scheduled to be held in Jurien Bay in 2022 and therefore, it is proposed that the General meeting of electors be held in the Council Chambers at Jurien Bay on 27 January 2022 at 5.30pm.

CONSULTATION

- Chief Executive Officer
- Office of the Auditor General

STATUTORY ENVIRONMENT

Section 5.53 and 5.54 of the *Local Government Act 1995* requires preparation and acceptance of the annual report.

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

* *Absolute majority required.*

Section 5.27 of the Local Government Act 1995 outlines the requirements for the Electors' general meeting

5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item.

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STRATEGIC IMPLICATIONS

The Annual Reports forms an essential tool in the Integrated Planning and Reporting suite of documents to allow the Local Government to report on the achievement of the Shire in relation to the targets set out in the Strategic Community Plan and Corporate Business Plan.

ATTACHMENTS

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

- Annual Report 2020 / 2021 (Doc Id: SODR 1034602345- 10211)
- Annual Report 2020 / 2021 Part II (Doc Id: 1034602345- 10212)
- Transmittal letter from Office of Auditor General (Doc Id: SODR-2042075298-30910)
- Annual Financial Report (Doc Id SODR-2042075298-30912)

(Marked 10.1.1)

VOTING REQUIREMENT

Officer Recommendation 1 - Absolute majority

Officer Recommendation 2 - Simple majority

OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1

Moved Cr Eyre, seconded CR Shanhun

That Council, in accordance with section 5.54 (1) Local Government Act 1995, accept the 2020 / 2021 Annual Report and the 2020 / 2021 Annual Financial Statements inclusive of the Auditors Report.

CARRIED BY ABSOLUTE MAJORITY 9 / 0

OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2

Moved Cr Shanhun, seconded Cr Clarke

That Council, in accordance with section 5.27 of the Local Government Act (1995) set the date for the Annual Meeting of Electors as 27 January 2022 at 5.30pm in the Jurien Bay Council Chambers.

CARRIED 9 / 0

11 CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC

Nil

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 4.43pm.

These minutes were confirmed at a meeting on 27 January 2022

Signed 

Presiding person at the meeting at which the minutes were confirmed

Date 27 January 2022