

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

**MINUTES - PUBLIC**

**of the**

**ORDINARY COUNCIL MEETING**

**held at the**

**DANDARAGAN COMMUNITY RECREATION CLUB,  
DANDARAGAN,**

**on**

**THURSDAY 28 SEPTEMBER 2023**

**COMMENCING AT 4.00PM**

***THESE MINUTES ARE YET TO BE CONFIRMED***

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

# Table of Contents

<b>1</b>	<b>DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS .....</b>	<b>1</b>
	1.1 DECLARATION OF OPENING .....	1
	1.2 DISCLAIMER READING .....	1
<b>2</b>	<b>RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE .....</b>	<b>1</b>
<b>3</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....</b>	<b>2</b>
<b>4</b>	<b>PUBLIC QUESTION TIME .....</b>	<b>2</b>
<b>5</b>	<b>APPLICATIONS FOR LEAVE OF ABSENCE.....</b>	<b>2</b>
<b>6</b>	<b>CONFIRMATION OF MINUTES .....</b>	<b>2</b>
	6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD THURSDAY 24 AUGUST 2023 .....	2
<b>7</b>	<b>NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....</b>	<b>2</b>
<b>8</b>	<b>PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS .....</b>	<b>2</b>
<b>9</b>	<b>REPORTS OF COMMITTEES AND OFFICERS .....</b>	<b>4</b>
	9.1 CORPORATE & COMMUNITY SERVICES .....	4
	9.1.1 ACCOUNTS FOR PAYMENT FOR THE PERIOD ENDED 31 AUGUST 2023.....	4
	9.1.2 FINANCIAL STATEMENTS – MONTHLY REPORTING FOR THE PERIOD ENDING 31 AUGUST 2023.....	5
	9.2 INFRASTRUCTURE SERVICES.....	7
	9.3 DEVELOPMENT SERVICES.....	7
	9.3.1 PROPOSED HOLIDAY HOUSE – LOT 291 (NO.71) DRUMMOND CIRCUS, CERVANTES .....	7
	9.3.2 PROPOSED HOLIDAY HOUSE – LOT 350 (NO.71) SEVILLE STREET, CERVANTES .....	16
	9.3.3 PROPOSED HOLIDAY HOUSE – LOT 773 (NO.7) CORTES RETREAT, CERVANTES .....	25
	9.3.4 PROPOSED BADGINGARRA SOLAR FARM AMENITIES BUILDING .....	34
	9.3.5 PROPOSED HELICOPTER JOY FLIGHTS – JURIEN BAY FORESHORE .....	38
	9.3.6 APPLICATION TO KEEP MORE THAN TWO DOGS ON A PROPERTY – 9 CORMORANT COURT, JURIEN BAY.....	45
	9.4 GOVERNANCE & ADMINISTRATION.....	48
	9.4.1 JURIEN BAY COMMUNITY MEN’S SHED LEASE AREA EXTENSION .....	48
	9.4.2 ADOPTION OF A FINANCIAL HARDSHIP POLICY .....	51
	9.4.3 JURIEN BAY BEACH CAFÉ GROUND LEASE REQUEST.....	53
	9.4.4 ECONOMIC AND TOURISM DEVELOPMENT IMPLEMENTATION PLAN UPDATE.....	62
	9.5 COUNCILLOR INFORMATION BULLETIN.....	64

9.5.1	SHIRE OF DANDARAGAN – AUGUST 2023 COUNCIL STATUS REPORT .....	64
9.5.2	SHIRE OF DANDARAGAN – BUILDING STATISTICS – AUGUST 2023.....	64
9.5.3	SHIRE OF DANDARAGAN – PLANNING STATISTICS – AUGUST 2023 .....	64
9.5.4	SHIRE OF DANDARAGAN TOURISM / LIBRARY / COMMUNITY ACTIVITIES REPORT FOR AUGUST 2023.....	64
<b>10</b>	<b>NEW BUSINESS OF AN URGENT NATURE – INTRODUCED BY RESOLUTION OF THE MEETING .....</b>	<b>64</b>
<b>11</b>	<b>CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC.....</b>	<b>65</b>
	<b>11.1 GOVERNANCE&amp; ADMINISTRATION.....</b>	<b>66</b>
	11.1.1 CONFIDENTIAL - APPOINTMENT OF SENIOR EMPLOYEE EXECUTIVE MANAGER CORPORATE AND COMMUNITY SERVICES .....	67
	11.1.2 CONFIDENTIAL - CEO PERFORMANCE REVIEW .....	67
<b>12</b>	<b>ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN .....</b>	<b>68</b>
<b>13</b>	<b>CLOSURE OF MEETING .....</b>	<b>68</b>

**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.

**1.2 DISCLAIMER READING**

The disclaimer was read aloud as there were 8 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 R Glasfurd	
Councillor W Gibson	
Councillor M McDonald	
Councillor R Rybarczyk	
Councillor R Shanhun	

**Staff**

Mr B Bailey	(Chief Executive Officer)
Mr L Fouché	(Executive Manager Development Services)
Mrs N Winsloe	(Executive Secretary)
Ms T Slee	(Economic Development Manager)
Mrs J Rouse	(Coordinator Infrastructure Services)
Ms R Headland	(Administration Officer)

**Apologies**

Nil

**Approved Leave of Absence**

Nil

**Observers**

There were 8 members of the public present.

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

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**6 CONFIRMATION OF MINUTES****6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD THURSDAY  
24 AUGUST 2023****COUNCIL DECISION**

Moved Cr Shanhun, seconded Cr Clarke

That the minutes of the Ordinary Meeting of Council held 24 August 2023 be confirmed.

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr  
Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald**

**AGAINST: Nil**

**7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT  
DISCUSSION****8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS****COUNCIL DECISION**

Moved Cr Scharf, Seconded Cr Holmes

That Council express their sincere condolences following the passing of Councillor Ann Eyre.

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

*Further to the official Council resolution, the following tribute was read aloud by Councillor Scharf, recognising the passing of Councillor Ann Eyre.*

I want to acknowledge the passing of Councillor Ann Eyre. Ann was committed to community having been involved with the youth of Carnarvon during the Space Age days and her role as a Councillor in the Shire of Ashburton. Her work in Tourism in that area earned her the nickname "Ashburton Ambassador".

Her retirement brought her to Jurien Bay and that was to our advantage as she quickly became involved in our Council and worked hard in the areas of Aged Care, Health services and developing Tourism strategies for our region.

Ann brought a calm approach to her duties with strength in her words and wisdom from decades of service to communities. She did not pursue personal aggrandisement; her quiet contribution was noticed by those who needed to know as she didn't seek the spotlight.

Some of us worked with Ann in her role as a Justice of the Peace where we saw her compassion for those who were on hard times and experienced poor decision making as opposed to those who needed a stern reminder of their obligations as citizens in society.

For those who counted Ann as a personal friend, we were truly blessed. Her wit and the stories she could relate of her times with Ross in the "Bush" were some of our greatest shared moments.

Given her medical condition, she lived well beyond the expectations of medical professionals almost 20 years ago, perhaps a sign of her determination to get the very best out of every moment of her life.

I commend her soul to the care of Almighty God and pray that she may now rest in Peace.

## 9 REPORTS OF COMMITTEES AND OFFICERS

### 9.1 CORPORATE & COMMUNITY SERVICES

#### 9.1.1 ACCOUNTS FOR PAYMENT FOR THE PERIOD ENDED 31 AUGUST 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-63694
Disclosure of Interest:	None
Date:	15 September 2023
Author:	Rebecca Pink, Accountant
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

To accept the cheque, EFT, BPAY and direct debit listing for the month of August 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 August 2023 totalled **\$1,273,081.92** for the Municipal Fund.

Should Councillors wish to raise any issues relating to the August 2023 Accounts for payment, please do not hesitate to contact the Accountant 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

Nil

#### STATUTORY ENVIRONMENT

Regulation 13 of the Local Government Financial Management Regulations 1997.

#### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

#### FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

#### STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

#### ATTACHMENTS

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

- Cheque, EFT and direct debit listings for August 2023 (Doc Id: SODR-2042075298-63693)

**(Marked 9.1.1)**

#### VOTING REQUIREMENT

Simple majority

#### OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Rybarczyk, seconded Cr Glasfurd**

**That the Cheque, EFT, BPAY and direct debit payment listing for the period ending 31 August 2023 totalling \$1,273,081.92 be received.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald**

**AGAINST: Nil**

### **9.1.2 FINANCIAL STATEMENTS – MONTHLY REPORTING FOR THE PERIOD ENDING 31 AUGUST 2023**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-63715
Disclosure of Interest:	None
Date:	15 September 2023
Author:	Rebecca Pink, Accountant
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

To table the monthly financial statements for the period ending 31 August 2023 for adoption by Council.

#### BACKGROUND

In accordance with the Local Government Act 1995 and Financial Management Regulations (1996), monthly financial statements are required to be presented to Council. Circulated are the monthly financial statements for the period ending 31 August 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 August 2023 was \$9,121,781. 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.

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

Should Councillors wish to raise any issues relating to the 31 August 2023 financial statements, please do not hesitate to contact the Accountant prior to the Council Meeting in order that research can be undertaken, and details provided either at the time of the query or at the meeting.

### CONSULTATION

- Chief Executive Officer

### STATUTORY ENVIRONMENT

- Regulation 34 of the Local Government Financial Management Regulations (1996)

### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

### FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

### STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

### ATTACHMENTS

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

- Financial statements for the period ending 31 August 2023 (Doc Id: SODR-2042075298-63715)

**(Marked 9.1.2)**

### VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr Gibson, seconded Cr Glasfurd****That the monthly financial statements for the period 31 August 2023 be received.****CARRIED 8 / 0****FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald****AGAINST: Nil****9.2 INFRASTRUCTURE SERVICES****9.3 DEVELOPMENT SERVICES****9.3.1 PROPOSED HOLIDAY HOUSE – LOT 291 (NO.71) DRUMMOND CIRCUS, CERVANTES**

Location:	Lot 291(No.71) Drummond Circus, Cervantes
Applicant/Landowner:	EJ Webbware
File Ref:	SODR-1262144384-19950
Disclosure of Interest:	Nil
Date:	31 August 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 291 (No.71) Drummond Circus, Cervantes as a commercial holiday house.



*Location Pan – 291 (No.71) Drummond Circus, Cervantes*

### BACKGROUND

The proponent was requested to lodge a development application for the use (which had already commenced) 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's bedroom sleeping configuration however indicates that accommodation for eight 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 2 August 2023 until 1 September 2023. Three submissions were received, two of which objected to the proposal. The objections result in a Council determination being required for the application in accordance with Delegation 9.1.2 (Town Planning – Other Use and Development).

The subject property and surrounding area are zoned 'Residential' with a density coding of R12.5 under the Shire's *Local Planning Scheme No.7* (Scheme). A Holiday House is a Discretionary (D) Use in this zone.

*Local Planning Policy 9.12 Short-Term Rental Accommodation* (Policy) has been adopted by Council to guide the assessment of holiday house development applications. The subject application for

up to eight guests within a single dwelling is classified as a 'Holiday House' under the Policy. The Policy has the following objectives:

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

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

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

'Amenity' is defined within the Deemed Provisions of LPS7 to mean: *All those factors which combine to form the character of an area and include the present and likely future amenity.*

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

It is acknowledged that 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 Pinnacles Visitor Centre. This management arrangement provides a local point of call for neighbouring landowners/tenants surrounding the proposed

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

holiday home 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 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: 4-6 guests = minimum of 2 parking bays</p>	<p><u>Compliance</u> Dual driveways with one being rear access for parking vehicles on the premises.</p>
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> <li>1. The premises is an existing, lawful dwelling.</li> <li>2. There is 5.5m<sup>2</sup> per guest in each bedroom utilising beds.</li> <li>3. There is 3.5m<sup>2</sup> per guest in each bedroom utilising bunks.</li> <li>4. Bedrooms in a premises are provided in accordance with the following rates: 5-7 guests = 3 bedrooms</li> <li>5. Bathrooms and toilets are provided in accordance with the following rates: 1-6 guests = 1 or 2 bathrooms and 1 toilet</li> </ol>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> <li>▪ Lawful 3-bedroom dwelling</li> <li>▪ 2 bathroom and 2 toilets</li> <li>▪ 1<sup>st</sup> bedroom - 2 guests – 20m<sup>2</sup></li> <li>▪ 2<sup>nd</sup> bedroom - 2 guests - 13m<sup>2</sup></li> <li>▪ 3<sup>rd</sup> bedroom - 2 guests - 13m<sup>2</sup></li> </ul>
<p><u>Overcrowding</u></p>	<p><u>Compliance</u></p>

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

<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>	<ul style="list-style-type: none"> <li>▪ 1<sup>st</sup> bedroom - 2 guests - 48m<sup>3</sup></li> <li>▪ 2<sup>nd</sup> bedroom - 2 guests - 31m<sup>3</sup></li> <li>▪ 3<sup>rd</sup> bedroom - 2 guests - 31m<sup>3</sup></li> </ul>
--	---

As the proposal meets the deemed-to-comply provisions as shown 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, three objections were received from surrounding landowners.

<u>Comment</u>	<u>Officer Response</u>
<p>1. When I purchased my block I was aware of the lobster lodge across the road from my property and had normal residential housing around me. Now because the rear property from my house has applied for a re-zone to commercial we are not happy about this due to the fact the rear house can look straight into our house and backyard. At present the owner of the property their children sometimes hang over the back fence and tease our dog, my wife as had to tell the children off at times. Because of the teasing of the dog if revolving families are allowed to come into that property how many other children will do the same I will not have my dog put down if he bites one of them. I would be prepared to give them permission for a re-zone to commercial if the owner puts a higher fence in with privacy screen plus a retaining wall as their land is higher than mine also I would like permission from the board members to erect an shed size 10 x 10m on my property to help give privacy if none of the above is granted I will appeal against having the re-zone to commercial done.</p>	<p>1. The subject application is not the rezoning of the property but rather a development application to use the property for a tourist land use. The applicant has listed the details of a locally residing property manager who can be contacted regarding arising management issues 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. As holiday house approvals expire annually any issues unresolved (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. The subject dwelling was approved in 1996 and was assessed as meeting the relevant design codes of this era, including overlooking provisions. Given this the imposition of the applicant upgrading the fence is an unreasonable condition to impose via this development application. Any development application for an outbuilding on your property will be assessed on its merits against the local planning framework.</p>

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

Comment	Officer Response
<p>2. I do feel that there are too many short stay rental properties available in Cervantes and not enough long term for workers here.</p>	<p>2. The Shire is continually monitoring the number of commercial holiday houses in Jurien Bay and Cervantes. Currently under 5% of the dwellings in Jurien Bay and Cervantes are used as commercial holiday houses. The local planning framework limits which areas of the Shire commercial holiday houses are permissible or not. Currently commercial holiday houses are permissible in all Residential zones.</p>
<p>We are not in favour of having a commercial dwelling next door to us. We go to Cervantes for a holiday – rest and relaxation, not be disturbed by bad behaviour, all-night parties etc. However, we realise that people have a right to earn some income from their property so, we suggest that controls are put on what type of person a house is rented out to e.g., no “schoolies” or “yobbos” but people respectful of others’ rights to a respectful holiday.</p>	<p>The applicant has submitted a development application which when assessed on its merits, warrants approval. The applicant has listed the details of a locally residing property manager who can be contacted should regarding arising management issues 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. As holiday house approvals expire annually, any issues unresolved (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. The submitted property management plan outlines that noise should generally cease after 9pm Sunday through Thursday and after midnight Friday and Saturday. Antisocial behaviour should be reported to the Police. A recommended condition of approval requires the implementation of the property management plan (by the property manager).</p>
<p>Following discussion with our family, we have no objection to the proposal subject to the following conditions;</p> <ol style="list-style-type: none"> <li>1. A contact number (24hrs) for the Management Company (Pinnacles Visitor Centre), hopefully this would never be required, but would like to inform the responsible Manager if there are any concerns.</li> <li>2. Contact details, email and contact phone number(s) of the homeowners, and again, not likely this would be needed, just in case. And we will certainly reciprocate details to them.</li> </ol>	<ol style="list-style-type: none"> <li>1. As per the first response to the first submitter.</li> <li>2. Only contact details of the property manager will be forward to surrounding landowners of the subject premises. Nonetheless, the request to reciprocate contact details will be forwarded to the subject landowner.</li> </ol> <p>3 &amp; 4.</p>

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

Comment	Officer Response
<p>3. Clarification to any incoming tenants that our waste bins are not to be used unless the tenants have asked 'us' to use, we have had this on occasions where tenants have put rubbish into our 'empty' bin, and we were not able to put out for some time. More than happy to help, but excess rubbish needs to be placed elsewhere unless asked.</p> <p>4. As always, the conditions for occupation/rental will be per the Shire requirements regarding noise/people etc etc, we have kids and friends staying for weekends/holidays and certainly enjoy what Cervantes town has to offer, particularly bringing people together, everyone likes a good get together/party, but we don't accept unruly or unsocial behaviour and this will be passed onto Pinnacles Management.</p>	<p>The subject property management plan addresses these matters. The property manager will be responsible for enforcing the property management plan.</p>

### 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  
Zoning Table
  - 3.3.2. *The symbols used in the cross reference in the Zoning Table have the following meanings —*
    - ‘P’ means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;*
    - ‘D’ means that the use is not permitted unless the local government has exercised its discretion by granting development approval;*
    - ‘A’ means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;*
    - ‘X’ means a use that is not permitted by the Scheme.*
  
- 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 the 1<sup>st</sup> bedroom 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, which by way of penalty as result of the land use commencing without development approval is three times the standard fee (\$885 in lieu of \$295).

#### STRATEGIC IMPLICATIONS

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

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-1262144384-19953)

***(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 291 (No.71) Drummond Circus, Cervantes, subject to following conditions and advice notes:**

**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 15 July 2023.**
- 5. The listed ‘Property Manager’ shall undertake the duties listed on the ‘Property Management Plan’ submitted with the subject development application date stamped 15 July 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 2024. The Holiday House land use should cease before or on this date unless otherwise approved in writing by the Shire of Dandaragan.
9. Prior to the commencement of the approved use, the 3<sup>rd</sup> bedroom configuration is to be modified to have only a full-sized bed (double/queen/king), a single bunk bed, 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.

**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**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

**9.3.2 PROPOSED HOLIDAY HOUSE – LOT 350 (NO.71) SEVILLE STREET, CERVANTES**

Location:	Lot 350 (No.71) Seville Street, Cervantes
Applicant/Landowner:	FJ Brown, BG Patten, GW Gleeson, NA Gleeson & JP King
File Ref:	SODR-1262144384-19919

## MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023

Disclosure of Interest:	Nil
Date:	31 August 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 350 (No.71) Seville Street, Cervantes as a commercial holiday house.



**Location Pan – Lot 350 (No.71) Seville Street, Cervantes**

### BACKGROUND

The proponent was requested to lodge a development application for the use of the subject property as a commercial holiday house. The proponent was able to provide proof that the property had not been used as such to date.

The proponent seeks to accommodate up to six guests for short stay bookings, not exceeding three consecutive months across four bedrooms.

The application was advertised to immediate neighbouring landowners from 27 July 2023 until 25 August 2023. Two submissions were 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 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). A Holiday House is a Discretionary (D) Use in this zone.

*Local Planning Policy 9.12 Short-Term Rental Accommodation* (Policy) has been adopted by Council to guide the assessment of holiday house development applications. The subject application for

up to eight guests within a single dwelling is classified as a 'Holiday House' under the Policy. The Policy has the following objectives:

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

There is currently no other commercial holiday house approved in proximity to this proposal at 71 Seville Street, Cervantes.

#### COMMENT

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

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

'Amenity' is defined within the Deemed Provisions of LPS7 to mean: *All those factors which combine to form the character of an area and include the present and likely future amenity.*

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

It is acknowledged that 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 a local resident who resides nearby on Drummond Circus. This management arrangement provides a local point of call for neighbouring

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

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>connected to reticulated water for the exclusive use of the premises; and</li> <li>located within the Shire's kerbside refuse collection area; and</li> <li>connected to reticulated sewerage, or there is an approved on-site effluent disposal system with adequate capacity for the proposed number of guests.</li> </ol>	<p><u>Compliance</u> Connected to reticulated water and 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: 4-6 guests = minimum of 2 parking bays</p>	<p><u>Compliance</u> Single driveway with rear access for parking vehicles on the premises.</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>There is 3.5m<sup>2</sup> per guest in each bedroom utilising bunks.</li> <li>Bedrooms in a premises are provided in accordance with the following rates: 5-7 guests = 3 bedrooms</li> <li>Bathrooms and toilets are provided in accordance with the following rates: 1-6 guests = 1 or 2 bathrooms and 1 toilet</li> </ol>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> <li>Lawful 4-bedroom dwelling</li> <li>2 bathroom and 2 toilets</li> <li>1<sup>st</sup> bedroom - 2 guests - 11.15m<sup>2</sup></li> <li>2<sup>nd</sup> bedroom - 1 guest - 8.92m<sup>2</sup></li> <li>3<sup>rd</sup> bedroom - 2 guests - 12.73m<sup>2</sup></li> <li>4<sup>th</sup> bedroom - 1 guest - 7.38m<sup>2</sup></li> </ul>
<p><u>Overcrowding</u> Each occupant over the age of 10 years has 14m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</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>2<sup>nd</sup> bedroom - 1 guest - 21m<sup>3</sup></li> <li>3<sup>rd</sup> bedroom - 2 guests - 30m<sup>3</sup></li> <li>4<sup>th</sup> bedroom - 1 guest - 18m<sup>3</sup></li> </ul> <p><u>Non-Compliance</u></p> <ul style="list-style-type: none"> <li>1<sup>st</sup> bedroom - 2 guests - 26m<sup>3</sup> (less than required 28m<sup>3</sup>)</li> </ul>

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

--	--

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.*

The sleeping of two guests within 1<sup>st</sup> bedroom will result in minor 2m<sup>3</sup> variation to the deemed-to-comply provision for overcrowding. 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 the 1<sup>st</sup> bedroom. Furthermore, recent previous development approvals considered in terms of the latest form of *Local Planning Policy 9.12* 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, two objections were received from surrounding landowners.

<u>Comment</u>	<u>Officer Response</u>
<p>The town of Cervantes is a small, peaceful place and we are accustomed to the natural coastal environment, the sounds of birds, wind and waves. All noise, whether from a motorbike on the beach, the neighbour's music, raised voices or a late-night party, travels easily in the quiet atmosphere.</p> <p>In my experience, there have been many occasions when visitors to town 'cut loose' and behave questionably, loudly, and late into the night, sometimes until dawn. Sometimes they go out and leave a dog alone in a strange place, the dog becomes distressed and barks and cries for hours on end. They may also loudly rev up their vehicles and boat's motors, disturbing the peace. Most</p>	<p>The applicant has listed the details of a locally residing property manager who can be contacted should regarding arising management issues 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.</p> <p>The pets of guests are to be managed to not be a nuisance to the locality, a condition of development approval will safeguard this.</p> <p>As holiday house approvals expire annually 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.</p> <p>The submitted property management plan outlines that noise should generally cease after 9pm Sunday through Thursday and after midnight Friday and Saturday.</p>

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

Comment	Officer Response
<p>distressing is loud music, which reverberates around off the tin sheds, so easily.</p> <p>They seem to forget that the people who live nearby have jobs to do and are trying to sleep. Sleep deprivation caused by loud noises actually creates a state of unwellness in the body and brain.</p> <p>Many of us run the businesses and services which make our town function in the service of locals and visitors alike and need to have energy to do so.</p> <p>Some people who live in Castilla Way, behind 71 Seville, are Volunteers with St John Ambulance who often need to attend emergencies and make difficult decisions at odd hours. I run a business helping people achieve a better state of health and wellness, including relaxation and improved sleep. A neighbour directly behind 71 Seville Street has poor health and requires peace and quiet for convalescence. Another neighbour has very young children and struggles to get a decent night's sleep anyway. If Shire does decide to give approval for the use of 71 Seville Street as a holiday home, my request would be that, in respect to nearby residents, there be a clearly stated 'curfew' around noise and music, which needs to be minimised between say 10pm until 7 am. *Conditions Apply*</p> <p>Thanks again for the opportunity to comment and would be happy to discuss or receive your feedback on the matter.</p> <p>Where we live and how we live matters.</p>	<p>Antisocial behaviour should be reported to the Police. A recommended condition of approval requires the implementation of the property management plan (by the property manager).</p>
<p>I oppose the application on the following basis.</p> <ol style="list-style-type: none"> <li>1. Establishment of precedent.</li> </ol> <p>As far as I am aware there is no other holiday house of this sort in the street and to approve this application would set a precedent which I am opposed given the current residential (permanent residents) nature of the street.</p> <p>I presume the proposal would be an Air B and B which would mean</p>	<ol style="list-style-type: none"> <li>1. There have been no development approvals for commercial holiday houses on Seville Street to date. However there has been 116 development approvals for commercial holiday houses for Residential zoned properties in the Shire overall, therefore a precedent for this type of land use already exists in the Residential zone. A recommended condition of approval will</li> </ol>



**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

Comment	Officer Response
<p>relatively uncontrolled numbers of people coming and going on a short-term basis from the property. This would introduce an element of commercial endeavour into the street and mean that it would inevitably increase the amount of noise and traffic and people into the area.</p> <p>2. Noise and visitors The house next to this premises is already a “party house” with loud music and large numbers of visitors particularly on public holiday weekends and school holidays times despite being apparently privately owned, and by agreeing to this proposal the council will add further “party house” elements to the street.</p>	<p>restrict the number of occupants of the holiday house to six. The applicant has submitted a development application which when assessed on its merits, warrants approval.</p> <p>2. The neighbouring property is not a valid consideration for this development application. As per the response to the above submission.</p>

### 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
  - Zoning Table
    - 3.3.2. *The symbols used in the cross reference in the Zoning Table have the following meanings —*

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

*'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;*

*'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;*

*'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;*

*'X' means a use that is not permitted by the Scheme.*

▪ 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 the 1<sup>st</sup> bedroom 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 standard fee for the commercial holiday house development application of \$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.
-----------------	--

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

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

**ATTACHMENTS**

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

- Holiday house management documents (SODR-1262144384-19949

**(Marked 9.3.2)**

**VOTING REQUIREMENT**

Simple majority.

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Shanhun, seconded Cr Scharf**

**That Council approve the development application for the proposed Holiday House at Lot 350 (No.71) Seville Street, Cervantes, subject to following conditions and advice notes:**

**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 26 June 2023.**
- 5. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 26 June 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 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**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanahun, Cr Mcdonald**

**AGAINST: Nil**

**9.3.3 PROPOSED HOLIDAY HOUSE – LOT 773 (NO.7) CORTES RETREAT, CERVANTES**

Location:	Lot 773 (No.7) Cortes Retreat, Cervantes
Applicant/Landowner:	G Powell
File Ref:	SODR-1262144384-19960
Disclosure of Interest:	Nil
Date:	1 September 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 773 (No.7) Cortes Retreat, Cervantes as a commercial holiday house.



**Location Pan – Lot 773 (No.7) Cortes Retreat, Cervantes**

### BACKGROUND

The proponent was requested on to lodge a development application for the use of the subject property as a commercial holiday house. The proponent was able to provide proof that the property had not been used as such to date.

The proponent seeks to accommodate up to four guests for short stay bookings, not exceeding three consecutive months across two bedrooms.

The application was advertised to immediate neighbouring landowners from 1 August 2023 until 1 September 2023. Two submissions were received, objecting to the proposal. The objections result in a Council determination being required for the application in accordance with Delegation 9.1.2 (Town Planning – Other Use and Development).

The subject property and surrounding area are zoned 'Residential' with a density coding of R12.5 under the Shire's *Local Planning Scheme No.7* (Scheme). A Holiday House is a Discretionary (D) Use in this zone.

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

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

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

- *To encourage the provision of good quality, well managed unhosted short-term rental accommodation.*

There is currently one other commercial holiday house approved in proximity to this proposal at 34 Cordoba 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 house, the premises are not being occupied as a dwelling (permanent residence) but for tourist accommodation.

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

'Amenity' is defined within the Deemed Provisions of LPS7 to mean: *All those factors which combine to form the character of an area and include the present and likely future amenity.*

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

It is acknowledged that 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 Pinnacles Visitor Centre. 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.

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

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 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: 4-6 guests = minimum of 2 parking bays</p>	<p><u>Compliance</u> Single driveway with rear access for parking vehicles on the premises.</p>
<p><u>Dwelling Design</u></p> <ol style="list-style-type: none"> <li>1. The premises is an existing, lawful dwelling.</li> <li>2. There is 5.5m<sup>2</sup> per guest in each bedroom utilising beds.</li> <li>3. There is 3.5m<sup>2</sup> per guest in each bedroom utilising bunks.</li> <li>4. Bedrooms in a premises are provided in accordance with the following rates: 3-4 guests = 2 bedrooms</li> <li>5. Bathrooms and toilets are provided in accordance with the following rates: 1-6 guests = 1 or 2 bathrooms and 1 toilet</li> </ol>	<p><u>Compliance</u></p> <ul style="list-style-type: none"> <li>▪ Lawful 2-bedroom dwelling</li> <li>▪ 1 bathroom and 1 toilets</li> <li>▪ 1<sup>st</sup> bedroom - 2 guests - 11m<sup>2</sup></li> <li>▪ 2<sup>nd</sup> bedroom - 2 guest - 13m<sup>2</sup></li> </ul>
<p><u>Overcrowding</u> Each occupant over the age of 10 years has 14m<sup>3</sup> of airspace within a bedroom for sleeping purposes.</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 guest - 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 - 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.*

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

The sleeping of two guests within 2<sup>nd</sup> bedroom will result in a minor 2m<sup>3</sup> variation to the deemed-to-comply provision for overcrowding. It is considered that the intent of the subject performance requirements of having a sufficient size dwelling for four guests which prevents overcrowding within the proposed holiday house is achieved as it reasonable that two guests be permitted to sleep within the 2<sup>nd</sup> bedroom. Furthermore, recent previous development approvals considered in terms of the latest form of *Local Planning Policy 9.12* 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, two objections were received from surrounding landowners.

<u>Comment</u>	<u>Officer Response</u>
<p>I wish to object to this proposal. Not because of it being leased per se, but because I object to short stay homes in general. In a nation where there is an acute shortage of long-term rental properties, and people are struggling to find somewhere to live, then allowing homes to be rented for holiday makers seems counter intuitive. So, I register my objection on ideological grounds.</p>	<p>Noted. Objection to holiday homes in general noted. The application however needs to be considered on its merits in relation to the Local Planning Framework. The Shire is continually monitoring the number of commercial holiday houses in Jurien Bay and Cervantes. Currently under 5% of the dwellings in Jurien Bay and Cervantes are used as commercial holiday houses. The local planning framework limits which areas of the Shire commercial holiday houses are permissible or not. Currently commercial holiday houses are permissible in all Residential zones. The Shire is working with industry, regional and State Government agencies to identify solutions to accommodation issues in the region.</p>
<p>1. My concern being as a Shire you encourage development and business to the area, but we have a major lack of rental properties especially here in Cervantes. The more homes been approved for commercial holiday homes makes even less for a more permanent rental option. This is a knock-on effect for local business trying to find accommodation for their work</p>	<p>1. As per the response to the above submission.</p>



**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

<p>force. Cervantes also already has a large number of Commercial Holiday Houses and I feel approving more will limit the chances of rentals for workers/families for housing that choose to come to the area on a more permanent basis and become members of the community.</p> <p>I understand that tourists are often the ones that use these homes while I agree that this is also good for the area. But we do have Pinnacles Motel and Edge Resort which has a huge amount of accommodation available, RAC Caravan Park, Cervantes Lodge and a couple of bed and breakfast options as well as numerous Air B&amp;Bs. So, at this stage I think we have more than enough approved commercial holiday homes.</p> <p>As we have Pinnacle Motel etc, I would like to see Commercial Holiday Homes numbers capped once the cap is reached, new applicants go on a waiting list and as one comes off next in line can be offered the option.</p> <p>2. Also, just to clarify are these properties paying a Commercial rate that is higher than residential properties.</p>	<p>2. The Shire is considering a rate review which may impose higher rates for land uses such as commercial holiday houses. Currently the rates for the subject property are charged on the assessed standard gross rental value for residential properties.</p>
--	--

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
  - a. Zoning Table
    - 3.3.2. *The symbols used in the cross reference in the Zoning Table have the following meanings —*
      - 'P' means that the use is permitted by the Scheme providing the use complies with the relevant development standards and the requirements of the Scheme;*
      - 'D' means that the use is not permitted unless the local government has exercised its discretion by granting development approval;*
      - 'A' means that the use is not permitted unless the local government has exercised its discretion by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions;*
      - 'X' means a use that is not permitted by the Scheme.*
- 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*

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

- 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 the 2<sup>nd</sup> bedroom 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 standard fee for the commercial holiday house development application of \$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.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.

**ATTACHMENTS**

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

- Holiday house management documents (SODR-1262144384-19961)

**(Marked 9.3.3)**

**VOTING REQUIREMENT**

Simple majority.

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Clarke, seconded Cr Gibson**

**That Council approve the development application for the**

proposed Holiday House at Lot 773 (No.7) Cortes Retreat, Cervantes subject to following conditions and advice notes:

**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 four (4) guests at all times.
4. The Holiday House shall be operated in accordance with the 'Code of Conduct', and the 'Fire and Emergency Plan' submitted with the subject development application date stamped 8 July 2023.
5. The listed 'Property Manager' shall undertake the duties listed on the 'Property Management Plan' submitted with the subject development application date stamped 8 July 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 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**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

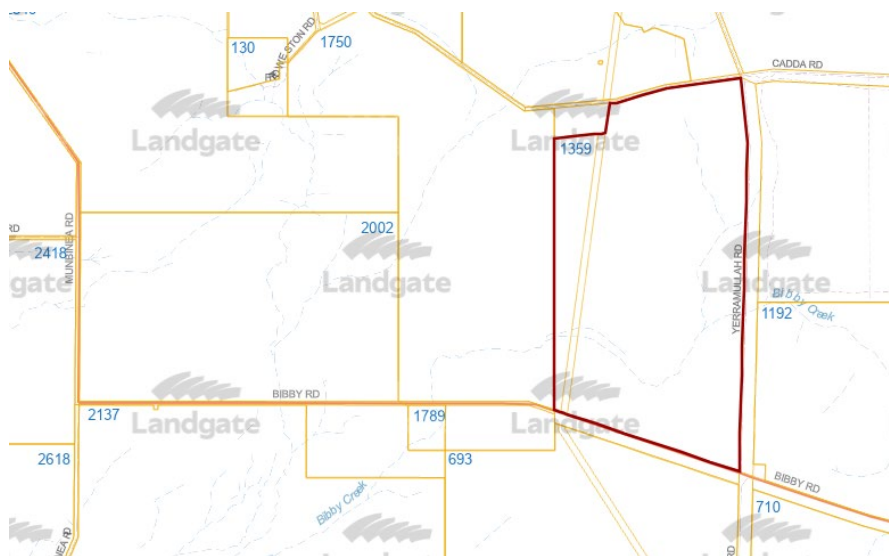
**AGAINST: Nil**

### 9.3.4 PROPOSED BADGINGARRA SOLAR FARM AMENITIES BUILDING

Location:	Lot 54 (No. 1359) Yerramullah Road, Nambung
Applicant:	Building Certification Services WA Pty Ltd on behalf of APA Group
Folder Path:	SODR-1262144384-19963
Disclosure of Interest:	Nil
Date:	1 September 2023
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

#### PROPOSAL

The proponent seeks development approval for the replacement of the amenities building and associated infrastructure at the Badgingarra Solar Farm at Lot 54 (No. 1359) Yerramullah Road, Nambung.



**Location Plan – Lot 54 (No. 1359) Yerramullah Road, Nambung**

#### BACKGROUND

In January 2018, the then Midwest / Wheatbelt Joint Development Assessment Panel granted development approval for a 50MW Solar Photovoltaic Facility (solar farm) at Lot 54 (No. 1359) Yerramullah Road, Nambung. To date only a 10MW solar farm has been constructed. The solar farm commenced operation in December 2019.

The subject development application seeks development approval for the replacement of the existing crib and ablution facilities within the lay-down area of the solar farm adjacent the entry off Yerramullah Road. 7 buildings will be removed and replaced with an amenities building, associated water tank and solar panel shade structure 3m in height which will provide power to the amenities building.

A renewable energy facility is defined by the Western Australian Planning Commission's Position Statement on Renewable Energy Facilities as:

*premises used to generate energy from a renewable energy source and includes any building or other structure used in, or relating to, the generation of energy by a renewable resource. It does not include renewable energy electricity generation where the energy produced principally supplies a domestic and/or business premises and any on selling to the grid is secondary.*

This land use is not listed within Shire's Local Planning Scheme No.7 (Scheme), as such Clause 3.4.2 of the Scheme applies (see Statutory Environment Section of the report).

The subject property is zoned 'Rural'.

As this development is incidental to the existing solar farm it was considered the use-not-listed is consistent with the objective of the Rural zone. As the use is not listed in the Scheme, the advertising procedure of clause 64 (1)(c) of the Deemed Provisions for Local Planning Schemes was undertaken, as noted in the consultation section below.

#### COMMENT

As the incidental development poses no significant impacts to the site and the surrounding locality, it is recommended that Council grant conditional development approval.

#### CONSULTATION

Comment was sought from surrounding landowners of the proposal. No submissions were received.

#### STATUTORY ENVIRONMENT

- Planning and Development (Local Planning Schemes) Regulations 2015

Deemed provisions for local planning schemes

64. Advertising applications

(1) The local government —

- (a) *must advertise a complex application for development approval in accordance with subclause (3); and*
- (b) *must advertise an application for development approval in accordance with subclause (4) if the application is not a complex application and —*
  - (i) *relates to development that is a class A use in relation to the zone in which the development is located; or*
  - (ii) *relates to the extension of a non-conforming use; or*
  - (iii) *relates to development that does not comply with the requirements of this Scheme; or*
  - (iv) *relates to development for which the local government requires a heritage assessment to be carried out under clause 11(1); or*
  - (v) *is of a kind identified elsewhere in this Scheme as an application that is required to be advertised; and*
- (c) *may advertise any other application for development approval in accordance with subclause (4).*

- **Local Planning Scheme No.7**

- 3.2. **Objectives Of The Zones**

- Rural Zone**

- To provide for a range of rural activities such as broadacre and diversified farming so as to retain the rural character and amenity of the locality, in such a way as to prevent land degradation and further loss of biodiversity.*

- 3.4.2. *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the local government may —*

- a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
      - b) *determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 64 of the deemed provisions in considering an application for development approval; or*
      - c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

**POLICY IMPLICATIONS**

WAPC Position Statement: Renewable energy facilities.

**FINANCIAL IMPLICATIONS**

The applicant has paid the required development application fee.

STRATEGIC IMPLICATIONS

Local Planning Strategy 2020 – *Assess applications for wind farms and other alternative energy infrastructure, having regard to visual landscape issues and other relevant matters set out in Position Statement on Renewable Energy Facilities.*

Strategic Community Plan – Envision 2029:

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

ATTACHMENTS

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

- Development plans (SODR-1262144384-19117)  
**(Marked 9.3.4)**

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Clarke, seconded Cr Gibson**

**That Council:**

- A. determine in accordance with clause 3.4.2(a) of *Local Planning Scheme No.7* that the proposed development is consistent with the objective for Rural zone; and**
- B. grant development approval for the development of an amenities building and associated infrastructure upon Lot 54 (No. 1359) Yerramullah Road, Nambung subject to the following condition and advice note:**

**Condition:**

**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.**

**Advice Note:**

- A. Should the Applicant be aggrieved by the decision (in part or whole) there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such an application**



must be lodged within twenty-eight (28) days from the date of the decision.

- B. 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.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

*Cr Scharf declared an Impartiality interest in item 9.3.5 due to the applicant being distant relative.*

### **9.3.5 PROPOSED HELICOPTER JOY FLIGHTS – JURIEN BAY FORESHORE**

Location:	Lot 303 on Plan 414323, Reserve 28541
Applicant:	N Beissel
Folder Path:	SODR-1262144384-18484
Disclosure of Interest:	Nil
Date:	6 September 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

#### **PROPOSAL**

For Council to consider providing landowner consent and approval for a development application for the operation of helicopter joy flights from the Jurien Bay Foreshore adjacent Grigson Street (Lot 303 on Plan 414323, Reserve 28541).



*Proposed helipad location on Reserve 28541 marked in red outline.*

### BACKGROUND

The applicant has 15 plus years of experience in flying helicopters, mostly in the Northern Territory. The applicant also flew seaplanes on the Gold Coast for 8 years.

The applicant proposes to solely operate the business from the foreshore. The helipad site would be roped off to prevent public access. It is anticipated that hours of operation would be between 09:00 and 17:00, 6 days per week, excluding Sundays. Approach and departure to/from the helipad would be from the beach side to minimise noise for the adjacent residents.

The helicopter landing site is located within Jurien Bay Foreshore Reserve 28541, which is under the care, control and management of the Shire through a management order. As such, Council is required to give landowner's consent for the development application. Should Council not grant this consent, the application cannot proceed. (Determination of the application is then not required). If landowner's consent is granted, Council must determine the development application.

Council's consideration of the development application must be guided by its planning merits in relation to the local planning framework, while the granting of landowner's consent is not constrained by these aspects. Council could consider other aspects such as existing commercial arrangements and more suitable locations when making a decision on granting landowner's consent. It is not obliged to grant landowner's consent to any development.

Reserve 28541 is reserved for the purposes of 'Parks And Recreation' under *Local Planning Scheme No.7* (Scheme) and has management order land uses of 'Foreshore Protection' and 'Recreation'.

### COMMENT

The subject development application only deals with the helicopter landing site. Once a helicopter is in the air, it is beyond town planning control. Therefore, Council can only decide, firstly whether the foreshore is suitable for a helicopter landing site before then dealing with operation times (if required).

It is not considered that the foreshore is appropriate area for the proposed helicopter landing site as this land use will create significant environmental and amenity (noise, dust) and safety impacts to this locality in the center of the Jurien Bay townsite. These likely impacts result in the proposal not being deemed consistent with orderly and proper planning principles.

As a proposed recreational use, the proposal may be consistent with the Scheme reservation of 'Parks and Recreation' and the management order purpose of 'Recreation'. There is an argument that the proposal may be inconsistent with the 'Foreshore Protection' purpose of the management order given the potential for resultant windblown erosion of the foreshore.

While the proposed use is proposed as recreation, it could interfere with other recreational uses exercised on the reserve. It could also affect the amenity of the reserve and the quiet enjoyment of other properties in the immediate vicinity including current and proposed development on the nearby caravan park site as well as residential properties across the road on Grigson Street. The submissions received on the proposal in relation to amenity concerns further highlight this issue.

The safety risk to users of the reserve also has to be considered. While there may be ways to reduce this risk, the proposed location of the proposal is at the conversion of two footpaths well used by the general community.

When considering the Jurien Bay foreshore reserve area, Dobbyn, Fautleroy and Federation Memorial parks, there does not appear to be a suitable alternative location where a helicopter landing site can be established without conflict with current and future users of the reserves and its proximity. As noted in submissions received, the Jurien Bay airport is an acceptable base for helicopter operations such as the use proposed.

The proposal is considered to not be consistent with the objectives of *Local Planning Policy 9.13 – Jurien Bay Commercial Development Plan* (Policy 9.13) as the helicopter landing site will compromise the amenity and activities that enhance peoples' experience with the foreshore; and will not be a compatible commercial activity with the balance of the foreshore land uses.

The proposal is also considered to conflict with the Jurien Bay Foreshore Masterplan as the proposed helicopter landing site is

within a location assigned for community events, passive recreation, and peace and enjoyment within and surrounding the adjacent food and beverage providers, short stay accommodation, and residential properties.

Clause 67 of the *Deemed Provisions for Local Planning Schemes*, outline the relevant considerations of development applications by local governments. It is considered that the proposal does not comply with the following subclauses:

*(g) any local planning policy for the Scheme area*

The proposal is inconsistent with the Policy as outlined above.

*(m) the compatibility of the development with its setting, including the compatibility of the development with the desired future character of its setting*

The proposal is inconsistent with the current land uses of the foreshore and the future intent set out within the Foreshore Masterplan (as discussed above).

*(n) the amenity of the locality including the following, the environmental impacts of the development –*

The proposal will adversely affect the amenity of the foreshore and the quiet enjoyment of other properties in the immediate vicinity.

*(o) the likely effect of the development on the natural environment*

The proposal can result in windblown erosion of the foreshore and may adversely impact seabirds frequenting the foreshore.

*(r) the suitability of the land for the development taking into account the possible risk to human health or safety*

The proposal to operate within a well utilised portion of the foreshore can result in adverse safety issues for the general public.

It is therefore concluded that a helicopter landing site is inconsistent with Policy 9.13, the Jurien Bay Foreshore Masterplan, orderly and proper planning and will result in amenity and safety concerns in a prominent location of the Shire. It is recommended that Council does not provide landowner's consent to the subject development application because of these reasons.

### CONSULTATION

The development application was widely advertised to the Jurien Bay public from 13 July 2023 until 1 September 2023. A total of 40 submissions were received as listed in the attached Schedule of Submissions. All submissions raised concern with the proposal.

### STATUTORY ENVIRONMENT

Local Planning Scheme No.7:

*2.4.1 A person must not use a local reserve or 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.*

Planning and Development (Local Planning Schemes) Regulations 2015 - Schedule 2 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...;*
- (c) any approved State planning policy;...*
- (fa) any local planning strategy for this Scheme endorsed by the Commission;*
- (g) any local planning policy for the Scheme area;...*
- (j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;...*
- (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 —*
  - (i) environmental impacts of the development;*
  - (ii) the character of the locality;*
  - (iii) social impacts of the development;*
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;...*
- (q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) the adequacy of —*
  - (i) the proposed means of access to and egress from the site; and*
  - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;...*
- (u) the availability and adequacy for the development of the following —*
  - (i) public transport services;*
  - (ii) public utility services;*
  - (iii) storage, management and collection of waste;*

- (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- (v) access by older people and people with disability;*
- (v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) any submissions received on the application;*
- (z) any other planning consideration the local government considers appropriate.*

### POLICY IMPLICATIONS

Local Planning Policy 9.13 Jurien Bay Commercial Development Plan:

#### Objectives

- *Activation of the Jurien Bay Foreshore recognising that while public open space is high priority and should not be compromised, people want amenities and activities that enhance their experience of the Foreshore.*
- *Provide specific guidance on the requirements for the operation of commercial and community land uses on the Jurien Bay Foreshore.*
- *Encourage commercial operators to operate in locations that support the activation of the Jurien Bay Foreshore, while complementing the existing businesses within the Jurien Bay City Centre.*
- *Identify the preferred locations for particular activities and to regulate the intensity of commercial activities on the Jurien Bay Foreshore.*
- *The effective use and management of the Jurien Bay Foreshore resulting in a space that is people focused which promotes health and wellbeing through active and passive recreation.*

The proposed development is situated within Activity Area 1 which is intended to accommodate all of the commercial uses such as seasonal community events and markets, recreational based commercial activities, as well as the use of permanent and transportable structures as part of lease agreements.

Civil Aviation Safety Authority Guidelines for helicopters - suitable places to take off and land:

*Regulation 91.410 authorises a place for use as an aerodrome if it is suitable for the landing and taking-off of aircraft and that the aircraft can land at or take off from the place safely, having regard for all of the circumstances of the proposed landing or take-off including the prevailing weather conditions.*

### FINANCIAL IMPLICATIONS

The applicant has paid the required development application fee.

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

**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.*

*Environment and Natural Resources - Actions*

*Ensure planning proposals in the coastal hazard risk area, as identified in the local planning scheme, mitigate or manage risks in accordance with the Shire of Dandaragan Coastal Hazard Risk Management and Adaptation Plan and State policy.*

Jurien Bay Foreshore Masterplan 2020:

*The Jurien Bay masterplan aims to:*

- *Strengthen the foreshore promenade;*
- *Create opportunities for art and interpretation;*
- *Create a town square at the beach;*
- *Create a sense of arrival;*
- *Improve foreshore amenity;*
- *Create inspiring play opportunities;*
- *Provide shelter from the elements;*
- *Provide a space that is inclusive and welcoming for all;*
- *Provide events and meeting places; and,*
- *Retain Jurien Bay's sense of place and uniqueness*

Strategic Community Plan – Envision 2029

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

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

- Development cover letter (Doc Id: SODR-1262144384-18603)
  - Helipad location map (Doc Id: SODR-1262144384-18485)
  - Schedule of Submissions (Doc Id: SODR-1262144384-19991)
- (Marked 9.3.5)**

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr Gibson, seconded Cr McDonald****That Council does not provide landowner consent for development application 68/23 for the operation of helicopter joy flights from the Jurien Bay Foreshore adjacent to Grigson Street (Lot 303 on Plan 414323, Reserve 28541).****CARRIED 8 / 0****FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald****AGAINST: Nil****9.3.6 APPLICATION TO KEEP MORE THAN TWO DOGS ON A PROPERTY – 9 CORMORANT COURT, JURIEN BAY**

Location:	Shire of Dandaragan
Applicant:	Daniel Servaas
Folder Path:	SODR-518144282-177
Disclosure of Interest:	Nil
Date:	15 September 2023
Author:	Will Miller, Emergency Management Coordinator
Senior Officer:	Brent Bailey, Chief Executive Officer

**PROPOSAL**

To consider an application to keep more than two dogs at 9 Cormorant Court, Jurien Bay in accordance with the provisions of the Dog Act 1976 and Shire of Dandaragan Dogs Local Law 2019.

**BACKGROUND**

A written application was submitted by the proponent on 9 August 2022 that sought Council approval to keep the following dogs at 9 Cormorant Court Jurien Bay.

	Breed	Name	Age	Registration Details
1	Jack Russel Terrier	Phoebe	7	11902
2	Jack Russel Terrier	Scrappy	9mths	1998
3	Jack Russel Terrier	Minni	3mths	1999

**COMMENT**

Since receiving this application, a property inspection and neighbour consultation has been conducted by the Shire's Ranger Services Team. The Shire Ranger confirms that suitable means exist at the property to effectively confine the dogs. The proponent's premises is in the Jurien Bay townsite and comprises a land area of approximately 1458 square metres.

Given the property is in the Jurien Bay townsite boundary, the restriction of a maximum (2) two dogs applies as referenced in the



Dog Local Laws. Council has discretion under the Dogs Local Law 2019 to vary the permitted number of dogs at any specific property based on matters such as the lot size and comments from neighbours.

The proponents initially applied for four dogs in total, however one recently passed and has been excluded in this application. Adjoining neighbours were consulted via written letter (see attached).

Three responses were received, of which one objected to the application of four dogs.

Officers made verbal contact with the objected landholder to advise of the reduced number of dogs and no changes to their objection were noted.

#### Summary

- There have been no previous noise complaints at this property.
- The proposal is one additional dog above the current policy limit.
- The lot size is large, and the three dogs are small.
- The owner has demonstrated responsibility by ensuring the dogs are fitted with bark collars.
- Should the dogs become a nuisance this exemption may be revoked.

Precedent on similar cases has occurred several times throughout the last decade. Applications have generally been approved where both the breed of dog is small and land size exceeds 1000m<sup>2</sup>, or when a rural setting has allowed the dogs to exist without causing neighbourhood nuisance. This trend may be both the result of previous policies on the matter and/or the difference in demographic and population of pet dogs that existed during that period.

#### CONSULTATION

- Neighbours

#### STATUTORY ENVIRONMENT

Clause 3.2 of the Local Law relating to Dogs states, in summary that the owner or occupier of premises within the district shall not, unless the premises are licensed as an approved kennel establishment, or has been granted an exemption in accordance with Section 26(3) of the Act and the First Schedule of the local law, keep or permit to be kept on those premises more than two (2) dogs over the age of three (3) months.

An exemption may be made subject to any conditions or requirements deemed necessary, including the conditions that –

- The premises comply with the provisions of the Act and the local law;
- All dogs are registered in accordance with the Act; and,

## MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023

- That the exemption may be revoked or varied at any time.

Council may, at its discretion vary the number of dogs that may be kept in accordance with clause 3.2 and, as described in the First Schedule, but in any case the variation shall not permit more than six (6) dogs to be kept on a premises, unless a kennel establishment license is approved under the Act and 3.2 of the Shire of Dandaragan Local Law relating to Dogs.

Should there be any offence committed under the Dog Act 1976 or Shire of Dandaragan Dogs Local Law 2019 relating to the property where the dogs are kept, or the Dogs listed in this application including nuisance dog complaints and/or the registration of puppies over three months of age that; the exemption may be revoked.

### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

### FINANCIAL IMPLICATIONS

All fees associated with this procedure have been met by the applicant.

### 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 key liveability factors such as health and wellbeing services and educational opportunities
<b>Priority Outcomes</b>	<b>Our Roles</b>
A region that supports community leadership and collective values	Provide an industry leading local government organisation promoting community confidence and support in our decision-making processes.

### ATTACHMENTS

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

- Written application from Daniel Servaas to keep more than 2 dogs. (Doc Id: SODR-890489631-1797)
- Two letters of support from adjoining residents (Doc Id: SODR-518144282-177)
- One letter of objection from an adjoining resident (Doc Id: SODR-518144282-177)

**(Marked 9.3.6)**

### VOTING REQUIREMENT

Simple Majority

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

**Moved Cr Shanhun, seconded Cr Glasfurd  
That Council approve the application for an exemption under  
Section 26 (3) of the Dog Act 1976, for Mr Daniel Servaas to  
keep the three (3) dogs listed above at 9 Cormorant Court,  
Jurien Bay.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr  
Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald**

**AGAINST: Nil**

#### **9.4 GOVERNANCE & ADMINISTRATION**

*Cr Shanhun declared an Impartiality interest in item 9.4.1 due to being a member of the Jurien Bay Community Men's Shed.*

*Cr Scharf declared an Impartiality interest in item 9.4.1 due to being a member of the Jurien Bay Community Men's Shed.*

##### **9.4.1 JURIEN BAY COMMUNITY MEN'S SHED LEASE AREA EXTENSION**

Location:	Shire of Dandaragan
Applicant:	Not applicable
Folder Path:	SODR-129784381-982
Disclosure of Interest:	Nil
Date:	13 September 2023
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not applicable

##### PROPOSAL

This item addresses a request from the Jurien Bay Community Men's Shed to extend their lease area on a portion of lot 503 Jurien Bay Sport and Recreation Reserve 31884.

##### BACKGROUND

In 2018, the Shire and Jurien Bay Community Men's Shed (JBCMS) entered into a lease agreement for a portion of lot 503 Jurien Bay Sport and Recreation Reserve 31884. The JBCMS has constructed the primary shed, an amenities facility and a smaller workshop on the site which is surrounded by perimeter fencing.

The JBCMS has requested Council's consideration for an extension of their lease area to accommodate the group's growth and future hardstand requirements. The proposed extension is shown below which would extend the lease area to align with the north-eastern border of the Jurien Bay Progress Association facility.



The land is currently a Parks and Recreation reserve comprising a total area of 37.4ha. The lease area extension is approximately 40m x 40m.

#### COMMENT

The extension of the lease area is supported by the Shire's staff as a logical use for this area of land, which is currently level, cleared and unutilised. The extension of the lease area will provide the JBCMS with sufficient room to continue to grow their activities which have a positive impact within the local community.

The officer's recommendation requests approval for the Chief Executive Officer to amend the lease document to provide a new defined lease area which will include any necessary document lodgement with the Minister for Lands.

#### CONSULTATION

Jurien Bay Community Men's Shed

#### STATUTORY ENVIRONMENT

This disposal of property in an exempt disposition as provided by the Local Government Functions and General Regulation 30(2)(b).

- (2) *A disposition of land is an exempt disposition if —*
- (b) *the land is disposed of to a body, whether incorporated or not —*
- (i) ***the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and***
- (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There will be minor administrative costs associated with this amendment if supported by Council. It is expected that the amendment can be lodged using GIS mapping, however if the Minister for Lands requires a surveyed plan, survey costs should be borne by the JBCMS.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029:

02 – Prosperity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
<b>Priority Outcomes</b>	<b>Our Roles</b>
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities.  Identify and activate underutilised economic and land assets to promote employment and economic activity

ATTACHMENTS

- Letter from Jurien Bay Community Men’s Shed (Doc Id: SODR-129784381-1015)

**(Marked 9.4.1)**

VOTING REQUIREMENT

Simple majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

**Moved Cr Scharf, seconded Cr Rybarczyk**

**That Council:**

- 1) **Authorise the Chief Executive Officer to negotiate and execute an amendment to the Jurien Bay Community Men’s Shed lease document to increase the lease area by approximately 40m x 40m.**
- 2) **Advise the Jurien Bay Community Men’s Shed, that they will be responsible for meeting any survey costs associated with the lease amendment.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald**

**AGAINST: Nil**

## 9.4.2 ADOPTION OF A FINANCIAL HARDSHIP POLICY

Location:	Whole of Shire
Applicant:	Shire of Dandaragan
Folder Path:	SODR-2042075298-63632
Disclosure of Interest:	N/A
Date:	15 September 2023
Author:	Kelli Anda, Rates and Finance Officer
Senior Officer:	Brent Bailey, Chief Executive Officer

### PROPOSAL

The purpose of this report is to recommend adoption of a new policy (3.6 C-3FHP06 – Financial Hardship Policy) relating to rates and sundry debt collection for ratepayers suffering financial hardship.

### BACKGROUND

Following the COVID-19 global pandemic and the State Government's introduction of expectations placed of local governments during this unprecedented time, Council adopted a COVID-19 Fiscal Response Package that addressed measures put in place to provide financial hardship relief for those affected during the declared State of Emergency. In addition to this, the WA Local Government Association (WALGA) encouraged local government authorities to adopt a financial hardship policy as a valuable tool for Council to provide ongoing assistance to persons or businesses experiencing financial hardship well after the State of Emergency ceased in November 2022.

Since this time, the Shire of Dandaragan has repeatedly received enquiries from its debt recovery agency, Cloud Payment Group, and financial counsellors, as to whether it has a hardship policy for ratepayers in financial difficulty.

As a result of these enquiries and to respond to genuine need, a Financial Hardship Policy has been developed to provide guidance to the administration team to manage the process of debt recovery for rates and other debts, and to manage the assessment and treatment of financial hardship applications.

Council currently delegates the Chief Executive Officer the ability to:

- (a) Amend the rate record;
- (b) Make agreements as to how rates and service charges are paid;
- (c) Determine the due date for the payment of rates;
- (d) Recover rates and service charges through courts;
- (e) Recover rates and service charges via tenants rent;
- (f) Recover rates and service charges through the taking of possession of land.

The establishment of a hardship policy will also provide greater clarity to ratepayers and sundry debtors about when financial relief is available.

#### COMMENT

It is important to ensure that money owed to the Shire of Dandaragan is collected in a consistent and timely manner. It is also important to acknowledge that some ratepayers may, at times encounter difficulty in paying rates and charges.

It is considered that the intent of debt recovery procedures is not to cause hardship to any ratepayer and that consideration be given to cases of genuine financial hardship where the interest on outstanding rates will cause the ratepayer further hardship.

In addition to this, the policy has been developed to provide a reprieve to ratepayers in financial hardship from interest accumulation on their rates (and charges) arrears. It would allow them an opportunity to begin to clear their arrears with the incentive that they are actually clearing arrears instead of just interest charges each year. Furthermore, this Policy aims to limit the number of properties that have more than three years' worth of arrears, which may be subject to possible sale for non-payment of rates under Section 6.64 of the Local Government Act 1995.

#### CONSULTATION

Nil

#### STATUTORY ENVIRONMENT

*Local Government (Financial Management) Regulations 1996.*  
Regulation 5 provides (in part) as follows:

- (1) *Efficient systems and procedures are to be established by the CEO of a local government —*  
(a) *for the proper collection of all money owing to the local government;*

#### POLICY IMPLICATIONS

There are no policy implications relevant to this item.

#### FINANCIAL IMPLICATIONS

No direct financial implication will occur upon adoption of this Policy; however, it is difficult to assess exactly how many ratepayers and debtors may experience financial hardship in the future.

Payment plans will ensure all potential rates and charges and other debts are collected. In cases of severe financial hardship, the waiver of interest and payment plan fees may result in a reduction of revenue to the Shire. The deferral of any rates and service charges to future financial years may result in the carry forward of a receivable in the Shire's budget. These, however, may be recovered

from the property over time either during a future sale or through the mechanisms provided in the *Local Government Act 1995*.

#### STRATEGIC IMPLICATIONS

This matter is not addressed within Council's current Strategic Community Plan.

#### ATTACHMENTS

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

- Financial Hardship Policy (Doc ID SODR-461937211-1508)  
**(Marked 9.4.2)**

#### VOTING REQUIREMENT

Simple Majority

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

**Moved Cr Scharf, seconded Cr McDonald**

**That Council adopt the proposed Financial Hardship Policy.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

### **9.4.3 JURIEN BAY BEACH CAFÉ GROUND LEASE REQUEST**

Location:	Jurien Bay Foreshore Reserve 28541, Part Lot 303 (25) Roberts Street, Jurien Bay
Applicant:	Planning Solutions for Jurien Bay Beach Café Pty Ltd
Folder Path:	SODR-129784381-1009
Disclosure of Interest:	Nil
Date:	8 September 2023
Author:	Louis Fouché, Executive Manager Development Services
Senior Officer:	Brent Bailey, Chief Executive Officer

#### PROPOSAL

The purpose of the report is for Council to consider an Expression of Interest (EOI) to lease a portion of Reserve 28541 for the purpose of retail containers.





*Location Plan - Reserve 28541, Part Lot 303 (25) Roberts Street, Jurien Bay*

### BACKGROUND

A proposal has been received from Jurien Bay Beach Café Pty Ltd via an unsolicited EOI to lease approximately 470m<sup>2</sup> of Reserve 28541 to the south of the existing café and install four refurbished sea containers on the site. The proposal is described as an expansion of the Jurien Bay Beach Café with “family focused entertainment activities comprising retail containers and casual seating areas”.

The activities to be accommodated in the retail units include uses such as an ice cream parlour, juice bar, bike hire, gift shop, and retail outlets for tourism and local goods. The outlets will operate throughout the year, depending on demand from 6:00 am to 8:00 pm.

The containers are to be clad with timber slats and shade sails are to be installed next to the retail units. The proposal is described as contemporary and complementary to the built form aesthetic of the Jurien Bay foreshore.

The applicant’s ground lease proposal requested by the applicant is for a 10-year period with options to renew after six and five years respectively as first and second options.

Further detail of the proposal is provided in Attachment marked 9.4.3.

### COMMENT

#### Jurien Bay Foreshore Masterplan (Masterplan)

The Jurien Bay Beach Café and the proposed retail lease area are located in the Town Square precinct of the Jurien Bay Foreshore Masterplan. The Amenity Building concept in the plan has been further developed into the current Café (including amenities).

The plan contemplates a Food and Beverage offering next to the jetty (which could be considered to be provided in the current Café, although this does not necessarily preclude other new development consistent with the Masterplan). It is noted that sea container development options are shown as illustration of potential retail

options in this precinct. Sea containers can be modified to an acceptable standard, however such designs or alternative modular structures should not be considered lightly, as noted within these comments.

Provision is made in the plan for event and market spaces directly south of the proposed lease site on Fauntleroy Park.

The Masterplan provides the direction for future development on the foreshore. It replaces the existing paved amphitheatre directly south of the Beach Café with lawn, footpaths and a playground. The proposal departs from this direction, however indicates that alternative designs could be acceptable and that the Masterplan may have to be reviewed in the future. The future of the secondary playground at the location of the proposal could be included in this review.

Although not fully consistent with the Masterplan, the proposal is considered to be generally consistent with its intent, providing activation of the foreshore with a design theme respecting its local environment.

#### Amenity and Design

Given the prominent foreshore location of the Pavilion Café, the amenity of the locality should be given careful consideration. A standard sea container is likely to detract from the amenity of the locality and appropriate modification work should architecturally complement the existing \$1.4M Pavilion Café building and its surrounds.

Any structures in close proximity to the coast will also have to be designed, constructed and maintained for this environment (i.e. coastal processes, sea spray, wind, corrosion etc.). Timber or similar cladded structures generally weather better in the coastal zone. Metal structures can deteriorate from corrosion and then detract from the foreshore amenity. Inferior paintwork or paint that is not correctly applied or maintained could become unsightly. Timber cladded structures will also blend in better with the timber cladded Pavilion Café, in the immediate proximity of the proposal.

The material, colours and textures used with structures in this location, should complement its surroundings, however, need not totally replicate it. These details could be further considered with the assessment of a development application.

#### Jurien Bay Tourist Park

The proposed redevelopment of the Jurien Bay Tourist Park at Reserve 27406, Lot 302 Roberts Street, Jurien Bay in August 2022, proposes double storey unit development fronting the Pavilion Café location. Although there is no generic legal right to a view, any development in front of the tourist park should be considered

cognisant of the proposed units already approved by Council on the caravan park site.

The double storey units will have patios fronting the proposed development and should have clear views of the ocean from the second storey over the proposed single storey retail container development.

The foreshore reserve area has a general public presence, with some retail components including the Beach Café, markets and other itinerant vendors already established in the general proximity. It should be acknowledged that the proposed retail units will introduce some concentrated noise and other human activity closer to the approved units on the caravan park. Human activity and associated noise should however be expected on the foreshore reserves as retail activity is specifically proposed in the Foreshore Masterplan and Policy 9.13 - Jurien Bay Commercial Development Plan. This aspect can be further controlled with relevant conditions of development approval as well as lease conditions (if necessary), specifically prescribing permitted hours of operation.

#### Commercial Competition

Although proposed as an extension to the retail function of the Beach Café, the retail units could present some level of competition with other retail operators in Jurien Bay. Competition is not generally considered as a planning consideration, however the Shire as the landowner of the proposed area could consider this aspect as part of the determination to grant a lease as well as with granting landowner's consent for development approval, building permits etc.

#### Infrastructure

It is expected that the sea container modules could require electrical, water and sewer connections. The proponent suggests that the Shire be responsible for costs associated to bringing infrastructure to the site, with the lessee responsible for internal costs.

The impacts of electrical infrastructure in particular (i.e. transformer, distribution boxes, underground powerlines, reticulation etc.) should be considered further, should a development application be lodged.

The existing paved area directly south of the Jurien Bay Beach Café will be impacted by the proposal as one of the retail units is to be located on it. This will result in the loss of some of the utilisation of this asset. This area is not regularly or formally used by civic or commercial purposes. The paved area is also not indicated to be retained in the Foreshore Masterplan and is forecast to be replaced by lawn, footpaths and a playground.

### Alternative Options

Alternative locations for retail units on the foreshore could be considered i.e. further south on Fauntleroy Park or closer towards the nearby drainage sump. These locations may avoid direct conflict with the caravan park, however, pose infrastructure / service challenges and potential conflict with residences.

The Shire could develop modular units on the foreshore for rent (i.e. similar to the City of Busselton). This will require project planning, development, and management as well as funding for construction and ongoing maintenance, not currently funded in the Shire's Budget.

Given that there is no budget allocation or current planning for Shire developed retail units, it would be appropriate for development of this nature to be developed and funded by the proponents.

### Landowner's consent

The reserve is in the care, control and management of the Shire of Dandaragan and approval for development will also require consent from Council as 'Landowner'. The Shire is not obliged to provide landowner's consent to an application. Without this approval no development would be permitted.

### Development Application

If Council is willing to progress the proposal, the proposed development will require an application for development approval.

### Building Permit

If approved, the structures, including the shade sails will require a Building Permit, including structural engineering.

### Lease

Should Council agree to the lease of the reserve for the purpose intended, the process in the Local Government Act 1995 S3.58 – Disposing of Property will have to be followed.

The Café is subject to a lease and any further approved development may require an amendment or separate lease. The lease is also subject to approval by the Minister for Land. The general maximum lease period approved by the Minister is 21 years.

### Summary

The potential retail sea container development is generally consistent with the relevant strategies, master plan and policies for the location. Given the iconic coastal and local main beach location as well as the considerations noted above, should Council support the further development of the café location, the design and composition of the retail modules will have to be carefully considered. The necessary public consultation will also have to be followed as required in terms of the Local Government Act 1995 (lease) and the Local Planning Scheme (Development Application).

CONSULTATION

Representatives of Jurien Bay Beach Café and their consultants Planning Solutions presented three design concepts of the proposal to the Council Forum in February 2023. The current proposal has been developed from the comments received at the Forum.

A proposed lease (disposing of property) must be publicly advertised in accordance with Section 3.58 of the Local Government Act 1995. In addition, it is acknowledged that consideration of this proposal is being undertaken during a Council election cycle where it is expected that there will be a material change to the composition of Council. The officer's recommendation supports advertising the proposal to gain public comment on the proposal that will inform the new Council's final decision on whether or not to proceed with lease negotiations.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 3.58 - Disposing of Property

**3.58. Disposing of property**

(1) *In this section —*

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

*property includes the whole or any part of the interest of a local government in property, but does not include money.*

(2) *Except as stated in this section, a local government can only dispose of property to —*

*(a) the highest bidder at public auction; or*

*(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

*(a) it gives local public notice of the proposed disposition —*

*(i) describing the property concerned; and*

*(ii) giving details of the proposed disposition; and*

*(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

*and*

*(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

Deemed Provisions (Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No.7 (Scheme).

Foreshore Reserve 28541 is reserved for 'Parks and Recreation' under the Scheme.

In accordance with Clause 2.4.2 of the Scheme, in determining a development application for reserve land, Council must have due regard to:

- a. the matters set out in Clause 67 of the Deemed Provisions (Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015); and
- b. the ultimate purpose intended for the Reserve. In terms of the Management Order, the purpose of the Foreshore Reserve is 'foreshore protection' and 'recreation'.

The whole of the subject property is located within 'Special Control Area 3 – Coastal Hazard Risk Area' under the Local Planning Scheme. However, under the Shire of Dandaragan Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) and is expected to be impacted by coastal processes over the 100-year planning timeframe. Relocatable buildings could be accommodated subject to relevant planning and lease conditions.

POLICY IMPLICATIONSLocal Planning Policy 9.7 Shipping Containers

The LPP specifically states that shipping containers will not be permitted on local reserves and Tourist Zones, indicating that these containers, (when not converted for another purpose i.e. bar, kiosk etc.) are not considered to be suitable in these locations. Departure from this policy should have significant planning merit to be favourably considered.

Key considerations that will be taken into account for proposed sea containers include the following:

- The container shall be located in accordance with the setback prescribed under Local Planning Scheme No.7 and relevant development guidelines for the locality;
- In 'Special Use – Rural Development' and 'Rural Residential' zones the container shall be located to the rear of buildings so as to not be prominently visible from the street;
- In 'Commercial' or 'Regional Centre' zones the sea container is to be located so as to not be highly visible from the street. If the container cannot be placed so as to be generally concealed from the street then the Shire will require the installation of screening to a minimum height equal to that of the container.
- The container shall be painted to match or at the very least compliment the other buildings on the lot;
- The container shall not be located over septic tanks, leach drains or utilities; and
- Should the container falls into disrepair, or become unsightly, the Shire may direct it be upgraded or removed.

Policy 9.13 Jurien Bay Commercial Development Plan

## Objectives:

- *Activation of the Jurien Bay Foreshore recognising that while public open space is a high priority and should not be compromised, people want amenities and activities that enhance their experience of the Foreshore.*
- *Provide specific guidance on the requirements for the operation of commercial and community land uses on the Jurien Bay Foreshore.*
- *Encourage commercial operators to operate in locations that support the activation of the Jurien Bay Foreshore, while complementing the existing businesses within the Jurien Bay City Centre.*
- *Identify the preferred locations for particular activities and to regulate the intensity of commercial activities on the Jurien Bay Foreshore.*
- *The effective use and management of the Jurien Bay Foreshore resulting in a space that is people focused which promotes health and wellbeing through active and passive recreation.*

The proposed development is situated within Activity Area 1 which is intended to accommodate all of the commercial uses such as seasonal community events and markets, recreational based commercial activities, as well as the use of permanent and transportable structures as part of lease agreements. The proposal (including potential lease of additional reserve space) at the Jurien Bay foreshore is considered to be consistent with Policy 9.13.

FINANCIAL IMPLICATIONS

If the proposed lease is supported by Council, a market valuation will be obtained from an independent valuer and further negotiations would be undertaken in similar format to other commercial leases entered into by the Shire.

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 communities contain vibrant activated public open space and buildings with high levels of utilisation and functionality.	To manage and facilitate community assets that are flexible, vibrant, adaptable and enjoyable places to occupy employing the principles of placemaking and design thinking.

The Jurien Bay Foreshore Masterplan

The Plan aims to:

- Strengthen the foreshore promenade;
- Create opportunities for art and interpretation;
- Create a town square at the beach;

- Create a sense of arrival;
- Improve foreshore amenity;
- Create inspiring play opportunities;
- Provide shelter from the elements;
- Provide a space that is inclusive and welcoming for all;
- Provide events and meeting places; and
- Retain Jurien Bay’s sense of place and uniqueness.

The Jurien Bay Beach Café is located in the Town Square precinct of the Jurien Bay Foreshore Masterplan.

#### ATTACHMENTS

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

- Expression of Interest (Doc id: SODR-129784381-1014)
- Jurien Bay Foreshore Masterplan excerpt (Doc id: SODR-129784381-1011)

**(Marked 9.4.3)**

#### VOTING REQUIREMENT

Simple Majority

#### *COUNCILLOR MOTION*

*Moved Cr Shanhun, seconded Cr Glasfurd*

*That Council:*

- 1. Receive the unsolicited Expression of interest from Jurien Beach Café Pty Ltd to lease a portion of Reserve 28541, Part Lot 303 (25) Roberts Street, Jurien Bay.*
- 2. Hold in abeyance consideration of the Expression of Interest from Jurien Beach Café Pty Ltd, pending a review of the Jurien Bay Foreshore Masterplan and associated public consultation process.*
- 3. Subject to budgetary constraints, request the Chief Executive Officer to initiate a review of the Jurien Bay Foreshore Masterplan and public consultation process.*
- 4. Should the review process identify usage of the subject portion of Reserve 28541, Part Lot 303 (25) Roberts Street, Jurien Bay as detailed in the Expression of Interest from Jurien Beach Café Pty Ltd, for “family focused entertainment activities comprising retail containers and casual seating areas” or other commercial use, expressions of interest be sought from all interested parties.*

*MOTION LOST 3 / 5*

**FOR: Cr Glasfurd, Cr Shanhun, Cr Clarke**

**AGAINST: Cr Holmes, Cr Scharf, Cr Gibson, Cr Rybarczyk, Cr Mcdonald**



**OFFICER RECOMMENDATION / COUNCIL DECISION****Moved Cr Scharf, seconded Cr Gibson**

**That Council authorise the CEO to advertise the lease and development proposal as described in the Expression of Interest from the Jurien Bay Beach Café Pty Ltd for a portion of Reserve 28541, Part Lot 303 (25) Roberts Street, Jurien Bay for public comment.**

**CARRIED 5 / 3**

**FOR: Cr Holmes, Cr Scharf, Cr Gibson, Cr Rybarczyk, Cr Mcdonald**

**AGAINST: Cr Glasfurd, Cr Shanhun, Cr Clarke**

#### **9.4.4 ECONOMIC AND TOURISM DEVELOPMENT IMPLEMENTATION PLAN UPDATE**

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-757425863-1448
Disclosure of Interest:	Nil
Date:	18 September 2023
Author:	Tricia Slee, Economic Development Manager
Senior Officer: Services	Louis Fouché, Executive Manager Development

**PROPOSAL**

The purpose of this report is for Council to endorse an updated Economic and Tourism Development Implementation Plan (July 2023 – December 2024) which is a key component of the Shire's Economic and Tourism Development Strategy.

**BACKGROUND**

The Shire of Dandaragan developed an Economic and Tourism Development Strategy in 2020 in response to the Envision 2029 Prosperity statement – “The Shire will experience broad economic and population growth with decreasing economic barriers, diversified agriculture and fisheries output and vibrant visitor economy”.

The key role of the Economic and Tourism Development Strategy is to support Council's decision-making processes for economic and tourism investments and advocacy.

The Economic and Tourism Development Implementation Plan (July 2023-December 2024) is the operational document that details the actions to be taken to achieve the strategic goals outlined.

COMMENT

The Economic and Tourism Development Implementation Plan outlines the actions to be taken to achieve the goals set out in the Economic and Tourism Development Strategy 2029.

The Implementation Plan provides a suite of projects and activities that itemise the short to medium term approach that the Shire will take to pursue the overarching strategy for growth.

The Implementation Plan is updated regularly to respond to economic climate conditions, new opportunities and outcomes arising from past activities.

CONSULTATION

As this plan is an operational component of the broader strategy, public consultation is not required.

STATUTORY ENVIRONMENT

There is no statutory environment relevant to this item.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

The Implementation Plan identifies actions that will be prioritised for funding through annual budgets and the Corporate Business Planning process.

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>
Jurien Bay continues to grow as a regional centre that services and delivers benefits throughout the Shire	Develop and implement a modern economic growth plan which harnesses the economic potential of existing and emerging industries.  This plan will contain initiatives that are relevant across the whole Shire.

ATTACHMENTS

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

- Shire of Dandaragan Economic and Tourism Development Strategy 2029 (Doc Id: SODR-757425863-1801)
- Shire of Dandaragan Economic and Tourism Development Implantation Plan (July 2024-December 2024) (Doc Id: SODR-757425863-1590)

**(Marked 9.4.4)**

VOTING REQUIREMENT

Simple Majority

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr McDonald, seconded Cr Clarke  
That Council endorse the updated Shire of Dandaragan Economic and Tourism Development Implementation Plan (July 2023 - December 2024) which forms part of the Economic and Tourism Development Strategy.

CARRIED 8 / 0

FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald

AGAINST: Nil

**9.5 COUNCILLOR INFORMATION BULLETIN****9.5.1 SHIRE OF DANDARAGAN – AUGUST 2023 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 August 2023 *(Marked 9.5.1)*

**9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – AUGUST 2023**

Document ID: SODR-2045798944-6832

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

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

Document ID: SODR-2045798944-6830

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

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

Document ID: SODR-1876983588-1337

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

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

See confidential item below – Item - 11.1.1

**OFFICER RECOMMENDATION / COUNCIL DECISION**

Moved Cr Holmes, seconded Cr Gibson

**That Council accept the following late items as new business of an urgent nature which must be considered and dealt with by the Council before the next meeting.**

**11.1.1– CONFIDENTIAL - APPOINTMENT OF SENIOR EMPLOYEE - EXECUTIVE MANAGER CORPORATE AND COMMUNITY SERVICES**

**11.1.2 – CONFIDENTIAL - CEO PERFORMANCE REVIEW**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

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

Section 5.23 of the Local Government Act 1995 stipulates that all Council Meetings are generally open to the public. Section 5.23 goes on to identify specific situations in which the Council or committee may close to members of the public the meeting, or part of the meeting.

In situations where it is deemed that a meeting or part of a meeting must be closed to the public, Section 5.23 (3) states “A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.”

*For a decision to be recorded in the minute a formal motion must be passed by Simple majority clearly stating the reason for the closure in accordance with Section 5.23 of the Local Government Act 1995.*

Local Government Act 1995

**5.23. Meetings generally open to public**

- (1) Subject to subsection (2), the following are to be open to members of the public —
  - (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
  - (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret;
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Local Government (Administration) Regulations 1996

*4A. Meeting, or part of meeting, may be closed to public — s. 5.23(2)(h)*

The determination by the local government of a price for the sale or purchase of property by the local government, and the discussion of such a matter, are matters prescribed for the purposes of section 5.23(2)(h).

*Staff and members of the public left the meeting at 4.25pm*

## **11.1 GOVERNANCE & ADMINISTRATION**

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

**Moved Cr Clarke, seconded Cr Rybarczyk**

**That the meeting be closed to members of the public at 4:25pm in accordance with Section 5.23 (2) (h) of the Local Government Act 1995 and Regulation 4A of the Local Government (Administration) Regulations 1996 to allow Council to discuss Item 11.1.1 Appointment of Senior Employee - Executive Manager Corporate and Community Services'.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

### 11.1.1 CONFIDENTIAL - APPOINTMENT OF SENIOR EMPLOYEE - EXECUTIVE MANAGER CORPORATE AND COMMUNITY SERVICES

Location:	Shire of Dandaragan
Applicant:	Not applicable
Folder Path:	Human Resources / Personnel File
Disclosure of Interest:	Nil
Date:	27 September 2023
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	Not applicable

*This report has been abridged due to the confidential nature of the content that is contained within this report.*

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

**Moved Cr Gibson, seconded Cr Shanhun**

**That Council agrees to accept the recommendation of the Chief Executive Officer, in accordance with Section 5.37(2) of the Local Government Act 1995, to appoint Mr Bradley Waters to the position of Executive Manager Corporate and Community Services for the Shire of Dandaragan.**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr Mcdonald**

**AGAINST: Nil**

### 11.1.2 CONFIDENTIAL - CEO PERFORMANCE REVIEW

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-430439565-327
Disclosure of Interest:	The author discloses an interest in this item as it relates to his employment contact.
Date:	28 September 2023
Author:	Brent Bailey, Chief Executive Officer
Senior Officer:	N/A

*This report has been abridged due to the confidential nature of the content that is contained within this report.*

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

**Moved Cr Shanhun, seconded Cr Scharf**

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

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

1. Notes that Mr. Brent Bailey's annual performance review in his role as Chief Executive Officer for the Shire of Dandaragan for the 2022/23 review period has been undertaken;
2. Endorses Mr. Brent Bailey's overall rating of 'Exceeds Performance Requirements';
3. Schedules the next review of the CEO's performance to be completed by 30 September 2024;
4. Endorses the ongoing contractual performance criteria for the 2023/24 review period as detailed in the performance review report;
5. Defer the establishment of project-based performance criteria until after the October 2023 Council elections; and
6. Endorses the proposed amendments to the CEO's current contract of employment and total reward package as detailed within the performance review report.

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

**COUNCIL DECISION**

**Moved Cr Scharf, seconded Cr Gibson**

**That the meeting be reopened to the public at 4.29pm**

**CARRIED 8 / 0**

**FOR: Cr Holmes, Cr Scharf, Cr Clarke, Cr Gibson, Cr Rybarczyk, Cr Glasfurd, Cr Shanhun, Cr McDonald**

**AGAINST: Nil**

*Staff and members of the public re-entered the room at 4.29pm*

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

**13 CLOSURE OF MEETING**

The presiding member declared the meeting closed at 4.31pm.

**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 28 SEPTEMBER 2023**

These minutes were confirmed at a meeting on

.....

Signed .....

Presiding person at the meeting at which the minutes were confirmed

Date .....