



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

**MINUTES - PUBLIC**

**of the**

**ORDINARY COUNCIL MEETING**

**held at the**

**COUNCIL CHAMBERS, JURIEN BAY**

**on**

**TUESDAY 20 SEPTEMBER 2022**

**COMMENCING AT 4.00PM**

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

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<b>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 20 SEPTEMBER 2022</b>
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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 0 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 P Scharf	(Deputy President)
Councillor J Clarke	
Councillor A Eyre	
Councillor W Gibson	
Councillor R Glasfurd (via Teams)	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

### Staff

Mr S Clayton	(Acting Chief Executive Officer)
Brad Pepper	(Executive Manager Infrastructure Services)
Ms R Headland	(Council Secretary & Personal Assistant)
Mr R Mackay	(Planning Officer)
Ms M Perkins	(Manager Community & Customer Services)

### Apologies

### Approved Leave of Absence

Councillor L Holmes

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 20 SEPTEMBER 2022****Observers**

Mrs M Stewart

**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 COUNCIL MEETING HELD 25 AUGUST 2022****COUNCIL DECISION**

Moved Cr Eyre, seconded Cr Clarke

That the minutes of the Ordinary Meeting of Council held 25 August 2022 be confirmed.

**CARRIED 8 / 0**

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

The Presiding Member conducted a one minutes silence in acknowledgement in the passing of Queen Elizabeth II.

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

Nil

## 9 REPORTS OF COMMITTEES AND OFFICERS

### 9.1 CORPORATE & COMMUNITY SERVICES

#### 9.1.1 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 31 AUGUST 2022

Location:	Shire of Dandaragan
Applicant:	N/A
Folder	SODR-1743450996-2640
Disclosure of Interest:	None
Date:	12 September 2022
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 August 2022.

#### 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 August 2022.

#### COMMENT

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

##### 1. Net Current Assets

Council's adjusted net current assets surplus / (deficit) position as at the 31 August 2022 was \$9,922,936. Net current Asset are calculated by deducting current liabilities from current assets as reported in the Statement of Financial Position. In accordance with regulation 34 of the Local Government Financial Management Regulations (1996) the net current assets are adjusted to establish a surplus / (deficit) position within the monthly financial statements. The current position indicates that Council can easily meet its short-term liquidity or solvency.

The adjusted net current assets position is reflected on page 10 and reconciled with the Rate Setting Statement on page 3 of the financial statements.

The amount raised from rates, shown on the Rate Setting Statement (page 3), reconciles with note 2 (page 9) 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.

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Note 14 (page 24) of the attached report details any significant variances.

Should Councillors wish to raise any issues relating to the 31 August 2022 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 August 2022 (Doc Id: SODR-1743450996-2695)

***(Marked 9.1.1)***

#### VOTING REQUIREMENT

Simple majority

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

**Moved Cr Shanhun, seconded Cr Eyre**

**That the monthly financial statements for the period 31 August 2022 be adopted.**

**CARRIED 8 / 0**

### **9.1.2 ACCOUNTS FOR PAYMENT – AUGUST 2022**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-36502
Disclosure of Interest:	None
Date:	9 September 2022
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

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PROPOSAL

To accept the cheque, EFT, BPAY and direct debit listing for the month of August 2022.

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 August 2022 totalled \$1,305,654,84 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the August 2022 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 August 2022 (Doc Id: SODR-2042075298-42114)

**(Marked 9.1.2)**

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Glasfurd, seconded Cr Shanhun**

**That the Cheque and EFT listing for the period ending 31 August 2022 totalling \$1,305,654,84 be adopted.**

**CARRIED 8 / 0**



### 9.1.3 STATE LIBRARY WA GRANT

Location:	Shire of Dandaragan
Applicant:	
Folder Path:	SODR-1876983588-1148
Disclosure of Interest:	Nil
Date:	9 September 2022
Author:	Michelle Perkins, Community Development Officer
Senior Officer:	Scott Clayton, Executive Manager Corporate & Community Services

#### PROPOSAL

For Council to recognise the State Library WA (SLWA) grant to the amount of \$5,000 and authorise a Libraries Budget Amendment to the same amount in order for Shire Staff to undertake coordination of the Living Green Series: Environmental Learning at Your Library.

#### BACKGROUND

The Shire provides library services funding through its annual budget processes in accordance with the Community Strategic Plan and the Shire Corporate Business Plan. To build on the activation of the Shire's libraries, additional funding from external sources is sought in order to continue to expand activation of the Shire's facilities for families around the Shire.

#### COMMENT

In August 2022, the Shire of Dandaragan community services team was successful in obtaining a \$5,000 Encouraging Promising Practice grant from SLWA to run an annual suite of environmental activities and workshops in the Jurien Bay Library. Early planning indicates that up to 9 workshops will be held over the coming months, supported by an environment learning book club and other associated activities.

Environmental learning workshops were chosen due to the strong feedback from the community to live more sustainably and develop 'greener' habits as indicated in the Shire's strategic planning consultation during development of the Corporate Business Plan - Envision 2029.

The workshops will be facilitated by Ecoburbia, who run an alternative in-fill development, community garden and education hub in the Perth metropolitan area, and who are experienced environmental educators.

The project will be co-funded by the SLWA and the Shire of Dandaragan through annual themed event funding.

#### CONSULTATION

Nil

#### STATUTORY ENVIRONMENT

Local Government Act 1995 - Section 6.8 Expenditure from municipal fund not included in annual budget

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### **6.8 Expenditure from municipal fund not included in annual budget**

- (1) A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –
- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or (b) is authorised in advance by resolution; or
- (c) is authorised in advance by the mayor or president in an emergency

\* Absolute majority required.

- (1a) In subsection (1) —
- additional purpose** means a purpose for which no expenditure estimate is included in the local government's annual budget.
- (2) Where expenditure has been incurred by a local government —
- (a) pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and
- (b) pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.

### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

### FINANCIAL IMPLICATIONS

The State Library WA grant will increase the Libraries budget by \$5,000, partly funding the Living Green Series. The remainder of expenses related to the Series will be funded through the Shire's annual budget for Other Materials and Contracts Expenses line item - annual themed activation events

### 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.
<b>Priority Outcomes</b>	<b>Our roles</b>
A Shire built on the strengths of community spirit and resilient, connected communities.	Support and promote inclusive events that enhance and celebrate community and cultural spirit that bring our communities together.

ATTACHMENTS

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

- State Library WA Grant / Letter of Agreement (Doc Id: SODR-1876983588-1150)
- State Library WA EPP Grant Conditions (Doc Id: SODR-1876983588-1151)

**(Marked 9.1.3)**

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Gibson, seconded Cr Eyre**

**That Council authorise a budget amendment to:**

- 1. recognise an operating grant from the State Library WA's Encouraging Promising Practice grant to the amount of \$5,000;**
- 2. increase the annual budget's Materials and Contracts item within the Libraries sub-program for the amount of \$5,000 in order for Shire staff to undertake coordination of the Living Green Series.**

**CARRIED BY ABSOLUTE MAJORITY 8 / 0**

**9.1.4 YUED PLACE NAMES PROJECT FUNDING AND ACTION PLAN**

Location:	Shire of Dandaragan
Applicant:	Nil
Folder Path:	SODR-1876983588-1143
Disclosure of Interest:	Nil
Date:	22 August 2022
Author:	Michelle Perkins, Manager Customer and Community Services
Senior Officer:	Scott Clayton, Executive Manager Corporate and Community Services

PROPOSAL

For Council to consider a budget amendment to participate in Community Arts Network WA Place Names Project and review the need for a Yued Working Group.

BACKGROUND

In May 2018, the Shire began a consultation process for the naming of two public reserves in Beachridge, Jurien Bay. Submissions were received and polled and a Yued name was selected for one park. The request for a Yued name originated from a non-Indigenous community member and the name itself was developed in consultation with Kwelena Mambakort Aboriginal Corporation and other Yued Elders from the area. The Yued language park name -Djidi Djal - was polled alongside a number of other non-Indigenous names and the Yued name received the most public support. The public's selection of the Yued name highlighted the

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support for acknowledging traditional owners of the area and a growing appetite for programs such as dual place-naming.

In November 2020, the Western Australia Lands Minister Ben Wyatt launched the Aboriginal and Dual Naming Guidelines for naming Western Australian geographic features and places to help preserve and reawaken local languages through Aboriginal place names. Developed in consultation with local governments, Aboriginal organisations and other key stakeholders, the guidelines gave communities across Western Australia the tools to identify opportunities for Aboriginal place naming and implement them. The emphasis of the guidelines is early engagement and consultation with traditional owners, acknowledging the importance of their connection to Country. Capturing and recording original place names and their relationship to geographical features and places recognizes, and will help preserve, Aboriginal cultural heritage.

WA Local Government Association (WALGA) supported the State Government's initiative and have encouraged local governments to undertake dual naming activities and held several dual naming sessions and seminars for local government Councillors and staff in 2020.

That same year, Council allocated \$3,000 towards the creation of a working group to develop a Yued Action Plan. Staff have been working to progress this and have had discussions with a number of Yued Elders and other members of the Yued community to determine a way forward for creating such a group.

#### COMMENT

In July, the Shire President and staff met with local Yued Elder, Margaret Drayton, who is a member of the Yued Aboriginal Corporation's Cultural Advice Committee and a member of Community Art Network WA's (CAN) Aboriginal Advisory Group. Ms Drayton provided advice for a possible solution for the Shire's plan to develop a Yued working group. She advised that she did not believe it would be effective or efficient to establish another working group, particularly with the recent establishment of the Southwest Aboriginal Land and Sea Council's (SWALSC) Yued Cultural Advice Committee which is made up of 12 Yued Elders - 6 female members and 6 male members.

The Yued region includes the towns within the Shire of Dandaragan, as well as Leeman, Two Rocks, Toodyay, Gingin, Calingiri, Dalwallinu, Coorow and Moora, and the Shire's sub-region contains several sites significant to the Yued people, including, but not limited to, Hill River and the Pinnacles.

Ms Drayton's advice was to focus instead on development of a statement of commitment from the Shire relating to issues impacting, and inclusivity of, Yued people, in particular issues relevant to the local Yued community and the Shire, in consultation

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with Kwelena Mambakort Aboriginal Corporation (KMAC), Beemurra Aboriginal Corporation (BAC) (both Shire-based) and the broader Yued Aboriginal Corporation's Cultural Advice Committee (YACCAC). This would ensure a locally-produced statement which is reviewed from a broader sub-regional perspective utilizing established existing networks and committees.

Around the same time, the Shire was contacted by the CEO of Community Arts Network (CAN) – of which Ms Drayton is an Aboriginal Advisory Group member - to gauge interest in the Shire's involvement in their Place Names Project. Place Names is an Aboriginal community art project, which CAN has coordinated around Western Australia for over 5 years, that harnesses community-held knowledge and using academic rigour to unpack the original meanings behind Noongar placenames.

Inspired by Len Collard's seminal research which highlights that every Noongar placename is a sentence often describing a place's meaning, CAN and Moodjar Consultancy have developed a community-led model, Place Names, that decodes the ancient meanings embedded in placenames, through artistic expression. Professor Len Collard, a Whadjuk Noongar Elder, is Australian Research Council Chief Investigator with the School of Indigenous Studies at the University of Western Australia (UWA). The process puts Noongar knowledge at the forefront, drawing on local Elders' language and memories as primary sources, while drawing on historical documents and wordlists created by European settlers, to uncover the meaning of the placename.

Working through this model, the community would use Yued naming conventions for a specific local site. Once consensus is reached on both the site to be named and the name itself, the group (facilitated by CAN) begin a creative process resulting in collaborative artworks – developed by local Elders, students and emerging creators, alongside professional artists. The project is designed to promote intergenerational learning, a shared understanding of cultural identity and reconciliation as the use of Noongar placenames spreads throughout the wider community. The way in which the project team develop a community artwork is specific to each location and would be determined by the Yued project team in consultation with CAN.

To date, CAN have run the Place Name projects in 6 geographical areas/towns including Moora, Katanning, and Albany, with local governments partnering to develop language around sites previously unnamed or known.

City of Albany Place Names project involved Community Arts Network working with a group of high school students from Albany who were joined by Menang Elders and community members to make a documentary, Noongar Boodja, that celebrated Noongar place names, language and culture. During the project, the students

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learnt about filmmaking via a series of intensive workshops led by filmmaker Rafael Baro – the community art element - where the students gained in-depth knowledge about documentary filmmaking. Covering everything from camera operation, to filming techniques and scriptwriting. Artist Lincoln MacKinnon also joined the team to teach the editing process. Beyond gaining filmmaking skills, the project also facilitated the intergenerational exchange of culture and knowledge. Student-led interviews with Noongar Elders documented stories and significant places while fostering knowledge-sharing between generations. This led to Noongar Boodja, a short film that explores the concept of dual naming prominent locations while highlighting the connection between language, place and identity. Noongar Boodja was launched in Albany in August 2018, before being distributed to global film festivals.

Shire of Katanning's project involved CAN working with Elders and community from the Great Southern towns of Katanning, Tambellup, Gnowangerup and Badgebup to begin the decoding of Noongar placenames. They undertook a process of collating, recollecting and remembering cultural knowledge to put back together the story of Mulka and Djinda. It is a story deeply embedded in land/country (boodja) and holds the meaning behind Katanning and surrounding towns, highlighting that these place names are more than words but form part of a greater, significant Noongar story. Under the guidance of puppeteer Karen Hethey and community artist Natalie Scholtz a collection of puppets were created to facilitate the storytelling and share a version of the story to the public (originally for Harmony Day). In response, to COVID-19 restrictions, a shift to a pop-up exhibition in the main street meant Katanning Place Names participants could still feel the power of the project and share it with their community.

CAN have an indicative budget of \$175,920 for roll-out of a Place Names project, and recently received part-funding of \$155,920 through the Australian Government's Indigenous Languages and Arts program to continue the Place Names Project in a new location, however, this leaves a shortfall of \$20,000. CAN have approached the Shire of Dandaragan as a local government partner for funding to host a Place Names project locally within the Dandaragan Shire.

Yued Elders have indicated a strong desire to participate in a CAN Yued Place Names project in the Shire of Dandaragan. Discussions with Yued Elder Margaret Drayton, to date, have indicated that existing abovementioned Yued committees and contacts, could be engaged with to build connections and reconciliation for the development of the Place Names project. The project would be facilitated by Moodjar Consultancy (Len Collard) and coordinated by CAN, a not-for-profit WA organisation whose aim is to unlock WA's stories through community participation in art.

Simultaneously, in planning to progress development of a Yued Working Group, Ms Drayton indicated a preference to utilise the

same networks, committees, and contacts to assist the Shire to develop a draft statement of commitment (in place of a reconciliation action plan), rather than establish a new working group. She indicated that attempts to establish a new working group may not be successful given the recent establishment of the Yued Aboriginal Corporation's Cultural Advice Committee. Development of the statement would remain as a Council-led process, whilst obtaining feedback and direction from the existing YACCAC, KMAC AND BAC committees. This would allow staff to achieve both goals without the need to establish a new working group.

By supporting this project, the Shire can achieve a hands-on, participatory Yued-led activity that progresses the Shire's desire for acknowledging the traditional owners in a practical way and building links with existing networks of influence in this space and reawaken local languages through Aboriginal placenames. A benefit of the Shire's involvement in this project would be to provide opportunities to gather information relevant to the development of the statement of commitment. These two projects are not reliant on each other to succeed.

The total funds required for the participation in this project is \$20,000. Should Council choose to not fund the project, CAN have indicated they will not undertake a Place Names project in the Shire and will partner with another Shire. The Shire, however, could begin to utilise these existing networks even without the Place Names project proceeding.

If Council choose to fund the project and the project artwork is a public art piece, the project team would be required to follow the Shire's recently adopted Public Arts Policy for approval and installation of any public artwork.

#### CONSULTATION

- Kwelena Mambakort Aboriginal Corporation
- Yued Elder, Margaret Drayton
- Community Arts Network

#### STATUTORY ENVIRONMENT

Local Government Act 1995 – Section 6.8 Expenditure from municipal fund not included in annual budget

#### **6.8. Expenditure from municipal fund not included in annual budget**

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
- (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
  - (b) *is authorised in advance by resolution\*;* or
  - (c) *is authorised in advance by the mayor or president in*

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*an emergency.*

*\* Absolute majority required.*

- (1a) *In subsection (1) — **additional purpose** means a purpose for which no expenditure estimate is included in the local government's annual budget.*
- (2) *Where expenditure has been incurred by a local government*
- (a) *pursuant to subsection (1)(a), it is to be included in the annual budget for that financial year; and*
- (b) *pursuant to subsection (1)(c), it is to be reported to the next ordinary meeting of the council.*

#### FINANCIAL IMPLICATIONS

Approval of this expenditure will put the 2022/23 into a \$20,000 deficit position. However, early indications are that there will be additional income available at budget review time to more than offset this additional cost and return the budget to a balanced position.

#### 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.
<b>Priority Outcomes</b>	<b>Our Roles</b>
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.

Corporate Business Plan – Envision 2021-25

PO.2 - Community	A safe, healthy, smart and active community that values its history and supports intergenerational relationships.
<b>Key Action</b>	<b>Our Roles</b>
Acknowledging Yued People, Country and Culture.	Develop and implement a strategy to foster strong relationships and continue the Reconciliation movement with our traditional owners, the Yued People incorporating key symbolic practices such as Welcome to Country and Acknowledge of Country at key Shire functions and events

#### ATTACHMENTS

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



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- Aboriginal and Dual Naming Guidelines - Landgate (Doc Id: SODR-437506902-9492)
- Place Names – WALGA Presentation 2020 (Doc Id: SODR-437506902-9493)

**(Marked 9.1.4)**

**VOTING REQUIREMENT**

Absolute Majority – Recommendation 1

Simple Majority – Recommendation 2

**OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1**

**Moved Cr Eyre, seconded Cr Clarke**

**That Council authorise a budget amendment to recognise an additional Materials and Contracts expense of \$20,000 within the ‘Other Culture’ sub-program to provide a participation contribution to the Community Arts Network’s Place Names project.**

**CARRIED BY ABSOLUTE MAJORITY 5 / 3**

**OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2**

**Moved Cr Gibson, seconded Cr Rybarczyk**

**Request the Chief Executive Officer to consult with existing Yued corporations and committees to develop the Shire’s draft statement of commitment to First Nations Australians for Council consideration, in lieu of establishing a Shire-specific Yued Working Group.**

**CARRIED 8 / 0**

## **9.2 INFRASTRUCTURE SERVICES**

## **9.3 DEVELOPMENT SERVICES**

### **9.3.1 PROPOSED HOLIDAY HOUSE – LOT 1082 (NO. 36) CASUARINA CRESCENT, JURIEN BAY**

Location:	Lot 1082 (No.36) Casuarina Crescent, Jurien Bay
Applicant/Landowner:	Peter Morgan & Yiqun Li
File Ref:	SODR-1262144384-15345
Disclosure of Interest:	Nil
Date:	5 September 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The proponent is seeking development approval for the use of 36 Casuarina Crescent, Jurien Bay as a commercial holiday house.



Location Plan – 36 Casuarina Crescent, Jurien Bay

BACKGROUND

A four-bedroom double-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 from 5 August 2022 until 26 August 2022. A total of three submissions were received, two of which 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.

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Local Planning Policy 9.12 Short-Term Rental Accommodation (Policy) has been adopted by Council to guide the assessment of holiday house development applications. The subject application for up to eight guests within a single dwelling is classified as a 'Holiday House' under the Policy. The Policy has the following objectives:

- *To support the role of un-hosted short-term rental accommodation as part of the tourism industry.*
- *To provide for the safety of guests who may be less familiar with the dwelling and surrounding environment.*
- *To establish development standards for unhosted short-term rental accommodation to avoid off-site impacts and maintain the desired amenity of the Residential, Rural Residential and Regional Centre zones.*
- *To encourage the provision of good quality, well managed unhosted short-term rental accommodation.*

There are currently no commercial holiday houses approved in close proximity to this proposal. Previously the adjoining 38 Casuarina Crescent and the adjacent 2 Bayview Court operated as such, however the holiday house development approvals for both properties were not renewed for the 2022/23 financial year at the request of both landowners.

#### 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 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.

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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 objections received raised this concerned as detailed in the consultation section below.

The premises will be managed locally by Ray White Jurien Bay who currently manages fifteen (15) commercial holiday houses in Jurien Bay with no incidents reported to the Shire to date. This management arrangement provides a point of call for neighbouring landowners/tenants surrounding the proposed holiday house.

An assessment of the proposal against the deemed-to-comply criteria of the Policy is displayed in the following table.

Deemed-to-comply Provision	Proposed
<p><u>Utility Servicing</u> The premises is:</p> <ol style="list-style-type: none"> <li>connected to reticulated water for the exclusive use of the premises; and</li> <li>located within the Shire's kerbside refuse collection area; and</li> <li>connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of guests.</li> </ol>	<p><u>Compliance</u> Connected to reticulated water and sewer, and has an active rubbish collection service.</p>
<p><u>Vehicle Parking</u> The premises will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the Residential Design Codes of Western Australia, but with no more than any of two bays arranged one behind the other in accordance with the following rates: 7-8 guests = minimum of 3 bays</p>	<p><u>Compliance</u> Double garage serviced by a 11m long driveway. Can accommodate 3+ vehicles.</p>
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> <li>The premises is an existing, lawful dwelling.</li> <li>There is 5.5m<sup>2</sup> per guest in each bedroom utilising beds.</li> <li>Bedrooms in a premises are provided in accordance with the following rates: 8-12 guests = 4 bedrooms</li> <li>Bathrooms and toilets are provided in accordance with the following rates: 7-12 guests = 1 or 2 bathrooms and 2 toilets</li> </ol>	<p><u>Compliance</u> Lawful 4 bedroom dwelling. 2 bathrooms and 2 toilets provided.</p> <p><u>Non-Compliance</u> 4<sup>th</sup> bedroom 0.3m<sup>2</sup> less than required 11m<sup>2</sup> to accommodate 2 adult guests.</p>
<p><u>Overcrowding</u> Each occupant over the age of 10 years has 14m<sup>3</sup> of airspace within a bedroom for sleeping purposes. Each occupant 10 years and under has 8m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</p>	<p><u>Non-Compliance</u> 4<sup>th</sup> bedroom 2.3m<sup>3</sup> less than required 28m<sup>3</sup> to accommodate 2 adult guests. However, 4<sup>th</sup> bedroom could accommodate 1 adult or 2 persons between the ages of 1 and 10 years.</p>

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Where a proposal does not meet the deemed-to-comply provisions of the Policy, it is required to be assessed against the relevant performance criteria to determine its acceptability. The following performance criteria relate to the outlined non-compliance for the subject proposal.

*Dwelling Design - The Shire is satisfied that the dwelling design in terms of bedroom configuration is appropriate to accommodate the proposed maximum number of guests.*

*Overcrowding - The Shire is satisfied the proposed maximum number of occupants can meet the sleeping airspace requirements by use of a suitable habitable room which is not a bedroom.*

As the non-compliance of the subject proposal relates to a shortfall in square and cubic space of the fourth bedroom for adults, when assessed against the above performance criteria, a condition of development approval is recommended requiring that the fourth bedroom does not sleep more than one guest over the age of 10 years, or two guest 10 years old or younger to comply with the *Shire of Dandaragan Health Local Laws*.

Given the above, granting conditional development approval is recommended until 30 June 2023. 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 submissions were received from neighbouring landowners.

Comments
I have no objection to this application being for 8 guests.
We are opposed to a short stay accommodation holiday house near our house. In the past we experienced higher than normal noise levels and an invasion of privacy.
We are definitely opposed to this proposal. We chose to buy in Jurien Bay to live out our later days, for the peace and quiet, no anti-social behaviour, and friends who are of the same mind set. Can you assure use 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 Sate Administrative Tribunal or Minister for Local Government.

In regard to the third submission, under the *Planning and Development Act 2005* there are no third-party appeal rights to development application decisions made by a responsible town planning authority in Western Australia. If the application is approved, the submitter will be advised of the property manager's contact details and a sign will be required to list such details at the property's frontage. This will provide the first point of call for all neighbouring landowners/tenants surrounding the proposed holiday house.



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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—*
  - (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.*

POLICY IMPLICATIONS

Local Planning Policy 9.12 Short-Term Rental Accommodation – as outlined.

FINANCIAL IMPLICATIONS

The applicant has paid the required 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 83/22 (SODR-1262144384-14839) (SODR-1262144384-14838)  
**(Marked 9.3.1)**

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Shanhun, seconded Cr Clarke**

**That Council approve the development application for the proposed Holiday House at Lot 1082 (No.36) Casuarina**

Crescent, Jurien Bay, subject to following conditions and advice:

**Conditions**

1. Development shall be carried out only in accordance with the details of the application as approved herein and any approved plan. Subject to any modifications required as a consequence of any conditions of this approval the approved plans shall not be altered without the prior written approval of the Shire of Dandaragan.
2. 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.
3. The total number of people to be accommodated in the Holiday House shall not exceed eight (8) guests at all times.
4. The fourth bedroom of the Holiday House shall not accommodate more than one (1) guest eleven (11) years old or older, or two (2) guests ten (10) years old or younger, to the satisfaction of the Shire of Dandaragan.
5. 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 20 July 2022.
6. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 20 July 2022.
7. All vehicle parking must be confined to the Holiday House premises.
8. This development approval is valid until the 30 June 2023. The Holiday House land use should cease before or on this date unless otherwise approved in writing by the Shire of Dandaragan.
9. A sign up to 0.2m<sup>2</sup> in area listing the approved manager's contact details is to be erected/placed on a frontage wall, fence or entry statement to the premises to the satisfaction of the Shire of Dandaragan.

**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 house ten years and older requires fourteen cubic metres of airspace to sleep.
- 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.

CARRIED 8 / 0

### 9.3.2 PROPOSED HOLIDAY HOUSE – LOT 1004 (NO. 9) PROTON PLACE, JURIEN BAY

Location:	Lot 1004 (No.9) Proton Place, Jurien Bay
Applicant/Landowner:	Bradley Palmer
File Ref:	SODR-1262144384-15351
Disclosure of Interest:	Nil
Date:	6 September 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

#### PROPOSAL

The proponent is seeking development approval for the use of 9 Proton Place, Jurien Bay as a commercial holiday house.





Location Plan – 9 Proton Place, Jurien Bay

### BACKGROUND

A four-bedroom, single-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 from 5 August 2022 until 26 August 2022. One submission was received.

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.

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Local Planning Policy 9.12 Short-Term Rental Accommodation (Policy) has been adopted by Council to guide the assessment of holiday house development applications. The subject application for up to eight guests within a single dwelling is classified as a 'Holiday House' under the Policy. The Policy has the following objectives:

- *To support the role of un-hosted short-term rental accommodation as part of the tourism industry.*
- *To provide for the safety of guests who may be less familiar with the dwelling and surrounding environment.*
- *To establish development standards for unhosted short-term rental accommodation to avoid off-site impacts and maintain the desired amenity of the Residential, Rural Residential and Regional Centre zones.*
- *To encourage the provision of good quality, well managed unhosted short-term rental accommodation.*

There are currently three commercial holiday houses approved in close proximity to this proposal. They are located at 10 Villaret Way, 9 Maniki Gardens and 3 Corella Loop.

#### 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 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

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nearby permanent residents. The submission received raised this concern as detailed in the consultation section below.

The premises will be managed locally by Professionals Jurien Bayview Realty who currently manages more than thirty (30) commercial holiday houses in Jurien Bay with no incidents reported to the Shire in the last two (2) years. This management arrangement provides a point of call for neighbouring landowners/tenants surrounding the proposed holiday home.

An assessment of the proposal against the deemed-to-comply criteria of the new Policy is displayed in the following table.

<b>Deemed-to-comply Provision</b>	<b>Proposed</b>
<p><u>Utility Servicing</u> The premises is:</p> <ol style="list-style-type: none"> <li>connected to reticulated water for the exclusive use of the premises; and</li> <li>located within the Shire's kerbside refuse collection area; and</li> <li>connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of guests.</li> </ol>	<p><u>Compliance</u> Connected to reticulated water and sewer, and has an active rubbish collection service.</p>
<p><u>Vehicle Parking</u> The premises will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the Residential Design Codes of Western Australia, but with no more than any of two bays arranged one behind the other in accordance with the following rates: 7-8 guests = minimum of 4 bays</p>	<p><u>Compliance</u> Double garage serviced by a 10m long driveway. Can accommodate 4 vehicles.</p>
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> <li>The premises is an existing, lawful dwelling.</li> <li>There is 5.5m<sup>2</sup> per guest in each bedroom utilising beds.</li> <li>Bedrooms in a premises are provided in accordance with the following rates: 8-12 guests = 4 bedrooms</li> <li>Bathrooms and toilets are provided in accordance with the following rates: 7-12 guests = 1 or 2 bathrooms and 2 toilets</li> </ol>	<p><u>Compliance</u> Lawful 4-bedroom dwelling with at least 5.5m<sup>2</sup> per guest in each bedroom  2 bathrooms and 2 toilets provided.</p>
<p><u>Overcrowding</u> Each occupant over the age of 10 years has 14m<sup>3</sup> of airspace within a bedroom for sleeping purposes. Each occupant 10 years and under has 8m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</p>	<p><u>Compliance</u> At least 14m<sup>3</sup> of airspace per guest in each bedroom</p>

Given the above, granting conditional development approval is recommended until 30 June 2023. On cessation of this period, any

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complaints received against the premises will be reviewed before renewal for another 12-month period is provided (if forthcoming).

**CONSULTATION**

The following submission was received from neighbouring landowners.

<b>Comment</b>
<ul style="list-style-type: none"> <li>▪ Zero tolerance for overcrowding (more than 8)</li> <li>▪ Zero tolerance for Anti-Social behaviour</li> <li>▪ Zero tolerance for Parties that impact on us</li> <li>▪ Zero tolerance for Loud Music that impacts on us</li> </ul> <p>I have noted the Professionals Jurien Bayview Realty are the listed property manager and they will be our first point of contact, prior to Police in the event of any of the above, regardless of the time of day or night, as they are responsible for taking the booking. Please provide contact details.</p> <p>As local residents we are aware that there is a shortage of long-term rental properties available for people living and working in the area, why can't this property be made available to help ease this problem in the town?</p> <p>Please copy this communication to the other residents of Proton Place, the owner of 9 Proton Place and the Property Manager.</p> <p>If you approve this application, are you adding value/quality of life to the permanent residents that live in Proton Place and the surrounding area?</p>

It is noted, to an extent, that the submitter supports the conditional approval of the subject holiday house. However due to the concern raised on how the proposal will affect the locality's amenity the application has been referred to Council in accordance with Delegation 9.1.2 (Town Planning – Other Use and Development).

The suggestion by the submitter that the subject dwelling should be rented for residential purposes is noted, however in this instance, the subject landowner has made use of their development rights afforded to them under the Scheme to apply for a development application for a holiday house. A limit on the number of holiday houses 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.

**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.

**POLICY IMPLICATIONS**

Local Planning Policy 9.12 Short-Term Rental Accommodation – as outlined.

**FINANCIAL IMPLICATIONS**

The applicant has paid the required 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 85/22 (SODR-1262144384-14948)  
**(Marked 9.3.2)**

**VOTING REQUIREMENT**

Simple majority.

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Eyre, seconded Cr Clarke**

**That Council approve the development application for the proposed Holiday House at Lot 1004 (No.9) Proton Place, Jurien Bay, subject to following conditions and advice:**

**Conditions**

- 1. Development shall be carried out only in accordance with the details of the application as approved herein and any approved plan. Subject to any modifications required as a consequence of any conditions of this approval the approved plans shall not be altered without the prior written approval of the Shire of Dandaragan.**
- 2. 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.
3. The total number of people to be accommodated in the Holiday House shall not exceed eight (8) guests at all times.
  4. 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 3 August 2022.
  5. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 3 August 2022.
  6. All vehicle parking must be confined to the Holiday House premises.
  7. This development approval is valid until the 30 June 2023. The Holiday House land use should cease before or on this date unless otherwise approved in writing by the Shire of Dandaragan.
  8. A sign up to 0.2m<sup>2</sup> in area listing the approved manager's contact details is to be erected/placed on a frontage wall, fence or entry statement to the premises to the satisfaction of the Shire of Dandaragan.

#### **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 house ten years and older requires fourteen cubic metres of airspace to sleep.
- 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.

**CARRIED 8 / 0**

### 9.3.3 RETROSPECTIVE HOLIDAY HOUSE – LOT 22 (NO. 34) PADBURY STREET, JURIEN BAY

Location:	Lot 22 (No.34) Padbury Street, Jurien Bay
Applicant/Landowner:	Maria & Nigel Broadhead
File Ref:	SODR-1262144384-15367
Disclosure of Interest:	Nil
Date:	7 September 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

#### PROPOSAL

The proponent is seeking retrospective development approval for the use of 34 Padbury Street, Jurien Bay as a commercial holiday house.



Location Pan – 34 Padbury Street, Jurien Bay

#### BACKGROUND

On 24 July 2022 Shire staff received a complaint that the subject dwelling was being used as a commercial holiday home for up to 16 guests without development approval from the Shire. A notice of intention to issue an order under Section 214 of the *Planning and Development Act 2005* was sent to the landowner on 27 July 2022. A retrospective development application for a holiday house was received on 4 August 2022.

A four-bedroom split level dwelling exists on the subject property which has both front and rear right of way access via Old Church Lane. The proponent has lodged a development application to seek approval to accommodate up to twelve guests for short stay bookings, not exceeding three consecutive months.

The application was advertised to immediate neighbouring landowners from 12 August 2022 until 2 September 2022. A total of six submissions were received, all of which 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 Short-Term Rental Accommodation (Policy) has been adopted by Council to guide the assessment of holiday house development applications. The subject application for up to twelve guests within a single dwelling is classified as a 'Holiday House' under the Policy. Twelve guests is the maximum guest capacity permitted under the Policy. The Policy has the following objectives:

- *To support the role of un-hosted short-term rental accommodation as part of the tourism industry.*
- *To provide for the safety of guests who may be less familiar with the dwelling and surrounding environment.*
- *To establish development standards for unhosted short-term rental accommodation to avoid off-site impacts and maintain the desired amenity of the Residential, Rural Residential and Regional Centre zones.*
- *To encourage the provision of good quality, well managed unhosted short-term rental accommodation.*

The following commercial holiday houses are approved in proximity to this proposal:

- 5, 6, 9 and 19 Lindsay Street
- 16 and 17 Grigson Street
- 6 and 11 Cook Street

#### 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



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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 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 objections received raised this concerned as detailed in the consultation section below.

The premises will be managed by Mr David Richards of Whitfield Road, Jurien Bay. This management arrangement provides a point of call for neighbouring landowners/tenants surrounding the proposed holiday home.

An assessment of the proposal against the deemed-to-comply criteria of the Policy is displayed in the following table.

Deemed-to-comply Provision	Proposed
<p><u>Utility Servicing</u> The premises is:</p> <ol style="list-style-type: none"> <li>1. connected to reticulated water for the exclusive use of the premises; and</li> <li>2. located within the Shire's kerbside refuse collection area; and</li> <li>3. connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of guests.</li> </ol>	<p><u>Compliance</u> Connected to reticulated water; has an approved septic system; and has an active rubbish collection service.</p>
<p><u>Vehicle Parking</u> The premises will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the Residential Design Codes of Western Australia, but with no more than any of two bays arranged one behind the other in accordance with the following rates:</p>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> <li>▪ 2 front parking bays provided</li> <li>▪ 4 rear parking bays provided</li> </ul>

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9-12 guests = minimum of 4 bays	
<u>Dwelling Design</u> 1. The premises is an existing, lawful dwelling. 2. There is 5.5m <sup>2</sup> per guest in each bedroom utilising beds. 3. Bedrooms in a premises are provided in accordance with the following rates: 8-12 guests = 4 bedrooms 4. Bathrooms and toilets are provided in accordance with the following rates: 7-12 guests = 1 or 2 bathrooms and 2 toilets	<u>Compliance</u> <ul style="list-style-type: none"> <li>▪ Lawful 4 bedroom dwelling</li> <li>▪ 2 bathrooms and 2 toilets</li> <li>▪ 1<sup>st</sup> bedroom (3 guests, double and single bed) – 24.71m<sup>2</sup></li> </ul> <u>Non-Compliance</u> <ul style="list-style-type: none"> <li>▪ 2<sup>nd</sup> bedroom (2 guests, 2 single beds) 10.2m<sup>2</sup> – less than required 11m<sup>2</sup> to sleep 2 guests within</li> <li>▪ 3<sup>rd</sup> bedroom (2 guests, double bed) 10.4m<sup>2</sup> - less than required 11m<sup>2</sup> to sleep 2 guests within</li> <li>▪ 4<sup>th</sup> bedroom (2 guests, 2 single beds – 10.27m<sup>2</sup></li> <li>▪ Family room proposed to sleep 4 guests in single beds</li> </ul>
<u>Overcrowding</u> Each occupant over the age of 10 years has 14m <sup>3</sup> of airspace within a bedroom for sleeping purposes. Each occupant 10 years and under has 8m <sup>3</sup> of airspace within a bedroom for sleeping purposes.	<u>Compliance</u> 1 <sup>st</sup> Bedroom (3 guests double and single bed) 59.3m <sup>3</sup> – complies for 3 adults 4 <sup>th</sup> bedroom (2 guests, 2 single beds) 24.65m <sup>3</sup> – complies for 1 adult or 2 children  <u>Non-Compliance</u> 2 <sup>nd</sup> bedroom (2 guests, 2 single beds) 24.48m <sup>3</sup> – less than required 28m <sup>3</sup> to sleep 2 adult guests 3 <sup>rd</sup> bedroom (2 guests, double bed) 24.96m <sup>3</sup> - less than required 28m <sup>3</sup> to sleep 2 adult guests Family room proposed to sleep 4 adult guests in single beds

Where a proposal does not meet the deemed-to-comply provisions of the Policy it is required to be assessed against the relevant performance criteria to determine its acceptability. The following performance criteria relate to the outlined non-compliance for the subject proposal.

*Dwelling Design - The Shire is satisfied that the dwelling design in terms of bedroom configuration is appropriate to accommodate the proposed maximum number of guests.*

*Overcrowding - The Shire is satisfied the proposed maximum number of occupants can meet the sleeping airspace requirements by use of a suitable habitable room which is not a bedroom.*

Due to the outlined non-compliance for bedroom areas and cubic space, the proposed maximum of twelve guests is not supported as compliance with overcrowding provision of the *Shire of Dandaragan*

*Health Local Laws* is not achieved. The use of a habitable living room which is not bedroom to sleep up to four guests is also not supported in this instance as the family room proposed is an entry space from the garage and the front entry of building and it also cannot be closed-off from the kitchen area of the house with a door. Approval of this alternative sleeping arrangement would create an undesirable precedent for like development applications. The overcrowding performance criteria of the Policy provides the ability to approve the use of study or theatre rooms which if not setup for their built uses can be used as a bedroom if deemed appropriate by the Shire at the time of application.

Given the above, it is recommended that Council refuse the application for a holiday house with a maximum of twelve guests and advise the applicant that an application for a guest capacity of six adult guests would be supported, subject to compliance with the Policy. A compliant application can be determined under delegated authority.

#### CONSULTATION

Please see the attached schedule of submissions from neighbouring landowners. Responses have been provided to individual issues raised by submitters in the schedule, including an assessment against relevant policy requirements.

#### STATUTORY ENVIRONMENT

- Deemed Provisions for local planning schemes
  - 67. Consideration of application by local government
    - (2) In considering an application for development approval (other than an application on which approval cannot be granted under subclause (1)), the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —
      - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
      - (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving; ...
      - (g) any local planning policy for the Scheme area; ...
      - (n) the amenity of the locality including the following —
        - (i) environmental impacts of the development;
        - (ii) the character of the locality;
        - (iii) social impacts of the development; ...
      - (y) any submissions received on the application;

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- 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—*

*(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.*

- Planning and Development Act 2005 – Part 13 Enforcement and legal proceedings:

A determination on this development application does not preclude the Shire from issuing an infringement notice to the landowner for use of the subject property as a commercial holiday house without valid development approval.

**POLICY IMPLICATIONS**

Local Planning Policy 9.12 Short-Term Rental Accommodation – as outlined.

**FINANCIAL IMPLICATIONS**

The applicant has paid the required fee for the retrospective development application, which, by way of penalty is 3 times the standard fee.

**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.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

**ATTACHMENTS**

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

- Development application 86/22 – (Doc Id: SODR-1262144384-15019 )

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- Bedroom Sleeping Configurations (Doc Id: SODR-1262144384-15014)
- Code of Conduct (Doc Id: SODR-1262144384-15013)
- Complaint Policy and Application Form (Doc Id: SODR-1262144384-15012)
- Fire and Emergency Floor Plan (Doc Id: SODR-1262144384-15016)
- Fire and Emergency Plan (Doc Id: SODR-1262144384-15015)
- Floor Plan (Doc Id: SODR-1262144384-15018)
- House Plans (Doc Id: SODR-1262144384-15432)
- Property Manager Plan (Doc Id: SODR-1262144384-15011)
- Site Plan and Carpark Locations (Doc Id: SODR-1262144384-15017)
- Schedule of submissions (SODR-1262144384-15404)

**(Marked 9.3.3)**

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMEDATION / COUNCIL DECISION**

**Moved Cr Shanhun, seconded Cr Eyre**

**That Council refuse the development application for the proposed Holiday House to accommodate up to twelve (12) guests at Lot 22 Padbury Street, Jurien Bay as the development would not comply with orderly and proper planning for the locality and if approved, set an undesirable precedent for similar development applications in the future, inconsistent with *Local Planning Policy 9.12 Short-Term Rental Accommodation* and (clause 67(2) of the *Deemed Provisions for local planning schemes*).**

**Advice to applicant:**

- A. A revised holiday house development application that is consistent with the *Shire of Dandaragan Local Planning Policy 9.12 Short-Term Rental Accommodation* and *Health Local Laws 2005*, will be considered by Council (i.e., a maximum adult guest capacity of six (6) adult guests).**
- 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 / 0**

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### 9.3.4 ADOPTION OF MODIFIED LOCAL PLANNING POLICY BEACHRIDGE ESTATE RESIDENTIAL DESIGN GUIDELINES

Location:	Beachridge Estate, Jurien Bay
Folder Path:	SODR-877026889-3358
Disclosure of Interest:	Nil
Date:	12 September 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager of Development Services

#### PROPOSAL

Council is to consider adopting the amended Beachridge Estate Residential Design Guidelines Local Planning Policy.

#### BACKGROUND

The Beachridge Estate Residential Design Guidelines were last modified and adopted by Council as a Local Planning Policy on 27 November 2014.

The Design Guidelines were developed by the estate's land developer, Ardross Group of Companies in consultation with the Shire and largely reflect the restrictive covenants the developer holds over all properties within the residential estate. The Design Guidelines are adopted by Council as local planning policy as they vary the State-wide Residential Design Codes Volume One (State Planning Policy 7.3), most notably by a reduced front setback of 3m to a dwelling's build line.

Appendix 2 of the Design Guidelines (shown below) acknowledges not all properties within the estate can practically achieve the required front build-to line as they are of irregular shape; and therefore, permits discretion on compliance with the front setback provisions of the Guidelines.

#### **APPENDIX 2 - LOTS FOR WHICH DISCRETION ON FRONT BUILD-TO LINE APPLIES**

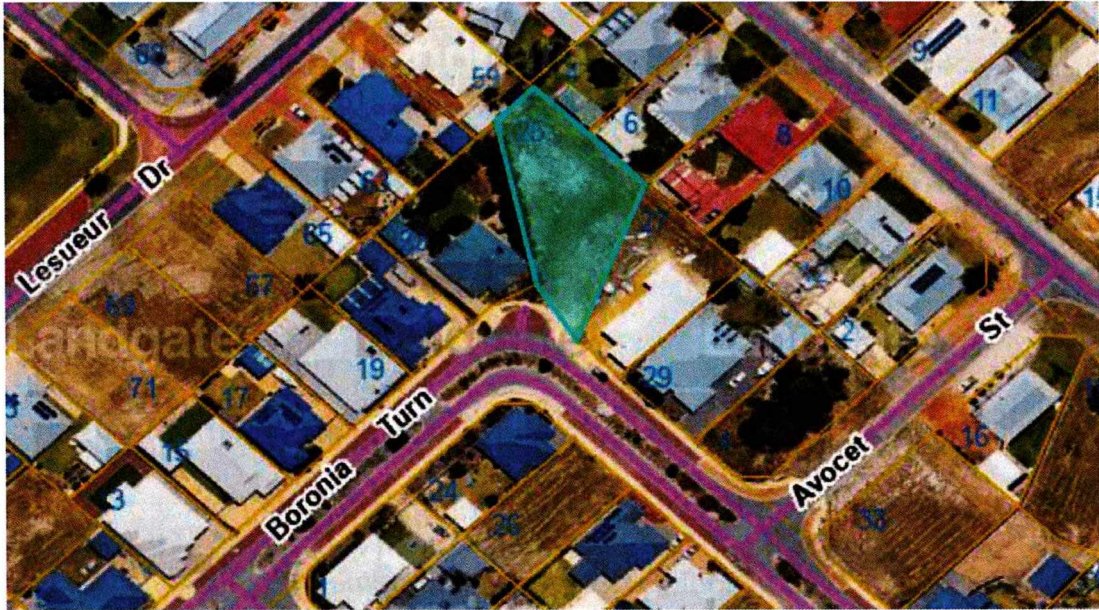
<b>LOT NO.</b>	<b>STREET</b>	<b>LOT NO.</b>	<b>STREET</b>
401	Boronia Turn	809	Swift Way
583	Parakeet Bend	828	Adriana Parade
584	Parakeet Bend	842	Bremer Parade
606	Parakeet Bend	957	Matilda Bend
627	Crusoe Crescent	959	Matilda Bend
693	Bettong Avenue	974	Beachridge Drive
701	Bettong Avenue	976	Beachridge Drive
704	Beachridge Drive	1236	Newport Drive
722	Crusoe Crescent	1237	Newport Drive

*Appendix 2 of the 2014 Beachridge Residential Design Guidelines*

As further residential development takes place in the estate, additional lots have been identified as requiring discretion in relation to the front build-to line requirement of the Guidelines. As such in consultation with the developer, the following properties are proposed to be added to Appendix 2 of the Guidelines:



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Location Plan: Lot 401 Boronia Turn



Location Plan: Lot 974 Beachridge Drive

No other changes are proposed to be made to the Design Guidelines by the estate developer (as attached to this item).



### COMMENT

The amendment to the Guidelines is considered minor as it only proposes the addition of two properties to the discretionary front build-to line list (Appendix 2). The lots proposed to be included in Appendix 2 are similar in characteristics (irregular or more challenging shapes) to the lots already included in Appendix.

It is recommended that Council adopts the modified policy as presented.

### CONSULTATION

As outlined in Background section of the report.

In accordance clause 5 (2) of *Schedule 2 - Deemed Provisions for Local Planning Schemes* (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council can make the subject amendment to the Design Guidelines Local Planning Policy without advertising the amendment to the public if in the opinion of the Council, the amendment is a minor amendment.

### STATUTORY ENVIRONMENT

*Planning and Development (Local Planning Schemes) Regulations 2015:*

The ability to prepare a Local Planning Policy (LPP) is afforded to the Council under Clause 3 of the Deemed Provisions. The Deemed Provisions allow the Shire to prepare policies in respect to any matter related to the planning and development of the Shire. Policies may apply to a particular class or matter and relate to one or more parts of the Shire's Local Planning Scheme area. Clauses 5 and 6 of the Deemed Provisions allow Council to amend or rescind its planning policies.

LPPs are guidelines used to assist the local government in making decisions under the Local Planning Scheme. Although LPPs are not part of the Local Planning Scheme, they must be consistent with, and cannot vary, the intent of the Local Planning Scheme provisions. In considering a development application, the local government must have due regard to relevant LPPs as required under the Local Planning Scheme.

LPPs aim at prescribing minimum standards acceptable to the Council in consideration of community sentiment for various types of development and land use. Additionally, these policies also aid in providing a foundation for delegation to be set in order to assist in streamlining the approval processes and establishing relative levels of compliance.



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POLICY IMPLICATIONS

The amended LPP is aimed to improve procedural and governance aspects of the Shire's development control responsibilities for Beachridge Estate, Jurien Bay.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item.

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.
<b>Priority outcomes</b>	<b>Our roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

ATTACHMENTS

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

- Local Planning Policy – Beachridge Estate Residential Design Guidelines 2022 (SODR-877026889-3356)  
**(Marked 9.3.4)**

VOTING REQUIREMENT

Simple Majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Gibson

That Council:

1. In accordance clause 5 (2) of *Schedule 2 - Deemed Provisions for Local Planning Schemes (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015*, determine that the proposed amendment to the *Beachridge Estate Residential Design Guidelines Local Planning Policy* is considered to be a minor amendment to the Policy.
2. Pursuant to clause 4 of the *Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015* adopts the amended *Beachridge Estate Residential Design Guidelines* as provided as an attachment to this report.

**CARRIED 8 / 0**

## 9.4 GOVERNANCE & ADMINISTRATION

*Cr Gibson declared an impartiality interest in Item 9.4.1 being the President of the Returned & Services League of Australia WA Branch Incorporated – Jurien Bay Sub-Branch (RSL)*

### 9.4.1 JURIEN HALL – DRAFT POSITION STATEMENT

Location:	Shire of Dandaragan
Applicant:	Not Applicable
Folder Path:	SODR-437506902-9544
Disclosure of Interest:	Nil
Date:	1 September 2022
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not Applicable

#### PROPOSAL

The purpose of this report is for Council to consider establishing a draft position statement on the future direction for the Jurien Hall.

#### BACKGROUND

The Jurien Hall was constructed in 1971 at the corner of Bashford Street and Nineteenth Avenue. The Hall which is located on the Jurien Bay Recreation Reserve, has catered for community events and activities over the past five decades which has embedded fond memories and nostalgia in the minds of many local residents.

The building is timber framed and clad in asbestos however the structural integrity and aesthetic state of the facility has declined considerably over the years. In March 2021, the Shire Council endorsed a recommendation to close the facility due to safety reasons, while a heritage review was undertaken which would inform a decision on the building's future.

The Shire's Municipal Heritage Register identifies the building as a Category 3 item which is a place of some cultural heritage significance to the Shire of Dandaragan. Under Category 3, the Shire is encouraged to retain the building or document the place if retention is not possible.

The Jurien Hall has experienced a decline in use over recent times which is attributed to:

- Newer and modern facilities being constructed.
- Changing cultural and social practices.
- The decline in building condition.

In late 2021 and 2022, the Shire undertook a multi-faceted community consultation project to better understand the community's heritage values of the hall and gain insight into a range of proposed options about retention or disposal of the facility.

Council is now at a key decision-making stage and it is recommended that a draft position is established for public feedback prior to finalising a decision on the building's future.

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**COMMENT**

Councillors were invited to participate in a workshop to review the community consultation outcomes and establish a draft position statement for public advertising based on a range of identified options.

The five options tabled for consideration are summarised as follows:

Option	Indicative Cost	Summary Assessment	Councillor Ranking
Demolish the Hall and lease the land to the RSL for redevelopment with conditions to retain some heritage or interpretive components from the Jurien Hall within the new building and/or grounds.	\$60,000 demolition.  The RSL have \$1.3m available to construct their facility.	Most preferred option attributed to retention of some building components, reintroduces a community space for use and offers the best cost / benefit outcome for the community.	1
Demolish the Hall and leave the land empty until plans for the Recreation Reserve are in place	\$60,000  (2 quotes approx. \$56,000 plus contingency)	Addresses the requirement to mitigate adverse impacts of failing asbestos and building condition. Retains the space for future recreational development.	2
Demolish the Hall and create an interpretive (art) project on the current site to honour the heritage and history of the Hall	\$100,000  (\$60,000 demolition costs, \$40,000 per interpretive project)	Addresses the requirement to mitigate adverse impacts of failing asbestos and building condition. Provides the opportunity for interpretive and public art project to improve main street appeal with affordable cost.	3
Refurbish at component level for baseline public building standard	\$500,000  (1 indicative quote for \$465,000 plus contingency)	Addresses the requirement to mitigate adverse impacts of failing asbestos and building condition. Provides the opportunity to improve building condition and main street appeal. This option is generally unaffordable in the context of the likely ongoing utilisation of space that is replicated at other more desirable venues.	4
Redevelop / reconstruct in current format	\$650,000  (1 indicative quote for \$632,450 plus contingency)	Addresses the requirement to mitigate adverse impacts of failing asbestos and building condition. Provides the opportunity to improve building condition and main street appeal. This option is generally unaffordable in the context of the likely ongoing utilisation of space that is replicated at other more desirable venues.	5

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Option	Indicative Cost	Summary Assessment	Councillor Ranking
Demolish the Hall and design/construct a new Shire owned building in its place	No scope exists for this option.  Allow approximately \$3,250 per m2.	Addresses the requirement to mitigate adverse impacts of failing asbestos and building condition. Provides the opportunity to improve building condition and main street appeal. This option has not been significantly entertained due to the lack of feasible identified utilisation.	6
Do nothing	\$5,000 per annum  (routine utility costs and overheads)	Not a viable option.  Does not address safety & compliance criteria.	N/A

### CONSULTATION

A range of consultation activities have been undertaken with the community on this project. The Shire has sourced information from interviews, a community workshop, an open day at the Jurien Hall and through the utilisation of a heritage expert to guide the review process.

This item recommends a further element of community consultation which is to advertise the draft position for public comment.

### STATUTORY ENVIRONMENT

Local Government Act 1995 Section 3.58 - Disposing of Property

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

- (1) *In this section —*
- dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;*
  - property includes the whole or any part of the interest of a local government in property, but does not include money.*
- (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.*

*Local Government (Functions and General) Regulations 1996 -  
30. Dispositions of property excluded from Act s. 3.58 (2)(b)*

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

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

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

- (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and**  
**(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;**

**POLICY IMPLICATIONS**

Policy 6.2 - C-6R02 – Reserves

*PART A- Policy*

*Objective*

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

*Policy Statement*

*1. Lease Provisions - Reserves*

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

- (a) *Length of lease to be for twenty-one (21) years unless otherwise terminated. (Maximum permissible under management order).*
- (b) *Annual rental to be “a peppercorn.”*
- (c) *The Lessee shall not carry out any permanent structural improvements on the reserve without the prior written approval from the Council.*
- (d) *All structural improvements on the reserve shall be and remain at law, the property of the Shire. The Club shall have the sole use, benefit and enjoyment of the reserve and all structural improvements thereon during the operation of the lease.*
- (e) *The Lessee shall comply with all Acts of Parliament, Orders, Regulations, Local Laws, etc, that apply to the reserve and structural improvements.*

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

### FINANCIAL IMPLICATIONS

There are a range of financial implications associated with the future options for the Jurien Town Hall.

### 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
<b>Priority Outcomes</b>	<b>Our Roles</b>
A region that develops and supports community leadership and collective values	Provide governance support for community groups to deliver their objectives

### ATTACHMENTS

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

- Summarised options and community survey results report (Doc Id: SODR-437506902-8511)

- Asset Condition Report (Doc Id: SODR-437506902-9559)  
*(Marked 9.4.1)*

#### VOTING REQUIREMENT

Simple Majority

#### OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Eyre, seconded Cr Shanhun**

**That Council resolve to invite submissions from the community on its draft position for the future of the Jurien Town Hall as follows:**

- 1. In light of the significant redevelopment or renewal costs, the Shire will authorise the demolition of the Jurien Hall which will be replaced by a new building constructed by the Returned & Services League of Australia WA Branch Incorporated – Jurien Bay Sub-Branch (RSL).**
- 2. The lease for the site to the (RSL) will contain conditions that require:**
  - a. The Shire to contribute \$60,000 towards the demolition and site preparation works subject to the salvaging of the timber flooring and structurally viable timbers from the building.**
  - b. The new RSL building is to feature the use of a significant quantity of the salvaged flooring and timbers to the satisfaction of the Shire of Dandaragan.**
  - c. All remaining flooring and structural timbers will be returned to the Shire of Dandaragan.**
  - d. The RSL is to design, install and maintain a suitable memorial plaque and foundation featuring an image and acknowledgement of the Jurien Town Hall within the leased area to the satisfaction of the Shire of Dandaragan.**
- 3. Prior to the demolition of the site the following activities are to be undertaken:**
  - a. A digital video and photographic capture of the site.**
  - b. A request for community members to supply copies of past photos of events at the Town Hall for interpretative projects and historical retention.**

**CARRIED 8 / 0**

#### **9.4.2 LEASE – CERVANTES COMMUNITY MEN'S SHED**

Location:	Shire of Dandaragan
Applicant:	Not Applicable
Folder Path:	
Disclosure of Interest:	Nil
Date:	1 September 2022
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not Applicable



### PROPOSAL

This purpose of this report is for Council to consider establishing a lease for the Cervantes Community Men's Shed in accordance with the recently endorsed Cervantes Recreation Precinct Master Plan.

### BACKGROUND

The Cervantes Community Men's Shed currently occupy a leased site on Madrid Street and have been seeking an alternative, larger site to develop a new facility for its members. At the August Council meeting, Council endorsed the Cervantes Recreation Precinct Master Plan which included a priority action to progress the lease of land to the Cervantes Community Men's Shed. The proposed site is on a portion of the Recreation Reserve 35920 (Lot 891) to the westward side of the old bowling green. Reserve 35920 currently encompasses the bowling green(s) and the golf course.

Since this decision, a site for Council endorsement has been finalised. Subject to Council endorsement of the officer's recommendation, a lease document will be prepared with parity to the key terms and conditions for the equivalent Jurien Bay organisation. The community lease will formalise the agreement between the Shire and the Men's Shed to manage a portion of the reserve or facility on behalf of the Shire and for the community.

The lease agreement will support the Cervantes Community Men's Shed in conducting their activities/services, and in doing so, provides benefit to the wider community. The Shire aims to support community groups to increase their capacity and improve facilities within the Shire that result in strengthening of the community helping to build vibrant, inclusive and healthy communities.

### COMMENT

The land is currently a Parks and Recreation reserve comprising an area of 65.83ha. Taking into account the outcomes of the Cervantes Recreation Precinct Plan, the proposed lease site (approximately shown below but to be confirmed via survey by the Cervantes Community Men's Shed) is requested for a 45m x 65m area (2925m<sup>2</sup>) which will provide the organisation with sufficient space to construct the shed, storage areas, landscaping, turning radiuses for freight trucks and associated vehicle parking. A building footprint of approximately 15m x 30m has been indicated in yellow on the aerial image.



The Shire currently holds a management order over Reserve 35920 with the ability to lease for no longer than 21 years for the purposes of the classification of the reserve, Parks and Recreation. At present Council has a lease in place with the Cervantes Golf Club and Cervantes Bowls Club for their respective portions of the reserve.

A men's shed aligns with the recreation classification and therefore can facilitate a lease for such a development. Furthermore, the proposed site is in keeping with the locality being located adjacent existing community recreation infrastructure.

This new site will also provide the opportunity for the Cervantes Men's Shed to expand their capacity and facilities for its members. At present the organisation has not finalised detailed plans for the development of the site. Accordingly, when complete, Council will be required to assess the proposed built form as part of a development application process.

#### CONSULTATION

- Cervantes Community Men's Shed

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 3.58 - Disposing of Property

**3.58. Disposing of property**(1) *In this section —***dispose** *includes to sell, lease, or otherwise dispose of, whether absolutely or not;***property** *includes the whole or any part of the interest of a local government in property, but does not include money.*(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.*Local Government (Functions and General) Regulations 1996 -  
30. Dispositions of property excluded from Act s. 3.58 (2)(b)**30. Dispositions of property excluded from Act s. 3.58**(2) *A disposition of land is an exempt disposition if —*(b) *the land is disposed of to a body, whether incorporated or not —*(i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*(ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

POLICY IMPLICATIONS

## Policy 6.2 - C-6R02 – Reserves

*PART A- Policy**Objective*

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

*Policy Statement*1. *Lease Provisions - Reserves*

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

- (a) Length of lease to be for twenty-one (21) years unless otherwise terminated. (Maximum permissible under management order).*
- (b) Annual rental to be "a peppercorn."*
- (c) The Lessee shall not carry out any permanent structural improvements on the reserve without the prior written approval from the Council.*
- (d) All structural improvements on the reserve shall be and remain at law, the property of the Shire. The Club shall have the sole use, benefit and enjoyment of the reserve and all structural improvements thereon during the operation of the lease.*
- (e) The Lessee shall comply with all Acts of Parliament, Orders, Regulations, Local Laws, etc, that apply to the reserve and structural improvements.*
- (f) The Lessee shall keep the Reserve area and all structural improvements in a maintained, clean and tidy condition at all times and shall comply with any directions of the Council that may be issued requiring works to have the Reserve area and structural improvements placed in a maintained, clean and tidy condition.*
- (g) The Lessee shall not disturb the surface soil and vegetation in a manner likely to cause erosion. If erosion damage does occur, the Club shall take remedial action as directed by the Council.*
- (h) The Lessee shall permit the Shire's officers access to the Reserve and structural improvements at all reasonable times to ensure that the lease conditions are being complied with.*
- (i) The lease may be terminated by the Council if the Club fails to comply with provisions of the lease agreement. The Council shall give the Lessee at least thirty (30) days notice in writing requiring the Club to rectify the breach of lease*

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*before taking action to terminate the lease under this provision.*

- (j) The Lessee shall not assign or part with possession of any Crown lease without prior approval from the Council and the responsible Minister.*
- (k) The Lessee shall meet all costs in relation to preparing and stamping the lease document.*
- (l) Any leases entered into relating to Council's Reserves are to include a plan completed by a licensed surveyor depicting the area of land to be leased as an attachment to the lease document.*

**FINANCIAL IMPLICATIONS**

There are no major financial implications associated with the officer recommendation.

**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
<b>Priority Outcomes</b>	<b>Our Roles</b>
A region that develops and supports community leadership and collective values	Provide governance support for community groups to deliver their objectives

**ATTACHMENTS**

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

- Cervantes Recreation Precinct Master Plan layout (Doc Id: SODR-1272937250-1335)
- Support letter Cervantes Golf Club Inc (SODR-1272937250-1365) **(Marked 9.4.2)**

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

That Council:

- 1) Authorise the CEO to negotiate and execute a lease agreement for a portion of Reserve 35920 (45m x 65m) with the Cervantes Community Men's Shed inclusive of the following material terms:
  - a. Authorised use: Community purposes and uses reasonably ancillary thereto.
  - b. Term: 21 years
  - c. Further Term: nil
  - d. Annual Rent: \$1

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- e. Council to meet all lease preparation costs.
- 2) Authorise the Chief Executive Officer to forward the negotiated lease agreement to the Minister of Lands for final approval.

**ALTERNATIVE MOTION**

Moved Cr Shanhun, seconded Cr Gibson

That Council:

- 1) Authorise the CEO to negotiate and execute a lease agreement for a portion of Reserve 35920 (45m x 65m) with the Cervantes Community Men's Shed inclusive of the following material terms:
  - a. Authorised use: Community purposes and uses reasonably ancillary thereto.
  - b. Term: 21 years
  - c. Further Term: nil
  - d. Annual Rent: \$1
  - e. Council to meet all lease preparation costs.
- 2) Authorise the Chief Executive Officer to forward the negotiated lease agreement to the Minister of Lands for final approval.
- 3) That following execution of the above lease, and subject to:
  - a) Cervantes Men's Shed contributing an equal or greater amount, and
  - b) sufficient external funding being sourced to bring the proposed new Cervantes Men's Shed construction project to fruition,

Council agrees to:

- a) provide a grant of \$50,000 towards the cost of construction of the proposed shed building; and
- b) provide an interest free self-supporting loan up to the value of \$25,000, with half yearly repayments over a 10-year period.

MOTION LOST 1 / 7

**COUNCIL DECISION**

Moved Cr Rybarczyk, seconded Cr Shanhun

That Council:

- 1) Authorise the CEO to negotiate and execute a lease agreement for a portion of Reserve 35920 (45m x 65m) with the Cervantes Community Men's Shed inclusive of the following material terms:
  - a. Authorised use: Community purposes and uses reasonably ancillary thereto.
  - b. Term: 21 years
  - c. Further Term: nil
  - d. Annual Rent: \$1
  - e. Council to meet all lease preparation costs.
- 2) Authorise the Chief Executive Officer to forward the negotiated lease agreement to the Minister of Lands for final approval.

CARRIED 8 / 0



## 9.5 COUNCILLOR INFORMATION BULLETIN

### 9.5.1 SHIRE OF DANDARAGAN – AUGUST 2022 COUNCIL STATUS REPORT

Document ID: SODR-1739978813-5686]

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 25 August 2022. **(Marked 9.5.1)**

### 9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – AUGUST 2022

Document ID: [SODR-2045798944-544]

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for August 2022. **(Marked 9.5.2)**

### 9.5.3 SHIRE OF DANDARAGAN – PLANNING STATISTICS – AUGUST 2022

Document ID: [SODR-2045798944-543]

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for August 2022. **(Marked 9.5.3)**

### 9.5.4 SHIRE OF DANDARAGAN TOURISM / LIBRARY / COMMUNITY ACTIVITIES REPORT FOR AUGUST 2022

Document ID: [SODR-1876983588-1145]

Attached to the agenda is monthly report for Tourism / Library for August 2022. **(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 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



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- (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 AND ADMINISTRATION**

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

**Moved Cr Gibson, seconded Cr Clarke**

**That the meeting be closed to members of the public at 4:37pm in accordance with Section 5.23 (2) (h) of the Local Government Act 1995 and Regulation 4A of the Local Government (Administration) Regulations 1996 to allow Council to discuss Item 11.1.1 CEO Performance Review and Request for Renewal of Contract.**

**CARRIED 8 / 0**

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*Staff Scott Clayton, Brad Pepper, Michelle Perkins, Rory Mackay and Robyn Headland and member of the public left the meeting at 4.37pm.*

### **11.1.1 CONFIDENTIAL - CEO PERFORMANCE REVIEW AND REQUEST FOR RENEWAL OF CONTRACT**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-430439565-14739
Disclosure of Interest:	The author discloses an interest in this item as it relates to his employment contact.
Date:	9 September 2022
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	N/A

*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 Eyre, seconded Cr Rybarczyk**

**That Council, in accordance with the Shire of Dandaragan's Standards for CEO Recruitment, Performance and Termination, endorse the CEO Performance Review as follows:**

- 1. Notes that Mr. Brent Bailey's annual performance review in his role as Chief Executive Officer for the Shire of Dandaragan for the 2021/22 review period has been undertaken;**
- 2. Endorses Mr. Brent Bailey's overall rating of 'Exceeds Performance Requirements';**
- 3. Schedules the next review of the CEO's performance to be completed by 30 September 2023;**
- 4. Endorses the performance criteria for the 2022/23 review period as detailed in the performance review report (Doc Id: SODR-430439565-14754) and**
- 5. Endorses the proposed amendments to the CEO's current contract of employment and total reward package as detailed within the performance review report (Doc Id: SODR-430439565-14754).**

**CARRIED 8 / 0**

#### **OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2**

**Moved Cr Gibson, seconded Cr Clarke**

**That Council pursuant to Section 5.39(4) of the Local Government Act 1995:**

- 1. Offer a renewal of contract to Mr Brent Bailey for a period of three (3) years, based on the CEO's current negotiated total reward package as per Attachment 11.1.1 attachment two and in the format of the 2022 WALGA / LG Professionals WA model CEO contract; and**

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2. Endorse the contract being issued and effective from 26 March 2023 until 25 March 2026; and
3. Inform the CEO in writing of the Council decision and authorise the Shire President to execute a new contract.

CARRIED BY ABSOLUTE MAJORITY 8 / 0

**COUNCIL DECISION**

Moved Cr Rybarczyk, seconded Cr Shanhun  
That the Meeting be reopened to the public at 4.47pm.

CARRIED 8 / 0

*Council staff Scott Clayton, Brad Pepper, Michelle Perkins, Rory Mackay and Robyn Headland re-entered the meeting.*

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

Nil

**13 CLOSURE OF MEETING**

The presiding member declared the meeting closed at 4.54pm.

These minutes were confirmed at a meeting on ..... 27 October 2022 .....

Signed .....  .....

Presiding person at the meeting at which the minutes were confirmed

Date ..... 27 October 2022 .....