



SHIRE
of
DANDARAGAN

MINUTES

of the

ORDINARY COUNCIL MEETING

held at the

COUNCIL CHAMBERS, JURIEN BAY

on

THURSDAY 27 JANUARY 2022

COMMENCING AT 4.00PM

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 4.00pm 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 2 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 A Eyre	
Councillor W Gibson	
Councillor R Glasfurd	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

Staff

Mr Pepper	(Acting Chief Executive Officer)
Mr S Clayton	(Executive Manager Corporate & Community Services)
Mr L Fouché	(Executive Manager Development Services)
Ms R Headland	(Council Secretary & Personal Assistant)
Mr R Mackay	(Planning Officer)
Mr T O'Gorman	(Manager Economic Development)
Ms M Perkins	(Manager Customer & Community Services)

Apologies

Councillor J Clarke

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JANUARY 2022**Approved Leave of Absence**

Nil

Observers

Marilyn Gazeley, Tim Bailey

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

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

Moved Cr Eyre, seconded Cr Shanhun

That the following request for leave of absence be approved:

Cr Gibson - 24 February 2022

CARRIED 8 / 0

6 CONFIRMATION OF MINUTES**6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD 16 DECEMBER 2021****COUNCIL DECISION**

Moved Cr Scharf, seconded Cr Eyre

That the minutes of the Ordinary Meeting of Council held 16 December 2021 be confirmed.

CARRIED 8 / 0

7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Steve Mason – (Field Solutions Group)

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 CORPORATE & COMMUNITY SERVICES

9.1.1 ACCOUNTS FOR PAYMENT – DECEMBER 2021

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-28896
Disclosure of Interest:	None
Date:	17 January 2022
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 December 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 December 2021 totalled \$2,637,910.93 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the December 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 is the following item relevant to this report:

Cheque, EFT and direct debit listings for December 2021 (Doc Id: SODR-2042075298-31906)

(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Eyre

That the Cheque and EFT listing for the period ending 30 December 2021 totalling \$2,637,910.93 be adopted.

CARRIED 8 / 0

9.2 INFRASTRUCTURE SERVICES

9.3 DEVELOPMENT SERVICES

9.3.1 PROPOSED HOLIDAY HOUSE – LOT 373 (NO. 10) BOWER STREET, JURIEN BAY

Location:	Lot 373 (No.10) Bower Street, Jurien Bay
Applicant:	Professional Jurien Bayview Realty on behalf of SL Barker, WJ Brady & DB Thurlow
File Ref:	SODR-1262144384-12883
Disclosure of Interest:	Nil
Date:	10 January 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouche, Executive Manager Development Services

PROPOSAL

The proponent is seeking development approval for the use of 10 Bower Street, Jurien Bay as a commercial holiday house.



Location Map – 10 Bower Street, Jurien Bay

BACKGROUND

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

The application was advertised to immediate neighbouring landowners from the 17 November 2021 until 6 December 2021. A total of two submissions were received. One submission was neutral, while the other objected 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 6 guests is classified as a 'Holiday Home' under the Policy. The Policy has the following objectives:

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- *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.

'Amenity' is defined within the Deemed Provisions for local planning schemes in the Planning and Development (Local Planning Schemes) Regulations 2015 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 may affect the amenity of nearby permanent residents. The objection received raised this concern as detailed in the consultation section below.

The premises will be managed locally by Professionals Jurien Bayview Realty who currently operate 33 commercial holiday houses in Jurien Bay with only two incidents reported to the Shire to date.

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In the immediate area of Bower Street to Hasting Street of which 70 plus house are contained, 12 dwellings are currently approved as un-hosted short-term rentals, the highest number of any residential locality within Jurien Bay.

The Policy does not set a standard for how many homes can be approved within given residential localities of the Shire's coastal communities. Submissions received on each application are considered on their planning merit, including the potential impact on the amenity of a given locality.

The Policy does however provide flexibility in the ongoing regulation of holidays homes as all approvals expire annually on June 30. This 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 14 cubic meters of air space to sleep. Space calculations across the house plans result in the requested six guest maximum meeting this criterion. Under the new draft policy workshopped with Council in December, the proposal also complies with new proposed dwelling design method of the number of bedrooms and bathrooms against the sought guest capacity.

The officer recommends granting development approval until June 30, 2022, as the proposal is in keeping with the provisions of the guiding current Policy, and the revised policy in drafting. 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).

CONSULTATION

The following comments were received from neighbouring landowners.

Comments

I wish to voice my opposition to this proposal for a number of reasons. The area I live in was and is an older area of Jurien Bay designated for permanent residents. I have lived in a number of different areas over the time I have been here and when I moved to X, there were very few rentals. At this time there appear to only be a few of us left as permanent residents and I believe there are quite enough holiday homes in this area.

My objections are to the inconsideration of visitors to these holiday rentals including but not limited to the following:

- Late loud/noisy parties in the area often for many consecutive nights.
- Many times there is swearing and inappropriate music when I have grandchildren visiting.
- People running boat motors dry before or after they take the boat out from 0400 hours.
- Odorous rubbish bins put out and staying out for a number of days, lids blowing open as they are overfull and rubbish blowing into my property, including in my backyard.
- Unsecured dogs wandering the streets or barking when their owners go out.

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- Feeding wild birds/seagulls which encourages them to return to the area leading to increase in their droppings on my roof (I have a rainwater tank), vehicle, solar panels & driveway.
- Motor Vehicles using the cul-de-sac in front of 3 houses near mine as a parking area sometimes blocking my driveway.
- Many use it as a turnaround running over my driveway & my lawns, cracking sprinklers and my reticulation.
- Children without any safety gear riding bikes all over the roads – there are minimal foot paths in Bower Street which zig, zag across the road.
- Families playing ball games across the road.
- Rental properties are rarely maintained as well as those of residents.
- Many of them have signs advertising they are rentals and could lead to increase in break-ins.

I arrived home last night from work and found a group on a property behind mine, with loud music and much screaming and yelling by the young residents at a rental near the one you have named. I used to be more tolerant but it appears the longer I am here, the worse the behaviour is becoming. I do not know if this is due to the behaviour of a few or because the number of these holiday houses is increasing.

I ask you to consider these issues in your decision making process. Your focus appears to be on visitors, forgetting the residents are the ones who pay rates, support the local businesses and do not seem to be listened to with these issues.

We don't have a problem as long as all is safe.

The suggestion by the above objector that there are enough holiday homes in the immediate area is not a valid town planning consideration. A limit on the number of holiday homes which can be approved is a form of free-market economic policy which requires resolution by market forces and, as such, falls outside the realm of statutory town planning assessment.

Other outlined concerns are personal views on the reasonable standard of living and fellow residents/visitor behaviour. Nonetheless, should such issues arise and be substantiated against the subject proposal, an approach can be made to the property manager to rectify any irregularities in management in a timely matter. If this does not occur, the Shire can enforce the approval conditions.

STATUTORY ENVIRONMENT

- Planning and Development Act 2005.
- Planning and Development (Local Planning Schemes) Regulations 2015.
- 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, store room, 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 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 108/21 (SODR-1262144384-12545 & SODR-1262144384-12547)

(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION 1

Moved Cr Shanhun, seconded Cr Rybarczyk

That Council approve the development application for the proposed Holiday House land use of the existing Single House at Lot 373 (No.10) Bower Street, 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 six (6) guests at all times.
- 3) The Holiday House shall be operated be in accordance with the 'Code of Conduct', and the 'Fire and Emergency Plan' submitted with the subject development application date stamped 10 November 2021.
- 4) The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 10 November 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

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Planning and Development Act 2005. An application must be submitted within 28 days of the determination.

CARRIED 8 / 0

COUNCIL DECISION

Moved Cr Scharf, seconded Cr Shanhun

That the adjoining and near neighbours are to be advised in writing of Council's determination and that they be advised of all conditions being imposed, together with contact details of relevant officers or agencies should there be a breach of these conditions.

CARRIED 8 / 0

9.3.2 AMENDED BEACH CLOSURE POLICY

Location:	Beaches under the management of the Shire of Dandaragan
File Path:	SODR-410361963-55
Disclosure of Interest:	Nil
Date:	13 January 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouche, Executive Manager Development Services

PROPOSAL

This item seeks Council's adoption of amendments made to the Shire's Beach Closure Policy which is used in instances of a confirmed shark sightings and / or attacks in the vicinity of Shire managed beaches.

BACKGROUND

Council adopted a beach closure policy on 27 September 2018 to meet a prerequisite for the Department of Primary Industries and Regional Development's (DPIRD) Beach Emergency Numbers (BEN) system.

The BEN system, named in honour of fatal shark bite victim Ben Gerring, is a coding system designed to improve emergency response times by installing signs with unique numbers at beach access points. These signs provide specific location information which is vital when emergency services are deployed in the event of a shark sighting, bite, or other beach emergencies.

The current summer tourist season has already seen a number of shark sightings which have led to a review of the current beach closure policy.

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The policy review primarily resulted in amendments to the linking procedural section in the policy. The proposed amended policy aligns with current Shire resources and partner agency approaches.

COMMENT

The procedures for both shark sightings and attacks have been separated into two categories:

Category 1 - Non-patrolled beaches located within the bounds of the townsites of Cervantes and Jurien Bay, and the Sandy Cape Recreational Park.

Category 2 - Not patrolled. No amenities provided. All other beaches within and managed by the Shire of Dandaragan.

The closure procedure is also updated to provide further detail to the appropriate response to be followed with the closure of the beach.

As this approach to beach closures is consistent with other local governments, Council is requested to formally adopt the policy changes.

CONSULTATION

- Emergency Management Coordinator
- Senior Ranger.

STATUTORY ENVIRONMENT

Section 9.10 of the Local Government Act 1995.

Shire of Dandaragan Property Local Law – Part 5 – Matters Relating to Particular Local Government Property, Division 1 – Beaches.

POLICY IMPLICATIONS

As outlined.

FINANCIAL IMPLICATIONS

The policy outlines all beach closure responses will be subject to Shire resources. Provision has been allocated for this in the adopted budget.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Current Beach Closure Policy (Doc ID: SODR-878193511-2695)
- Amended Beach Closure Policy (Doc ID: SODR-410361963-54)

(Marked 9.3.2)

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VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Shanhun, seconded Cr McDonald
That Council adopts the amended version of Council Policy 8.5
C-8BCP05 – Beach Closure Policy as presented in Attachment
9.3.2 without modification.**

CARRIED 8 / 0

9.4 GOVERNANCE & ADMINISTRATION

9.4.1 2021 REVIEW OF DELEGATIONS REGISTER

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-878193511-2554
Disclosure of Interest:	None
Date:	11 January 2021
Author:	Brent Bailey, Chief Executive Officer

PROPOSAL

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

BACKGROUND

The Local Government Act 1995 provides for a local government to delegate some of its powers and duties to the Chief Executive Officer and in some circumstances a committee. The Act also provides for the Chief Executive Officer to delegate any of his / her powers or functions to any employee of the local government. All of the above-mentioned delegations are required to be recorded in a register of delegations and that register must be reviewed on an annual basis.

COMMENT

Under the Local Government Act 1995 Section 5.46, and as part of the annual Compliance Audit Return, delegations are to be reviewed at least once every financial year, in this case 2021-2022.

A review of the Shire's Delegations Register has resulted in changes being made primarily to reflect the roles and responsibilities of the current organisational structure.

CONSULTATION

- Executive Management Team

STATUTORY ENVIRONMENT

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

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

POLICY IMPLICATIONS

There are no policy implications relevant to this item

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Shire of Dandaragan Delegations (Doc Id: SODR-878193511-298)

(Marked 9.4.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Eyre

That Council acknowledge that following a review of its Delegations Register (Doc Id SODR-878193511-298), in accordance Section 5.46 of the Local Government Act 1995, changes have been made to this document to reflect the roles and responsibilities of the current organisational structure.

CARRIED 8 / 0

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – DECEMBER COUNCIL STATUS REPORT

Document ID: [SODR-1739978813-4621]

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 16 December 2021. ***(Marked 9.5.1)***

9.5.2 SHIRE OF DANDARAGAN – EXECUTIVE MANAGER INFRASTRUCTURE REPORT – OCT – DEC 2021

Document ID: [SODR-872172829-2288]

Attached to the agenda is a copy of the Shire of Dandaragan's Executive Manager Infrastructure Report for Oct – Dec 2021. ***(Marked 9.5.2)***

9.5.3 SHIRE OF DANDARAGAN – BUILDING STATISTICS – DECEMBER 2021

Document ID: [SODR-2045798944-437]

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

9.5.4 SHIRE OF DANDARAGAN – PLANNING STATISTICS – DECEMBER 2021

Document ID: [SODR-2045798944-444]

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for December 2021. *(Marked 9.5.4)*

9.5.5 SHIRE OF DANDARAGAN TOURISM / LIBRARIES / COMMUNITY ACTIVITIES REPORT FOR DECEMBER 2021

Document ID: [SODR-1876983588-842]

Attached to the agenda is monthly report for Tourism / Library for December 2021. *(Marked 9.5.5)*

9.5.6 WALGA DRAFT SUBMISSION SHORT TERM RENTAL ACCOMMODATION

Document ID: [SODR-877026889-1450]

Attached to the agenda is a copy of a submission (Draft) on Short Term Accommodation. *(Marked 9.5.6)*

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

Nil

11 CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC

Nil

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13 CLOSURE OF MEETING

The presiding member declared the meeting closed at 4.37pm.

These minutes were confirmed at a meeting on

24 February 2022.

Signed

Jesla Welms

Presiding person at the meeting at which the minutes were confirmed

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Date 24 February 2022