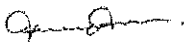


**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 17 FEBRUARY 2011****9.4.3 PROPOSED HOTEL AND RESIDENTIAL RESORT DEVELOPMENT – LOT 62 ROBERTS STREET, JURIE BAY**

Location: Lot 62 Roberts Street, Jurien Bay  
Applicant: Lawrence Scanlan Architects for Aliceville Holdings Pty Ltd  
File Ref: SP49  
Disclosure of Interest: Nil  
Date: 8 February 2011  
Author: Ian D'Arcy, Manager Planning  
Signature of Author:  
  
Senior Officer: Tony Nottle, Chief Executive Officer  
Signature of Senior Officer: 

**PROPOSAL**

The Council in February 2010 received an application for a Hotel and Residential Resort to be constructed on Lot 62 Roberts Street, Jurien Bay.

A copy of the application (less appendices) and some of the plans are provided as Attachment 9.4.3a to this report while elevations at a larger scale will be tabled at the meeting. A copy of the whole application can be provided to Councillors on request.

For reference purposes Figure 1 shows the location of Lot 62 within the Jurien Bay town centre; Figure 2 illustrates the indicative building and road layout consistent with Option 2 of the Jurien Bay



MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 17 FEBRUARY 2011

Proposed Closure of  
Heaton Street

Proposed realignment of  
Heaton Street

Figure 2 – Site Plan



Figure 3 - NW and NE Elevations



**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 17 FEBRUARY 2011**

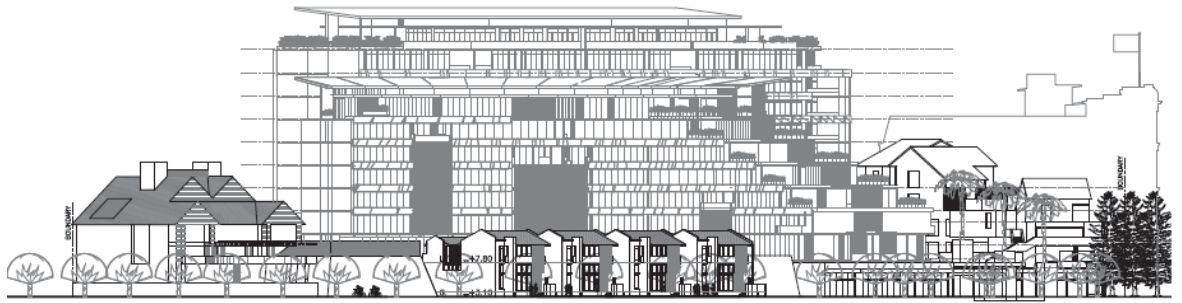


Table 1 below offers a summary of the proposal with the information extracted from the development application, including updates and clarification provided through the course of assessment.

Table 1

<b>Development Proposal Summary</b>	
<b>Criteria</b>	<b>Includes</b>
Allocation of Uses	<ul style="list-style-type: none"> <li>- Building A – tavern, restaurant, function facility, short stay and permanent residences</li> <li>- Building B – retail shops, day spa, amenities, short stay and permanent residences</li> <li>- Building C – retail shops, offices, health club, short stay and permanent residences</li> <li>- Building D – retail shops, short stay and permanent residences</li> <li>- Building E – reception, sales, short stay residences</li> <li>- Building F – permanent (terrace style) residences</li> <li>- Building G – retail shops, permanent residences</li> <li>- Building H – hotel (includes bar, restaurant, rooftop pool and gym)</li> </ul>
	<ul style="list-style-type: none"> <li>- Commercial development consists of retail shops x 27, offices x 5, restaurants x 3, bars x2, function</li> </ul>

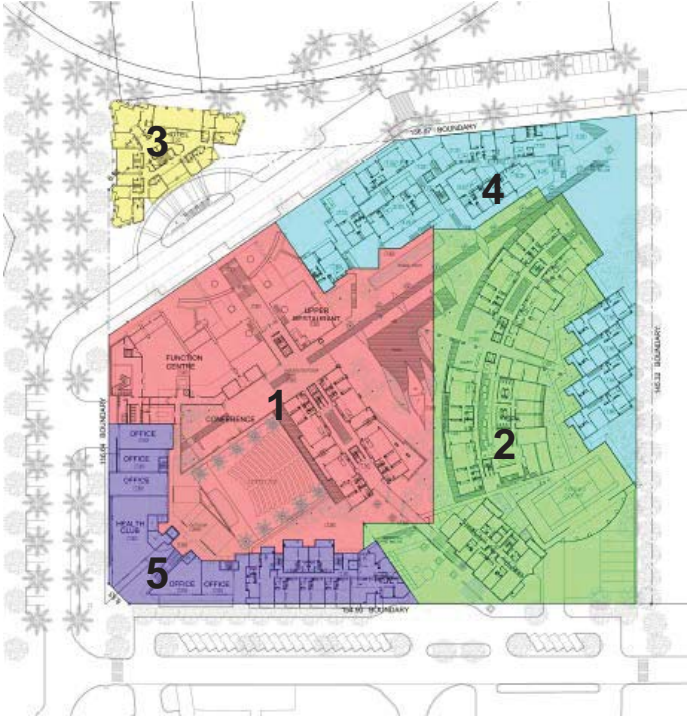
**MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 17 FEBRUARY 2011**

	<p>centre x 1, health club x 1, and reception areas x 2;</p> <ul style="list-style-type: none"> <li>- Residential consists of short stay units x 56 [variation of 1-4 bedroom]; hotel rooms x 94; permanent res. units x 127.</li> <li>- Swimming pools x 2</li> <li>- Outdoor cinema (300 persons).</li> <li>- Staging across 5 years</li> <li>- Development to accord with BCA requirements.</li> </ul>
<p>Height</p>	<ul style="list-style-type: none"> <li>- Building A – 10 Stories</li> <li>- Building B – 7 Stories</li> <li>- Building C – 4 Stories</li> <li>- Building D – 4 Stories</li> <li>- Building E – 4 Stories</li> <li>- Building F – 2 Stories</li> <li>- Building G – 5 Stories</li> <li>- Building H – 7 Stories</li> <li>- Highest point above street level is 38.7 metres.</li> <li>- Refer to Attachment A for height context</li> </ul> <div data-bbox="716 871 1417 1279" data-label="Image"> </div> <p data-bbox="716 1279 1353 1308">Looking northwest from Cameron Street (500m from centre of site)</p> <div data-bbox="716 1332 1417 1648" data-label="Image"> </div> <p data-bbox="716 1648 1302 1677">Looking north down Roberts Street (275m from centre of site)</p> <div data-bbox="716 1700 1417 1995" data-label="Image"> </div> <p data-bbox="716 1995 1362 2024">Looking west from Bashford/Doust Street (500m from centre of site)</p>

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Plot Ratio	<ul style="list-style-type: none"> <li>- R60 density nominated under Residential Design Codes - Part 7.2 Mixed Use Development</li> <li>- Plot ratio calculations are: <ul style="list-style-type: none"> <li>✓ Commercial - 0.2940:1</li> <li>✓ Residential - 1.0086:1</li> </ul> </li> <li>- Site area calculation for 127 residential units is 173m<sup>2</sup> per unit based on lot area at 21,979m<sup>2</sup>.</li> </ul>
External Design/Materials	<ul style="list-style-type: none"> <li>- Mix of design elements and materials to compliment the local environment and incorporate energy efficiency and sustainability principals</li> </ul>
Building Bulk and Density	<ul style="list-style-type: none"> <li>- Development is proposed on varying scales of height and form with residential uses based of R60 density.</li> </ul>
Traffic Management and Vehicle Access	<ul style="list-style-type: none"> <li>- Multiple vehicle access from Roberts, Heaton and Sandpiper Streets to a sealed, kerbed and drained.</li> <li>- Proposal is to align Western portion of Heaton Street based on a land exchange with the Shire.</li> <li>- Proposal designates in Appendix C5 'Shared Zones' or 'Local Traffic Areas' with reduced speed limits – more detailed analysis to be undertaken.</li> </ul>
Pedestrian Access	<ul style="list-style-type: none"> <li>- Provision of public pedestrian access to be provided on western and northern and eastern boundaries constructed/landscaped as part of the development.</li> </ul>
Parking	<ul style="list-style-type: none"> <li>- Provision of basement and ground level car, boat, bus and bicycle parking: <ul style="list-style-type: none"> <li>✓ Onsite parking of 498 bays for commercial and residential use and 6 boat bays.</li> <li>✓ Off site (street) parking of 85 car parking and one bus bay.</li> </ul> </li> <li>- Concession applied for reciprocal use of 117 retail bays.</li> <li>- Concession applied at 1 bay for every residential unit (183 as opposed to 353 – reduction of 170 bays)</li> </ul>
Services	<ul style="list-style-type: none"> <li>- Access to reticulated power, water, sewerage, telecommunications.</li> </ul>
Open Space / Landscaping	<ul style="list-style-type: none"> <li>- Development includes internal atrium, a range of landscape features and streetscape improvements – concept information provided in Appendix C2.</li> </ul>
Coastal Setbacks	<ul style="list-style-type: none"> <li>- Coastal Engineering Report (MP Rogers &amp; Assoc.) concludes relevant section of shoreline is accreting and setback distance calculated under SPP2.6 formula is 84 metres. All development will be setback beyond this distance.</li> <li>- Application advocates that ground level for the development to be set at Australian Height Datum (AHD) RL 3.1, being 0.9 metre above the foreshore level at RL 2.2 metres.</li> </ul>
Property Setbacks	<ul style="list-style-type: none"> <li>- Nil setback distances to all property boundaries – rationale: all boundaries adjoin a thorough fare.</li> </ul>
Site Drainage /	<ul style="list-style-type: none"> <li>- Development to incorporate recycling of storm</li> </ul>

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Stormwater Disposal	and grey waste water.
Energy Efficiency and Sustainability in Design	<ul style="list-style-type: none"> <li>- Incorporation of 5 star design principles using solar and wind power generation systems.</li> <li>- Buildings designed and positioned to achieve cross ventilation.</li> </ul>
Waste Disposal / Bin Storage	<ul style="list-style-type: none"> <li>- Detail to be provided.</li> </ul>
Staging	<ul style="list-style-type: none"> <li>- Development to be constructed in stages over a period of 5 years as reflected below:</li> </ul> 

The application concludes the proposed development:

- Presents a unique opportunity for a high quality resort and residential development with supporting features and public amenities that are unprecedented in Jurien Bay;
- Reinforces Jurien Bay as an attractive tourist destination enhanced by future infrastructural developments;
- Is environmentally sustainable;
- Creates a seamless connection to the Jurien Bay Foreshore Master Plan and respects the environment and heritage built context of the site as illustrated in Figure 4 below;
- Provides public spaces for public amenity, social interaction, and cultural events that are planned into the design and connected by site planning that is accessible and easy to use;
- Affords quality architecture and a memorable iconic character in its built form, landscape design and opportunities for the inclusion of public art;
- Operates with a diverse mix of hospitality, short stay and permanent accommodation, plus commercial and retail development appropriate both to support users of the new

- development and for the locality in general;
- Provides recreational opportunities for residential and local use;
- Is designed to provide protection from the elements while optimising the benefits of indoor/outdoor living that the local climate can afford;
- Is consistent with the goals of WA Tourism Taskforce Planning Bulletin PB83.

Figure 4 – Foreshore Master Plan and Site Layout for Lot 62 Roberts Street



### BACKGROUND

The development application was received by the Shire on the 19 February 2010 and has subsequently been the subject of the following assessment process:

#### Technical Advisory Group

A Technical Advisory Group (TAG) consisting of representatives from the Shire, Department for Planning, Tourism WA and Department of Regional Development and Lands was also convened to review the proposal in consideration of the information offered in Table 2 – refer to Statutory Environment section of this report.

The TAG identified a range of matters which was referred to the applicant further information to be provided. This included clarification on:



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- the height and impact of visual amenity;
- placement of permanent to short-stay accommodation within the development;
- staging of the development, with particular focus on the hotel component;
- possible redesign of the development to fall within Lot 62 only;
- decontamination of the site as a priority;
- commitment to completing the project;
- level of public access to all facilities;
- water and waste management;
- interface with the foreshore and surrounding residential and commercial developments;
- traffic management and increased parking provision;
- recurrent maintenance of landscape features and public art located within public areas; and
- land tenure arrangements.

Accordingly, the applicant confirmed:

- The hotel and short-stay resort components will eventually fall under one management body.
- Short stay accommodation will be separated from the permanent residential units through specific allocation of floor levels.
- The staging of the hotel component will align with Council direction to ensure the development maintains a tourist focus.
- Acceptance to a Scheme Amendment process should the Council require the land to be rezoned.
- A commitment to work with the Council to ensure an equitable balance of car parking is provided to both patrons and the general public.
- The decontamination process had been commissioned.

#### Coastal Assessment

In response to the Coastal Engineering Report (MP Rogers & Assoc.) an assessment by the Coastal Planning Branch of the Department for Planning and Department of Transport Coastal Section has confirmed and recommended:

- The development setback from the Horizontal Setback Datum (HSD) is to be not less than 46 metres translated parallel to the HSD based on the development being classed as 'In Fill'.
- The floor level of the development being increased from 2.9 AHD to 3.4 AHD to allow for a sea level rise of 0.9 metre over the next 100 years.
- The current and any future lot owners should be made aware of the coastal vulnerability of this lot by providing the following notification on the certificate of title for all new titles created:

*'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.*

- The building height proposed is non compliant with the policy requirements of SPP2.6. Should the Shire proceed with the building height as proposed, an appropriate LPS amendment should be initiated to vary the distance of the HSD in which due regard to SPP2.6 would be required.

A copy of the advice provided by the Department for Planning is included as Attachment 9.4.3b to this report.

### Building Height

The correspondence received from the Department for Planning also provided comment on the proposed height of the development at 10 storeys stating:

*“the subject proposal is above SPP2.6 policy requirements against which the proposal would be considered non-compliant. To obtain increases above 8 storeys, the Shire needs to include controls in its Local Planning Scheme (LPS). This would require an appropriate LPS amendment being initiated, in which due regard to SPP2.6 would be required.”*

In summary Section 5.3 of SPP2.6 states:

- No structure or building within 300 metres of the high water mark (Australian Height Datum) should exceed 5 stories and no more than 21 metres in height from natural ground level, with higher structures/buildings to be capped at 8 stories not exceeding 32 metres in overall height;
- There should be a broad acceptance of the proposed height by the local community, gathered through public consultation;
- The proposed development must be suited to the selected location, with consideration of built form, topography and character of the surrounding area;
- The selected location is to form part of a major tourist or activity node;
- The proposed development is not to generate significant overshadowing of the foreshore;
- The proposed development must be visual permeable to the foreshore and ocean from residential development, public places and streets

A copy of SPP2.6 can be provided to Councillors on request.

### Public Consultation

The Council at its meeting 19<sup>th</sup> August 2010 resolved to advertise the proposed development for a period of six weeks seeking community comment. This involved:

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- a public information forum conducted 9<sup>th</sup> September 2011 in the Council chambers;
- the placement of two signs on the site, publication of adverts in the local newspapers and on the Shire website; and
- a letter of notification being sent to surrounding land owners.

As a result a total of 116 submissions were received, with 3 from government agencies and the balance from the local community. Of the community submissions 50 were in support, 3 in-different, and 60 opposing the project. A summary of the matters raised through the public consultation (including the public forum) is provided as Attachment 9.4.3c to this report.

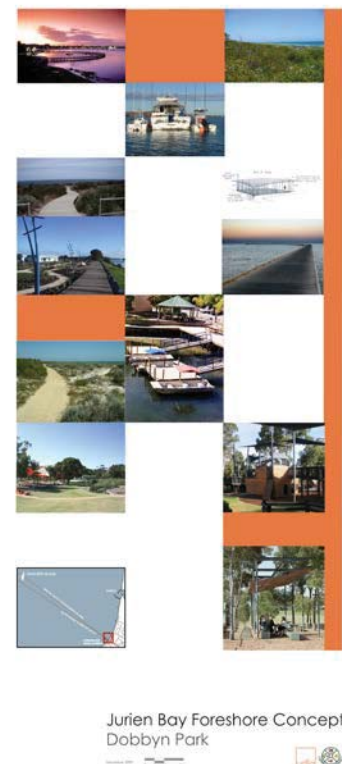
A copy of each submission has already been provided to Councillors.

*Foreshore Master Plan*

Highlighted by the applicant the design of the Residential Resort Development is influenced by Foreshore Management Plan prepared by UDLA Consultants for the Shire. This Plan advocates the re-alignment of Heaton Street through Lot 62 to Roberts Street in order to create an iconic freehold site on the ocean side of the road fronting the foreshore reserve – see Figure 5 below.



Figure 5 – Jurien Bay Foreshore Plan Option 2



Jurien Bay Foreshore Concept  
Dobbyn Park

Whilst this plan is one of two options that had been endorsed by Council in May 2008, discussion with the Council has confirmed the process of formally adopting one of the plans had not been

completed, although preference is given to Option 2 as shown in Figure 5 above.

#### Road Closure – Legal Advice

In assessing the application legal advice has been obtained on the grant of planning approval within the western portion of the Heaton Street road reserve prior to any formal closure process and rezoning.

Accordingly, the advice indicates the Council may grant planning approval prior to any formal road closure in accordance with Part 3 of the Shire Local Planning Scheme No.7, subject to:

- Recognition of Clause 10.2 of the Local Planning Scheme;
- Regard for the ultimate purpose intended for the Reserve;
- An appropriate condition that states development can not commence within the road reserve until all necessary arrangements applicable to the road re-alignment and transfer of land has been finalised, or at the very least a mechanism is put in place to satisfy Council that such arrangements will be finalised;
- An appropriate condition requiring the formal road closure with qualification that the process to close the road is subject to a formal public consultation process and Ministerial approval pursuant to Section 58 of the *Land Administration Act, 1997*.
- The Shire signing the development application form on behalf of the Crown as it is the authority that has the control and care of the road reserve upon which the development will be sited. This will ensure validity of the application.

A copy of this advice can be provided to Councillors on request.

#### Car Parking Concessions

As part of ongoing discussion on car parking requirements with the applicant at an officer level the following arguments and rationale has been provide in support of the application:

*Residential Parking* - the application states:

*The 127 residential dwellings are provided with 217 car parking bays. The Residential Design Codes requires a maximum 2 bays per dwelling, or 1 bay per single bedroom dwelling. There are 17 single bedroom dwellings and 110 larger dwellings, requiring 237 car parking bays.*

*However, given the compact living type proposed and the close location of the site to the town centre and other commercial facilities, the need for private vehicle parking is reduced. The car parking bays will be allocated to dwellings, meaning owners will have full understanding of their parking allowance.*

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*The proposed number of bays provides sufficient parking for each dwelling in this regard, with each having at least one bay allocated. The proposed residential parking allocation is therefore considered to comply with the Performance Criteria of the Residential Design Codes for On Site Parking Provision. In particular, adequate parking is provided on site in accordance with the number of dwellings, the likely demand and there is a significant amount of on street parking provided as part of this development.*

*Additionally we note the following;*

- *Even though many of the apartments have two car bays, a large percentage of the tenants (if they are based in Perth) would only bring one car up to Jurien.*
- *Subsequent to the DA application we provided an amended design which provided for 12 more car bays for the residential component.*

*Commercial Parking - the application advocates:*

*269 internal bays and 85 on street bays are allocated for the various commercial activities on the site. This provides a total of 354 bays available for commercial uses. The following floor space allocations apply for the purposes of car parking:*

- \_\_\_Retail: 2,358.8sqm (117 bays)*
- \_\_\_Restaurant: 1,292.0sqm (129 bays)*
- \_\_\_Office: 1,030sqm (including health club) (34 bays)*
- \_\_\_Function Rooms (lounge/hotel) (35 bays)*
- \_\_\_Hotel Rooms (94 bays) (94 rooms)*
- \_\_\_Hotel Restaurant: 250sqm (25 bays)*

*The total commercial bays required is 434 bays, where 360 is proposed. This is a shortfall of 74 bays. However, most of the demand for the 117 retail bays will be during 9am and 5pm, whilst most of the demand for the 189 function and restaurant bays will be after 5pm. This means, a total on site demand during the day will be for 245 bays, whilst evening demand will be for 317 bays. The 360 commercial bays are therefore considered appropriate, taking into account reciprocal parking arrangements.*

*It is also promoted.....*

- *As a flat, tourist orientated town, it would be hoped and expected that a large percentage of the commercial users would walk to the facilities. We will incorporate within the design secure bicycle parking with end of trip facilities to encourage bike use. This is an outcome that should be encouraged and in larger centres is actually forced upon users by way of parking policy.*



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Function Rooms	35		35	
Hotel Rooms (94 rooms)	94	23		71
Res. Permanent (127 units)	237	229		8
Res. Short Stay (58 units)	116			116
Cinema (300 seats)	75			75
Boat		6		
Bus		1	1	
Total Bays	862	505	86	279
Concession Sought			365	

Note:

1. The proposed development requires a removal/loss of 53 existing car bays in Heaton and Roberts Street, with 27 of these bays proposed to be relocated to Roberts Street – see Figure 6.
2. The application requests a concession for reciprocal use of 117 retail bays.
3. The application requests a concession by applying 1 bay for every residential unit (183 as opposed to 353 – reduction of 170 bays)

### Site Remediation

The application acknowledges a seafood processing plant, including the use of diesel fired cooking system, previously operated on Lot 62, with:

- a detailed site investigation in 2004 determining a level of contamination exists, particularly in the south west corner of the property;
- the site having been listed as contaminated on a state register, with a notification placed on the title;
- a detailed analysis, remediation and reporting program to be undertaken by the proponent to be signed off by the Department of Environment and Conservation prior to redevelopment and occupation of the site.

Over the past 6 months investigation works has commenced with an expression from the proponent to commence site works to progress the remediation program.

### Tourism Status

Shire draft Local Tourism Planning Strategy (page 64) states:

- Those areas of the site providing the highest tourism amenity, e.g. the beachfront, at least 75% shall be retained for tourism purposes, and not designated for permanent residential units.
- The location of all units on the site shall provide for ease of tourism access throughout the site and facilitate easy access of areas of high amenity within or adjoining the site.
- The maximum proportion of permanent residential units shall be such that the site retains a dominant tourism function and character, and shall be determined by the Council between zero and 45 per cent inclusive. In determining the percentage of permanent residential use on a site, the Council will take into consideration such matters as the size of the site, the viability of the resultant tourism product and the standard of tourism

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*facilities and amenities.*

- *The maximum percentage of permanent residential units/development on the site shall comply with the following at all stages of the development of the site:*
  - i) *The proportion of residential units relative to the total number of accommodation units on the site shall be equal to or less than the approved percentage.*
  - ii) *The site area occupied by the permanent residential units, and any areas designated for the specific use of the occupiers of those units, relative to the area occupied by the short-stay development shall be equal to or less than the approved percentage. In calculating the area occupied by the short-stay development, those facilities available for common use, such as reception and recreation facilities.*
  - iii) *Any individual permanent residential unit, and as a whole any residential no-occupancy restriction component of such a development shall be of a design and scale that it clearly is subsidiary to the tourism component of the development such that the tourism component remains dominant in all aspects.*
- *All units in the development shall be designed primarily for tourist occupation, form part of an integrated complex and shall not be subject to compliance with the Residential Design Codes of Western Australia to the extent necessary to meet these requirements, unless specified within Local Planning Scheme No. 7.*
- *Design differentiation between tourism and residential units within a complex shall be limited to that required to accommodate the various components of the market.*
- *Permanent residential units may be concentrated in an area of the complex and provided with specific recreation and amenity facilities but shall be designed to enable management and use as an integrated part of the overall complex. In assessing the location of units, the potential for a residential no-occupancy restriction component to provide a transition between tourism development and surrounding residential uses should be taken into account.*
- *The development shall incorporate those facilities normally associated with tourist accommodation developments such as recreation, entertainment facilities and integrated management facilities.*

Furthermore Recommendation 17 (pages 92 – 94) of the Strategy acknowledges the prominence of Lot 62 and advocates rezoning from ‘tourist’ zone to ‘Special Use’ zone with a range of permitted and discretionary uses, listed as follows:

*Permitted Uses - Tourist Resort; Serviced Apartment; Restaurant; Tavern; Shop; Office; Café; Hotel; Grouped Dwelling; Multiple Dwelling; Cinema/Theatre.*

*Discretionary Uses – Eco-tourist Facility; Guesthouse; Civic*



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*Use; Reception Centre; Caretaker's Dwelling; Dwelling; Fast Food Outlet; Club Premises; Convenience Store; Art Gallery and Sales.*

**COMMENT**

To assist the Council in determining the application the following comment is offered:

1. **Building Height and Bulk**

It must be recognised the Council is not required to adhere to state policy, although due regard must be given to the criteria outlined SPP2.6 (see Background Section above) as required under Clause 10.2 of the Local Planning Scheme when determining the height under Clause 5.19 of the Scheme. In this regard the following observations and conclusions are offered in consideration of SPP2.6:

*Community Acceptance* - The community response to the overall height and bulk of the development has proven varied and diverse with no overwhelming position of objection or support offered across the submissions received. Generally, most submissions expressed conditional support for development of the site, with the overall height ranging from 2 to 10 stories in height as proposed.

*Site Suitability* – The selected site being central to the town and adjacent to the coast ends itself to an iconic development adjacent to Dobbyn Park and the new Jurien Bay Community Jetty. However, relative to the existing built form the proposed development will prove to be significantly large, although it is acknowledged that strong consideration has been given to design, variation in scale and height of the individual buildings in order to avoid total domination of the skyline and minimize the impact from the street face. Nevertheless, the significance between the existing and proposed built form will be clearly obvious, as indicated in Figure 7.

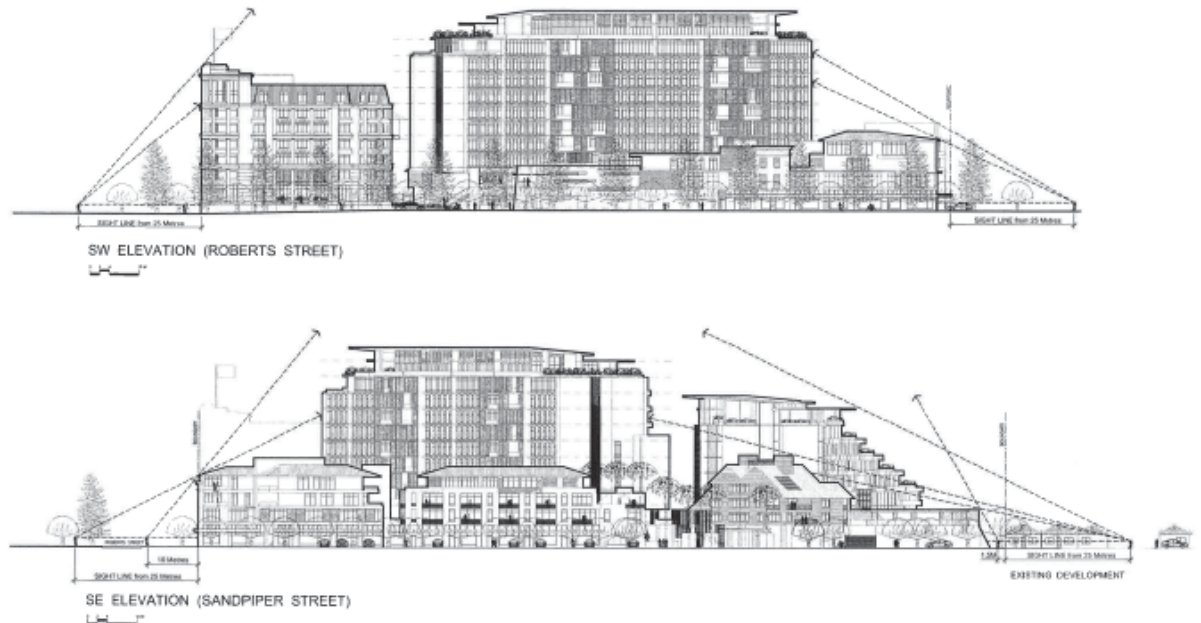


Figure 7 – Sight Lines

From a topographical perspective the site being flat and therefore should not present any issue or concern.

*Location in Tourist or Activity Node* – The proposed development is to be located on a ‘Tourist’ zoned lot and adjacent to Dobbyn Park that is a key activity node for Jurien Bay.

*Cause of Overshadowing* - It is evident the proposed development has been designed to minimize overshadowing by applying a ‘raked’ effect to individual building heights as shown in Figure 7. However, given the scale of the development and location of the hotel component directly fronting Dobbyn Park there is likely to be a partial overshadowing effect on the jetty foreshore area for a number of hours in the morning as the sun rises. Similarly, a late afternoon shadow will be cast across Sandpiper Street that may have some effect on the adjacent commercial development and those units half way along the south west boundary of the Sea Front Villas development, as indicated in Figure 8, although it is not considered this will be significant as these units are also designed for short stay accommodation and are not permitted to be permanently occupied under the Management Statement.



Figure 8 – Indicative Overshadowing  and Visual Permeability 

*Visual Permeability* – While the proposed development will dominate the town centre and prove to be pivotal it is accepted that visual permeability will be maintained looking north west down Roberts Street to the foreshore area and jetty, along Heaton Street looking west and across the bay, and between the Sea Front Villas and the development with the potential creation of a 5 metre wide pedestrian walkway.

*Maximum Height* – Although the scale of the proposed development at 10 stories for Building A is in excess of the maximum 8 stories prescribed under SPP2.6, pragmatically the appearance of the central building at 8 or 10 stories in height will largely present the same from a visual impact perspective. Therefore, should the Council seek to reduce the height due to visual amenity and character concerns it is viewed the overall height should be significantly reduced to 5 stories or less to ensure the development is of a sufficient scale that effectively address these concerns.

This view is also supported by the Department of Environment and Conservation, who offered the following advice:

- *Section 7.2.6 of the Jurien Bay Management Plan states that “Inappropriate structures along the coastline, on the islands and in the surrounding waters have the potential to degrade the aesthetic values of the marine park. Coastal developments and maritime infrastructure projects must be planned with careful consideration of this issue.” The*

*Management Plan also mentions "The popularity of both natural and artificial lookouts with local residents and visitors alike that the seascapes over the marine park are a prized natural value of the area and are important both socially and economically." Hence public consultation is imperative to determining the public view on this proposal in consideration of long term visual amenity of the area.*

- *In real terms the proposed structure may have some detriment to the naturalness of the seascape vista from North Head to Island Point, some 14 km of coastline and 15% frontage to the marine park.*

Conversely, should the Council support the development as proposed an appropriate Local Planning Scheme Amendment should be initiated as recommended by the Department of Planning to recognise the maximum height limit together with other facets of the development (with due regard to SPP2.6), including use class permissibility, development conditions and future tenure arrangements.

## 2. Building Density

With regard to building density and standards Section 7.2 of the R-Codes details that mixed use development should by default be assessed in accordance with the R60 density standards, but not be entirely bound by the R-Code standards, stating in the explanatory notes:

*"provisions or standards for mixed use developments should not seek to impose too high a standard so as to discourage the concept of mixed use development and it is likely a greater reliance on performance criteria would be appropriate to address local needs"*

This position is supported by the Western Australian Tourism Taskforce Report that recommends against the use of the Residential Design Codes (R-Codes) to guide and determine matters associated with tourism developments, as the R-Codes are aimed at residential development that requires a different level of amenity and standards.

Similarly, the Shire draft Local Tourism Planning Strategy (page 64) limits application of the R-Codes, and in turn promotes a maximum allowable proportion of permanent residential at 45%, with only 25% of these units occupying prime (ocean front) position within the development.

It is assessed the application generally accords with the R60 standards and the requirements of the draft Local Tourism Planning Strategy as 54 units is identified for short stay accommodation together with a 94 bedroom hotel complex. This in turn equates to 55% of the accommodation being established for short stay occupancy, while the remaining 45%

is for permanent living. With regard to prime frontage, the design and height of the development ensures most of the tourist units will achieve a view of Jurien Bay. As a matter of importance, it is considered appropriate these ratios be conditioned together with the clear separation of short stay accommodation from permanent living to avoid any amenity issues.

3. Visual Presentation and Local Character

Guidance on protection of coastal landscapes is provided in the State Governments *Visual Landscape Planning in Western Australia: a manual for evaluation, assessment, siting and design (2007)*. Specifically this documents states on Page 76:

*“Buildings may visually dominate the coastline, particularly in nodes of more intensive use. However, where feasible the character of the natural landform and vegetation should be acknowledged in the design of buildings, infrastructure and plant selection such as in the choice of materials and colour.”*

In consideration of the above the contemporary architectural theme, variation in building design, and stated commitment to use of local material finishes and muted colour tones by the applicant appears acceptable and generally consistent with the above statement. However, it is imperative further detailed information on external building finishes, streetscape design, landscaping and street furniture be presented to Council for endorsement as a condition of planning approval.

In regard to architectural theme and local character, a matter of subjectivity, the applicant’s description of Jurien Bay as a ‘relaxed sea side feeling’ generated by the older fibro housing and mature coastal vegetation is accepted. It is also accepted the general architectural theme within Jurien Bay is mixed with many of the newer residential buildings being of differing design and finish to the older housing stock, but not necessarily detrimental to the character as described above. On this basis the Council needs to be satisfied the architectural design and overall presentation (including height) of the proposed development as illustrated in the application is in keeping or adverse to the local character of Jurien Bay.

4. Coastal Setback

The coastal assessment undertaken by MP Rogers and Associates and corresponding advice from the Department of Planning acknowledges an ‘infill’ development status should be applied to the proposed development. In accepting this advice a concession is afforded that offers compliance under SPP2.6. Additionally, the advice from the Department for Planning also recommends conditions be applied should planning approval be granted that addresses:

- An increase in the finished floor level from RL 2.9 to RL 3.4 above the AHD;
- Notification on the certificate of title for all new titles created:

*‘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. Zoning

Presently, the current ‘Tourist’ zoning for Lot 62 affords discretion to the Council to determine all of the uses proposed with the exception of an ‘office’ use that is deemed ‘not permitted’ with Table 1 of the Shire Local Planning Scheme No.7. However, as the development effectively takes the form of a unique mixed use development incorporating a range of commercial and tourist uses with complimentary facilities it is considered appropriate that the zoning should be changed to best reflect the nature and scale of the development.

Notably, this notion is supported by the Shire draft Local Tourism Planning Strategy - January 2011 that identifies Lot 62 as a landmark tourism site under sections 4.1.4.1, 4.1.5.1, 4.1.5.2 and 5.5.1 of the document, and further recommends the base zoning should be amended to ‘Special Use’ zone with specific development provisions to best reflect the sites prominence and development opportunity.

#### 6. Foreshore Interface

From the applicant’s perspective argument is made the proposed development will provide significant improvement to the presentation of Sandpiper, Roberts and Heaton Streets, and afford surveillance over the Dobbyn Park foreshore and new jetty site.

However, the suggestion of encroachment on the foreshore emerged as a prominent issue through the public consultation period with concern raised over the placement of proposed hotel development immediately adjacent to Dobbyn Park and the new curved jetty, presently under construction. These concerns were flagged with Councillors through informal discussion on the Foreshore Plan with a general preference given for the ‘Option 2’, as shown in Figure 5 of this report. In light of this, it is assessed the proposed development accords with the ‘Option 2’ Foreshore Plan that advocates realignment of Heaton Street to accommodate an iconic building adjacent to Dobbyn Park and the proposed jetty board walk. However, this plan lacks specific detail on the interface between the proposed hotel and foreshore redevelopment.

Furthermore, acceptance of the ‘Option 2’ Foreshore Plan and the grant of planning approval for the hotel component of the proposed development will require initiation of a formal road closure and rezoning process for the western portion of

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Heaton Street, as shown in Figure 8. Notwithstanding this requirement, development approval may still be granted in the first instance, as outlined in the legal advice provided by the Shire's solicitor, although it would be appropriate for the Council to apply conditions that adequately address:

- The appropriate timing for commencement of formal processes including road closure and rezoning of the site – see further comment under *7. Staging* below;
- A detail understanding of the interface between the respective hotel development and foreshore enhancement works, including a contribution (financial or in-kind) toward the foreshore enhancement works and Roberts Street (jetty end).

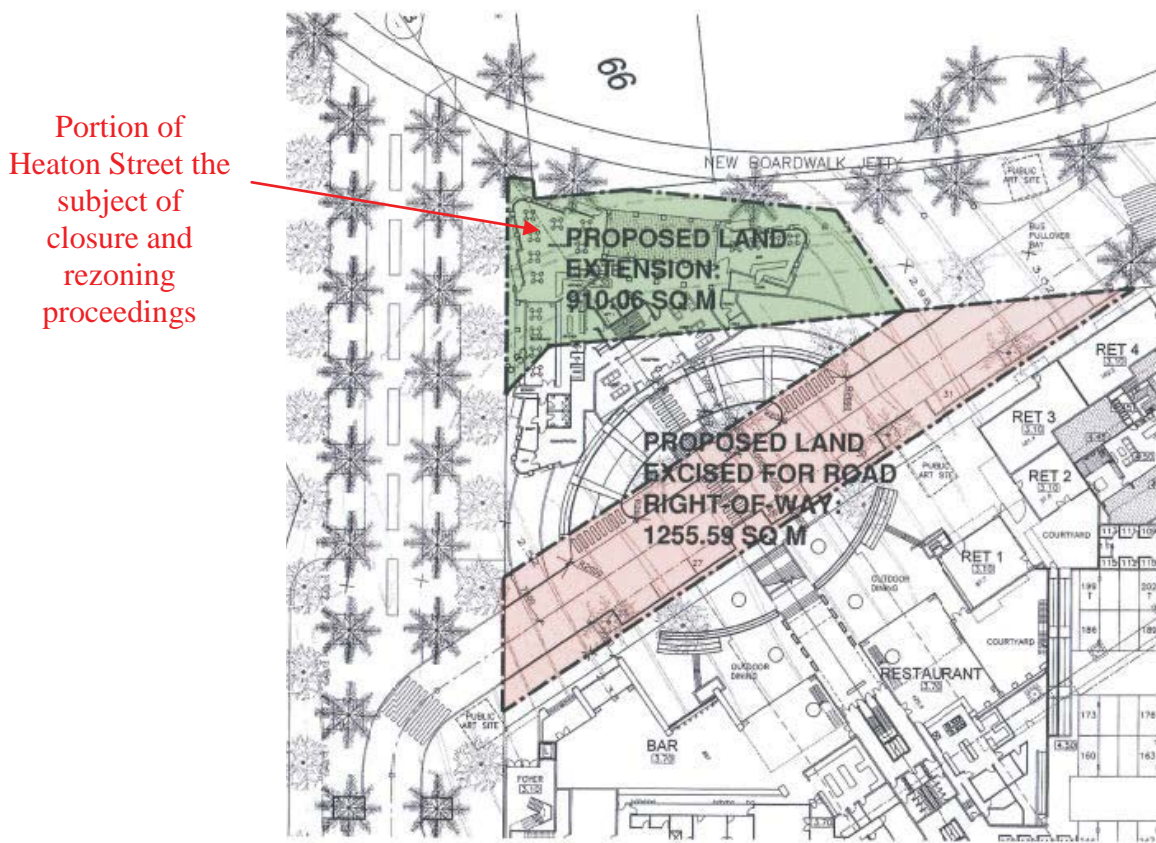


Figure 8 – Option 2 Foreshore Plan – Heaton Street Road Reserve

### 7. Staging

Whilst a staged approach for this development over a 5 year period is both expected and broadly accepted due to scale, the Council needs to be mindful of the inherent risk with staging in general. Should market circumstances change over the initial periods of construction the potential exists for lengthy delay or indefinite deferment to the latter stages of the development. In the past this has proved to be a prominent issue with other developments, including the approved 'Waves' development in Dalton Street and the 'Taggett' development in Casuarina Crescent, Jurien Bay. From a planning perspective should the same occur on Lot 62 it could

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prove problematic for Council and detrimental to the orderly and proper planning for the Jurien Bay town centre and adjacent foreshore enhancement works given the location of this property and its primary recognition as a strategic tourist site.

Notwithstanding, it is acknowledged the overall design is pitched at an integrated approach across all stages of the development to achieve a quality tourist and mixed use development with a sense of visual harmony and balance as well as accessibility and functionality within. Furthermore, there is no reason to doubt the proponent is committed to completing the development within 5 years, although no guarantee can be given in this regard.

However, while the owners intentions are not questioned the application in requiring significant concessions it is considered necessary that conditions be imposed to guide the staging and qualify the concessions being sought to ensure the development is iconic and sustainable, including:

- 10 stories in height;
- the closure and realignment of the western portion of Heaton Street ensuring seamless transition between the proposed hotel and Dobbyn Park; and
- the significant reduction (including grant of reciprocal use rights) in parking requirements - see further comment under 9. Parking below.

#### 8. Traffic

It is expected the development will impact on traffic volume and flow through the town centre, particularly the increase the volume of vehicle movements in the main commercial and foreshore area of Jurien Bay, with the need to consider measures to manage vehicle and pedestrian access, speed, direction and flow. However, it is not envisage the proposed development will strict or significantly inhibit public access to Dobbyn Park or the new jetty, as has been suggested through the public consultation process.

Nevertheless, information and analysis on projected traffic volume and flows will be addressed as part of the Town Centre Strategy process to determine appropriate vehicular movement, parking requirement, and level of accessibility factoring in the impact likely to be generated from this development.

#### 9. Parking

As reflected in the Background Section of this report the applicant is seeking concession of 287 car parking bays, based on:



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- The reciprocal use of 117 retail bays to be used for other commercial night time activities, including restaurants, function rooms and outdoor cinema; and
- The application of 1 bay for every residential unit (short and permanent stay) resulting in a reduction of 170 bays.

Furthermore, the application also seeks entitlement for 86 off site parking bays, including 1 bus bay, to assist in meeting the required parking requirements, while 53 existing parking bays in Heaton and Roberts Streets will be lost to be replaced by 27 additional bays in Roberts Street.

Relative to this matter following information is provided in relation to parking standards:

- Local Planning Scheme No.7

The Council pursuant to Clause 5.5.1 of the Local Planning Scheme may relax the car parking ratios as specified in Table 2 of the Scheme as reflected in the following notation that forms part of Table 2:

*\*\* This table is intended as a guideline and may be varied at the discretion of the Shire Council.*

Also, the Council can accept cash in lieu payment for car parking under Clause 5.8.1.8 of the Scheme.

- Local Planning Policy 8.8 – Car Parking

This policy states:

*4.2 The Council may consider the reciprocal use of parking bays subject to justification being provided that adequately demonstrates a shared parking arrangement without causing conflict or a shortfall in parking availability.*

*4.3 The Council may consider a reduction in the minimum number of car parking bays as prescribed in Table B [of the policy] based on the provision of additional bus bays and/or bicycle racks in consideration of practicality and appropriateness associated with the proposed development or use.*

- Western Australian Tourism Taskforce Report

As mentioned under Building Density the Western Australian Tourism Taskforce Report recommends against the use of the Residential Design Codes (R-Codes) to guide and determine matters associated with tourism developments, as the R-Codes are aimed at residential development that requires a different level of amenity and

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standards.

- SPP 3.1 – Residential Design Codes

Also to reiterate, Section 7.2 of the R-Codes details that mixed use development should not entirely be bound by the R-Code standards.

Therefore, in consideration of the above the Council may exercise discretion in relation to the provision of car parking, however, any relaxation or concession to the parking requirements should be based on rationale judgment and practical outcomes. To this end, it is assessed that concession should be applied as outlined in Table 3:

Table 3 - Car Parking Provision/Concession

Use	Required Onsite	Permitted Offsite	Concession
Commercial (retail, restaurants, function Centre, Gym)	160 car bays and 20 bicycle stands	64 car bays	Concession based on: - reciprocal use of 117 retail car parking bays applied to restaurant and function uses; - the waiving of 75 bays for the cinema use subject to provision 20 bicycle stands within the development; - payment of cash in lieu for 64 car parking bays off site.
Hotel Rooms (94 rooms)	50 car bays and 1 bus bay	1 bus bay	Concession based on: - the provision of 2 bus bays, with 1 placed onsite and the other off site subject to payment of cash in lieu.
Residential Short Stay (58 units)	58 car bays	Nil	Concession based on: - 1 bay per residential unit as tourist use / occupancy likely to demand only 1 bay.
Residential Permanent Stay (127 units)	237 car bays	Nil	No concession
Boat	6 boat bays	Nil	No Concession
<b>Total Bays</b>	<b>511</b>	<b>65</b>	

*Note: Off site parking subject to cash in lieu payment*

The above table effectively amounts to a reduction of 286 parking bays, as opposed to the requested 365 bays, to ensure a realistic and practical level of parking is provided in support of the complete development. However, the payment of cash in lieu for the 65 bays (including 1 bus bay) only need to be paid once the fourth stage of the development is

complete due to the basement parking being constructed as part of the first two stages.

With regard to the loss of public parking, being the existing 53 bays in Heaton and Roberts Street, the proponent should be required to replace this parking at construction cost only within 400 metres of the development site at the time and in a location as directed by the local government.

#### 10. Access

As reflected in the site plan for the proposed development vehicle and pedestrian access to the site is to be provided from Sandpiper and the Heaton Street road realignment, while vehicle access is also shown from Roberts Street to gain entry to the basement parking levels and loading bay, as reflected in Figure 9.



Figure 9 – Proposed Access

On assessment from a functionality and safety perspective there does not appear to be any significant issues with the proposed access arrangements, which conform to the standards prescribe in the Council's Local Planning Policy 8.8 – Car Parking. However, there is an identified need, particularly around service and loading bays, for line marking and signage to be provided that offers adequate warning and direction. Additionally, road traffic calming measures (ie raised pavement strips) should be considered in Roberts and Heaton Streets to slow the traffic and assist with pedestrian crossing.

#### 11. Landscaping

While the concept plans provide an indicative understanding of the of the internal and external landscaping associated with the proposed resort and residential development there is a requirement for a more detailed landscaping plan to be submitted for endorsement should the development be approved that offers detail to internal atriums, streetscape, off site car parking and foreshore areas, including:

- Type, level of maturity and placement of plant species;
- Nature and colour of paving materials to be used;
- Type and placement of street furniture;
- Recurrent maintenance program including reticulation, water supply and developer responsibility for external landscaping (10 year minimum).

Additionally, the applicant has indicated that any surplus of grey water generated from the development could be used to assist the Shire in watering approximately 6,000m<sup>2</sup> of Dobbyn Park. This offer also should be embedded in the detailed landscape management plan and be formalized through a legal agreement.

#### 12. Tenure

On the matter of tenure it is viewed the Council, should the development be approved, conditions should be applied that relate to:

- Limiting subdivision of Lot 62 to reflect built strata only; and
- Preparation of appropriate management statements and associated agreements under Section 5C of the *Strata Titles Act (1985)* to a minimum of 25 years administered by a Strata Company.

#### 13. Site Remediation

As indicated in the Background Section of this report Lot 62 is listed as contaminated site the subject of compulsory remediation works pursuant to the *Contaminated Sites Act (2003)*. In light of this a building licence should not be issued until the Department of Environment and Conservation has provided written clearance of the site. However, an exception is approval to commence bulk earth works which will form part of the remediation and foundation works for the proposed development.

#### 14. Waste Management

The applicant has acknowledged that further information is required to address the issue of waste outlining the intent is to apply where practical the latest technology in waste management, including storage, disposal and recycling.

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As this information is not available a condition should be applied requiring a waste management plan to be submitted for endorsement should the Council proceed to grant approval for the proposed development.

15. Drainage and Stormwater

Additional information provided by the applicant has indicated that:

- Storm-water collected from the development will be stored for reuse with any surplus offered to the Shire for use in watering public open space areas (ie Dobbyn Park or the JB Golf Course);
- Initial investigation has shown the water table sits at 0.4 AHD while the finished floor level for the lower basement car park is proposed at 1.7 AHD. In light of this variation there is unlikely to be the need to dewatering of the site as part of the drainage infrastructure; and
- Further engineering detail on the above points will be provided prior to building licence stage, with advice and input being sought from the local government.

It is suggested that this matter will require particular attention to detail given the scale of the development and the reconfiguration of the local road network, including the provision of additional parking area/s. To this end the engineering design, pier review, associated works and supervision for drainage within and around the development should be borne by the proponent with a condition being applied to reflect this position.

16. Environmental

Other than the Department of Environment and Conservation advice this matter was only raised in one private submission primarily focused on visual amenity – refer to 2. Building Density.

17. Other

There were a number of other matters or concerns raised through liaison with the applicant and public consultation:

Public Access to Facilities – The applicant has confirmed access to the swimming pools will not be available to the general public, only residents and guests, to ensure separation of use is maintained. However, public access will be encouraged to the day spa, health club, restaurants, bars and outdoor cinema.

Material Handling and Storage during Construction – The applicant has detailed that material handling (including unloading) and storage will be maintained on site through out the construction process, although there may need to be some

unloading in the street for construction of the final Stage 5. This is unlikely to interrupt traffic flow given the generous widths of the existing road reserves.

From an officer perspective this understanding should be conditioned as part of any development approval.

*Disruption of Surrounding Area during Construction* – With the exception of road upgrading and realignment works, external landscaping and relocation of services and car parking areas the applicant has stated:

*“there should be no other disruption to the foreshore or any other commercial activities on adjacent properties during the entire development process.”*

*Inadequate Infrastructure* – Concern was raised through the consultation process that the town’s infrastructure may be inadequate to service the capacity of this development. As highlighted by the applicant the utilities and services (ie water, power, sewerage, telecommunications) required to support the development will, where required, need to be upgraded at the developer’s cost. On this basis the concern is not considered valid.

*Antisocial Behaviour* – A further concern raised through the formal consultation was the increased population and density from the development that may generate an element of antisocial behaviour, with greater demand for law and order services.

There is no evidence to suggest this concern can be substantiated, and to the contrary the applicant’s argument that the development will heighten the level of surveillance over the public foreshore area is supported and accepted as a good planning outcome.

*Loss of Views* – A small number of submissions expressed objection over the potential interruption to views looking south west along Heaton Street due to the proposed location of the hotel component of the development. Whilst this concern is understood, the protection of this view does not warrant refusal or amendment to the proposed development, particularly as most of the objectors on this issue enjoy ocean views across Heaton Street.

*Precedent* – The matter of precedent of other multi storey/large scale development was raised by a number of submitters. This is considered a genuine concern although it is believed to be adequately addressed by Recommendation 5 in the Shire draft Local Tourism Planning Strategy:

*Recommendation 5*

*Initiate a Scheme Amendment to the Shire of Dandaragan Local Planning Scheme No. 7 (or an omnibus amendment) to include the following height restriction for the Tourist and Commercial zones in the site and development requirements of Part 5: General Development Requirements:*

- *No structure within 300 metres of the high water mark (Horizontal Setback Datum) shall exceed a building height of 5 storeys and 17.5 metres measured from natural ground level.*

*Note: All proposed development within the Tourist and Commercial zones projected to exceed 5 storeys and 17.5 metres in height shall (if supported by Council) be subject to a change in zoning to Special Use zone.*

18. Recommendation

In light of the complexity of this development proposal, including:

- the integrated nature of the development as a tourist and residential resort that partially sits outside of Lot 62;
- the need to a land swap to accommodate the Hotel component;
- a broad range of concessions being sought to assist in the viability of the development that would otherwise not be justified if the development was not fully completed; and
- the need for the development to achieve an orderly and proper outcome in the interest of the Jurien Bay community;

it is recommended at an officer level, in collaboration with and based on the advice received from the Shire's Solicitor, that a formal Deed of Agreement be required between the owner and the Shire of Dandaragan that effectively addresses the matters outlined above and in the Officer Recommendation. The officer recommendation also promotes delegated authority to the CEO to grant conditional planning approval once the Deed of Agreement has been executed. In this context the Deed of Agreement should be prepared by the Shire Solicitor at the owners cost.

Conversely, should the Council not support the officer's recommended approach an 'alternative recommendation' is provided that advocates the application can be approved, subject to conditions.

CONSULTATION

Refer to Background Section of this report.

STATUTORY ENVIRONMENT

The proposed development needs to be assessed and determined

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pursuant to the provisions of the Shire of Dandaragan Local Planning Scheme No.7.

The following Table 2 offers a summary of the statutory assessment:

Table 2 - Statutory Assessment Summary

<b>Statutory Assessment</b>	
Lot No.	Lot 62; Heaton Street Road Reserve
Road Frontage	Roberts Street Sandpiper Street Heaton Street
Lot Area	21,979m <sup>2</sup>
Governing Legislation	Planning and Development Act 2005 Shire of Dandaragan Local Planning Scheme No.7 Land Administration Act 1997
Zoning	'Tourist' zone
Use Classes & Permissibility Status	Caretakers Dwelling – Discretionary Cinema - Permitted Club Premises – Discretionary Convenience Store – Discretionary Fast Food Outlet – Discretionary Group Dwelling - Discretionary Hotel - Permitted Multiple Dwelling – Discretionary <b>Office – Not Permitted</b> Reception Centre – Discretionary Restaurant – Permitted Shop – Discretionary <b>Short Stay Accommodation – Use Not Listed</b>
Policies	State Planning Policy 2.6 – Coastal Development (as amended) State Planning Policy 3.1 – Residential Design Codes (as amended) Western Australian Tourism Taskforce Report Planning Bulletin 83: Planning for Tourism (being superseded) Shire of Dandaragan draft Local Tourism Planning Strategy – January 2011 Shire of Dandaragan Local Planning Policy 8.8 – Car Parking
Other	1. Hotel component encroaches into Heaton Street Road Reserve requiring closure, re-alignment and rezoning; 2. Site classed as contaminated with notification on title - subject to further assessment and remediation.

With regard to building height, as previously mentioned, the Council is not bound by the criteria of state policy, and can therefore exercise discretion to determine the height pursuant to Clause 5.19 of the Local Planning Scheme No.7. However, in doing so the Council is obliged to have due regard to the provisions of SPP2.6 in accordance with Clause 10.2 (c) of the Local Planning Scheme.



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Also, the Council pursuant to Clause 5.5.1 of the Local Planning Scheme may relax the car parking ratios as specified in Table 2 of the Scheme and accept cash in lieu payment under Clause 5.8.1.8.

Regarding the 'Short Stay Accommodation' this use class is effectively a 'Use Not Listed' pursuant to Clause 4.4.2(a) of the Shire of Dandaragan Local Planning Scheme No.7, which states:

*4.4.2. 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;*

Delegation of the Council's function to the Chief Executive Officer in relation to the granting of planning approval can be exercised in accordance with Clause 11.3.1. However, the discharge of this duty can only be pursued through a vote of absolute majority as required under Clause 11.3.3 of the Local Planning Scheme.

#### POLICY IMPLICATIONS

As outlined in the Background and Comment Sections of this report.

#### FINANCIAL IMPLICATIONS

The Council has received a fee of \$31,100 for this planning application.

An expense has been incurred through the engagement of the Shire's Solicitor in reviewing and providing legal advice on the proposed road closure, approach to various elements of the development proposal and report to Council, although the final cost of this service is not known at the time of writing. Nevertheless, all legal costs will be accommodated under the planning legal expenses budget allocation.

#### STRATEGIC IMPLICATIONS

This application has been assessed against the strategic direction outlined in the Shire draft Local Tourism Planning Strategy – January 2011 (prepared by the WA Tourism Commission in consultation with the Shire) and the strategic policy position of the Western Australian Planning Commission.

Specifically, Section 4.1.4.1 of the Local Tourism Planning Strategy promotes rezoning of Lot 62 to facilitate a high quality tourist/mixed use development, where it states:

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*The assessment of existing Tourist zoned sites within Jurien Bay and Cervantes identified three key vacant tourism sites which have significant tourism value within the Shire including:*

- *Lot 62 Roberts Street, Jurien Bay;*
- *Lot 58 Oceanic Way, Jurien Bay; and*
- *Lot 861 Seville Street, Cervantes.*

*The main purpose behind rezoning these three sites to a different zone is to facilitate the development of a high quality tourism product. Specifically, the Tourist zoned sites identified as having local significance or are unsuited to having a residential component within the Shire are proposed to be rezoned Special Use and included within Schedule 4: Special Use Zones of the Scheme. To achieve a quality tourism outcome, a number of additional site and development provisions relating to this zone will be required to be incorporated into the Scheme including:*

1. *The preparation and approval of an Outline Development Plan to guide the appropriate development of each site. This plan must give due regard to any relevant Local Planning Policies and must be approved by Council and the WA Planning Commission, in consultation with Tourism WA.*
2. *In addition to compliance with the design principles for tourism development addressed in section 4.1.5.1, an application must include the following:*
  - *The provision of adequate resort style recreational facilities (such as pools, day spa, gymnasium, function space, BBQ area and children's playground), food and beverage facilities and reception/managers residence to be identified on the Development Plan.*
  - *A business plan/feasibility study to support the need for the proposed development and the ongoing viability of it from an operational perspective. Written support of the development from a reputable tourism operator will be highly regarded.*
  - *A staging plan (if staging is proposed) indicating the development of the tourist component (including appropriate common facilities) as part of stage one.*
  - *Should the tourism development be strata titled, a copy of a draft management statement which is consistent with the WAPC's conditions for strata titled tourism development.*

#### ATTACHMENTS

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

- Attachment 9.4.3a - Application including set of Concept Plans

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- Attachment 9.4.3b - Letter - Department for Planning on SPP2.6
- Attachment 9.4.3c - Public Consultation Summary

#### VOTING REQUIREMENT

Absolute majority is required for the Officer Recommendation.  
Simple majority is required for the Alternative Recommendation.

#### OFFICER RECOMMENDATION / COUNCIL DECISION

**Moved Cr Nelson, seconded Cr Bailey**

**That Council, in relation to the proposed Hotel and Residential Resort on Lot 62 Roberts Street and adjoining south west portion (910m<sup>2</sup>) of Heaton Street Jurien Bay (“Subject Site”), inform Lawrence Scanlan Architects (the applicant):**

- A. That in light of the fact that:**
- (a) the development application for a hotel and tourist resort development on Subject Site proposes an integrated tourism facility that requires satisfactory arrangements to be made for a road closure and land swap to allow a significant portion of the development to be carried out in a beachside location on what is presently public land (Heaton Street Road Reserve);**
  - (b) the proposal involves the granting of significant concessions to the developer which would be justified by the completion of the integrated tourism facility proposed, but which may not be justified if the proposal is not completed; and**
  - (c) it is in the public interest and the interests of orderly and proper planning for the Council to ensure, insofar as it is reasonably possible, that the substantial integrated tourism development proposed is fully completed in accordance with a suitable construction timetable, particularly where the proposal seeks to take advantage of what is presently public land,**
- the Council would be prepared to grant development approval if the owner of Lot 62 Roberts Street (“Lot 62”) first enters into a deed of agreement with the Shire, prepared by the Shire’s solicitors at the owner’s cost, which deals with the matters referred to in Part B of this resolution.**
- B. The deed required by Part A of this resolution shall include provisions which:**

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- (a) require the owner of Lot 62 to prepare and lodge for adoption by the Council a Scheme amendment which makes provision for the application of development standards and other controls over the subject land, generally consistent with the foreshadowed Scheme amendment provisions referred to in Part C of this resolution;**
- (b) prevent the owner of Lot 62 from applying to subdivide the land other than via a built strata subdivision, with the possible exception of the land which will be created from the partial closure of the Heaton Street Road Reserve for hotel purposes;**
- (c) make arrangements satisfactory to the Council with respect to the proposed partial closure of Heaton Street and land swap required for the hotel site;**
- (d) make arrangements satisfactory to the Council with respect to the location of short stay accommodation within the development and the ratio of short stay accommodation to permanent residential accommodation within the development;**
- (e) require the owner of Lot 62 to prepare suitable management statements and associated agreements under section 5C of the *Strata Titles Act* with respect to the management of the proposed tourist resort facility, in the event that the facility is subject to a built strata subdivision;**
- (f) deal with the payment by the owner of Lot 62 of cash in lieu of the provision of on site car parking bays in the event that a development approval is granted;**
- (g) deal with the replacement by the owner of Lot 62 of 53 existing car parking bays which will be lost as a consequence of the proposed development;**
- (h) which set out an agreed estimated construction timetable and authorise the Shire to remove uncompleted buildings in the event the development is substantially commenced but not completed generally in accordance with that timetable;**
- (i) which charge the land in favour of the Shire and authorise the Shire to lodge an absolute caveat against the certificate of title in order to prevent the sale of the land unless any subsequent purchaser has entered into a similar deed; and**

- (j) additional to those mentioned above which are necessary and convenient to achieving the objectives of those provisions.
- C. The Scheme amendment referred to in Part B of this resolution:
- (a) shall provide for the subject site to be re-zoned from “Tourist” to “Special Use”;
  - (b) shall prohibit the subdivision of land within the development site other than via a built strata subdivision, with the possible exception of the land which will be created by the partial closure of the Heaton Street Road Reserve for hotel purposes;
  - (c) shall prohibit the use of the land area upon which the hotel is proposed for any permanent residential accommodation, and shall make it permissible for that land to be used only for a hotel and associated ancillary uses (such as a bar and restaurant);
  - (d) shall require that any built strata subdivision of tourist accommodation (short stay) in the development site shall be subject to a condition which requires a management statement and associated agreements pursuant to section 5C of the *Strata Titles Act (1985)* to apply for a minimum of 25 years, and which includes:
    - the establishment of a Schedule 1 by-law that requires, as a minimum, a unit management agreement, lease or alternative arrangement between owner/s and the common facility manager/operator for a minimum period of 25 years;
    - the ability for a Strata Company to terminate a contract with the facility manager/operator at the end of a 5 year contract or lesser period based on performance criteria as determined by the Strata Company;
    - the management agreement shall cover all components (ie resort reception, security, maintenance, care taking, refurbishment, marketing, rights of access and other services) required to operate as a tourist facility; and
    - conditions outlined in Schedules 1, 2 and 2a of the *Strata Titles Act* together with specific conditions detailed in the Shire’s draft Local

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Tourism Planning Strategy that address facility management, development refurbishment, right of entry, internal fit out, register of bookings, length of stay, availability of services, and approval process;

- (e) shall require that any built strata subdivision of short stay accommodation will include a notification in accordance with section 6 of the *Strata Titles Act* (1985) to the following effect:

*“No person shall occupy any tourist accommodation unit for more than a total of 3 months in any 12 month period. 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 this requirement.”*

- (f) should be guided, but not limited, by the following table:

Description of Land	Special Use	Conditions
Lot 62 Roberts Street, Jurien Bay	<p>Permitted Uses:</p> <p>Tourist Resort Serviced Apartment Restaurant Tavern Shop Office Café Hotel Grouped Dwelling Multiple Dwelling Cinema/theatre</p> <p>Discretionary Uses:</p> <p>Eco-Tourist Facility Civic Use Reception Centre Caretaker's Dwelling Fast Food Outlet Club Premises Convenience Store Art Gallery and Sales</p>	<ol style="list-style-type: none"> <li>1. Development of the site generally shall be in accordance with the Development Approval granted by Council, unless otherwise determined by the local government in accordance with this Schedule.</li> <li>2. No development, other than necessary communications equipment as determined by the local government, is permitted to exceed 40.0 metres in height measured from natural ground level.</li> <li>3. All development shall commence at a minimum finished floor level of 3.4 metres above the Australian Height Datum.</li> <li>4. Ease of public access to areas of high amenity within or adjoining the site shall be maintained at all times.</li> <li>5. The maximum proportion of permanent residential occupancy units shall be such that the site area and uses retain a dominant tourism function and character.</li> <li>6. The proportion of</li> </ol>

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		<p>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.</p> <p>7. A register of guests is to be maintained for each short stay (restricted) unit to be made available for perusal by the local government on request.</p> <p>8. As a whole any residential component of development, shall be of a design and scale that is subsidiary to the tourism component of the development such that the tourism component remains dominant in all aspects.</p> <p>9. All units in the development shall be designed to form part of an integrated residential and tourist complex and shall not be subject to compliance with the Residential Design Codes of Western Australia to the extent necessary to meet these requirements, unless specified under the local government planning scheme.</p> <p>10. Permanent residential occupancy units shall be concentrated in an area of the complex and provided with specific recreation and amenity facilities to ensure the management and use is an integrated part of the overall complex. In assessing the location of units, the permanent residential component shall be located to provide a transition between tourism development and surrounding residential uses.</p> <p>11. The development shall incorporate and maintain access to those facilities normally associated with tourist accommodation developments including recreation, entertainment facilities and integrated management facilities at all times.</p>
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		<p>12. The development shall not interfere with, restrict access to, or in any way inhibit public access and use of the Jurien Bay Foreshore area.</p> <p>13. Vacant strata subdivision is not permitted.</p>
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**D. Subject to the owner first entering into the deed required by Parts A and B of this resolution, the Chief Executive Officer is delegated authority pursuant to clause 11.3.1 of the Scheme\* to grant development approval for the hotel and tourist resort development on the Subject Site, subject to conditions which are generally consistent with the following:**

**1. The uses approved in the development shall be limited to:**

- Retail shops x 32
- Restaurants x 3
- Bars x2
- Function Centre x 1
- Health Club x 1
- Reception areas x 2
- Hotel Rooms x 94 rooms
- Residential short stay accommodation units x 56 (use not listed) [variation of 1- 4 bedroom]
- Residential Permanent dwelling units x 127 (grouped or multiple dwellings) [variation of 1- 4 bedroom]
- Swimming pools x 2
- Outdoor cinema (300 persons)

as shown the attached approved plan(s) dated 17<sup>th</sup> February 2011 (incorporating any handwritten annotations by the Shire) and shall be subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be further modified or altered without the prior written approval of the local government. [See Advice Notes (a) and (b)]

**2. The development shall be carried out in stages, in accordance with the following programme:**

**Stage 1 Building A, both basement levels, and road realignment through Lot 62 including underground relocation of essential utilities and services.**



- Stage 2** Building B, Building E and completion of all onsite parking and a dedicated reception within Building E.
- Stage 3** Building G, Building F and the forecourt between.
- Stage 4** Building H, including completion of external road and streetscape works for Heaton Street, foreshore interface works and relocation of public parking.
- Stage 5** Building C and Building D, including completion of external road, pedestrian path way along the north eastern boundary of Lot 62, and streetscape works for Roberts and Sandpiper Streets.

Each identified stage must be completed before work on the subsequent stage is commenced.

3. The owner of Lot 62 must enter into a land exchange and road dedication process with the Department of Regional Development and Lands and Department for Planning upon ministerial approval for closure the south west portion of Heaton Street, for the purpose of accommodating Building H, with all costs to be met by the developer.
4. A Certificate of Building Classification for the buildings within Stage 1 and Stage 2 is to be issued prior to the completion of the road closure and land exchange/transfer proceedings for the south west portion of the Heaton Street road reserve (approximately 910m<sup>2</sup>) to accommodate Building H.
5. The finished floor level of the development shall be increased from 2.9 metres above the Australian Height Datum to 3.4 metres above the Australian Height Datum to allow for a predicted sea level rise of 0.9 metres over the next 100 years.
6. The height of the development shall be limited to:
  - Building A – 10 Storeys
  - Building B – 7 Storeys
  - Building C – 4 Storeys
  - Building D – 4 Storeys
  - Building E – 4 Storeys
  - Building F – 2 Storeys
  - Building G – 5 Storeys
  - Building H – 7 Storeys
  - Highest point above street level of 40.0 metres (excluding communication aerials and antennas).

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7. **No work on the development may commence until the following have been lodged with and approved by the Shire:**
  - a) **Written confirmation from the Department of Environment and Conservation that the site is clear of all contamination;**
  - b) **A geotechnical report that demonstrates the geological status and stability of the site to accommodate the development; and**
  - c) **A schedule of materials and colour/s for all external finishes. The development shall be constructed in accordance with the approved schedule.**
  
8. **The following additional plans must be lodged with the Shire for approval prior to or at the time an application for a building licence is lodged with respect to Stage 1:**
  - a) **A 'Landscape Master Plan' which includes:**
    - a. **the landscape layout and features for all the internal atrium areas;**
    - b. **streetscapes for Heaton, Roberts and Sandpiper Streets;**
    - c. **all off site car parking areas associated with the development and interface with the Dobbyn Park foreshore area;**
    - d. **beautification works to the Dobbyn Park foreshore area, Heaton, Roberts and Sandpiper Streets and the 5.0 metre wide pedestrian link along the north eastern boundary of Lot 62;**
    - e. **the type, level of maturity and placement of plant species with the 'beautification' and car parking areas;**
    - f. **the nature and colour of paving materials also to be used in the 'beautification' areas and internally within the development;**
    - g. **the type and placement of street furniture (including external lighting) with the 'beautification' areas; and**
    - h. **a recurrent maintenance program including reticulation, water supply and developer responsibility for external landscaping (10 year minimum) within the beautification' and car parking areas;**
  
  - b) **A 'Waste Management Plan' which conforms to the Shire of Dandaragan Health Local Laws and**

includes:

- a. the location, design and methods applicable to the extraction and disposal of all contaminated soil;
  - b. the proposed method of collection and disposal of all construction and municipal solid waste associated with the development;
  - c. each permanent (unrestricted) accommodation unit having 2 x 240 litre mobile garbage bins;
  - d. each short stay (restricted) accommodation unit having 1 x 240 mobile garbage bin;
  - e. a minimum of 1 mobile garbage bins for each of the retail shops;
  - f. a minimum of 10 mobile garbage bins for each of restaurant/bar and function facility; and
  - g. rubbish bin storage areas being constructed with:
    - walls not less than 1.8 metres in height with an access way of not less than 1 metre in width and fitted with a self closing gate;
    - a smooth, non-slip and impervious floor not less than 75 millimetres in thickness; and evenly graded to an approved liquid refuse disposal system;
    - easily accessibility to allow for the removal of the receptacles;
    - provision of a ramp into the enclosure having a gradient no steeper than 1:8;
    - provision of a tap connected to an adequate supply of water; and
    - provision of curbing to prevent entry of surface stormwater, or groundwater, with a roofed of over 17m<sup>2</sup> in area.
- c) **A Water Management Plan detailing the design for collection, control, re-use and disposal of storm and grey water in accordance with best practice outlined in the Department of Water's urban storm and grey water management guidelines and the current Australian rainfall and run-off manual. [See Advice Note (c)]**
- d) **A Construction Management Plan detailing construction hours, traffic management, deliveries and storage of materials, disposal of building waste, security barrier/fencing and safety measures, signage and dust suppression**

measures.

No works on the development may commence until the plans required by this condition have been approved by the Shire. The development must thereafter be carried out and maintained in accordance with the approved plans.

9. The proponent ceding to the Western Australian Government a 5.0 metre wide strip of land along the full length of the north east boundary of Lot 62 for the purpose of a Public Access Way, with all costs to be met by the developer.
10. Within the development site the ratio of unrestricted (permanent) rooms at 45% to restricted (short stay) rooms at 55% shall be adhered to unless otherwise approved by the local government.
11. Prior to or at the time of an application for a building licence for each successive stage of the development which includes short stay accommodation units, a plan showing the proposed location of the short stay accommodation units shall be lodged with the local government for approval. In any building containing both short stay accommodation units and permanent residential units, the two uses must be allocated separate floors, or otherwise separated in a manner satisfactory to the local government. The development must subsequently be carried out in accordance with the approved plan. [See Advice Note (d)]
12. No person may occupy any short stay accommodation unit for more than 3 months in any 12 month period.
13. Prior to the commencement of the development, Notifications pursuant to section 70A of the *Transfer of Land Act* shall be lodged against the certificate of title to the land stating respectively:

***"No person shall occupy any Tourist Accommodation Unit for more than a total of 3 months in any one 12 month period. A register of guests showing periods of occupancy is to be made available for perusal by the Local Government on request in order to ensure compliance with this requirement."***

***“‘VULNERABLE COASTAL AREA’ – This lot is***

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*located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years.”*

14. The provision of parking for the development in accordance the following table:

Use	Required Onsite	Permitted Offsite
Commercial (retail, restaurants, function Centre, Gym)	160 car bays (2 to ACROD Bays) and 20 bicycle stands	64 car bays (1 ACROD Bay 1)
Hotel Rooms (94 rooms)	50 car bays (2 to ACROD Bays) and 1 bus bay	1 bus bay
Residential Short Stay (58 units)	58 car bays (1 to ACROD Bay)	Nil
Residential Permanent Stay (127 units)	237 car bays	Nil
Boat	6 boat bays	Nil
<b>Total Bays</b>	<b>511</b>	<b>65</b>

15. The payment of cash in lieu for a shortfall 65 parking bays (including 1 bus bay) for the development to be provided off site, with the funds to be paid to the local government in accordance with the following requirements;
- a) The estimated land value component of a car bay (x 64) and a bus bay as determined by a licensed valuer appointed by the local government, and based on an area of 27.5 m<sup>2</sup> per car bay and 115.5 m<sup>2</sup> per bus bay, inclusive of maneuvering area;
  - b) The estimated construction cost of a car bay (x 64) and bus bay as determined by the local government or by a person nominated by the local government who is competent in the field of civil (road) engineering;
  - c) Reimbursement for the costs incurred by the local government in engaging a licensed valuer and engineer, if applicable; and

- d) All payments being made to the local government prior to the grant of any Certificate of Building Classification for Stage 4 of the development or by alternative arrangement as agreed to by the Chief Executive Officer.
16. The replacement by the proponent of 53 existing car parking bays (including landscaping) as part of Stages 1 and 2 of the development in a location within 400 metres of the site determined by the local government.
  17. All external road works, parking bays and service/loading bays shall be constructed to an impervious sealed, kerbed, drained and line marked standard to the specifications of the local government.
  18. All car parking bays shall conform to the minimum internal dimensions as prescribed in Appendix A of the Shire of Dandaragan Local Planning Policy 8.8 - Car Parking.
  19. All bus parking bays shall conform to the minimum internal dimensions of 16.5 metres in length and 3.5 metres in width, with adequate maneuvering area.
  20. All internal resident, staff, guest, visitor and bus parking shall be constructed to an impervious standard, drained and appropriately marked and/or signposted to the satisfaction of the local government.
  21. Line marking and appropriate warning signage shall be provided at the entrance to the designed loading bays on Roberts Street and the Heaton Street realignment to the satisfaction of the local government.
  22. The installation of traffic calming measures in Robert and Heaton Streets to the specifications and satisfaction of the local government.
  23. A minimum of 20 bicycle racks/stands shall be strategically placed within the development to the satisfaction of the local government.
  24. The construction of a minimum 2.0 metre wide pedestrian path way to a impervious standard along the north east boundary of Lot 62 to the satisfaction of the local government.

25. Overhead lighting shall be provided within the Heaton Street road realignment with low level external lighting provided at all building entry points and along pathways within the site to the satisfaction of the local government.
26. All reinstatement of local government infrastructure (including but not limited to drainage, pedestrian pathways, roadways, public open space and community furniture) shall be undertaken at the proponents cost and to satisfaction of the local government.
27. The development shall not interfere with, restrict access to, or in any way inhibit public access and use of the Jurien Bay Foreshore area.
28. The development shall be connected to reticulated power, water, sewerage, telecommunications.
29. No site earthworks or development shall occur that will cause additional runoff of storm water on to adjacent properties.
30. Directional and other signage within the development shall be provided to international standards to the satisfaction of the local government.
31. A detailed construction programme for each stage of the development shall be lodged for approval by the Shire prior to the grant of a building licence for each stage. The programme must show the works to be carried out in that stage (consistent with Condition 2) including associated works required by these conditions proposed to be carried out in that stage. The development must thereafter be carried out in accordance with the approved construction programme.
32. This approval is valid for a period of three (3) years. If the development has not substantially commenced within this period the approval will lapse.

### Advice

- (a) With reference to Condition 1 the proponent is advised the approval of 32 retail shops includes the 5 offices provided for in the application. This approach has been taken as an 'office' use is not permitted within the 'tourist' zone. Further consideration on a change in use from retail 'shop' to 'office' can be

entertained once the zoning has changed from 'Tourist' zone to 'Special Use' zone.

- (b) The construction programme – Staged Site Plan 'DAO4' drawn 31.08.10 does not form part of the approved plans.
- (c) With reference to Condition 8(c) of this approval, the Water Management Plan must indicate that all storm and grey water drainage shall be designed and constructed at the applicant's cost. Stormwater retention of run-off from roofs and/or other paved/impervious areas including internal roads and parking areas shall be provided on site. The design is to ensure the discharge of stormwater from the developed site is so as to restrict discharge to that which existed prior to development surrounding the site. Design overflow from the internal drainage system shall ensure that discharge is not directed in to the adjoining properties, but where practical should be offered to the local government for re-use. Details on the site specific design of control and disposal of storm and grey water from the site are to be submitted with the preparation of a building application.
- (d) With reference to Condition 11 the permanent residential occupancy units shall be concentrated in an area of the complex and provided with specific recreation and amenity facilities. Furthermore, the location shall enable the management and use to be an integrated part of the overall complex. In assessing the location of units, the permanent residential component shall be located to provide a transition between tourism development and surrounding residential uses.
- (e) In the event the development site is subject to a built strata subdivision incorporating short stay accommodation units, the approval of the strata subdivision will be subject to a condition which requires a management statement and associated agreements pursuant to section 5C of the *Strata Titles Act (1985)* to apply for a minimum of 25 years, and which includes:
  - the establishment of a Schedule 1 by-law that requires, as a minimum, a unit management agreement, lease or alternative arrangement between owner/s and the common facility manager/operator for a minimum period of 25 years;



- the ability for a Strata Company to terminate a contract with the facility manager/operator at the end of a 5 year contract or lesser period based on performance criteria as determined by the Strata Company;
  - the management agreement shall cover all components (ie resort reception, security, maintenance, care taking, refurbishment, marketing, rights of access and other services) required to operate as a tourist facility; and
  - conditions outlined in Schedules 1, 2 and 2a of the Strata Titles Act together with specific conditions detailed in the Shire's draft Local Tourism Planning Strategy that address facility management, development refurbishment, right of entry, internal fit out, register of bookings, length of stay, availability of services, and approval process.
- (f) Subdivision and/or strata approval for the development will only be supported on a 'Built Strata' basis.
- (g) That applicant is advised that the atrium wells proposed in Buildings 'A' & 'B' do not appear to comply with the provisions of the BCA part G3.2 'dimensions of atrium well' (i.e. the proposed atrium well dimension is insufficient to contain a cylinder with a minimum diameter of 6m, a requirement that is intended to reduce the effects of radiant heat from a fire). The applicant should liaise with the Manager for Building on this matter.
- (h) All buildings and associated facilities shall be provided with disable access in accordance with Australian standards as prescribed under the Building Code of Australia.
- (i) A grant of planning consent is not a building licence. A building licence/s must also be obtained for this development.
- (j) All external signage for individual business uses are the subject to a further application to the local government for approval.
- (k) The swimming pools are required to comply with the *Health (Aquatic Facilities) Regulations 2007* and be approved by the Executive Director of Public Health prior to construction. Further, sanitary facilities for

the pool area may be required as part of the health requirements.

- (l) The development is required to comply with the 'Health (Public Buildings) Regulations, 1992'.
- (m) The development is to comply with the requirements of the 'Food Act 2008' and the 'Australian New Zealand Food Standards Code'.
- (n) Prior to the construction and fit out of the Approved food premises, detailed plans and specifications of all internal fixtures, finishes and fittings must be submitted to Manager Environmental Health for endorsement.
- (o) Any Approved food premises using deep fryers and rotisseries (including a restaurant and / or dining room) is required to install a grease trap – to a size specified by the Water Corporation of Western Australia.
- (p) The waterways (ie reflection ponds) within the development must be constructed with principles outlined in the Department of Health's 'Chironomid midge and mosquito risk assessment guide for constructed water'.
- (q) The existing effluent disposal systems are required to be decommissioned if no longer in use. Decommissioning must be undertaken in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations (1974)*.
- (r) The applicant is advised that a right of appeal against Council's decision exists in accordance with the provisions of the *Planning and Development Act, 2005*. In this regard contact should be made with the State Administrative Tribunal on 9219 3111 or via website [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au)

*\* Absolute majority required*

**CARRIED BY ABSOLUTE MAJORITY 5 / 2**

#### ALTERNATIVE OFFICER RECOMMENDATION

That Council grant planning approval for a Hotel and Tourist Resort Development on Lot 62 Roberts Street and adjoining south west portion (910m<sup>2</sup>) of Heaton Street Jurien Bay ("subject site"), subject to the following:

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Conditions

1. The uses approved in the development shall be limited to:
  - Retail shops x 32
  - Restaurants x 3
  - Bars x2
  - Function Centre x 1
  - Health Club x 1
  - Reception areas x 2
  - Hotel Rooms x 94 rooms
  - Residential short stay accommodation units x 56 (use not listed) [variation of 1- 4 bedroom]
  - Residential Permanent dwelling units x 127 (grouped or multiple dwellings) [variation of 1- 4 bedroom]
  - Swimming pools x 2
  - Outdoor cinema (300 persons)

as shown the attached approved plan(s) dated 17<sup>th</sup> February 2011 (incorporating any handwritten annotations by the Shire) and shall be subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be further modified or altered without the prior written approval of the local government. [See Advice Notes (a) and (b)]

2. The development shall be carried out in stages, in accordance with the following programme:
  - Stage 1 Building A, both basement levels, and road realignment through Lot 62 Roberts Street ("Lot 62") including underground relocation of essential utilities and services.
  - Stage 2 Building B, Building E and completion of all onsite parking and a dedicated reception within Building E.
  - Stage 3 Building G, Building F and the forecourt between.
  - Stage 4 Building H, including completion of external road and streetscape works for Heaton Street, foreshore interface works and relocation of public parking.
  - Stage 5 Building C and Building D, including completion of external road, pedestrian path way along the north eastern boundary of Lot 62, and streetscape works for Roberts and Sandpiper Streets.

Each identified stage must be completed before work on the subsequent stage is commenced.

3. The owner of Lot 62 must enter into a land exchange and

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road dedication process with the Department of Regional Development and Lands and Department for Planning upon ministerial approval for closure the south west portion of Heaton Street, for the purpose of accommodating Building H, with all costs to be met by the developer.

4. A Certificate of Building Classification for the buildings within Stage 1 and Stage 2 is to be issued prior to the completion of the road closure and land exchange/transfer proceedings for the south west portion of the Heaton Street road reserve (approximately 910m<sup>2</sup>) to accommodate Building H.
5. The finished floor level of the development shall be increased from 2.9 metres above the Australian Height Datum to 3.4 metres above the Australian Height Datum to allow for a predicted sea level rise of 0.9 metres over the next 100 years.
6. The height of the development shall be limited to:
  - Building A – 10 Storeys
  - Building B – 7 Storeys
  - Building C – 4 Storeys
  - Building D – 4 Storeys
  - Building E – 4 Storeys
  - Building F – 2 Storeys
  - Building G – 5 Storeys
  - Building H – 7 Storeys
  - Highest point above street level of 40.0 metres (excluding communication aerials and antennas).
7. No work on the development may commence until the following have been lodged with and approved by the Shire:
  - a) Written confirmation from the Department of Environment and Conservation that the site is clear of all contamination;
  - b) A geotechnical report that demonstrates the geological status and stability of the site to accommodate the development; and
  - c) A schedule of materials and colour/s for all external finishes. The development shall be constructed in accordance with the approved schedule.
8. The following additional plans must be lodged with the Shire for approval prior to or at the time an application for a building licence is lodged with respect to Stage 1:
  - a) A Landscape Master Plan which includes:
    - a. the landscape layout and features for all the

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- internal atrium areas;
  - b. streetscapes for Heaton, Roberts and Sandpiper Streets;
  - c. all off site car parking areas associated with the development and interface with the Dobbyn Park foreshore area;
  - d. beautification works to the Dobbyn Park foreshore area, Heaton, Roberts and Sandpiper Streets and the 5.0 metre wide pedestrian link along the north eastern boundary of Lot 62;
  - e. the type, level of maturity and placement of plant species with the 'beautification' and car parking areas;
  - f. the nature and colour of paving materials also to be used in the 'beautification' areas and internally within the development;
  - g. the type and placement of street furniture (including external lighting) with the 'beautification' areas; and
  - h. a recurrent maintenance program including reticulation, water supply and developer responsibility for external landscaping (10 year minimum) within the 'beautification' and car parking areas.
- b) A Waste Management Plan which conforms to the Shire of Dandaragan Health Local Laws and includes:
- a. the location, design and methods applicable to the extraction and disposal of all contaminated soil;
  - b. the proposed method of collection and disposal of all construction and municipal solid waste associated with the development;
  - c. each permanent (unrestricted) accommodation unit having 2 x 240 litre mobile garbage bins;
  - d. each short stay (restricted) accommodation unit having 1 x 240 mobile garbage bin;
  - e. a minimum of 1 mobile garbage bins for each of the retail shops;
  - f. a minimum of 10 mobile garbage bins for each of restaurant/bar and function facility; and
  - g. rubbish bin storage areas being constructed with:
    - walls not less than 1.8 metres in height with an access way of not less than 1 metre in width and fitted with a self closing gate;
    - a smooth, non-slip and impervious floor not less than 75 millimetres in thickness; and evenly graded to an approved liquid refuse disposal system;
    - easily accessibility to allow for the removal of

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- the receptacles;
  - provision of a ramp into the enclosure having a gradient no steeper than 1:8;
  - provision of a tap connected to an adequate supply of water; and
  - provision of curbing to prevent entry of surface stormwater, or groundwater, with a roofed of over 17m<sup>2</sup> in area.
  
- c) A Water Management Plan detailing the design for collection, control, re-use and disposal of storm and grey water in accordance with best practice outlined in the Department of Water's urban storm and grey water management guidelines and the current Australian rainfall and run-off manual. [See Advice Note (c)]
  
- d) A Construction Management Plan detailing construction hours, traffic management, deliveries and storage of materials, disposal of building waste, security barrier/fencing and safety measures, signage and dust suppression measures.

No works on the development may commence until the plans required by this condition have been approved by the Shire. The development must thereafter be carried out and maintained in accordance with the approved plans.

9. The proponent ceding to the Western Australian Government a 5.0 metre wide strip of land along the full length of the north east boundary of Lot 62 for the purpose of a Public Access Way, with all costs to be met by the developer.
  
10. Within the development site the ratio of unrestricted (permanent) rooms at 45% to restricted (short stay) rooms at 55% shall be adhered to unless otherwise approved by the local government.
  
11. Prior to or at the time of an application for a building licence for each successive stage of the development which includes short stay accommodation units, a plan showing the proposed location of the short stay accommodation units shall be lodged with the local government for approval. In any building containing both short stay accommodation units and permanent residential units, the two uses must be allocated separate floors, or otherwise separated in a manner satisfactory to the local government. The development must subsequently be carried out in accordance with the approved plan. [See Advice Note (d)]
  
12. No person may occupy any short stay accommodation unit for more than 3 months in any 12 month period.

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13. Prior to the commencement of the development, Notifications pursuant to section 70A of the *Transfer of Land Act* shall be lodged against the certificate of title to the land stating respectively:

*"No person shall occupy any Tourist Accommodation Unit for more than a total of 3 months in any one 12 month period. A register of guests showing periods of occupancy is to be made available for perusal by the Local Government on request in order to ensure compliance with this requirement."*

*"'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."*

14. The provision of parking for the development in accordance the following table:

Use	Required Onsite	Permitted Offsite
Commercial (retail, restaurants, function Centre, Gym)	160 car bays (2 to ACROD Bays) and 20 bicycle stands	64 car bays (1 ACROD Bay 1)
Hotel Rooms (94 rooms)	50 car bays (2 to ACROD Bays) and 1 bus bay	1 bus bay
Residential Short Stay (58 units)	58 car bays (1 to ACROD Bay)	Nil
Residential Permanent Stay (127 units)	237 car bays	Nil
Boat	6 boat bays	Nil
Total Bays	511	65

15. The payment of cash in lieu for a shortfall 65 parking bays (including 1 bus bay) for the development to be provided off site, with the funds to be paid to the local government in accordance with the following requirements;
- a) The estimated land value component of a car bay (x 64) and a bus bay as determined by a licensed valuer appointed by the local government, and based on an area of 27.5 m<sup>2</sup> per car bay and 115.5 m<sup>2</sup> per bus bay, inclusive of maneuvering area;

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- b) The estimated construction cost of a car bay (x 64) and bus bay as determined by the local government or by a person nominated by the local government who is competent in the field of civil (road) engineering;
  - c) Reimbursement for the costs incurred by the local government in engaging a licensed valuer and engineer, if applicable; and
  - d) All payments being made to the local government prior to the grant of any Certificate of Building Classification for Stage 4 of the development or by alternative arrangement as agreed to by the Chief Executive Officer.
16. The replacement by the proponent of 53 existing car parking bays (including landscaping) as part of Stages 1 and 2 of the development in a location within 400 metres of the site determined by the local government.
  17. All external road works, parking bays and service/loading bays shall be constructed to an impervious sealed, kerbed, drained and line marked standard to the specifications of the local government.
  18. All car parking bays shall conform to the minimum internal dimensions as prescribed in Appendix A of the Shire of Dandaragan Local Planning Policy 8.8 - Car Parking.
  19. All bus parking bays shall conform to the minimum internal dimensions of 16.5 metres in length and 3.5 metres in width, with adequate maneuvering area.
  20. All internal resident, staff, guest, visitor and bus parking shall be constructed to an impervious standard, drained and appropriately marked and/or signposted to the satisfaction of the local government.
  21. Line marking and appropriate warning signage shall be provided at the entrance to the designed loading bays on Roberts Street and the Heaton Street re-alignment to the satisfaction of the local government.
  22. The installation of traffic calming measures in Robert and Heaton Streets to the specifications and satisfaction of the local government.
  23. A minimum of 20 bicycle racks/stands shall be strategically placed within the development to the satisfaction of the local government.
  24. The construction of a minimum 2.0 metre wide pedestrian



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- path way to a impervious standard along the north east boundary of Lot 62 to the satisfaction of the local government.
25. Overhead lighting shall be provided within the Heaton Street road realignment with low level external lighting provided at all building entry points and along pathways within the site to the satisfaction of the local government.
  26. All reinstatement of local government infrastructure (including but not limited to drainage, pedestrian pathways, roadways, public open space and community furniture) shall be undertaken at the proponents cost and to satisfaction of the local government.
  27. The development shall not interfere with, restrict access to, or in any way inhibit public access and use of the Jurien Bay Foreshore area.
  28. The development shall be connected to reticulated power, water, sewerage, telecommunications.
  29. No site earthworks or development shall occur that will cause additional runoff of storm water on to adjacent properties.
  30. Directional and other signage within the development shall be provided to international standards to the satisfaction of the local government.
  31. A detailed construction programme for each stage of the development shall be lodged for approval by the Shire prior to the grant of a building licence for each stage. The programme must show the works to be carried out in that stage (consistent with Condition 2) including associated works required by these conditions proposed to be carried out in that stage. The development must thereafter be carried out in accordance with the approved construction programme.
  32. The subject site being rezoned from 'Tourist' zone and 'no zone' to 'Special Site' zone, including additional site and development requirements inserted into Schedule 4: Special Use Zones of the Shire of Dandaragan Local Planning Scheme No.7, with all associated costs to be met by the developer [See Advice Note (g)]
  33. This approval is valid for a period of three (3) years. If the development has not substantially commenced within this period the approval will lapse.

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- (a) With reference to Condition 1 the proponent is advised the approval of 32 retail shops includes the 5 offices provided for in the application. This approach has been taken as an 'office' use is not permitted within the 'tourist' zone. Further consideration on a change in use from retail 'shop' to 'office' can be entertained once the zoning has changed from 'Tourist' zone to 'Special Use' zone.
- (b) The construction programme – Staged Site Plan 'DAO4' drawn 31.08.10 does not form part of the approved plans.
- (c) With reference to Condition 8(c) of this approval, the Water Management Plan must indicate that all storm and grey water drainage shall be designed and constructed at the applicant's cost. Stormwater retention of run-off from roofs and/or other paved/impervious areas including internal roads and parking areas shall be provided on site. The design is to ensure the discharge of stormwater from the developed site is so as to restrict discharge to that which existed prior to development surrounding the site. Design overflow from the internal drainage system shall ensure that discharge is not directed in to the adjoining properties, but where practical should be offered to the local government for re-use. Details on the site specific design of control and disposal of storm and grey water from the site are to be submitted with the preparation of a building application.
- (d) With reference to Condition 11 the permanent residential occupancy units shall be concentrated in an area of the complex and provided with specific recreation and amenity facilities. Furthermore, the location shall enable the management and use to be an integrated part of the overall complex. In assessing the location of units, the permanent residential component shall be located to provide a transition between tourism development and surrounding residential uses.
- (e) In the event the development site is subject to a built strata subdivision incorporating short stay accommodation units, the approval of the strata subdivision will be subject to a condition which requires a management statement and associated agreements pursuant to section 5C of the *Strata Titles Act (1985)* to apply for a minimum of 25 years, and which includes:
- the establishment of a Schedule 1 by-law that requires, as a minimum, a unit management agreement, lease or alternative arrangement between owner/s and the common facility manager/operator for a minimum period of 25 years;

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- the ability for a Strata Company to terminate a contract with the facility manager/operator at the end of a 5 year contract or lesser period based on performance criteria as determined by the Strata Company;
  - the management agreement shall cover all components (ie resort reception, security, maintenance, care taking, refurbishment, marketing, rights of access and other services) required to operate as a tourist facility; and
  - conditions outlined in Schedules 1, 2 and 2a of the Strata Titles Act together with specific conditions detailed in the Shire's draft Local Tourism Planning Strategy that address facility management, development refurbishment, right of entry, internal fit out, register of bookings, length of stay, availability of services, and approval process.
- (f) Subdivision and/or strata approval for the development will only be supported on a 'Built Strata' basis.
- (g) The Scheme Amendment (rezoning) should be guided, but not limited, by the following table:

Description of Land	Special Use	Conditions
Lot 62 Roberts Street, Jurien Bay	Permitted Uses: Tourist Resort Serviced Apartment Restaurant Tavern Shop Office Café Hotel Grouped Dwelling Multiple Dwelling Cinema/theatre  Discretionary Uses: Eco-Tourist Facility Civic Use Reception Centre Caretaker's Dwelling Fast Food Outlet Club Premises Convenience Store Art Gallery and Sales	<ol style="list-style-type: none"> <li>1. Development of the site generally shall be in accordance with the Development Approval granted by Council, unless otherwise determined by the local government in accordance with this Schedule.</li> <li>2. No development, other than necessary communications equipment as determined by the local government, is permitted to exceed 40.0 metres in height measured from natural ground level.</li> <li>3. All development shall commence at a minimum finished floor level of 3.4 metres above the Australian Height Datum.</li> <li>4. Ease of public access to areas of high amenity within or adjoining the site shall be maintained at all times.</li> <li>5. The maximum proportion of permanent residential occupancy units shall be such that the site area and uses retain a dominant tourism</li> </ol>

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		<p>function and character.</p> <p>6. 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.</p> <p>7. A register of guests is to be maintained for each short stay (restricted) unit to be made available for perusal by the local government on request.</p> <p>8. As a whole any residential component of development, shall be of a design and scale that is subsidiary to the tourism component of the development such that the tourism component remains dominant in all aspects.</p> <p>9. All units in the development shall be designed to form part of an integrated residential and tourist complex and shall not be subject to compliance with the Residential Design Codes of Western Australia to the extent necessary to meet these requirements, unless specified under the local government planning scheme.</p> <p>10. Permanent residential occupancy units shall be concentrated in an area of the complex and provided with specific recreation and amenity facilities to ensure the management and use is an integrated part of the overall complex. In assessing the location of units, the permanent residential component shall be located to provide a transition between tourism development and surrounding residential uses.</p> <p>11. The development shall incorporate and maintain access to those facilities normally associated with tourist accommodation developments including recreation, entertainment facilities and integrated management facilities at all times.</p> <p>12. The development shall not interfere with, restrict access to, or in any way inhibit public access and use of the Jurien</p>
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		Bay Foreshore area. 13. Vacant strata subdivision is not permitted.
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- (h) That applicant is advised that the atrium wells proposed in Buildings 'A' & 'B' do not appear to comply with the provisions of the BCA part G3.2 'dimensions of atrium well' (i.e. the proposed atrium well dimension is insufficient to contain a cylinder with a minimum diameter of 6m, a requirement that is intended to reduce the effects of radiant heat from a fire). The applicant should liaise with the Manager for Building on this matter.
- (i) All buildings and associated facilities shall be provided with disable access in accordance with Australian standards as prescribed under the Building Code of Australia.
- (j) A grant of planning consent is not a building licence. A building licence/s must also be obtained for this development.
- (k) All external signage for individual business uses are the subject to a further application to the local government for approval.
- (l) The swimming pools are required to comply with the *Health (Aquatic Facilities) Regulations 2007* and be approved by the Executive Director of Public Health prior to construction. Further, sanitary facilities for the pool area may be required as part of the health requirements.
- (m) The development is required to comply with the 'Health (Public Buildings) Regulations, 1992'.
- (n) The development is to comply with the requirements of the 'Food Act 2008' and the 'Australian New Zealand Food Standards Code'.
- (o) Prior to the construction and fit out of the Approved food premises, detailed plans and specifications of all internal fixtures, finishes and fittings must be submitted to Manager Environmental Health for endorsement.
- (p) Any Approved food premises using deep fryers and rotisseries (including a restaurant and / or dining room) is required to install a grease trap – to a size specified by the Water Corporation of Western Australia.
- (q) The waterways ie reflection ponds within the development must be constructed with principles outlined in the Department of Health's 'Chironomid midge and mosquito risk assessment guide for constructed water'.

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- (r) The existing effluent disposal systems are required to be decommissioned if no longer in use. Decommissioning must be undertaken in accordance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations (1974)*.
- (s) The applicant is advised that a right of appeal against Council's decision exists in accordance with the provisions of the *Planning and Development Act, 2005*. In this regard contact should be made with the State Administrative Tribunal on 9219 3111 or via website [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au)

*\* Simple majority required*

*Notation: Council considered and adopted the Officer Recommendation.*