

SHIRE
of
DANDARAGAN

MINUTES

of the

ORDINARY COUNCIL MEETING

held at the

JURIEN BAY COUNCIL CHAMBERS,

on

THURSDAY, 22 JUNE 2023

COMMENCING AT 4.00PM

THESE MINUTES ARE YET TO BE CONFIRMED

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

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MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 JUNE 2023

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Deputy 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 was 1 member of the public present.

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

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

2 RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

Members

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

Staff

Mr B Bailey	(Chief Executive Officer)
Mr S Clayton	(Executive Manager Corporate & Community Services)
Mr B Pepper	(Executive Manager Infrastructure)
Mrs N Winsloe	(Executive Secretary)
Mr R Mackay	(Principal Building & Planning Officer)
Miss R Sutton	(Manager Customer & Community Services)
Miss T Slee	(Economic Development Manager)

Apologies

Nil

Approved Leave of Absence

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Councillor L Holmes

Observers

Mr Tim Bailey

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

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

Moved Cr Eyre, seconded Cr Rybarczyk

That the following request for leave of absence be approved:

Cr J Clarke – Ordinary Council Meeting 27th July 2023.

CARRIED 8 / 0

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

Moved Cr Eyre, seconded Cr Gibson

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 ACCOUNTS FOR PAYMENT – MAY 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-70
Disclosure of Interest:	None
Date:	07 June 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 May 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 May 2023 totalled \$2,345,610.82 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the May 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 May 2023 (Doc Id: SODR-2042075298-57360)

(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, Seconded Cr Eyre

That the Cheque, EFT, BPAY and direct debit payment listing for the period ending 31 May 2023 totalling \$2,345,610.82 be adopted.

CARRIED 8 / 0

9.1.2 FINANCIAL STATEMENTS – MONTHLY REPORTING FOR THE PERIOD ENDING 31 MAY 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-1743450996-2626-2023
Disclosure of Interest:	None
Date:	13 June 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 May 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 May 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 May 2023 was \$680,391. 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

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 JUNE 2023

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.

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

Should Councillors wish to raise any issues relating to the 31 May 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 May 2023 (Doc Id: SODR-1743450996-3169)
(Marked 9.1.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION**Moved Cr Gibson, Seconded Cr Clarke****That the monthly financial statements for the period 31 May 2023 be adopted.****CARRIED 8 / 0****9.2 INFRASTRUCTURE SERVICES****9.3 DEVELOPMENT SERVICES****9.3.1 RETROSPECTIVE HOLIDAY HOUSE – LOT 191 (NO.5) LANG STREET, CERVANTES**

Location:	Lot 191 (No.5) Lang Street, Cervantes
Applicant/Landowner:	DJ Powell
File Ref:	SODR-1262144384-17441
Disclosure of Interest:	Nil
Date:	23 May 2023
Author:	Rory Mackay, Principal Planning & Building Officer Senior
Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The proponent is seeking retrospective development approval for the use of Lot 191 (No.5) Lang Street, Cervantes as a commercial holiday house.



Location Plan – Lot 191 (No.5) Lang Street, Cervantes

BACKGROUND

The proponent was requested on 28 February 2023 to lodge a retrospective development application for the use of the subject property as a commercial holiday house.

The subject application states that the proponent seeks to accommodate up to six guests for short stay bookings, not exceeding three consecutive months. The property management plan sleeping configuration indicates that accommodation for seven people is requested. As such, further clarification was sought from the applicant who confirmed that the house will be restricted to a six-guest maximum, with the bedroom configuration modified accordingly.

The application was advertised to immediate neighbouring landowners from 27 April 2023 until 15 May 2023. One submission was received, 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 under the Shire's *Local Planning Scheme No.7* (Scheme).

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 is currently only one other commercial holiday house approved in proximity to this proposal at 12 Drummond Way.

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

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house, the premises are not being occupied as a dwelling (permanent residence) but for tourist accommodation.

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

'Amenity' is defined within the Deemed Provisions of the Scheme 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 must 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 if not managed appropriately, this tourist land use within an established residential area of Cervantes can negatively affect the amenity of nearby permanent residents. The objection received raised this concern as detailed in the consultation section below.

The premises will be managed locally by the landowners' relative who resides on Cortes Retreat, Cervantes. 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>Vehicle Parking</u></p> <p>The premises will have constructed on-site car parking bays, consistent with the size and manoeuvrability criteria set out in the Residential Design Codes of Western Australia, but with no more than any of two bays arranged one behind the other in accordance with the following rates:</p>	<p><u>Compliance</u></p> <p>Double driveway with rear access for parking vehicles on the premises.</p>

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Deemed-to-comply Provision	Proposed
9-12 guests = minimum of 4 bays	
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> 1. The premises is an existing, lawful dwelling. 2. There is 5.5m² per guest in each bedroom utilising beds. 3. There is 3.5m² per guest in each bedroom utilising bunks. 4. Bedrooms in a premises are provided in accordance with the following rates: 5-7 guests = 3 bedrooms 5. Bathrooms and toilets are provided in accordance with the following rates: 1-6 guests = 1 or 2 bathrooms and 1 toilet 	<p><u>Compliance</u></p> <ul style="list-style-type: none"> ▪ Lawful 3-bedroom dwelling ▪ 1 bathroom and 1 toilet <p><u>Non-compliance</u></p> <ul style="list-style-type: none"> ▪ 1st bedroom (2 guests, queen bed) – 9m² (less than 11m² required) ▪ 2nd bedroom (3 guests, double/single bed) – 9m² (less than 14.5m² required) ▪ 3rd bedroom (2 guests, double bed) – 9m² (less than 11m² required)
<p><u>Overcrowding</u></p> <p>Each occupant over the age of 10 years has 14m³ of airspace within a bedroom for sleeping purposes.</p> <p>Each occupant 10 years and under has 8m³ of airspace within a bedroom for sleeping purposes.</p>	<p><u>Non-Compliance</u></p> <ul style="list-style-type: none"> ▪ 1st bedroom (2 guests, queen bed) – 25m³ (less than required 28m³) ▪ 2nd bedroom (3 guests, double/single bed) – 25m³ (less than required 42m³) ▪ 3rd bedroom (2 guests, double bed) – 25m³ (less than required 28m³)

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

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

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

The 2nd bedroom is not suitable to sleep three guests across a double/single bunk bed configuration, even if the single bed occupant is a child of 10 years or younger as the shortfall of space is not considered to meet the above performance criteria. In terms of Dwelling Design, two adults and one child occupying the 2nd bedroom results in a 38% variation to the deemed-to-comply provision; and in terms of Overcrowding, this sleeping configuration will result in a 40% variation to the deemed-to-comply provision.

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Given this, it is recommended that the holiday house be restricted to a maximum guest capacity of six guests and that the bunk bed be removed from the 2nd bedroom prior to the holiday house land use commencing.

With the holiday house restricted to six guests, there are minor Dwelling Design and Overcrowding variations to three bedrooms of equal size if each bedroom accommodates two guests respectively:

- Dwelling Design – 18% variation (2m²) less than required 11m² for all three bedrooms.
- Overcrowding – 10% variation (3m³) less than required 28m³ for all three bedrooms.

It is considered that the intent of the subject performance requirements of having a sufficient size dwelling for six guests which prevents overcrowding within the proposed holiday house is achieved as it reasonable that two guests be permitted to sleep within each bedroom which have an above standard ceiling height of 2.8m in lieu of the 2.4m required under the Building Code of Australia. Furthermore, recent previous development approvals considered in terms of the latest form of the Policy have allowed minor performance-based variations to the deemed-to-comply provisions (generally not exceeding two guests per bedroom).

Given the above, granting conditional development approval is recommended until 30 June 2024. On cessation of this period, any complaints received against the premises will be reviewed before renewal for another 12-month period is provided (if forthcoming).

CONSULTATION

As detailed previously, an objection was received from surrounding landowners.

Comment	Officer Response
<ol style="list-style-type: none"> 1. This property has been used as a holiday house for many years and has been a nightmare. Guests arrive late at night making noise trying to find the keys to get in. There is no one around to help them. I've had them knock on my door to help them several times. 2. With such a narrow street the headlights shine through my window and wake me up. 3. They bring dogs that bark all day and night. 4. Please stop this house being a holiday rental. I'm a fed-up resident of Lang Street. 	<ol style="list-style-type: none"> 1. The applicant has listed the details of a locally residing property manager who can be contacted should any management issues arise moving forward. These contact details will be forwarded and will be conditioned to be displayed on a sign displayed at the property's front entry. 2. This cannot be contributed to the holiday house land use alone as normal traffic conditions could result in this occurring. 3. The submitted property management plan outlines that pets are not allowed. A recommended condition of approval requires the implementation of the property management plan (by the property manager). 4. The applicant has submitted a retrospective application which when assessed on its merits, warrants approval. Nonetheless as holiday house approvals expire annually

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	any unresolved issues to the satisfaction of the Shire will be considered in the application for renewal of the holiday house's development approval for the successive twelve-month period.
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STATUTORY ENVIRONMENT

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

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of discretion. In this instance discretion is recommended as the variation in relation to the cubic space within the bedrooms 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 retrospective development application (\$885), which by way of penalty is three times the standard fee (\$295).

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029

02 - Prosperity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
Priority Outcomes	Our Roles
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

ATTACHMENTS

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

- Holiday house management documents (SODR-1262144384-17819 & SODR-1262144384-17820)
(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, Seconded Cr Clarke

That Council approve the development application for the proposed Holiday House at Lot 191 (No.5) Lang Street, Cervantes, 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 six (6) 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 24 April 2023.
5. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 24 April 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 0.2m² 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. Prior to the commencement of the approved use, the 2nd bedroom configuration is to be modified to have only a full-sized bed (double/queen/king) or two single beds to the satisfaction of the Shire of Dandaragan. Thereafter a maximum of two guests are permitted to sleep within each of the three bedrooms.
9. This development approval is valid until 30 June 2024. 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 8 / 0

9.3.2 PROPOSED HOLIDAY HOUSE – LOT 167 (NO.4) ELIZABETH WAY, JURIE BAY

Location:	Lot 167 (No.4) Elizabeth Way, Jurien Bay
Applicant/Landowner:	KM & Perry Read
File Ref:	SODR-1262144384-17288
Disclosure of Interest:	Nil
Date:	24 May 2023
Author:	Rory Mackay, Principal Planning & Building Officer Senior
Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The proponent is seeking retrospective development approval for the use of Lot 167 (No.4) Elizabeth Way, Jurien Bay as a commercial holiday house.



Location Pan – Lot 167 (No.4) Elizabeth Way, Jurien Bay

BACKGROUND

The proponent has lodged a retrospective development application to seek approval to accommodate up to eleven guests for short stay bookings, not exceeding three consecutive months.

The subject property owner has been contacted multiple times regarding the requirement to have development approval in place for the commercial short stay use of the residential property.

The property owner responded to correspondence mailed 2 March 2023 and subsequently lodged the subject retrospective development application.

The application was advertised to immediate neighbouring landowners from 8 May 2023 until 7 June 2023. One submission was received, which objected 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).

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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 Overcrowding also warrants referral to Council.

The subject property and surrounding area are zoned 'Residential' with a density coding of R12.5 under the Shire's *Local Planning Scheme No.7* (Scheme).

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 eleven 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 two commercial holiday houses approved in close proximity to this proposal: 8 Cormorant Court; and 27 Lesueur Drive.

COMMENT

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

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

'Amenity' is defined within the Deemed Provisions of the Scheme to mean:

All those factors which combine to form the character of an area and include the present and likely future amenity.

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

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It is acknowledged that if not managed appropriately, this tourist land use within an established residential area of Jurien Bay can negatively affect the amenity of nearby permanent residents. The objection received raised this concern as detailed in the consultation section below.

The premises is proposed to be managed by the property's contracted cleaner who resides on Emma Court, Jurien Bay. This property management arrangement complies with Clause 7.5 Management Protocols of the Policy which outlines that the designated property manager must 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"> connected to reticulated water for the exclusive use of the premises; and located within the Shire's kerbside refuse collection area; and connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of guests. 	<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 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>Compliance</u> Sufficiently sized dual vehicle rear access driveway for parking vehicles on the premises.</p>
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> The premises is an existing, lawful dwelling. There is 5.5m² per guest in each bedroom utilising beds. Bedrooms in a premises are provided in accordance with the following rates: 8-12 guests = 4 bedrooms Bathrooms and toilets are provided in accordance with the following rates: 7-12 guests = 1 or 2 bathrooms and 2 toilets 	<p><u>Compliance</u></p> <ul style="list-style-type: none"> ▪ Lawful 5-bedroom dwelling ▪ 1st bedroom (2 guests, king bed) – 15m² ▪ 2nd bedroom (2 guests, queen bed) – 12.25m² ▪ 3rd bedroom (2 guests, queen bed) – 11.16m² ▪ 4th bedroom (2 guests, 2 single beds) – 11.1m² ▪ 5th bedroom (3 guests, king single bunk and single bed) – 14m² ▪ 2 bathrooms and 2 toilets
<p><u>Overcrowding</u></p>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> ▪ 1st bedroom (2 guests, king bed bed) – 36m³

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Deemed-to-comply Provision	Proposed
Each occupant over the age of 10 years has 14m ³ of airspace within a bedroom for sleeping purposes.	<ul style="list-style-type: none"> ▪ 2nd bedroom (2 guests, queen bed) – 29m³
Each occupant 10 years and under has 8m ³ of airspace within a bedroom for sleeping purposes.	<p>Non-Compliance</p> <ul style="list-style-type: none"> ▪ 3rd bedroom (2 guests, 2 single beds) – 27m³ (less than required 28m³) ▪ 4th bedroom (2 guests, double bed) – 27m³ (less than required 28m³) ▪ 5th bedroom (3 guests, king single bunk and single bed) – (less than required 34m³ for 3 guests over the age of 10)

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 4% (1m³) variation for bedrooms 3 and 4 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 two guests be permitted to sleep within bedrooms 3 and 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 deemed-to-comply provisions for dwelling design as outlined in the table above.

The 5th bedroom is not suitable to sleep three guests across a double/single bunk bed configuration, even if the single bed occupant is a child of 10 years or younger as the shortfall of space is not considered to meet the relevant performance criteria. In terms of overcrowding, this sleeping configuration will result in a 19% (8m³) variation to the deemed-to-comply provision. Furthermore, recent previous development approvals considered in terms of the latest version of the Policy have not allowed significant variations to the deemed-to-comply provisions on a performance-based assessment (generally not exceeding two guests per bedroom). It is therefore recommended that the holiday house be restricted to a maximum guest capacity of ten guests and that the bunk bed be removed from the 5th bedroom prior to the holiday house land use commencing.

Given the above, granting conditional development approval is recommended until 30 June 2024. On cessation of this period, any complaints received against the premises will be reviewed before renewal for another 12-month period is provided (if forthcoming).

CONSULTATION

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As detailed previously, one objection was received from a surrounding landowner.

<u>Comment</u>	<u>Officer Response</u>
1. I am deeply concerned about this happening or has happened. At present whenever the place is occupied the noise level from the back yard is loud and disturbing. This will likely increase.	1. The applicant has listed the details of a locally residing property manager who can be contacted should any management issues arise moving forward. These contact details will be forwarded and will be required in a condition of approval to be displayed on a sign displayed at the property's front entry.
2. Whenever the place is used the back yard massive oversize floodlight that is directed and my house stays on sometime all night interferes with my house rooms, disturbing the sleep and pleasure of the environment. Makes those inside upset and have to have blinds down and windows shut. This is not right for this normally quiet area and town.	2. The landowner has repositioned the subject floodlight to shine directly into the premises' backyard and not neighbouring properties.
3. So, yes, I strongly object to commercialisation of this property.	3. As holiday house approvals expire annually, any unresolved issues (to the satisfaction of the Shire) will be considered with the application for renewal of the holiday house's development approval for the successive twelve-month period.

STATUTORY ENVIRONMENT

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

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

ATTACHMENTS

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

- Holiday house management documents (SODR-1262144384-17828)

(Marked 9.3.2)

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, Seconded Cr Glasfurd

That Council approve the development application for the proposed Holiday House at Lot 167 (No.4) Elizabeth 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 ten (10) guests at all times.**
- 4. Prior to the commencement of the approved use, the 5th bedroom configuration is to be modified to have only a full sized bed (double/queen/king) or two single beds to the satisfaction of the Shire of Dandaragan. Thereafter a maximum of two guests are permitted to sleep within each of the five bedrooms.**
- 5. 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 14 March 2023.**
- 6. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 14 March 2023.**
- 7. All vehicle parking must be confined to the Holiday House premises, to the satisfaction of the Shire of Dandaragan.**
- 8. A sign up to 0.2m² 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.**
- 9. This development approval is valid until the 30 June 2024. 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 7, 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 8 / 0

9.3.3 DEVELOPMENT WA REGIONAL DEVELOPMENT ASSISTANCE PROGRAM – BADGINGARRA STAGE 2 RESIDENTIAL LOTS

Location:	Dodd Street, Badgingarra
Folder Path:	SODR-877026889-3679
Disclosure of Interest:	Nil
Date:	26 May 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouche, Executive of Manager Development Services

PROPOSAL

The purpose of the report is for Council to consider endorsing the Regional Development Assistance Program application to Development WA (formally known as Landcorp) for the Stage 2 release of a further 10 residential lots in Badgingarra.

BACKGROUND

In early 2023 the last of the remaining nine residential lots which formed part of the Stage 1 Badgingarra Development WA land release were sold for \$25,000 per lot.

In discussions with Development WA, it was identified that initial land investigations provided for the Stage 2 release of a further 10 residential lots along an unconstructed portion of Dodd Street as outlined below.



Location Plan of Badgingarra Stage 2

A function of Development WA as the State Government's land developer is to release new residential and industrial land in regional areas where the private sector is not active based on market conditions (being unviable) and where the supply of privately developed land is often limited, or non-existent. Both these conditions are considered to be relevant to Badgingarra.

The Regional Development Assistance Program (RDAP) provides the funding support for this function and helps local authorities build communities across Western Australia. Under the RDAP, local authorities can apply to Development WA for assistance to progress potential land development projects in their local government areas.

A completed RDAP application is attached to this report along with the then Landcorp's commissioned Servicing Report for Dodd Street prepared by Porter Consulting Engineers in 2011.

COMMENT

Subdivision is not required for the further land release as the 10 lots varying in size from 965m² to 971m² form part of the existing cadastre layout of Badgingarra.

The further construction of Dodd Street and extension of water, power and telecommunication services for Stage 2 was quantified as costing \$360,000 by Porter Consulting Engineers in 2011. This is estimated to be worth approximately \$486,000 or \$48,600 per lot in current costs.

Through the proposed RDAP process, the application has nominated covering the costs of road construction during the 2024/25 financial year which is estimated to be \$111,850.15 in current costs. Should this

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contribution be supported by Council and required by Development WA it will be included in the future 2024/25 annual budget.

The subject lots are noted as being subject to Native Title, but Development WA has advised that they have a Land Agreement in place with the South West Aboriginal Land and Sea Council which will enable the transfer of these lots to residential freehold.

The Stage 2 release is essential to provide land and housing solutions within the Shire's eastern district. As such, Council is requested to endorse the RDAP application as presented for submission to Development WA.

CONSULTATION

- Stage 1 selling agent – Professionals Jurien Bayview Realty
- Badgingarra Community Association

Both the selling agent and the local community association have requested that further lots be released as soon as possible.

STATUTORY ENVIRONMENT

Local Planning Scheme No.7 –

The additional lots which form part of Stage 2 are zoned Residential R12.5 under the Scheme.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Should Development WA confirm the requirement for the Shire's road construction contribution of an estimated value of \$111,850.15 for the Stage 2 release, a budget line item will be included within the 2024/25 annual budget.

STRATEGIC IMPLICATIONS

Local Planning Strategy 2020

Strategic Directions	Actions
Retain Dandaragan and Badgingarra as rural communities providing for the needs of the rural hinterland.	Support opportunities for residential development within the Dandaragan and Badgingarra townsites by encouraging a more compact settlement form utilising existing infrastructure, subject to land suitability assessment; structure planning, logical extension of existing development; landscape protection adjacent to Brand Highway; and minimising access points from Brand Highway.
	Support the development of land in Dandaragan and Badgingarra in partnership with the State Government and land developers.

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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
Priority Outcomes	Our Roles
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities	Identify and activate under-utilised economic and land assets to promote employment and economic activity.

ATTACHMENTS

- Regional Development Assessment Program Application (SODR-877026889-3704)
- 2011 Servicing Report (Doc Id: SODR-877026889-3680)
(Marked 9.3.3)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Eyre, Seconded Cr Clarke

That Council endorse the Regional Development Assistance Program Application (Doc ID SODR-877026889-3704) for the land release of Badgingarra Stage 2 Residential Lots.

CARRIED 8 / 0

9.3.4 ADOPTION OF AMENDED LOCAL PLANNING POLICY 9.5 ADVERTISING DEVICES (SIGNAGE)

Location:	N/A
Folder Path:	SODR-877026889-3404
Disclosure of Interest:	Nil
Date:	30 May 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouche, Executive Manager Development Services

PROPOSAL

The purpose of the report is for Council to consider adopting the amended Local Planning Policy 9.5 Advertising Devices (Signage).

BACKGROUND

In April 2013, Council adopted an amended local planning policy to regulate outdoor advertising. A review of the policy is timely and is also included in the key actions in the Shire's Corporate Business Plan. This

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review also responds to the recent influx of unauthorised portable signs in notable public spaces i.e., Jurien Bay Foreshore and Bashford Street.

The review of the policy has been undertaken with reference to the Western Australian Local Government Association's (WALGA) Model Local Planning Policy.

This policy review is undertaken concurrently with the investigation into developing a street furniture advertising scheme, which is still under development.

On 30 November 2022, Council resolved to advertise the amended policy to the community. This advertising was undertaken from 12 January 2023 to 1 May 2023. Two submissions were received which have been considered in the drafting of the final amended policy.

COMMENT

The following policy modifications have been made:

- Restructure the policy to follow the WALGA model where relevant.
- Revise policy introduction and objectives accordingly.
- Provide clear exemptions and interpretations.
- Outline signage development application requirements and when a signage strategy will be required.
- Outline clear protocols which apply to all signage.
- Outline particular areas where signage will not be supported.
- Provide specific protocols for common types of signage.

No significant policy changes are recommended as result of the comments received during the public exhibition period. Minor grammatical changes have been made to the policy and Clause 7 consultation has been deleted from the policy as the assessment framework of the policy provides sufficient basis to inform the approval or refusal of signage development application without the need to undertake public consultation, which is unlikely to result in a noteworthy assessment shift. Nonetheless, the Shire reserves the right to advertise development applications where it is deemed necessary as this is part of the statutory process followed in terms of the Local Planning Scheme.

It is recommended that Council adopts the amended policy as presented as an attachment to this item. It is proposed that a three-month moratorium period will be applied before commencing regulatory compliance. Current non-complying signage holders will be advised during this period to remove their signage or face possibility of their sign(s) being impounded by the Shire. A proposed impoundment fee will also be introduced to the Shire's Fees and Charges schedule from the 2023/24 financial year to aid compliance efforts.

CONSULTATION

Two submissions were received on the amended policy, the comments made and the officer response to each are detailed in the attached schedule of submissions.

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Within these submissions the question of policing signs in general and particularly within the Bashford Street Road Reserve which is under the care and control of Main Roads WA was questioned. An approach was made to Main Roads WA requesting delegated authority under Section 33C of the *Main Roads Act 1930*, for the Shire to solely regulate the following signage on the Bashford Street Road Reserve:

- Portable Business Signs
- Temporary Event Signs
- Illuminated Street Name Signs
- Bus Shelter, Roadside Seat and Litter Bin Signs
- Pole Mounted Banners and Flag

However, this request was not supported for the following reasoning:

- *The delegation of authority to regulate advertising devices on Main Roads was revoked from local government authorities (LGAs) in 2015.*
- *No delegation has been issued to any LGAs since 2015.*
- *No delegation has been considered to any LGAs since 2015.*
- *At this stage, until the current Main Roads advertising policy is updated, Main Roads will not be approving any LGAs to solely regulate the advertising/non-Standard signage on State Road Reserves.*
- *All control of advertising on State roads is still the responsibility of MRWA.*

In reply to this response, it was questioned how the Shire could ensure the enforcement of the subject Policy by Main Roads WA for the Bashford Street Road Reserve. Main Roads WA detailed that the Shire, at any time, can forward evidence of unauthorised signage in this precinct, of which Main Roads WA would then act upon accordingly.

STATUTORY ENVIRONMENT

Planning and Development (Local Planning Schemes) Regulations 2015:

The ability to prepare a Local Planning Policy (LPP) is afforded to the Council under Clause 3 of Schedule 2 in the *Deemed Provisions for Local Planning Schemes* (Deemed Provisions). The Deemed Provisions allow the Shire to prepare policies in respect to any matter related to the planning and development of the Shire. Policies may apply to a particular class or matter and relate to one or more parts of the Shire's Local Planning Scheme area. Clauses 5 and 6 of the Deemed Provisions allow Council to amend or rescind its planning policies.

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

LPPs aim at prescribing minimum standards acceptable to the Council in consideration of community sentiment for various types of

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development and land use. Additionally, these policies also aid in providing a foundation for delegation to be set in order to assist in streamlining the approval processes and establishing relative levels of compliance.

POLICY IMPLICATIONS

The modified LPP is aimed to improve interpretation, assessment, and governance aspects of the Shire's development control responsibilities for Advertising Devices (Signage).

FINANCIAL IMPLICATIONS

No change to applicable application fees is proposed.

Nominal revenue is anticipated from the imposition of an impounding fee.

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
Priority Outcomes	Our Roles
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities	Identify and activate under-utilised economic and land assets to promote employment and economic activity.

ATTACHMENTS

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

- Local Planning Policy 9.5: Advertising Devices (SODR-461937211-1198)
- Schedule of Submissions (SODR-877026889-3714)
(Marked 9.3.4)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, Seconded Cr Rybarczyk

That Council pursuant to Clauses 4 and 5 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts amended *Local Planning Policy 9.5: Advertising Devices (Signage)* as provided as an attachment to this report.

CARRIED 8 / 0

9.3.5 AMENDMENT TO MICROBREWERY DEVELOPMENT APPROVAL – LOT 1200 (No.12) GYPSUM STREET, JURIEN BAY

Location:	Lot 1200 (No.12) Gypsum Street, Jurien Bay
Applicant & Landowner:	S Mcleary of Benpride Pty Ltd
File Ref:	SODR-1262144384-17997
Disclosure of Interest:	Nil
Date:	6 June 2023
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The proponent is seeking an amendment to a condition in the development approval granted by Council on 24 September 2020 and amended on 25 August 2022 for the development of a microbrewery at Lot 1200 Gypsum Street, Jurien Bay. The requested amendment proposes to extend the 'substantial commencement' date by 12 months.

BACKGROUND



Locational Map of 12 Gypsum Street, Jurien Bay

On 25 August 2022, Council resolved the following:

That Council:

- Grant approval to increase the period of time in which the brewing of beers onsite is to commence at the approved microbrewery at Lot 1200 Gypsum Street, Jurien Bay by a further eight (8) months from 24 September 2022 to 24 June 2023 and amend the current development approval Condition 'e' to read as follows:
The Microbrewery shall be substantially commenced by the 24 June 2023, by means of brewing beers at the premises for consumption on the premises, and / or in sealed containers for consumption off the premises. If the development is not substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of the Shire of Dandaragan having first being sought and obtained.
- Advise the applicant that the above decision does not alter the remaining conditions of development approval previously imposed by the Shire of Dandaragan on 24 September 2020.

In accordance with Clause 77 of Schedule 2 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations)

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the proponent has made an application to amend development approval Condition 'e'. The requested amendment seeks a 12-month time extension to the requirement to commence onsite brewing from the 24 June 2023 to 24 June 2024.

This request has been based on the applicant's stated inability to meet the amended 24 June 2023 deadline to commence onsite brewing of beers due to the power infrastructure upgrades required to run the sourced onsite brewing equipment and the build timeframes put forward by Western Power in this regard.

COMMENT

In seeking to meet the requirements of condition 'e', the proponent has:

1. installed the commercial brewing equipment 'Nanocraft' on site as shown in the attached photos;
2. commenced the works approval process with Western Power for the required power infrastructure upgrades required to commence brewing operations; and
3. complied with the development approval conditions as outlined in the following table.

<u>Approval Condition</u>	<u>Compliance</u>
The approved development shall predominantly operate as a Microbrewery.	Compliance, to the extent of the subject requested amendment.
The Microbrewery is restricted to the sale of beer produced on the property and boutique beers produced by other recognised microbreweries. This condition applies to beer sales only.	Compliance.
The Microbrewery shall be undertaken in accordance with the documentation submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by the Shire of Dandaragan.	Compliance.
Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of the Shire of Dandaragan.	Compliance.
The Microbrewery shall be substantially commenced by the 24 June 2023, by means of brewing beers at the premises for consumption on the premises, and / or in sealed containers for consumption off the premises. If the development is not substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of the Shire of Dandaragan having first being sought and obtained.	The subject of this requested amendment.

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The capacity of the venue must not exceed 225 patrons.	Compliance.
The licensed premises are to be furnished with chairs, lounges, and tables.	Compliance.
Prior to the public opening of the premises to patrons, vehicle accessways, parking area marking/signage, and bicycle racks must be installed/constructed and thereafter maintained to the specifications and satisfaction of the Shire of Dandaragan.	Compliance.
Goods or materials must not be permanently stored within the areas dedicated to parking, landscaping, vehicle manoeuvring or within access driveways.	Non-compliance as on-site storage prevents use of onsite parking bays. This has been flagged with the proponent.
External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Shire of Dandaragan.	Compliance.
The applicant/landowner is to provide a progress report to the Shire of Dandaragan on the status of the Microbrewery each six month period from the date of approval until the expiry of the two year substantially commenced period outlined in Condition E.	Compliance, the applicant has provided regular verbal updates and provided opportunities for officer site inspections.
Prior to the issue of a building permit, the following bushfire planning matters are to be addressed to the satisfaction of the Shire of Dandaragan: 1. a Bushfire Attack Level (BAL) Contour Map or a BAL Assessment; 2. the identification of any issues arising from the BAL Contour Map or BAL Assessment; and 3. an assessment against the bushfire protection criteria contained within the State Planning Policy 3.7 Guidelines demonstrating compliance within the boundary of the development lot.	Compliance.
Prior to the public opening of the premises to patrons, a detailed landscaping plan for the subject site and the road verge must be submitted to, and approved to, the satisfaction of the Shire of Dandaragan, and must be implemented, including the following: 1. the location, number and type of proposed trees and shrubs; 2. any lawns to be established; 3. any existing vegetation and/or landscaped areas to be retained; 4. any verge treatments; and 5. evidence that the proposed landscaping will not, at maturity, negatively impact the development or adjoining properties.	Compliance.

The proponent has been advised by Western Power that the completion of the power upgrade works is likely to be another nine months away at best, hence the request for a further 12-month extension. The attached request letter states a 10-month extension is sought; the proponent has since requested this be extended to a 12-month period to provide contingency.

Western Power has outlined that there are three main stages to a customer project and the respective timeframes are noted as follows:

1. Validation (technical assessment): 4-5 months
2. Design (if required): 7-9 months
3. Construction: 3 months

The current timeframes for small-medium commercial connections are approximately 12-15 months. Western Power is constrained in meeting distribution customer delivery which is driven by an increase in market demand for construction and design services. Following various stimulus initiatives since the 19/20 financial year, there has been an increase in applications from approximately 3,000 a year to over 7,000 a year.

Western Power received the customer's application on 20 October 2022 and the validation stage was completed on 8 March 2023. The customer's project is currently in the Design stage and appears to be a standard level of design required which could bring about a marginally quicker turnaround, although the exact timeframes are currently unknown.

It is recommended that Council approve an amendment to development approval Condition 'e' to extend the period of time to commence the brewing of beers onsite from 24 June 2023 to 24 June 2024. This decision will not alter the remaining conditions of development approval previously imposed. Should Council not support the amendment request, the development approval and timeframes will continue as presented in the Background section of this report.

It is noted that failure to comply with a development approval condition may result in an offence under the *Planning and Development Act 2005*. A person who commits an offence under this Act is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues.

CONSULTATION

Consultation was not deemed necessary for this request.

STATUTORY ENVIRONMENT

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

*71. Commencement of development under development approval
If development approval is granted under clause 68 —*

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- (a) *the development must be substantially commenced*
- (i) *if no period is specified in the approval — within the period of 2 years commencing on the date on which the determination is made; or*
- (ii) *if a period is specified in the approval — within that period; or*
- (iii) *in either case — within a longer period approved by the local government on an application made under clause 77(1)(a);*
- and
- (b) *the approval lapses if the development has not substantially commenced within the period determined under paragraph (a).*

77. Amending or cancelling development approval

- (1) *An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —*
- (a) *to amend the approval so as to extend the period within which any development approved must be substantially commenced.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

The applicant has paid the required \$295 fee for the request to amend the microbrewery's development approval.

STRATEGIC IMPLICATIONS

- Local Planning Strategy (2020) – Economy Strategic Directions:
 - Support growth of the tourism sector by assisting operators to provide a range of products to cater for differing consumer experiences and expectations.
 - Ensure industrial activities do not adversely impact on surrounding uses.

Strategic Community Plan – Envision 2029:

02 – Propensity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
Priority Outcomes	Our Roles
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

ATTACHMENTS

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

<p>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 JUNE 2023</p>
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- Amendment request letter (Doc ID: SODR-1262144384-18141)
- Site inspection photos (Doc ID: SODR-1262144384-18245)
(Marked 9.3.5)

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, Seconded Cr Shanhun

That Council:

1. Grant approval to increase the period of time in which the brewing of beers onsite is to commence at the approved microbrewery at Lot 1200 Gypsum Street, Jurien Bay by a further twelve (12) months from 24 June 2023 to 24 June 2024 and amend the current development approval Condition 'e' to read as follows:
The Microbrewery shall be substantially commenced by 24 June 2024, by means of brewing beers at the premises for consumption on the premises, and / or in sealed containers for consumption off the premises. If the development is not substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of the Shire of Dandaragan having first being sought and obtained.
2. Advise the applicant that the above decision does not alter the remaining conditions of development approval previously imposed by the Shire of Dandaragan on 24 September 2020.

CARRIED 8 / 0

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

Location:	Lot 80 (No.3) Cook Street, Jurien Bay
Applicant:	M Roberts on behalf K O'Keefe & J Walmsley of Silver Sunset Pty Ltd
File Ref:	SODR-1262144384-18108
Disclosure of Interest:	Nil
Date:	12 June 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

On 23 February 2023, Council refused a development application for 10m by 12m (120m²) enclosed outbuilding with a wall height of 4.4m and a ridge height of 5.4m at the rear of the 863m² property, 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).*

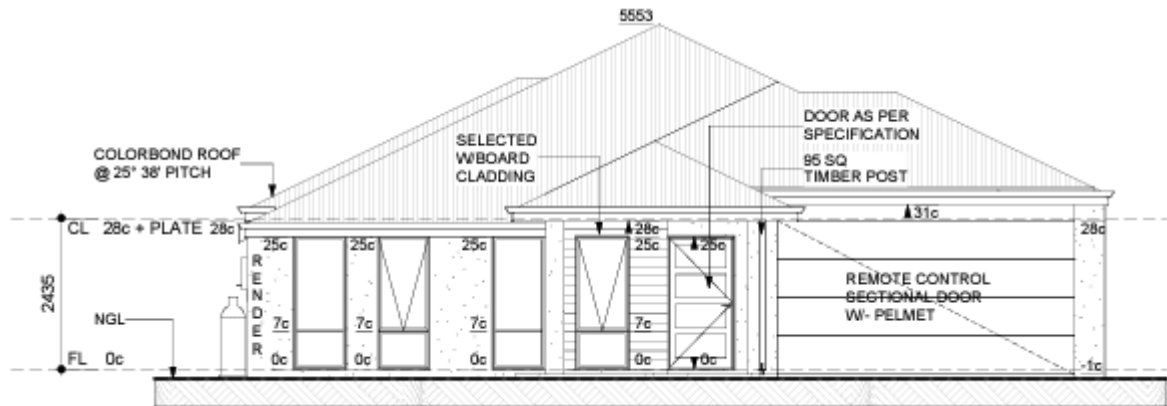
On 27 April 2023 a revised development application for an enclosed outbuilding with the same floor area (120m²) with a wall height of 4m and a ridge height of 5m at the rear of the 863m² property was also refused by Council for the same reasoning.

A new revised development application has been lodged for an enclosed outbuilding with a floor area of (90m²) with a wall height of 4.2m and a ridge height of 5.3m.

The new proposed outbuilding will have its southern rear corner set back 1m from the adjoining rear property, with the rear elevation tapering away from this angled property boundary to be set back 3m at the other rear corner as shown in the attached site plan. The western side facade will be built up to the side property boundary of the adjoining property (which is also owned by the proponent).

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A building permit for a 245m² 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 Areas (Policy)* has been used to assess the application. This Policy outlines the following parameters for outbuildings:

	LPP9.4	Proposed
Area	80m ²	90m ²
Wall/gutter height	3.6m	4.2m
Ridge Height	4.5m	5.3m
Rear setback	1m	1m to 3m
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.

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 Register.

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

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 proposed nil side boundary setback for a proposed wall of 4.2m high, 12.5m long is not considered to have an adverse impact on the adjoining property and surrounding streetscape in terms of building height, bulk and scale. This is due to the positioning of the outbuilding behind the dwelling under construction, to the rear of the subject property, which is design characteristic consistent throughout Jurien Bay. Furthermore, 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. This siting also does not result in ventilation, privacy or overlooking issues for adjoining properties.

A standard condition of development approval requires that stormwater be contained and controlled on the applicant's property. This will ensure that no gutters or downpipes/stormwater are located or run into adjoining properties.

The oversized outbuilding both in height and area proposed will not have a building bulk and scale that will appear dominant in relation to the site as well as the streetscape as the sizing variations sought are considered minor (equal/less than 17%) and that the outbuilding will use 10.4% of the large 863m² property. Additionally, the area variation of 90m² in lieu of 80m² is a result of the applicant forfeiting their rights to also erect a freestanding garden shed up to 10m² on the property, of which is generally exempt from requiring development or building approval for residential properties. The ridge height of the outbuilding of 5.3m will correspondingly be under the 5.7m ridge height of the dwelling under construction.

Given the above it is recommended that Council approve the revised development application subject to conditions, including a condition that a garden shed is not permitted to be erected on the development site in lieu of the extra floor area of the subject outbuilding.

CONSULTATION

The initial development application was forwarded to adjoining landowners for comment and no responses were received. As a result of this the revised development applications were not readvertised.

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)*
 An outbuilding is defined by the R-Codes as:

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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

There are no strategic implications for this item.

ATTACHMENTS

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

- Development application 54/23 (Doc Id: SODR-1262144384-18126)
(Marked 9.3.6)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, Seconded Cr Clarke

That Council grants development approval for a proposed outbuilding at Lot 80 Cook Street, Jurien Bay subject to the following conditions and advice note:

Conditions:

- 1. All development, subject to any conditions of this approval, shall be in accordance with the approved development plans, which form part of this development approval, to the specifications and satisfaction of the Shire of Dandaragan.**
- 2. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.**
- 3. The outbuilding is not to be used for human habitation, to the satisfaction of the Shire of Dandaragan.**
- 4. The landowner is not permitted to erect an additional freestanding garden shed on the subject property, to the satisfaction of the Shire of Dandaragan.**

Advice Note:

In relation to Condition 4, this approval provides dispensation for an additional 10m² outbuilding floor area in the total floor area of 90m², which exceeds the 80m² permissible outbuilding floor area in *Local Planning Policy 9.4: Outbuildings – Residential Areas*. The additional floor area is provided in lieu of the floor area normally allowed without a Building Permit for Class 10a buildings in Schedule 4, Cl.2 of the *Building Regulations 2012*.

CARRIED 8 / 0

9.4 GOVERNANCE & ADMINISTRATION

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – MAY COUNCIL STATUS REPORT

Document ID: SODR-1739978813-6419

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

9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – MAY 2023

Document ID: SODR-2045798944-4259

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

9.5.3 SHIRE OF DANDARAGAN – PLANNING STATISTICS – MAY 2023

Document ID: SODR-2045798944-4258

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

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

Document ID: SODR-1876983588-1286

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

9.5.5 WALGA - EARLY PAYMENT OF FINANCIAL ASSISTANCE GRANTS 2023-24

Document ID: SODR-437506902-10475

Attached to the agenda is WALGA correspondence regarding financial assistance grants 2023-24. *(Marked as 9.5.5)*

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 4.06pm.

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 JUNE 2023

These minutes were confirmed at a meeting on

Signed

Presiding person at the meeting at which the minutes were confirmed

Date