



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

**MINUTES**  
  
of the  
  
**ORDINARY COUNCIL MEETING**  
  
held at the  
  
**COUNCIL CHAMBERS, JURIEN BAY**  
  
on  
  
**THURSDAY 23 FEBRUARY 2023**  
  
**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 23 FEBRUARY 2023</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 6 members of the public present.

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

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

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

### Members

Councillor L Holmes	(President)
Councillor P Scharf	(Deputy President)
Councillor J Clarke	
Councillor A Eyre	
Councillor W Gibson	
Councillor R Rybarczyk	
Councillor M McDonald	
Councillor R Glasfurd	

### Staff

Mr B Bailey	(Chief Executive Officer)
Mr S Clayton	(Executive Manager Corporate & Community Services)
Mr L Fouché	(Executive Manager Development Services)
Mrs N Winsloe	(Executive Secretary)
Mr R Mackay	(Principal Planning & Building Officer)
Ms R Sutton	(Acting Manager Customer & Community Service)

### Apologies

Councillor R Shanhun

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 23 FEBRUARY 2023****Approved Leave of Absence**

Nil

**Observers**

Mr T Bailey, Ms T Illich, Ms J Sargent, Ms S McArdle, Ms K Jones,  
Mr L Coppin

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

Nil

**4 PUBLIC QUESTION TIME**

Mr T Bailey made a statement about his concerns about recent clearing works for a materials laydown area associated with Main Roads upgrades, undertaken at the Coalseam Industrial area and the subsequent sand and dust drift impacts associated with Main Roads WA capital works.

*The Chief Executive Officer responded by advising Mr Bailey that staff had attended to the issue with the Contractor responsible and soil stabilisation works were underway. The Chief Executive Officer also advised that the matter had been discussed with local businesses and property owners affected to assist remedy the situation.*

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6 CONFIRMATION OF MINUTES****6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD 25 JANUARY 2023****COUNCIL DECISION**

Moved Cr Scharf, seconded Cr Eyre

That the minutes of the Ordinary Meeting of Council held be confirmed.

**CARRIED 8 / 0**

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

Nil

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

Nil

## 9 REPORTS OF COMMITTEES AND OFFICERS

### 9.1 CORPORATE & COMMUNITY SERVICES

#### 9.1.1 FINANCIAL STATEMENTS – MONTHLY REPORTING FOR THE PERIOD ENDING 31 DECEMBER 2022

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Corporate Services / Department Management / Reporting / Monthly Financial Statements / 2022-2023
Disclosure of Interest:	N / A
Date:	13 February 2023
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

To table and adopt the monthly financial statements for the period ending 31 December 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 December 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 December 2022 was \$4,832,897. 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

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 23 FEBRUARY 2023**

for these variances to be reported was set.

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

Should Councillors wish to raise any issues relating to the 31 December 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 financial implications relevant to this item.

**STRATEGIC IMPLICATIONS**

There are no strategic implications relevant to this item.

**ATTACHMENTS**

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

- Financial statements for the period ending 31 December 2022  
(Doc Id: SODR-1743450996-2835)

***(Marked 9.1.1)***

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Rybarczyk, seconded Cr Gibson**

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

**CARRIED 8 / 0**

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## 9.1.2 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 31 JANUARY 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder	Corporate Services / Department Management / Reporting / Monthly Financial Statements / 2022-2023
Disclosure of Interest:	None
Date:	13 February 2023
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 January 2023.

### 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 January 2023.

### 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 January 2023 was \$4,118,198. 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 January 2023 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 January 2023 (Doc Id: SODR-1743450996-2843)  
***(Marked 9.1.2)***

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Clarke, seconded Cr Eyre**

**That the monthly financial statements for the period 31 January 2023 be adopted.**

**CARRIED 8 / 0**

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**9.1.3 ACCOUNTS FOR PAYMENT – JANUARY 2023**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Corporate Services / Finance and Rates / Creditors / Expenditure
Disclosure of Interest:	None
Date:	13 February 2023
Author:	Scott Clayton, Executive Manager Corporate & Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To accept the cheque, EFT, BPAY and direct debit listing for the month of January 2023.

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 January 2023 totalled \$873,041.62 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the January 2023 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 January 2023 (Doc Id: SODR-2042075298-51516)

**(Marked 9.1.3)**

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VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Eyre, seconded Cr Scharf**

**That the Cheque, EFT, BPAY and direct debit payment listing for the period ending 31 January 2023 totalling \$873,041.62 be adopted.**

**CARRIED 8 / 0**

*Cr McDonald declared an Impartiality interest in Item 9.1.4 being a financial member of the Football Club*

**9.1.4 REVIEW OF COMMUNITY GRANT APPLICATIONS**

Location:	N/A
Applicant:	Shire of Dandaragan
Folder Path:	Customer and Community Services / Community Development / Shire Grants Program / Community Grants / 2022 / Nov 2022 – Round 2
Disclosure of Interest:	Nil
Date	10 February 2023
Author:	Rhiarn Sutton, Acting Manager Customer & Community Services
Senior Officer:	Scott Clayton, Executive Manager Corporate and Community Services

**PROPOSAL**

The purpose of this report is to authorise the allocation of funds for the Shire of Dandaragan Community Grants for 2022 / 2023 – Round 2.

**BACKGROUND**

The objective of the Community Grants is to provide funds to community-based organisations and individuals, to support the promotion and development of social, economic, recreation, art and cultural benefits for the residents of the Shire of Dandaragan.

This will be the fourteenth consecutive year of the Shire of Dandaragan Community Grants Program. The assistance provided by the Shire is to support community events and is not intended to be the sole source of funding.

In accordance with the Shire of Dandaragan Policy 5.1 C-5CG01 – Community Grants, the promotion of the 2022 / 23 grant round began in April 2022 when the grant program was advertised via Shire newsletters, on social media and in local newspapers around the Shire.

In August 2022, Council endorsed the recommendation to use the remaining funds that were unallocated in the Community Grant round, and to align the impending Large Event Grant round this

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financial year, authorising the CEO to facilitate a second grant round of the Community Grants Program in the 2022 / 23 financial year and to allocate the remaining funds of \$21,187 for small events and activities.

**COMMENT**

This year, the funding pool, including a carryover from the previous financial year, is \$28,637.

The first round of the Grants Program received a total of 5 applications with funding requests amounting to \$7,450, which was less than recent years. The second round of the Community Grant received a total of 6 applicants with the funding request amounting to \$10,140.

The following is a summary of the applications received in the current round:

<b>ORGANISATION</b>	<b>PROJECT DESCRIPTION</b>	<b>GRANT REQUEST</b>
Badgingarra Community Association	Amp Up of Community T20 Cricket Match	\$2,000
Badgingarra Playgroup	Annual Easter Event	\$1,320
Cervantes Historical Society	Outback Graves	\$820
Jurien Bay Football Club	50 <sup>th</sup> Anniversary Gala Dinner	\$2,000
Jurien Bay Progress Association	Family Fun Day	\$2,000
Jurien Bay Sport and Recreation Centre	A.B Facey's - A Fortunate Life	\$2,000
	<b>TOTAL</b>	<b>\$10,140</b>

The Community Grants Committee met on 25 January 2023 to consider the applications. Firstly, the committee considered eligibility in order to remove any ineligible applications. All applications were deemed eligible. The Committee then discussed several issues with some events and provided recommendations on the following funding amounts and event conditions:

**Applicant:** Jurien Sport and Recreation Centre  
**Request:** A. B Facey's - A Fortunate Life  
**Comment:** The panel mentioned that this applicant has received previous funding for live performances over the last previous years, it was recommended to fund \$1,700 rather than the full amount requested.

**Applicant:** Jurien Bay Football Club  
**Request:** 50th Anniversary Gala Dinner  
**Comment:** The applicant has anticipated a significant profit from their ticket and bar sales from this event which would cover the cost of the entertainment. It was recommended not to fund this event.

**Applicant:** Badgingarra Community Association  
**Request:** Amp up of Community T20 Cricket Match

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**Comment:** The panel has recommended that the applicant receive full funding subject to the proposed cricket clinic to be open to the wider community.

A number of operational suggestions as to how the program was presented were also discussed with the committee. This included;

- The misalignment of the application form, acquittal statement, 'Conditions of Application' and the Shire of Dandaragan C-5CG01 – Community Grant Policy.
- Potential for applicants to include quotes from suppliers to support their application.
- Timeline of expenditure of the Community Grant
- Projected target, goals, measures of success methods and outcomes to allow evaluation of the Community Grant's deliverables.

A review of the policy has commenced and these suggestions will be incorporated into a draft document for Council consideration.

**CONSULTATION**

Community Grants Committee

**STATUTORY ENVIRONMENT**

There is no statutory environment relevant to this item.

**POLICY IMPLICATIONS**

In accordance with Shire of Dandaragan Policy 5.1 C-5CG01 – Community Grants.

**FINANCIAL IMPLICATIONS**

Council has made provision in the annual budget to allocate 0.5% of the gross yield of budgeted rates income to fund recurring and annual community grants. In 2022 / 2023 a total of \$28,637 was available.

**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 Outcome</b>	<b>Our role</b>
A Shire built on the strengths of community spirit and resilient, connected communities	Recognise and support the value of our community volunteers and provide meaningful opportunities to contribute to Shire projects and improving local living.

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**ATTACHMENTS**

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

- Shire of Dandaragan Policy 5.1 C-5CG01 – Community Grants (Doc Id: SODR-437506902-5696)

**VOTING REQUIREMENT**

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr Gibson, seconded Cr Clarke

That Council:

1. Endorse the allocation of Community Grant funding in accordance with the following table:

ORGANISATION	PROJECT DESCRIPTION	GRANT AWARDED
Badgingarra Community Association	Amp Up of Community T20 Cricket Match	\$2,000
Badgingarra Playgroup	Annual Easter Event	\$1,320
Cervantes Historical Society	Outback Graves	\$820
Jurien Bay Progress Association	Family Fun Day	\$2,000
Jurien Bay Sport and Recreation Centre	A.B Facey's - A Fortunate Life	\$1,700
	<b>TOTAL</b>	<b>\$7,840</b>

2. Not endorse funding in accordance with the following table:

ORGANISATION	PROJECT DESCRIPTION	GRANT REQUESTED	Grant AWARDED
Jurien Bay Football Club	50 <sup>th</sup> Anniversary Gala Dinner	\$2,000	\$0

**CARRIED 8 / 0**

## 9.2 INFRASTRUCTURE SERVICES

## 9.3 DEVELOPMENT SERVICES

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### 9.3.1 DISPOSAL OF LOTS 115 & 116 (NO. 17 & 19) DOUST STREET, JURIEN BAY

Location:	Lots 115 & 116 Doust St, Jurien Bay
Folder Path:	Development Services/ Planning/ Reserves/ Land Rationalisation Strategy/ 17, 19 Doust Street, Jurien Bay
Disclosure of Interest:	Nil
Date:	30 January 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive of Manager Development Services

#### PROPOSAL

The purpose of the report is for Council to consider the disposal of Lots 115 and 116, (No. 17 and 19) Doust Street, Jurien Bay and if disposal is supported, determine an appropriate method of disposal.

#### BACKGROUND

17 and 19 Doust Street are vacant, undeveloped 'Regional Centre' zoned lots to the north of the Jurien Bay town centre.



Location plan – Lots 115 & 116 (No. 17 & 19) Doust Street, Jurien Bay

17 and 19 Doust Street are of 1,012m<sup>2</sup> and 1,143m<sup>2</sup> respectively.

In January 2023 an unsolicited offer to purchase the subject properties was received from a business owner within the Shire. This has triggered a review of the Shire's ongoing requirements for these properties revealing that the properties are surplus to the Shire's current operational needs as first identified in the 2019 Land Rationalisation Project review process.

Currently these unencumbered properties are not used for any purpose. The Infrastructure Department undertakes regular

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maintenance mowing on the site to manage weeds and visual appearance.

**COMMENT**

Council consideration is being sought to provide guidance the appropriateness of disposing these properties. Disposal of the lots will be consistent with the recommendations of the 2019 Land Rationalisation Project review. Ideally the future land use will also contribute to the Shire's economic development and support new business or an expansion of an existing business. In order to ensure that this development occurs, Council could impose a "time to build" caveat on the property. This will require the new owner to develop the land within the specified timeframe.

There are several options suitable for a disposal of land in this situation as outlined below.

<b>Disposal Type</b>	<b>Advantages</b>	<b>Disadvantages</b>
Outright sale (incl. by Tender, Private Treaty and Auction)	Capital from sale realised on settlement. Greater security and long-term opportunity for buyer. Limited Regional Centre lots available presents strong marketability.	No future lots currently available for Shire purposes if required in Jurien Bay town centre.
Lease via Tender	Reduced timeframe for execution. Fixed lease to govern terms and land use.	Would require Council to predetermine key conditions such as the lease term which may limit offers.
Request for Proposals – Lease by Private Treaty	Fixed lease to govern terms and land use. Increased flexibility for negotiation on key outcomes including term of lease. Greater scrutiny and evaluation of offers. Increased public transparency over proposed land use.	Longer timeframe for execution. More complicated for prospective lessees needing to address response criteria. Increased staff resources and cost implications.
Utilise local real estate agent – Lease by Private Treaty	Fixed lease to govern terms and land use. Increased flexibility for negotiation on key outcomes including term of lease. Increased public transparency over proposed land use. Simpler for lessees to discuss and submit offers through the agent.	Increased external costs in disposition and ongoing management.

If disposal of either or both of these lots is supported by Council, given the site is currently undeveloped and has limited attractiveness as a leasehold investment, the recommended option of disposal is to utilise a local real estate agent to facilitate and evaluate a tender for outright sale process. Shire staff would work with the agent to develop a summarised report for Council's consideration after a minimum advertising and response timeframe of 4 weeks.



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In accordance with Section 3.58(3) of the Local Government Act 1995, the disposal of property using this method would then require public advertising and for Council to consider any submissions. At the conclusion of this process a finalised sale document can be executed.

### CONSULTATION

Nil

### STATUTORY ENVIRONMENT

#### **Local Planning Scheme No.7 –**

The Regional Centre zone of has the following objectives:

- *Provide a range of services and uses to cater for both the local and regional community, including but not limited to specialty shopping, restaurants, cafes and entertainment.*
- *Ensure that there is a provision to transition between the uses in the regional centre and the surrounding residential areas to ensure that the impacts from the operation of the regional centre are minimised.*
- *Provide a broad range of employment opportunities to encourage diversity and self-sufficiency within the Centre.*
- *Encourage high quality, pedestrian-friendly, street-oriented development that responds to and enhances the key elements of the Regional Centre, to develop areas for public interaction.*
- *Ensure that the provision of residential opportunities within the Regional Centre, including high density housing and tourist accommodation that supports the role of the regional centre and meets the needs of the community.*

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

*3.58. Disposing of property*

*(1) In this section —*

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

*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*

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- (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
      - and
      - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
  - (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include*
    - (a) *the names of all other parties concerned; and*
    - (b) *the consideration to be received by the local government for the disposition; and*
    - (c) *the market value of the disposition —*
      - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
      - (ii) *as declared by a resolution of the local government based on a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*
  - (5) *This section does not apply to —*
    - (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
    - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
    - (c) *anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or*
    - (d) *any other disposition that is excluded by regulations from the application of this section.*
30. *Dispositions of property excluded from Act s. 3.58*
- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
  - (2) *A disposition of land is an exempt disposition if —*
    - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called the transferee) and —*
      - (i) *its market value is less than \$5 000; and*
      - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
    - or
    - (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*

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

**POLICY IMPLICATIONS**

**Land Rationalisation Strategy 2019**

The Strategy recommends both parcels for disposal as the Shire is unlikely to develop the land.

**Jurien Bay Central Business District Urban Design Plan**

The two subject properties are within the 'Northern Edge' precinct of this plan, where the desired outcome is to 'provide opportunity for future growth'.

The major proposal for this precinct is the market-led introduction of another grocery store i.e. Coles and Woolworths and associated retail and commercial offerings. However, space for such a development has been provided by the 'Turquoise Coast' developer Ardross Group of Companies at the 'Booka Valley' node south of the existing Jurien Bay townsite. It is considered that this greenfield offering will be a more viable option for grocery store tenants when the Jurien Bay populations grows to the estimated supporting figure of 5,000 (as determined by Taktics4 Economic Needs Assessment).

It is therefore considered that the subject proposal aligns with the desired design objectives for this precinct by accommodating market-led commercial expansion.

**FINANCIAL IMPLICATIONS**

There will be market valuation and real estate fees estimated at < \$4,000 associated with the proposed process.

For reference, the nearby 6 Murray Street of 1997m<sup>2</sup> and the same Regional Centre zoning sold for \$825,000 in April 2022.

**STRATEGIC IMPLICATIONS**

**Strategic Community Plan – Envision 2029**

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

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ATTACHMENTS

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

- Land Rationalisation Strategy 2019 Site Plan (Doc Id: SODR-877026889-3571)
- Taktics4 Economic Needs Assessment (Doc Id: SODR-877026889-1191)

**(Marked 9.3.2)**

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Clarke, seconded Cr Rybarczyk**

**That Council:**

1. **Endorse the commencement of a process to offer for outright sale, in accordance with Section 3.58(3) of the Local Government Act 1995, Lots 115 and 116 (No.17 and 19) Doust Street, Jurien Bay.**
2. **Endorse a minimum of 4 weeks public advertising and response timeframe for the outright sale opportunity.**
3. **Authorise the Chief Executive Officer to appoint a local real estate agent to advertise the outright sale proposal, collate and evaluate offers for the property for Council consideration.**

**CARRIED 8 / 0**

*Cr Gibson declared an impartiality interest in Item 9.3.2 being the President of the Returned & Services League of Australia WA Branch Incorporated – Jurien Bay Sub-Branch (RSL)*

### **9.3.2 PROPOSED CLUB PREMISES – LOT 503 BASHFORD STREET (RESERVE 31884) JURIEN BAY**

Location:	Lot 503 (Reserve 31884) Bashford Street, Jurien Bay
Applicant:	Jurien Bay RSL Sub-branch
Folder Path:	Development Services / Applications / Development / 2023 / 4
Disclosure of Interest:	Nil
Date:	4 October 2022
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

Council is requested to consider granting landowner's consent and development approval for the development of a club premises within the Returned and Services League of Australia WA Branch Incorporated – Jurien Bay Sub-Branch (RSL) leased site at Jurien Bay Recreation Reserve 31884.

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### BACKGROUND

On 14 November 2022, Council authorised the demolition of the Jurien Town Hall and approved a lease of the former Jurien Town Hall site to the RSL with the following material lease conditions:

- *Lease Term: 21 Years*
- *Further term: Nil*
- *Annual Rent: \$1*
- *Council to meet all lease preparation costs.*
- *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.*
- *Subject to the material being safe to reuse, 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.*
- *Subject to the material being safe to reuse, all remaining salvaged flooring and structural timbers will be returned to the Shire of Dandaragan.*
- *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.*

The subject development application proposes the construction of a 313m<sup>2</sup> 'club premises' for the RSL which includes an incidental 'exhibition centre' for the display of former army artillery.

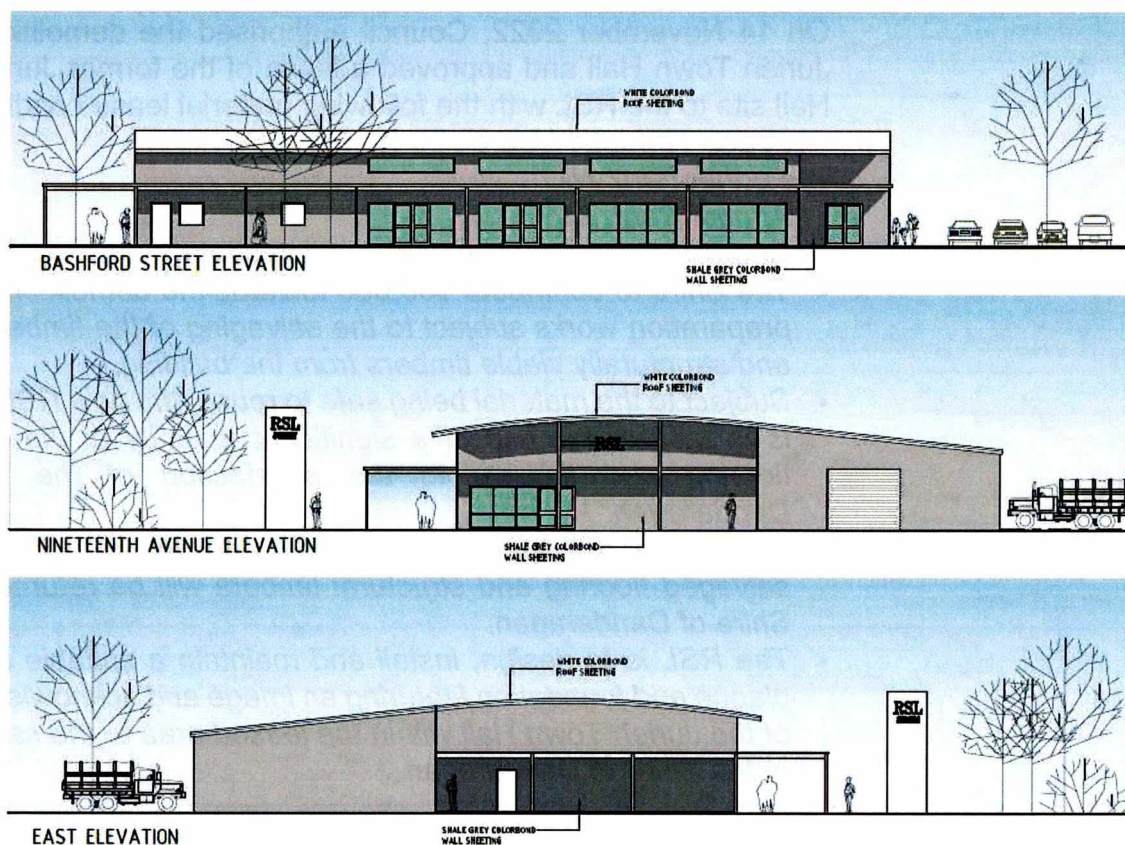
The proposed development will be located within Jurien Bay Recreation Reserve 31884, which is vested with and under the care, control and management of the Shire. As such, Council is required to give landowner's consent for the application. Should Council not grant this consent, the applications cannot proceed. Determination of the applications is then not required.

Reserve 31884 is reserved for the purposes of 'Parks and Recreation' under the Scheme and has the land purposes of 'community centre' and 'recreation'. A RSL development aligns with this reservation and purposes.

### COMMENT

The club premises will be constructed on a prominent site off Bashford Street, replacing the Jurien Town Hall building. As such, the proposed building should have a compatible appearance with the streetscape which includes the Acacia Village aged person accommodation adjacent to the south and the wider recreational ground buildings in the foreground.

The proposed building will be clad in Colorbond with a white roof, grey walls and addressing verandahs to both street frontages of Bashford Street and Nineteenth Avenue, as shown below in the submitted elevation plans. The dominant roof will be curved at a low pitch.

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It is considered that the built form height and massing (bulk and scale) and the use of material and finishes are responsive to the existing streetscape as well as the prominent landmark site where it is situated. The RSL club premises will contribute positively to the character of the public realm in this locality, and provide good amenity outcomes via its attractive, logical and intuitive layout.

The development will be set back approximately 24m from both the Bashford Street and Nineteenth Avenue Road Reserves. This results in the retainment of existing access ways and parking to the development site. The area of parking available complies with the parking requirements of the Scheme which require the development to have minimum of 7 car parking bays (within the leased area).

Given the above, it is recommended that Council approve the development application subjects to conditions. This includes a condition requiring the submission and adherence to a construction management plan given the development site is adjacent to a noise sensitive receptor (aged persons accommodation).

### CONSULTATION

The subject development application was publicly advertised from 19 January 2023 to 17 February 2023. At the time of writing no submissions were received.

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**STATUTORY ENVIRONMENT**

Local Planning Scheme No 7:

2.4.1. A person must not —

- a) use a Local Reserve; or
- b) commence or carry out development on a Local Reserve, without first having obtained development approval under Part 7 of the deemed provisions.

2.4.2. In determining an application for development approval, the local government is to have due regard to —

- a) the matters set out in clause 67 of the deemed provisions;
- and
- b) the ultimate purpose intended for the Reserve.

A Club premises is defined by the Shire's Local Planning Scheme No.7 (Scheme) as:

*premises used by a legally constituted club or association or other body of persons united by a common interest.*

Exhibition centre is defined by the Scheme as:

*premises used for the display, or display and sale, of materials of an artistic, cultural or historical nature, and includes a museum or art gallery.*

Land Administration Act 1997:

*41. Reserving Crown land, Minister's powers as to Subject to section 45(6), the Minister may by order reserve Crown land to the Crown for one or more purposes in the public interest.*

**POLICY IMPLICATIONS**

There are no policy implications relevant to this item.

**FINANCIAL IMPLICATIONS**

The development application fee has been waived as the RSL is a not-for-profit community group in accordance with Delegation Register section 1.2.21: Defer, Grant Discounts, Waive or Write Off Debts.

**STRATEGIC IMPLICATIONS**

Strategic Community Plan – Envision 2029:

01 - Infrastructure	The Shire will work cooperatively with private enterprise and government agencies to develop and maintain a dynamic infrastructure network responsive to usage demand that attracts and retains residents and businesses.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our investments in public assets are based on responsible and sustainable asset custodianship.	Work with community groups to review existing facilities, plan for renewal and ascertain the feasibility of any proposed new facilities.

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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>
The Shire is home to a successful and growing market for domestic and international tourism.	Support the development of new products and services that increase the attraction of the region to the tourism market, in particular Indigenous cultural experiences.
Jurien Bay continues to grow as a regional centre that services and delivers benefits throughout the Shire.	Leverage public and private sector partnerships to deliver new infrastructure required to achieve sustainable economic and population growth.

**ATTACHMENTS**

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

- Development plans 04/23 (SODR-1262144384-16379, SODR-1262144384-16378, SODR-1262144384-16377)

**(Marked 9.3.2)**

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1**

Moved Cr Scharf, seconded Cr Clarke

**That Council agrees to provide landowner's consent for the development application for a club premises and an exhibition centre on the Lot 503 (Reserve 31884) Bashford Street, Jurien Bay to the Returned and Services League of Australia WA Branch Incorporated – Jurien Bay Sub-Branch.**

**CARRIED 8 / 0**

**OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2**

Moved Cr Eyre, seconded Cr Glasfurd

**That Council grant development approval for a club premises and an exhibition centre to be developed on Lot 503 (Reserve 31884) Bashford Street, Jurien Bay in accordance with the following conditions:**

- A. All 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.**
- B. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.**
- C. All areas of outdoor storage must be screened from public view. Design plans for the location, materials and**



- construction of the proposed screening are to be included on the development plans to the satisfaction of the Shire of Dandaragan prior to lodging an application for a building permit.
- D. All piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the Shire of Dandaragan, prior to lodging an application for a building permit.
- E. Prior to occupation of the development, a detailed landscaping plan for the subject property must be submitted to, and approved by the Shire of Dandaragan, and must include the following:
- a. the location, number, size and species type of existing ground covers, shrubs and trees;
  - b. any existing landscape areas to be retained; and
  - c. those areas to be updated, reticulated or irrigated.
- F. The approved landscaping plan must be fully implemented within the first available planting season after occupation of the development, and maintained thereafter, to the satisfaction of the Shire of Dandaragan. Any species which fail to establish within the first two planting seasons following implementation must be replaced in consultation with and to the satisfaction of the Shire of Dandaragan.
- G. Prior to lodging an application for a building permit, the applicant must submit and have approved by the Shire of Dandaragan and thereafter implement to the satisfaction of the Shire of Dandaragan, a construction management plan addressing the following matters:
- a. How materials and equipment will be delivered and removed from the site;
  - b. How materials and equipment will be stored on the site;
  - c. Parking arrangements for contractors;
  - d. Construction waste disposal strategy and location of waste disposal bins;
  - e. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works; and
  - f. Other matters likely to impact on the surrounding properties.
- H. The occasional use of the premises for functions should be incidental to the primary use of the building as a Club Premises and Exhibition Centre.

**CARRIED 8 / 0**

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**9.3.3 PROPOSED HOLIDAY HOUSE – LOT 401 (NO.14) WESTLAKE WAY, JURIEN BAY**

Location:	Lot 401 (No.14) Westlake Way, Jurien Bay
Applicant/Landowner:	GS Attenborough & FA Jack
File Ref:	Development Services/ Applications/ Holiday House/ 2022/ 141
Disclosure of Interest:	Nil
Date:	3 February 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

**PROPOSAL**

The proponent is seeking development approval for the use of Lot 401 (No.14) Westlake Way, Jurien Bay as a commercial holiday house.



Location Pan – Lot 401 (No.14) Westlake Way, Jurien Bay

**BACKGROUND**

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 initial application was made for up to nine guests, but this was amended to eight guests on the advice that the application for nine was unlikely to be supported.

The premises is the applicants' primary place of residence when they are not working fly-in-fly-out.

The application was advertised to immediate neighbouring landowners from 10 January 2023 until 30 January 2023. A total of

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two submissions were received, one supporting and one objecting to the proposal. The objection results in a Council determination being required for the application in accordance with Delegation 9.1.2 (Town Planning – Other Use and Development).

The non-compliance of the application with *Local Planning Policy 9.12 Short-Term Rental Accommodation* in relation to the deemed-to-comply provisions relating to Dwelling Design (bedroom areas) and overcrowding also warrants referral to Council.

The subject property and surrounding area are zoned 'Residential' with dual density coding of R12.5/R25 under the Shire's *Local Planning Scheme No.7* (Scheme). The higher density coding of R25 can be obtained when a property is connected to deep sewer.

*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 un-hosted 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 un-hosted short-term rental accommodation.*

There are currently several commercial holiday houses approved in close proximity to this proposal:

- 3 Westlake Way
- 12 Westlake Way
- 17 Westlake Way
- 19 Westlake Way
- 10 Bower Street
- 16 Bower Street
- 1/21 Bower Street
- 47 Bower Street
- 49 Bower Street
- 11 Hasting 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.

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

The premises will be managed locally by Ray White Jurien Bay who currently manage several commercial holiday houses in Jurien Bay with no incidents reported to the Shire to date. This management arrangement provides a local point of call for neighbouring landowners/tenants surrounding the proposed holiday and complies with clause 7.5 Management Protocols of the Policy which requires holiday house property managers to reside or have their office within 30 minutes driving distance from the premises and be contactable between 9am and 5pm Monday to Saturday (excluding public holidays) and 9am to 12pm on Sunday and public holidays.

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 and 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</p>	<p><u>Compliance</u> Sufficient grassed street setback area on the property for parking vehicles on the premises.</p>

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<b>Deemed-to-comply Provision</b>	<b>Proposed</b>
<p>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: 9-12 guests = minimum of 4 bays</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></p> <ul style="list-style-type: none"> <li>Lawful 4-bedroom dwelling</li> <li>1<sup>st</sup> bedroom (2 guests, queen bed) – 13m<sup>2</sup></li> <li>2<sup>nd</sup> bedroom (2 guests, queen bed) – 11m<sup>2</sup></li> <li>3<sup>rd</sup> bedroom (2 guests, queen bed) – 11m<sup>2</sup></li> <li>4<sup>th</sup> bedroom (2 guests, queen bed) – 11m<sup>2</sup></li> <li>2 bathrooms and 2 toilets</li> </ul>
<p><u>Overcrowding</u></p> <p>Each occupant over the age of 10 years has 14m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</p> <p>Each occupant 10 years and under has 8m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</p>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> <li>1<sup>st</sup> bedroom (2 guests, queen bed) – 31m<sup>3</sup></li> </ul> <p><u>Non-Compliance</u></p> <ul style="list-style-type: none"> <li>2<sup>nd</sup> bedroom (2 guests, queen bed) – 26m<sup>3</sup> (less than required 28m<sup>3</sup>)</li> <li>3<sup>rd</sup> bedroom (2 guests, double bed) – 26m<sup>3</sup> (less than required 28m<sup>3</sup>)</li> <li>4<sup>th</sup> bedroom (2 guests, double bed) – 26m<sup>3</sup> (less than required 28m<sup>3</sup>)</li> </ul>

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.

*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.*

In this instance there is a minor 7% (2m<sup>3</sup>) variation for 3 of the 4 bedrooms not meeting the required cubic space to sleep two guests within. It is considered that the intent of the subject performance requirement of preventing overcrowding within the proposed holiday house is achieved as it reasonable that 2 guests be permitted to sleep within bedrooms 2-4 which have a standard ceiling height of 2.4m as required under the Building Code of Australia. This is further supported by the application meeting the deem-to-comply provisions for dwelling design as outlined in the table above.

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).

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**CONSULTATION**

As detailed previously, two objections were received from surrounding landowners.

<u>Comment</u>	<u>Officer Response</u>
We are the owners of X Westlake Way and have no objection to the proposal of 14 Westlake becoming a short-term holiday rental.	Noted.
<p>I would like to Object to the proposed commercial holiday house.</p> <ol style="list-style-type: none"> <li>1. During the 2022 Christmas New Year period the new owners set up a table and chairs in the roofed area of their carport immediately outside my bedroom window.</li> <li>2. They made me aware of how disruptive the noise will be if there is a commercial use of the house for holiday use. Generally, people utilising a Holiday house, are always in party mode and are usually loud and lack respect for surrounding neighbours.</li> <li>3. I ceased renting out another Jurien Bay property I owned for holiday use because of the disruption to the neighbours.</li> <li>4. If the practice of entertaining in the carport area continues until early hours of the morning, which it usually does, the negative effect to my family's ability to sleep will have a detrimental impact on our freedom and mental health. Further, it should be noted that I am imminently about to retire to my property.</li> </ol>	<ol style="list-style-type: none"> <li>1. Noted. This is however not a relevant consideration for the subject holiday house development application.</li> <li>2. A guest code of conduct which amongst other matters covers guest noise – 'noise should generally cease after 9pm Sunday through to Thursday and after midnight Friday and Saturday'. The property manager will be responsible for upholding the guest code of conduct as per a condition of development approval. Anti-social behaviour after business hours should also be reported to the Police.</li> <li>3. See 1 above.</li> <li>4. See 2 above.</li> </ol>

**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 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

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the local government is seriously considering adopting or approving; planning including

- (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;

- 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.*

The owner or occupier of the house can seek direction from the local government to vary the above requirements via the exercise of discretion. In this instance discretion is recommended as the variation in relation to the cubic space within bedrooms 2-4 is of minor nature and the room design complies with the Building Code of Australia in terms of ceiling height.

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

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

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

- Holiday house management documents (SODR-1262144384-16605)

**(Marked 9.3.3)**

**VOTING REQUIREMENT**

Simple majority.

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Gibson, seconded Cr Glasfurd**

**That Council approve the development application for the proposed Holiday House at Lot 401 (No.14) Westlake Way, Jurien Bay, subject to following conditions and advice:**

**Conditions:**

- 1. All 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 be in accordance with the 'Code of Conduct', and the 'Fire and Emergency Plan' submitted with the subject development application date stamped 6 February 2023.**
- 5. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 6 February 2023.**
- 6. All vehicle parking must be confined to the Holiday House premises, to the satisfaction of the Shire of Dandaragan.**
- 7. A sign up to 0.2m<sup>2</sup> in area listing the approved property 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 prior to the commencement of the development.**



8. This development approval is valid until 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.

**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. In relation to condition 6, parking is not permitted on road verges, footpaths, vacant lots etc. in order not to adversely affect the amenity of the locality.
- C. Development approval does not affect the existing and future use of the premises as a Single House.
- 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 7 / 1

**9.3.4 PROPOSED LUXURY PICNIC EXPERIENCE – JURIEN BAY FORESHORE**

Location:	Dobbyn-, Fauntleroy- and Memorial Park (Reserve 28541, Lots 66, 67, 68, 303, 352, 411, 1223), Jurien Bay
Applicant:	Luxury Picnic Experience
File Ref:	Development Services/ Applications/ Development/ 2023/ 13
Disclosure of Interest:	Nil
Date:	7 February 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

**PROPOSAL**

The purpose of the report is for Council to consider granting landowner's consent and development approval for the commercial use of the Jurien Bay Foreshore for pop-up picnic platters. A land user agreement is also recommended to further control the activity.

**BACKGROUND**

The applicant, Luxury Picnic Experience (LPE) is an accredited Western Australian tourism provider based in Jurien Bay. LPE provides unique picnic experiences throughout the Shire of Dandaragan showcasing the coastal environment to locals,

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domestic and international tourists. LPE use local produce, producers and businesses where possible to showcase Wheatbelt communities.

LPE is operated by the following two persons:

- Tracey Illich: Event management business owner for 25 years.
- Jemma Sargent: involved in the hospitality industry for nearly 35 years employed in restaurants, resorts, kitchens and bars and hospitality management positions and owning service companies. Has owned and operated Turquoise Coast Picnics & Platters since 2021.

To date the Shire has issued the following regulatory approvals to LPE:

Foreshore pop-up picnic

LPE begun operation of the pop-up picnic experience by a three-month permit under the *Local Government Property Local Law*. This permit allowed LPE to operate as desired from the Jurien Bay Foreshore without the need to have development approval provided the business activity did not exceed 48 hours in total. On expiry of the three-month permit, LPE has now chosen to lodge a development application for the pop-up picnic experience (the subject of this report).

Consumption of Alcohol

LPE also holds a consumption of alcohol permit under the Local Government Property Local Law linked to the above pop-up picnic offering. This permit is due for renewal on 1 July 2023.

Stall only pop-up

LPE also held a three-month permit under the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Laws* which permitted the set-up of a cart/stall where customers collect their food goods and consume their goods elsewhere at their leisure.

Medium risk food licence

LPE also holds a medium risk food licence under the Food Act 2008 for their picnic offerings.

The applicant advised that the proposed pop-up picnic venture will involve a food stall and a number of picnic tables and/or blankets of which customers consume their purchased food goods around/on for up to two hours. Approval is sought to run the picnics from 7am to 8pm from within the Jurien Bay Foreshore (Dobbyn-, Fautleroy- and Memorial Park).

The set-up will include:

- Remove picnic blanket/table/benches from trailer.
- Place picnic blanket on the ground
- Place table and benches on ground/picnic table on blanket
- Decorate table and place cushions on blanket.

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- Place plates and cutlery on table and place food onto table

The packing down will include:

- Remove left over food, plates and cutlery from table.
- Place any rubbish bag to be disposed of in household waste bin.
- Pack up table decorations and cushions into bags.
- Fold down picnic blanket/table/benches and store in trailer

The applicant has also sought approval for the use of Federation Memorial Park for the commercial pop-up business.

The proponent currently has public liability insurance for the business.

All three foreshore parks down to the high-water mark of the ocean (which form part of the application) are managed by the Shire for purposes of 'Foreshore Protection' and 'Recreation' and has a zoning of 'Parks and Recreation' under Local Planning Scheme No.7 (Scheme). It is considered the proposal for a pop-up commercial activity is a form of recreation consistent with the vested purpose and zoning of these reserves.

Council is required to give landowner's consent for the application. Should Council not grant this consent, the application cannot proceed. Determination of the applications is then not required.

#### COMMENT

The proposed development through the quasi-trial period under the three-month Property Local law Permit has shown that the business can operate successfully with no interruptions to general users of Fautleroy- and Dobbyn Park. Nonetheless, where there is conflicting recreational or event use of the foreshore, LPE will be required relocate their land use in accordance with the Policy.

The Policy does not apply to the proposed use of Memorial Park for the business venture. The use of this park is however considered appropriate as this park is sufficiently separated from residential properties and the tourism activity aligns with the Shire's strategic planning framework for tourism outcomes.

Given the above, it is recommended that Council provide landowner's consent and grant development approval for the proposal subject to relevant conditions. It is further recommended that Council enter into an agreement with the applicant to use the outlined Shire managed Foreshore reserves within the Jurien Bay locality.

#### CONSULTATION

No consultation was undertaken for the item as the proposal is generally consistent with Council Policy.

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### STATUTORY ENVIRONMENT

Local Planning Scheme No.7:

With Reserve 28541 a “Local Reserve” under the Shire of Dandaragan Local Planning Scheme No.7, any activity of a commercial nature is subject to development approval being issued by the Council.

Local Government Property Local Law

*Division 5 When a permit is required*

*Activities needing a permit*

3.13 (1) *A person shall not without a permit –*

- (a) subject to subclause 3, hire local government property;*
- (2) The local government may exempt a person from compliance with subclause (1) on the application of that person.*
- (3) The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).*

As the proponent has sought development approval for their commercial activity it is considered appropriate to exempt the proponent under subclause 2 above from requiring the renewal of their permit under this local law.

### POLICY IMPLICATIONS

- Local Planning Policy 9.11 – Mobile and Itinerant Vendors and Commercial Activities on Reserves:  
*Each application is assessed on its merits. The Shire encourages applications that are creative and innovative that would support the attraction of the Shire as a tourist destination.*
- Local Planning Policy 9.14 Jurien Bay Foreshore Commercial Development Plan:  
3.2.2 *Development approval is required for uses where:*  
a) *Permanent or transportable structures are proposed; or*  
b) *The operation of the proposed activity is to exceed a 48 hour period or a series of dates, at the Shire’s discretion.*  
3.5.5. *The Shire of Dandaragan reserves the right to make any approved location unavailable for a set period of time for community events, infrastructure works or any other reason the Shire deems necessary.*

This Policy outlines how the Shire plans to activate the Jurien Bay Foreshore area and encourage use of the foreshore by commercial operators in a manner that supports tourism operators and other users of the public spaces. LPE falls under the land use category of pop-up which is defined in the Policy as:

*a seasonal or temporary hospitality land use activity.*

The Policy lists Fauntleroy Park as Commercial Activity Area Zone 1 which is:

*intended to accommodate all of the commercial uses such as seasonal community events and markets, recreational based*

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*commercial activities, as well as the use of permanent and transportable structures as part of lease agreements...*

Dobbyn Park is listed by the Policy as Commercial Activity Area Zone 2 which is:

*intended to accommodate the civic and passive use of fixed public recreational infrastructure located within this area.*

#### FINANCIAL IMPLICATIONS

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

In accordance with the Council's Reserve User Fee the applicant will be required to pay a discounted annual fee of \$250 for the first two years of operation. After two years this annual user fee shall rise to \$500.

#### STRATEGIC IMPLICATIONS

- Local Tourism Planning Strategy:  
*The Shire of Dandaragan develops a sustainable tourism industry that celebrates its natural assets, supports the local community and meets the needs of the visitors.*
- Strategic Community Plan:

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>
The Shire is home to a successful and growing market for domestic and international tourism.	Support the development of new products and services that increase the attraction of the region to the tourism market, in particular Indigenous cultural experiences.

#### ATTACHMENTS

Nil

#### VOTING REQUIREMENT

Simple majority

#### **OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1**

**Moved Cr Scharf, seconded Cr Clarke**

**That Council agrees to provide landowner's consent for the development application from Luxury Picnic Experience for the proposed commercial activity of pop-up picnics within Dobbyn-, Fauntleroy- and Federation Memorial Park (Reserve 28541, Lots 66, 67, 68, 303, 352, 411, 1223), Jurien Bay.**

**CARRIED 8 / 0**

**OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2**

Moved Cr Rybarczyk, seconded Cr Glasfurd

That Council Exempt Luxury Picnic Experience in accordance with clause 3.13(2) of the *Shire of Dandaragan Local Government Property Local Law* from requiring a permit under this local law.

CARRIED 8 / 0

**OFFICER RECOMMENDATION 3 / COUNCIL DECISION 3**

Moved Cr Eyre, seconded Cr Gibson

That Council grant development approval for the proposed commercial activity of pop-up picnics within Dobbyn, Fautleroy and Federation Memorial Park (Reserve 28541, Lots 66, 67, 68, 303, 352, 411, 1223), Jurien Bay subject to the following conditions and advice:

**Conditions:**

- A. All 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.
- B. This approval is non-exclusive and allows for equal access and right of use of Dobbyn, Fautleroy and Federation Memorial Parks, Jurien Bay and associated infrastructure by the general public, to the satisfaction of the Shire of Dandaragan.
- C. The approval for the use hereby permitted allows the use to be operated by Luxury Picnic Experience. If the operator ceases to operate the use on the subject sites, the approval for the use shall expire.
- D. The development hereby permitted is restricted in its hours of operation to 7am to 8pm, 7 days a week.
- E. The development must not cause nuisance or degrade the amenity of the neighbourhood in any way, including by reason of the emission of noise, light, vibration, electrical interference, odour, fumes, smoke or other pollutant, vapour, steam, soot, ash, dust, wastewater, water products, grit, oil or impact on public safety or otherwise.
- F. Unless otherwise authorised in writing, the pop-up picnic activities shall not be operated within 100m of a permanent business premises selling a similar product/s, if that business is open, to the satisfaction of the Shire of Dandaragan.
- G. This development approval is valid until 30 June 2023. The development should cease before or on this date unless otherwise approved in writing by the Shire of Dandaragan.

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**Advice Note:**

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

**OFFICER RECOMMENDATION 4 / COUNCIL DECISION 4**

Moved Cr Eyre, seconded Cr Glasfurd

That Council authorise the Chief Executive Officer to enter into a land user agreement with Luxury Picnic Experience for the commercial use of Dobbyn-, Fautleroy- and Federation Memorial Park (Reserve 28541, Lots 66, 67, 68, 303, 352, 411, 1223), Jurien Bay for the commercial activity of pop-up picnics subject to the following material conditions:

- A. That the proponent be in possession of an Australian approved public liability insurance policy to a minimum value of \$10 million for the period of the agreement.
- B. That the proponent be in possession of all appropriate food, liquor licences and other relevant approvals required for the approved business activity.
- C. In the event of damage to infrastructure or the environment the Shire of Dandaragan may seek costs for repair and restoration works.
- D. In response to an issue of public safety operation shall cease until the matter has been resolved to the satisfaction of the Shire of Dandaragan.

CARRIED 8 / 0

### 9.3.5 PROPOSED OUTBUILDING – LOT 80 (NO. 3) COOK STREET, JURIE BAY

Location:	Lot 80 (No.3) Cook Street, Jurien Bay
Applicant:	Nusteel Patios & Sheds Moora on behalf Kevin O'Keefe & Jennifer Walmsley of Silver Sunset Pty Ltd
File Ref:	Development Services/ Applications/ Development/ 2023/ 2
Disclosure of Interest:	Nil
Date:	6 February 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager of Development Services

**PROPOSAL**

The proponent is seeking development approval for an oversized outbuilding at Lot 80 (No.3) Cook Street, Jurien Bay.



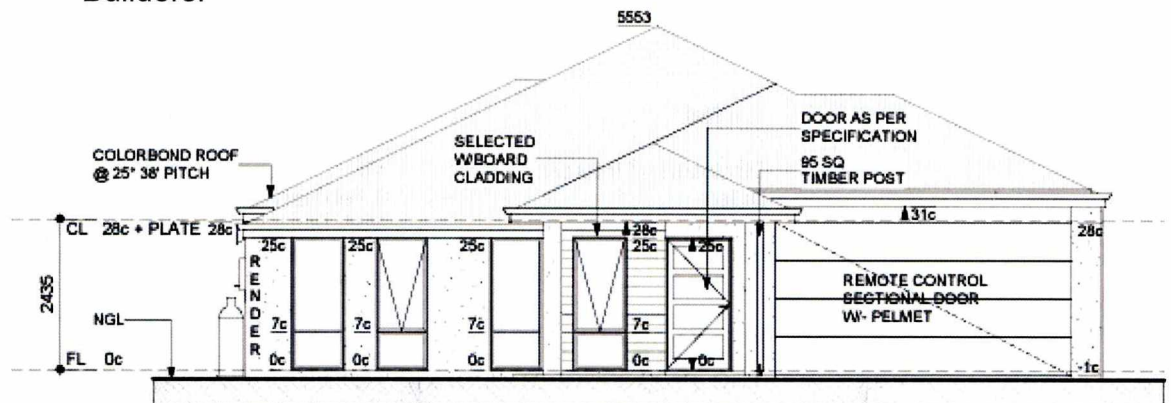
Location Plan – Lot 80 (No.3) Cook Street, Jurien Bay

### BACKGROUND

The applicant is seeking development approval to construct a 10m by 12m (120m<sup>2</sup>) enclosed outbuilding with a wall height of 4.4m and a ridge height of 5.4m at the rear of the 863m<sup>2</sup> property. The outbuilding will be a steel frame clad in Colorbond steel sheeting.

The outbuilding will be set back a minimum of 1.5m from the rear boundary and will be built up to the adjoining side boundary of Lot 79, which the proponent also owns. The roller doors for vehicle access also address the neighbouring property i.e. cannot be accessed without the use of the adjoining property.

A building permit for a three-bedroom, two-bathroom single storey dwelling was issued on 21 December 2022 to WA Country Builders.



Approved Dwelling Front Elevation

As the property is being developed for residential purposes with the construction of a single house and the proposed ancillary outbuilding, *Local Planning Policy 9.4: Outbuildings Residential*



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Areas (Policy) has been used to assess the application. This Policy outlines the following parameters for outbuildings:

	LPP9.4	Proposed
Area	80m <sup>2</sup>	120m <sup>2</sup>
Wall/gutter height	3.6m	4.4m
Ridge Height	4.5m	5.4m
Rear setback	1.5m	1.5m
Side setback	1.5m	Nil

The proponent has sought the above outbuilding area variation for storage needs for the following large recreational vehicles:

- 8.8m x 2.47m caravan with additional rear bike rack and ability to slide out 0.6m on one side.
- 6.6m boat on a 9.2m long trailer.

The proponent has included pictures of these vehicles with their application as attached and described that the height of both vehicles is substantially higher and would not fit in a standard outbuilding. The larger sized outbuilding is also sought by the proponent so they can freely walk around both vehicles inside the shed and provide added storage within.

As a result of the Policy variations sought, the development application is referred to Council for a determination in accordance with Delegation 9.1.1 of the Shire of Dandaragan Delegations.

#### COMMENT

Where a proposal does not meet the deemed-to-comply provisions of the Policy the decision maker is to consider the application against the design principles of the Policy (which is as per the R-Codes). The R-Codes design principles applicable for the proposed outbuilding and the officer's assessment of each are as follows.

#### Lot boundary setback 5.1.3, P3.2

*Buildings built up to boundaries (other than the street boundary) where this:*

- *makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;*
- *does not compromise the design principle contained in clause 5.1.3 P3.1;*
  - *reduce impacts of building bulk on adjoining properties;*
  - *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
  - *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*
- *does not have any adverse impact on the amenity of the adjoining property.*

#### Outbuildings 5.4.3, P3

*Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.*

The proposal complies with the deemed-to-comply provisions of the R-Codes for overshadowing as the outbuilding will not cast a shadow more than 25% on adjoining southern properties at midday on winter solstice.

The nil boundary setback provides additional outdoor space in the opposing rear corner of the subject property for the proponent to utilise. However, the nil boundary setback facing roller doors does not provide privacy between Lots 80 and 79 Cook Street and would not be accessible should the ownership of the property change in future years.

The oversized outbuilding both in height and area proposed will have a building bulk and scale that will appear more dominant than the approved dwelling for the site. This can negatively affect current and future adjoining landowners (particularly Lot 79 Cook Street) and the overall streetscape in a prominent location of Jurien Bay.

The character of the locality is in a period of transition as a number of original Jurien Bay 'beach shacks' in this locality are being demolished and replaced with new dwellings or commercial development.

The proposed oversized outbuilding would result in an ancillary building being substantially larger than the dwelling under construction on the property. This will result in the amenity of the streetscape and views along Cook Street being detracted from as result of the proposed outbuilding being visually intrusive.

Furthermore, the subject property could be subdivided into 7 unit lots. The proposed outbuilding is the same size as the average lot size required for unit subdivision of 120m<sup>2</sup>. Therefore, approval of the oversized outbuilding would be unwanted, to avoid the visual and amenity impacts on potential future higher density development in this locality of Jurien Bay.

#### Local Planning Scheme No.7

The following relevant Scheme provisions also apply to the proposed development:

##### 4.23 Development in the Regional Centre Zone

- *Development to be in accordance with the Jurien Bay City Centre Strategy Plan or any successive document.*
- *Development shall address matters including, but not limited to, achieving high quality-built form, appropriate setbacks to street boundaries and adjoining residential zoned lots, site responsive design, landscaping, efficient access and parking to the satisfaction of the local government.*

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The City Centre Strategy Plan (Strategy) earmarks the subject area for accommodating offices as well as residential development by the Regional Centre mixed use zoning -

*Where only residential development occurs a coding of R80 should apply as this enables the option of multiple dwellings (apartments) as well grouped dwellings. This provides more intensive development of a different housing form more suited to mixed use areas and where ground floor levels may be used for office uses....*

*An appropriate scale within the City Centre should be established based on all new developments, including private housing, being respectful of the small-scale nature of the original Jurien Bay houses and ensure that designs are created which modulate larger buildings to read as a collection of smaller buildings.*

*As such, in general a maximum height of 2 storeys is appropriate for residential areas and 3 storeys for non- residential areas within the City Centre...*

*Building form should ensure that buildings do not dominate at street level...*

The proposed ancillary residential outbuilding is not considered to be consistent with the above as it will be the dominant building on a mixed use zoned property which is intended by the landowner to be used for low density residential development. The proposed structure will have greater building mass than the modest dwelling to be constructed and will not achieve a site responsive design as set out within the Strategy. The bulk and scale of the proposed outbuilding is not considered compatible with the desired future character of the locality. Furthermore, the proposed outbuilding has the potential to lead to undesirable amenity impacts on surrounding properties and the streetscape.

The storage needs of the applicant is not a valid town planning consideration under the Shire's Local Planning Framework and it is considered that there is sufficient room to store the applicant's recreational vehicles within an 80m<sup>2</sup> outbuilding.

The approval of the proposal which seeks variation to the Policy's maximum heights and area would set an undesirable precedent for future like development applications. Every approval of development of this nature that significantly varies from Council's Policy and the R-Codes has the potential to adversely instead of positively impact the current and future character of the locality.

In summary, it is recommended, for the above reasoning, that Council refuse the subject development application.

#### CONSULTATION

The proposal was forwarded to adjoining landowners for comment and no responses were received.

STATUTORY ENVIRONMENT

- Planning and Development (Local Planning Schemes) Regulations 2015  
Deemed provisions for local planning schemes  
Cl.67. Consideration of application by local government
  - (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...
  - (e) any policy of the Commission;
  - (f) any policy of the State;
  - (g) any local planning policy for the Scheme area;
  - (fa) any local planning strategy for this Scheme endorsed by the Commission;
  - (m) the compatibility of the development with its setting, including —
    - (i) the compatibility of the development with the desired future character of its setting; and
    - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
  - (n) the amenity of the locality including the following —
    - (ii) the character of the locality;
  
- Local Planning Scheme No 7:  
Clause 4.2 of the Scheme outlines *State Planning Policy 3.1 - Residential Design Codes* is to read as part of the Scheme.

The subject property is zoned 'Regional Centre' under the Shire's Local Planning Scheme No.7 (Scheme). The objectives of this zone are:

- *Provide a range of services and uses to cater for both the local and regional community, including but not limited to specialty shopping, restaurants, cafes and entertainment.*
- *Ensure that there is a provision to transition between the uses in the regional centre and the surrounding residential areas to ensure that the impacts from the operation of the regional centre are minimised.*
- *Provide a broad range of employment opportunities to encourage diversity and self-sufficiency within the Centre.*
- *Encourage high quality, pedestrian-friendly, street-oriented development that responds to and enhances the key elements of the Regional Centre, to develop areas for public interaction.*
- *Ensure that the provision of residential opportunities within the Regional Centre, including high density housing and tourist accommodation that supports the role of the regional centre and meets the needs of the community.*

POLICY IMPLICATIONS

- *Residential Design Codes (R-Codes) (State Planning Policy 7.3)*

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An outbuilding is defined by the R-Codes as:

*An enclosed non-habitable structure that is detached from any dwelling.*

- Local Planning Policy 9.4 Outbuildings Residential Areas

#### FINANCIAL IMPLICATIONS

The applicant has paid the required fee for the development application.

#### STRATEGIC IMPLICATIONS

- Jurien Bay City Strategy Plan – as outlined in the Comment section of the report.
- Local Planning Strategy 2020 – Actions – Settlement Planning  
In response to population growth, demographic change and economic opportunity facilitate staged development of the townsite consistent with the Jurien Bay Growth Plan and the Jurien Bay City Centre Strategy Plan.

#### ATTACHMENTS

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

- Development application 2/23 (Doc Id: SODR-1262144384-15223, SODR-1262144384-16607, SODR-1262144384-16273, SODR-1262144384-16272, SODR-1262144384-16271)

**(Marked 9.3.5)**

#### VOTING REQUIREMENT

Simple majority

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

**Moved Cr Eyre, seconded Cr Rybarczyk**

**That Council refuse the development application for the proposed outbuilding at Lot 80 (No.3) Cook Street, Jurien Bay as the development would:**

- **not be compatible with its setting and the desired character of the locality in terms of the likely effect of its orientation and appearance (Clause 67(2)(m) of the Deemed Provisions for local planning schemes);**
- **have an adverse amenity impact on the character of the locality (Clause 67(2)(n) of the Deemed Provisions for local planning schemes); and**
- **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 9.4 Outbuilding – Residential Areas* (clause 67(2)(b & g) of the Deemed Provisions for local planning schemes).**

**Advice to applicant:**

**If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal**

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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**

### **9.3.6 ENDORSEMENT OF ADDITIONAL OFF-LEASH DOG EXERCISE AREAS**

Location:	Cervantes & Jurien Bay
Folder Path:	Development Services / Ranger Services / Dog Exercising
Disclosure of Interest:	Nil
Date:	23 February 2023
Author:	Trinity Burlas, Principal Environmental Health & Regulatory Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

#### PROPOSAL

The purpose of the report is for Council to endorse new off-leash dog exercise areas within the townsites of Cervantes and Jurien Bay which have been on trial since June 2021.

#### BACKGROUND

On 27 May 2021, Council resolved the following:  
That Council:

1. Specify the following areas to be off-leash dog exercise areas in accordance with Section 31 (3A) of the Dog Act 1976 for a trial period of six-months from the date of this decision:
  - a. Weld Park (northwards of the basketball court to Aquilla Street)
  - b. Passamani Park
  - c. Dibbler Park
  - d. Djidi Djal Park
  - e. Jurien Bay beach south from Cook Street
  - f. Jurien Bay beach north from Memorial Park
  - g. Cervantes beach south from Talavera Road
2. Advise surrounding landowners / occupiers of this decision and the Shire Rangers' contact numbers for reporting purposes.

The initial six-month trial period was extended to 18 months. New signage marking the trial areas has since been displayed for more than 9 months and submissions have been received, providing sufficient opportunity to ascertain a direction forward with the trial areas.

Currently there are 565 dogs registered in the Shire, 379 of these registered in Jurien Bay and 83 in Cervantes. Sporting ovals (when not in use for organised sport) and limited beach areas within Cervantes and Jurien Bay are currently the only options to exercise dogs off-lead other than the above areas being trialled.

Given this limitation, in accordance with the Shire's Corporate Business Plan, consultation was undertaken with the Cervantes and Jurien Bay communities to provide more Shire managed public open space as off-leash dog exercise areas. Additional areas within the townsites of Badgingarra and Dandaragan were not explored as that the sporting ovals within both these towns are considered sufficient for these purposes. Dandaragan only has 52 registered dogs and Badgingarra 53 registered dogs. Jurien Bay and Cervantes are the more urbanised townsites in the shire, generally with smaller lots and a higher demand for dog exercise areas.

Under the *Dog Act 1976* (the Act), when in any public place in Western Australia, dogs must be tethered or on a leash unless the place is a designated dog exercise area. Dog owners may exercise their dog off the leash in designated dog exercise areas, however they are still fully responsible for the (effective) control and behaviour of their dog.

#### COMMENT

Ensuring dogs get adequate exercise is essential to their health and wellbeing. It keeps them happy, prevents boredom and can prolong their life. However, the following concerns have been noted by community and/or Shire Rangers in relation to this project:

- Dogs off leash near playgrounds, picnic/BBQ areas, cycle paths can create concern to other users.
- Residents that live near dog exercise areas may be adversely impacted by dog owners' behaviour when approaching and leaving parks.
- Some sensitive environmental areas and fauna may be impacted by dogs off leash.

Following the trial and the public feedback received, the following areas are recommended to be declared as dog exercise areas:

- Weld Park – 18,000m<sup>2</sup> in total of open grassed area with an old skate park. The specific proposed area is northwards from the Basketball Court to Aquilla Street.
- Passamani Park – 8,722m<sup>2</sup> grassed area with playground and seasonal stormwater runoff area.
- Dibbler Park – 27,276m<sup>2</sup> grassed area with picnic tables.
- Djidi Djal Park – 26,115m<sup>2</sup> – half grassed area, half bushland with Barbeque and playground area.
- The Jurien Bay beach southwards of Cook St and northwards of Memorial Park (Excludes "Secret Beach" and the Boat Harbour Beach within the Jurien Bay Boat Harbour which is managed by the Department of Transport and were outside the scope of this trial).
- The Cervantes beach south of Talavera Road.

Jurien Bay beach north from Memorial Park was the only trial off-lead location that received two submissions of concern during the trial and advertising period. Issues raised include that Jurien Bay beach north of Memorial Park is a perfect beach for families with

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young children who may not want to be approached by dogs off lead. Concerns regarding the impact of dogs on bird activity were also noted. The officer's recommendation responds to these concerns raised by reinstating these beach areas as on-leash only.

Weld Park was another off-leash trial area that caused confusion to a member of the public as the exact designation of the area north of the basketball court is not clear. The off-leash area of Weld Park was difficult to indicate with limited signage alone and there is concern it will be difficult to manage as an off-leash dog exercise area when south of the basketball court at Weld Park is an on-leash dog area. For Weld Park to be established as a permanent off-leash dog exercise area, it is proposed that in addition to signage, the park will be delineated with a visual barrier such as additional tree planting and physical landscaping to clearly separate the off-leash dog exercise area and on-leash dog area.

Installed signage in these locations acknowledge that dog owners must have effective control of their dogs in these reserves. This essentially means they must be in reasonably close proximity to ensure their dog does not interfere with other users of the given reserve. If a dog owner chooses to exercise their dog off a lead and their dog is involved in a dog attack incident as the aggressor, they may be held responsible for that offence.

### CONSULTATION

Surrounding landowners of the proposed parks within Jurien Bay were written to in early May 2021 to advise of consideration of this proposal. Since this date, the Shire has received no comments from surrounding landowners. The public were also invited to provide feedback on the trial off-lead areas. These comments have been noted above.

### STATUTORY ENVIRONMENT

Dog Act 1976:

*31. Control of dogs in certain public places*

- (1) *A dog shall not be in a public place unless it is —*
- (a) *held by a person who is capable of controlling the dog; or*
  - (b) *securely tethered for a temporary purpose, by means of a chain, cord, leash or harness of sufficient strength and not exceeding the prescribed length.*
- (2A) *Despite subsection (1), a dog shall not be in a public place —*
- (a) *at all if the place is specified under subsection (2B) as a place where dogs are prohibited at all times; or*
  - (b) *at a time when the place is specified under subsection (2B) as a place where dogs are prohibited at that time.*
- (2B) *A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —*



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- (a) at all times; or
  - (b) at specified times.
- (3A) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

### FINANCIAL IMPLICATIONS

Suggestions have been received from the public comments to install a fenced off-leash dog play area within a declared park i.e. Dibbler Park or Weld Park. This will form part of future budget considerations.

Additional signage to indicate off-leash dog exercise areas will be required to clearly identify these areas for the public.

### STRATEGIC IMPLICATIONS

Corporate Business Plan:

#### *Dog Exercise Areas*

*Undertake a review of Council's approved dog exercise areas and consult with the public about suitable public open space to proclaim as dog exercise areas.*

### ATTACHMENTS

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

- Reference Maps 1: Trialled and Current approved Off-leash Dog Exercise Areas  
(Doc Id: SODR-410361963-618)
- Reference Maps 2: Revised Dog Off-Leash Exercise Areas and Prohibited Areas in accordance with Officer's Recommendation.  
(Doc Id: SODR-410361961-620)

**(Marked 9.3.6)**

### VOTING REQUIREMENT

Absolute Majority

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

**Moved Cr McDonald, seconded Cr Clarke**

**That Council specify the following additional areas as indicated in Attachment SODR-410361963-618 and SODR-410361961-620 to be off-leash dog exercise areas in accordance with Section 31 (3A) of the Dog Act 1976:**

- 1. Weld Park - northwards of the basketball court to Aquilla Street**
- 2. Passamani Park**
- 3. Dibbler Park**
- 4. Djidi Djal Park**

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5. Jurien Bay beach southwards from Cook Street  
6. Cervantes beach southwards from Talavera Rd

**CARRIED BY ABSOLUTE MAJORITY 8 / 0**

## 9.4 GOVERNANCE & ADMINISTRATION

### 9.4.1 2023 REVIEW OF DELEGATIONS REGISTER

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Office of the CEO / Governance / Authorisations- Delegations / Delegations Register
Disclosure of Interest:	None
Date:	13 February 2023
Author:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

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

#### BACKGROUND

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

#### COMMENT

Under the Local Government Act 1995 Section 5.46, and as part of the annual Compliance Audit Return, delegations are to be reviewed at least once every financial year, in this case 2022-2023.

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

Council approval is also sought to delegate power to the CEO, the authority to authorise a person for the purposes of performing the prescribed office of Registration Officer under the Dog Act 1976 [s.3].

#### CONSULTATION

Nil

#### STATUTORY ENVIRONMENT

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

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

**POLICY IMPLICATIONS**

There are no policy implications relevant to this item.

**FINANCIAL IMPLICATIONS**

There are no financial implications relevant to this item.

**STRATEGIC IMPLICATIONS**

There are no strategic implications relevant to this item.

**ATTACHMENTS**

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

- Shire of Dandaragan Delegations (Doc Id: SODR-878193511-2911)

***(Marked 9.4.1)***

**VOTING REQUIREMENT**

Absolute majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr Gibson, seconded Cr Eyre

That Council:

- 1) Acknowledge that following a review of its Delegations Register (Doc Id SODR-878193511-2911), in accordance Section 5.46 of the Local Government Act 1995, noting changes have been made to this document to reflect the roles and responsibilities of the current organisational structure.
- 2) Approve delegation of authority to the CEO power to appoint a registration officer under the Dog Act 1976 as follows:

**5.1.8 Appoint Registration Officer**

<b>Delegator:</b> <i>Power / Duty assigned in legislation to:</i>	Local Government
<b>Express Power to Delegate:</b> <i>Power that enables a delegation to be made</i>	<i>Dog Act 1976:</i> s.10AA Delegation of local government powers and duties
<b>Express Power or Duty Delegated:</b>	<i>Dog Act 1976:</i> s.3 Terms Used ( <i>Registration officer means a person authorised by the local government to effect the registration of dogs pursuant to this Act</i> )
<b>Delegate:</b>	<b>Chief Executive Officer</b>

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<p><b>Function:</b> <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i></p>	<p>1. Authority to authorise a person for the purposes of performing the prescribed office of Registration Officer under the Dog Act 1976 [s.3].</p>
<p><b>Council Conditions on this Delegation:</b></p>	<p>a. The Chief Executive Officer permitted to sub-delegate to employees [s.10AA(3)].</p> <p>b. A register of Authorised Persons is to be maintained as a Local Government Record.</p> <p>c. Only persons who are appropriately qualified and trained may be appointed as Authorised persons.</p> <p>d. Authorisations are to be provided in writing by issuing a Certificate of Authorisation.</p>
<p><b>Express Power to Sub-Delegate:</b></p>	<p><i>Dog Act 1976:</i> s.10AA(3) Delegation of local government powers and duties (NOTE – sub-delegation only permitted where delegation to the CEO expressly authorises sub-delegation)</p>

<p><b>Sub-Delegate/s:</b> <i>Appointed by CEO</i></p>	<p><b>Executive Manager Development Services</b></p>
<p><b>CEO Conditions on this Sub-Delegation:</b> <i>Conditions on the original delegation also apply to the sub-delegations.</i></p>	<p>Nil</p>

<p>Compliance Links:</p>	<p>Dogs Local Law</p>
<p>Record Keeping:</p>	<p><i>Notices issued under this delegated authority are to be held as a Local Government record.</i></p>

**CARRIED BY ABSOLUTE MAJORITY 8 / 0**

## 9.5 COUNCILLOR INFORMATION BULLETIN

### 9.5.1 SHIRE OF DANDARAGAN – JANUARY 2023 COUNCIL STATUS REPORT

Document ID: [SODR-1739978813-6170]

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 25 January 2023. **(Marked 9.5.1)**

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 23 FEBRUARY 2023****9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – JANUARY 2023**

Document ID: [SODR-2045798944-4183]

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for January 2023. **(Marked 9.5.2)**

**9.5.3 SHIRE OF DANDARAGAN – PLANNING STATISTICS – JANUARY 2023**

Document ID: [SODR-2045798944-4184]

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for January 2023. **(Marked 9.5.3)**

**9.5.4 SHIRE OF DANDARAGAN TOURISM / LIBRARY / COMMUNITY ACTIVITIES REPORT FOR JANUARY 2023**

Document ID: [SODR-1876982588-1218]

Attached to the agenda is monthly report for Tourism / Library for January 2023. **(Marked 9.5.4)**

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

Nil

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

Nil

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

Nil

**13 CLOSURE OF MEETING**

The presiding member declared the meeting closed at 4.18pm.

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 23 FEBRUARY 2023**

These minutes were confirmed at a meeting on 23 March 2023.....

Signed Aileen Holmes.....

Presiding person at the meeting at which the minutes were confirmed

Date 23 March 2023.....