

9.3.5 PROPOSED MOTEL – LOT 62 (No. 20) ROBERTS STREET AND PART SANDPIPER STREET ROAD RESERVE, JURIEN BAY

Location:	Lot 62 (No. 20) Roberts Street and part of Sandpiper Street Road Reserve, Jurien Bay
Applicant:	Burgess Design Group on behalf of Aliceville Pty Ltd
Folder Path:	SODR-1262144384-14871
Disclosure of Interest:	Nil
Date:	8 August 2022
Author:	Rory Mackay, Planning Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

For Council to consider a development application for a motel on 20 Roberts Street, Jurien Bay (Site). Landowner's consent from Council for the development of associated car parking and landscaping in the Sandpiper Street Road Reserve is required in the first instance.



Location Map – 20 Roberts Street, Jurien Bay

BACKGROUND

In 2012 development approval was granted by Council for a mixed-use tourist development over the Site. However, this development did not proceed as a scheme amendment (rezoning) to progress the development was required. As such, the development approval was allowed to lapse by the developer as they sought the adoption of Scheme Amendment 21 to rezone the land to Special Use Zone 4 (SU4) under *Local Planning Scheme No.7* (Scheme). Approval of Amendment 21 was granted in September 2015.

A development application was lodged with the then Wheatbelt Joint Development Assessment Panel in September 2017. However, this application was later withdrawn as some conditions of SU4 required modification to allow outstanding issues to be resolved later in the planning process. Scheme Amendments 33 and 34 were initiated

and adopted to modify the wording of Conditions 5, 6, 10 and 11 of SU4.

The previous SU4 Conditions 5, 10 and 11 required the following matter/actions to be undertaken “prior to approval of development”:

1. remediation of the site in accordance with the *Contaminated Sites Act 2003*;
2. the closure, realignment and land transfers of a portion of the Heaton Street Road reserve; and
3. completion of the ceding of a minimum 11-metre-wide street along the northeast boundary of the land, providing a connection between Heaton and Sandpiper Streets.

Scheme Amendments 33 & 34 (approved by the Minister for Planning on 15 May 2018) enables these issues to be progressed and completed at a later stage, while a new development application(s) is considered, assessed, and if satisfactory, conditionally approved.

Scheme Amendment 34 also amended Condition 8 of SU4 which was ambiguous and inconsistent with Condition 2 (xiv) whereby, Condition 8 specified:

Any proposed ‘Hotel’ or ‘Motel’ on the land shall provide 100% short-stay accommodation. For all other accommodation units proposed on the land, the maximum proportion of permanent residential units relative to the total number of short stay units on the site shall be equal to or less than 45%.

Condition 2 (xiv) specifies:

Evidence that the proportion of permanent residential accommodation units relative to the total number of accommodation units on the site will be equal to or less than 45%.

The Shire’s intent has always been to calculate the total number of units across the Site, by including any hotel and motel units as part of the short-stay unit calculation. This is evident in the original planning approval that recommended the following wording of the condition:

The proportion of permanent residential units relative to the total number of accommodation units on the site shall be equal to or less than 45%, unless otherwise approved by the local government.

As such, Scheme Amendment 34 amended the Scheme provision by deleting the word “other” to ensure that the Hotel and Motel Units are included in the calculation of the permanent/short stay ratio.

The Local Development Plan (LDP) required for the Site under SU4 was formally adopted by Council on 28 June 2018. The LDP sets out the specific and detailed development requirements for the strategic Site, of which the subject development application is to be consistent

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with. Essentially, the LDP reflects the initial development, which was approved in 2012, and considers the legislative changes discussed above.

A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) for the Site was prepared by MP Rogers and Associates in accordance with Condition 6 of SU4 and was subsequently adopted by Council on 28 February 2019. In summary, the CHRMAP assesses the coastal hazard risks, denotes the subsequent adaptation options and provides an implementation plan for the proposed development on the Site. The strategies to be implemented adequately address the potential coastal hazard risks associated with the development in accordance with State planning policy.

Following the adoption of the Site CHRMAP a development application was lodged with the then Midwest Wheatbelt Joint Development Assessment Panel for a mixed-use tourist development across the Site in late 2019. Council endorsed the Shire's Responsible Authority Report to the Assessment Panel on 28 November 2019. However, this application remains on hold, pending legal advice, due to unresolved matters including coastal storm surge and the inclusion of a road reserve within the overall development site. Subsequently, this application has been prepared for only the motel component of the mixed-use development whilst the unresolved issues are to be addressed separately for the remainder of the Site. The location of the current motel application is not projected to be impacted by coastal storm surge within the next 100 years or the proposed road reserve inclusion.

The complete mixed-use development across the site will comprise eight buildings. The proposed motel is noted within the masterplans as Building D (No.4). The proposed motel will address Sandpiper Street and have 41 short-stay rooms across four-storesy.



Proposed Sandpiper Street frontage

COMMENT

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The scheme defines the proposed land use of 'motel' as:
premises used to accommodate patrons in a manner similar to a hotel but in which specific provision is made for the accommodation of patrons with motor vehicles and may comprise premises licensed under the Liquor Licensing Act 1988.

Under SU4 a motel is a permitted use which Council can consider for development approval.

Each floor of the motel will comprise the following:

Basement –

- storage (allowance for future storerooms)
- Bin store
- Lift lobby, lift and services

Ground Floor –

- Motel reception (reception, office, amenities, and maintenance store)
- Lift lobby, lift, services, and linen store
- 10 motel rooms (all single bedroom)
- 50 car bays, including 1 ACROD bay

First Floor –

- 13 rooms (12 single bedroom and one double bedroom)

Second Floor –

- 12 rooms (all single bedroom)
- roof terrace

Third Floor –

- 6 rooms (four single bedroom, two double bedroom)
- Service desks

The following table lists the requirements of the Scheme and LDP applicable to the subject development application against what has been proposed, with the compliance outcome listed in the third row.

Scheme Requirement	Proposed	Complies
Development of the land shall be in accordance with a LDP adopted by the local government.	The proposed development is consistent with the provisions of the LDP.	Yes.
All development on the land shall be connected to a reticulated water supply and sewerage system.	The proposed development will be connected to reticulated water supply and sewerage system. Details will be provided at building permit stage.	Yes – condition to be imposed.
Prior to the commencement of development, the site is to be remediated to the extent required for its intended use.	The site has been remediated prior to the commencement of development.	Yes.
Prior to approval of development on the site, a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) is to be prepared in accordance with State Planning Policy	A CHRMAP has been prepared and endorsed by the Shire of Dandaragan.	Yes.

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Scheme Requirement	Proposed	Complies
2.6: State Coastal Planning Policy and approved by the local government.		
Any proposed 'Hotel' or 'Motel' on the land shall provide 100% short-stay accommodation. For all accommodation units proposed on the land, the maximum proportion of permanent residential units relative to the total number of short stay units on the site shall be equal to or less than 45%.	The proposed motel will provide 100% short-stay accommodation.	Yes – condition to be imposed.
Prior to the commencement of development, the ceding of a minimum 11-metre-wide street along the northeast boundary of the land, providing a connection between Heaton and Sandpiper Streets, is to be completed to the satisfaction of the local government.	The landowner agrees to the ceding of a minimum 4.5-metre-wide pedestrian access way along the northeast boundary of the land. Refer to text in report.	No – see commentary below
No structure shall exceed 40 metres in height measured from natural ground level, unless it forms part of the telecommunications infrastructure, and the height of individual structures will be in accordance with an approved LDP.	The proposed motel will have total height of 20m.	Yes.
For all short-stay accommodation a register of guests showing periods of occupancy is to be kept and made available to the local government on request in order to ensure compliance with the requirement to limit occupation to a maximum of three months in any 12month period.	The landowner agrees to provide the Shire occupancy details on request.	Yes.
In accordance with the R-codes, blank walls shall be minimised at street level, and where practical, active frontages incorporated into the development to ensure a suitable level of casual surveillance of the public domain	The proposed building is oriented to face Sandpiper Street, to provide passive surveillance of the street and outdoor public spaces.	Yes.
All buildings must be designed with windows or balconies facing the street.	Windows and balconies are provided to allow a suitable level of passive surveillance of the street.	Yes
46 total car parking bays required.	50 car parking bays proposed.	Yes, however all car parking is proposed within the Sandpiper Street Road Reserve and not within the development site boundaries. See commentary below.
30% of total site area to be landscaped.	Landscaping is proposed for the vehicle parking area adjacent to the Motel only.	No - The proposal does not meet the landscaping requirements as the development is for only part (stage 1) of a comprehensive development including a landscaping plan for the total site.

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Scheme Requirement	Proposed	Complies
		This application seeks the Shire's discretion to consider the variation, given that additional landscaping will be incorporated in future stages of development.

The following are comments on the remaining major components of the development.

Appearance, orientation, and compatibility of the development with its setting

The proposed motel finishes, and materials have been closely chosen to acknowledge the site's local context, climate and natural landforms and vegetation.

Materials - white and bagged brick, limestone, timber and weatherboard cladding, limewash renders, and large format pavers.

Colours - whites and neutrals (refer Elevations & Appendix 2, Built Form and Materiality).

The proposed motel is oriented with its main frontage to the east and southeast. As such, most rooms will receive morning sun. Any rooms oriented to the west will receive afternoon sun (refer Appendix 3 – Environmental Sensitive Design Review).

The applicant has provided at pages 22-25 within their application report, an assessment against the set of ten design principles contained within *State Planning Policy 7.0 – Design of the Built Environment (SPP7)*. A 'Design Statement' in accordance with SPP7 is also included at Appendix 2 to the application to reinforce that the design of the motel is compatible with the site and its surrounding setting.

Traffic Impact

The applicant has supported their application with a third-party traffic impact statement (TIS) prepared by Shawmac (refer to Appendix 5). The following notable conclusions were made:

- On a Saturday, the development is estimated to generate 373 daily vehicle trips, including 39 during the peak hour of the development. This volume of traffic is low and can be accommodated within the existing capacity of the road network with no modifications required.
- The provision of 50 car parking bays satisfies the minimum requirements calculated according to the Shire's *Local Planning Policy 9.6: Car Parking*. There is also ample street parking in the vicinity of the site.
- The crash history of the adjacent road network did not indicate any safety issue on the adjacent road network and there is no indication that the development would increase the risk of crashes unacceptably.
- The proposed internal and external path network is considered to be adequate.

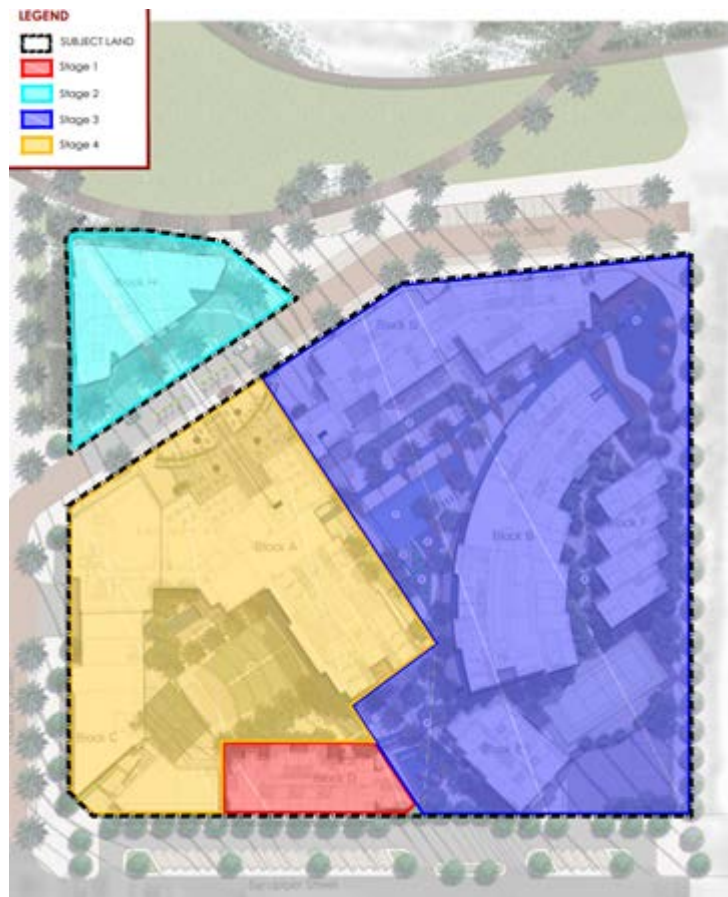
- Based on the proposed land use, the only bicycle parking demand is likely to be from staff. The development plans indicate that 6 bicycle racks will be provided along the building frontage which would be sufficient for the likely demand for bicycle parking.
- Vehicle access is proposed via Sandpiper Street. There are two entry and exit points proposed to service the development. The minimum sight distance requirement of AS2890.1 is achieved in both directions from the proposed vehicle exit points along Sandpiper Street.

Pedestrian Access Way

Condition 11 of the SU4 requires the ceding of a minimum 11m street along the northeast boundary of the land prior to the commencement of development. However, within all previous development applications and reporting (including the LDP adopted by Council), plans submitted have shown this as a pedestrian access way. A 11m roadway is not preferable in this location. As such, it is recommended that Council applies discretion to vary Condition 11 of SU4. If Council does apply discretion, a 4.5m pedestrian access way on the northeast boundary will be provided as part of a future development stage and will be ceded to the Western Australian Government.

Staging of Development

The construction of the motel as Stage One of the mixed-use tourist development upon the subject property is consistent with the LDP staging plan adopted by Council in 2018, as depicted below.



Car Parking in Road Reserve

The proposed car parking of the development will be wholly located within the Sandpiper Street Road Reserve, generally intended for the exclusive use of the motel. There are two aspects to this point that Council is required to consider:

1. The legal requirement for the landowner to agree to the development / effectively sign the application form to make the application lawful.
2. How Council disposes of the affected property to be leased and developed by the landowner of Lot 62 Roberts Street, Jurien Bay.

Landowner consent to the development application is the first step within Officer Recommendation 1 of which Council makes a determination on the proposed development. Should Council not provide this consent to the development application, it would make the application in its current form not valid, resulting in a development decision (approval or refusal) not being required. The applicant has the option to modify the application to provide all car parking and landscaping within Lot 62.

The developer is willing to construct the road reserve car parking and lease the land from Shire for exclusive use by the Motel, until internal parking for the Motel is provided at a later stage of development. Once this occurs, the proponent proposes that the car parking would then be handed over free of cost to the Shire.

Officer Recommendation 2 deals with leasing the development site to the landowner of Lot 62 Roberts Street. Section 57 of the *Land Administration Act 1997* permits a land lease to be granted for land beneath or above a road reserve, subject to final approval from the Minister for Lands.

The presented Officer recommendation authorises the Chief Executive Officer to dispose of the subject development site via a lease agreement at market rental value. The applicant has requested the lease be at a peppercorn rate. A lease discount is a discretionary matter for Council to consider, should it be inclined to discount the value of the lease a variation to the officer's recommendation will be required.

Landscaping

As discussed previously within the assessment table, landscaping is only proposed in the car parking verge area adjacent to the Motel development site. The proponent is seeking discretion for not meeting 30% of the site landscaping required under the Scheme on the basis that the Motel development is only stage 1 of a 4 stage comprehensive multimillion dollar development with additional landscaping to be incorporated in future stages of development.

The whole of the Sandpiper Street perimeter will be landscaped with new temporary fencing erected behind the landscaping. For the

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Roberts and Heaton Street perimeters the existing cyclone fencing will remain to avoid unauthorised access to the balance of the development site. This is shown in the site plan below.



Site Plan

It is recommended that Council apply discretion in this circumstance as:

- the proposed Motel will occupancy some 500m² (2%) of the 21,991m² property; and
- the balance of the development site will require significant earthworks for the construction of two basement levels in later stages of the eleven storey mixed tourist development. (Also see below).

Nonetheless, a recommended condition requires a landscaping plan to be submitted and implemented, and thereafter maintained to the satisfaction of the Shire for the landscaping proposed. This plan will also consider the proposed landscaping in relation to existing significant trees on the Motel development site. A condition is also proposed to require landscaping along the perimeter of the motel building until the next stages of development screens these building facades in the future.

CONSULTATION

The development application was advertised directly by mail to surrounding landowners, in addition to the wider stakeholder community via the Shire's website, Facebook page and Shire Matters newsletter from 28 June 2022 to 5 August 2022.

A summary of each submission and the Officer's response to each is contained in the attached Schedule of Submissions.

STATUTORY ENVIRONMENT

Local Planning Scheme 7 – Special Use Zone 4.

4.8.1.8 Where a developer can satisfy the local government that the minimum car parking requirements cannot be provided on the site the local government may accept a cash payment in lieu of the provision of car parking spaces but subject to the requirements of this clause:

- i. *A cash-in-lieu payment shall be not less than the estimated cost to the owner of providing the land and constructing the parking spaces required by the Scheme. The value of that area of his land which would have been occupied by the parking spaces may be stated by the Valuer General or by a licensed valuer appointed by Local government.*
- ii. *Before the Local government agrees to accept a cash payment in lieu of the provision of parking spaces the Local government must have already provided a public car park nearby or must have firm proposals for providing a public car park area nearby within a period of not more than eighteen months from the time of agreeing to accept the cash payment.*
- iii. *Payments made under this clause shall be paid into a special fund to be used to provide public car parks.*

Land Administration Act 1997, Section 57.

57. *Leases in relation to roads*

1. *The Minister may —*

(a) *grant a lease in respect of land above or below a road;*
or

(b) *with the consent of the relevant local government, the Commissioner of Main Roads, or the Minister responsible for the administration of the Public Works Act 1902, as the case requires, grant a lease in respect of land comprising a road, if*

(i) *there are structures above the road; or*

(ii) *the purpose of that lease is consistent with the use of the road by the public.*

2. *When a lease is granted under subsection (1)(b) in respect of land comprising a road and the road is closed under section 58 during the subsistence of the lease, the lease continues to subsist as an interest in Crown Land until it terminates in accordance with law.*

- *Local Government (Functions and General) Regulations 1996:*

Regulation 30 - Dispositions of property to which section 3.58 of Act does not apply

(c) *the land is disposed of to —*

(ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth*

POLICY IMPLICATIONS

- State Planning Policy 2.6 State Coastal Planning Policy
- State Planning Policy 7.0 Design of the Built Environment
- Local Development Plan Lot 62 Roberts Street, Jurien Bay
- Coastal Hazard Risk Management and Adaptation Plan Lot 62 Roberts Street, Jurien Bay
- Local Planning Policy 9.6 Car Parking

FINANCIAL IMPLICATIONS

The applicant has paid the required development application fee.

STRATEGIC IMPLICATIONS

There is a need for Lot 62 Roberts Street to be a highly intensive development for tourism use, given its strategic location. The future development for Lot 62 is focused on tourism as a land use, conforming to the site objectives of the Tourism Planning Strategy, Jurien Bay City Centre Strategy and the Local Planning Strategy 2020.

Strategic Community Plan – Envision 2029

02 – Propensity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
Priority Outcomes	Our Roles
Our Shire has a contemporary land use planning system that responds to, and creates, economic opportunities.	Ensuring that our planning framework is modern and meets the needs of industry, small business and emerging opportunities. Identify and activate underutilised economic and land assets to promote employment and economic activity.
The Shire is home to a successful and growing market for domestic and international tourism.	Support the development of new products and services that increase the attraction of the region to the tourism market, in particular Indigenous cultural experiences.
Jurien Bay continues to grow as a regional centre that services and delivers benefits throughout the Shire.	Leverage public and private sector partnerships to deliver new infrastructure required to achieve sustainable economic and population growth.

ATTACHMENTS

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

- Development Application Report (SODR-1262144384-14382)
- Schedule of Submissions (SODR-1262144384-15067)

(Marked 9.3.5)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION 1 / COUNCIL DECISION 1

Moved Cr Eyre, seconded Cr Glasfurd

That Council provide landowner consent for development application 66/22 for Part Sandpiper Street Road Reserve, Jurien Bay to be developed for the purposes of car parking and landscaping.

CARRIED 8 / 0

OFFICER RECOMMENDATION 2 / COUNCIL DECISION 2

Moved Cr Rybarczyk, seconded Cr Clarke

That Council grant development approval for a motel, associated car parking and landscaping at Lot 62 (No.20) Roberts Street and Part Sandpiper Street Road Reserve, Jurien Bay, subject to following conditions and advice notes:

Conditions

1. All development shall be in accordance with the approved development plans (attached), which form part of this development approval, to the specifications and satisfaction of the Shire of Dandaragan.
2. This approval is for 'Motel' as shown on the approved plans and defined in Schedule 1 of the *Shire of Dandaragan Local Planning Scheme No.7*.
3. 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.
4. Prior to lodging an application for a Building Permit, the owner must execute and provide to the Shire of Dandaragan a notification pursuant to Section 70A of the *Transfer of Land Act 1893* (as amended) to be registered on the Certificate of Title advising prospective purchasers the following: *"VULNERABLE COASTAL AREA – this lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years."*
5. A register of guests showing periods of occupancy is to be kept and made available to the Shire of Dandaragan on request in order to ensure compliance with the requirement to limit occupation to a maximum of three months in any twelve-month period.
6. The development shall be connected to a reticulated water supply and sewerage system, to the satisfaction of the Shire of Dandaragan.
7. All piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street to the satisfaction of the Shire of Dandaragan.
8. Prior to lodging an application for a building permit, the applicant must submit and have approved by the Shire of Dandaragan, and thereafter implement to the satisfaction of the Shire of Dandaragan, a construction management plan addressing the following matters:
 - how materials and equipment will be delivered and removed from the site;
 - how materials and equipment will be stored on the site;
 - parking arrangements for contractors;
 - construction waste disposal strategy and location of waste disposal bins;

- details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - how risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works; and
 - other matters likely to impact on the surrounding properties.
9. Prior to the commencement of development, a detailed landscaping plan for the motel site and the road verge must be submitted to and approved by the Shire of Dandaragan, and must include the following:
- the location, number, size and species type of proposed ground covers, shrubs and trees;
 - consideration of existing significant trees in the development footprint;
 - landscaping along the motel building perimeter to enhance the building facades; and
 - verge treatments.
10. The approved landscaping and reticulation plan must be fully implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the Shire of Dandaragan. Any species which fail to establish within the first two planting seasons following implementation must be replaced in consultation with and to the satisfaction of the Shire of Dandaragan.
11. Prior to the commencement of the approved use all associated access ways, vehicle parking, service/loading bays, traffic calming measures and sign posting are to be completed in accordance with the applicable International and/or Australian Standards to the satisfaction of the Shire of Dandaragan.
12. A Waste Management Plan must be submitted to and approved by the Shire of Dandaragan prior to the commencement of the approved use. The plan must include the following details to the satisfaction and specification of the Shire of Dandaragan:
- the location of bin storage areas and bin collection areas;
 - the number, volume and type of bins, and the type of waste to be placed in the bins;
 - details on the future ongoing management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas; and
 - frequency of bin collections.
13. The approved Waste Management Plan must be implemented at all times to the satisfaction of the Shire of Dandaragan.
14. The development shall not interfere with, restrict access to, or in any way inhibit public access and use of the Jurien Bay foreshore, to the satisfaction of the Shire of Dandaragan.

15. Prior to commencement of construction, the proponent, at their cost, shall enter into a legal agreement with the Shire of Dandaragan for the construction, lease and ongoing maintenance of the vehicle parking and verge development area within the Sandpiper Street Road Reserve to the satisfaction of the Shire of Dandaragan.

Advice Notes

- A. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.
- 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.
- C. If the development, the subject of this approval, is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- D. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
- E. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the *Shire of Dandaragan Local Planning Scheme No.7* and may result in legal action being initiated by the Shire of Dandaragan.
- F. Should you be aggrieved by this decision, or any conditions imposed, 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 twenty-eight (28) days of the determination.

CARRIED 8 / 0

OFFICER RECOMMEDATION 3 / COUNCIL DECISION 3

Moved Cr Scharf, seconded Cr Eyre
That Council:

1. agrees to dispose of land within the Sandpiper Street Road Reserve, Jurien Bay via lease to the landowner of Lot 62 (No.20) Roberts Street, Jurien Bay for the development of car parking and landscaping in accordance with the development approved for the site, subject to the proponent meeting all costs associated with the proposal; and
2. authorises the Chief Executive Officer to negotiate and finalise a lease agreement in accordance with Section 3.58(3) of the Local Government Act 1995 based on market value and for this to be forwarded to the Minister for Lands for final approval.

CARRIED 8 / 0