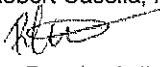



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9.4.4 PROPOSED SCHEME AMENDMENT NO. 21 (REZONING) – SPECIAL USE – LOT 62 ROBERTS STREET, JURIEN BAY

Location:	Lot 62 Corner Roberts and Heaton Streets
Applicant:	Burgess Design Group on behalf of Carl Aloï
Folder Path:	Business Classification Scheme / Land Use and Planning / Planning / Planning Scheme / Amendment 7.21 – Lot 62 Roberts Street
Disclosure of Interest:	None
Date:	10 September 2012
Author:	Robert Casella, Planning Officer
Signature of Author:	
Senior Officer:	Ian Rennie, Acting Chief Executive Officer
Signature of Senior Officer:	

PROPOSAL

The Council is in receipt of a request to rezone lot 62 Roberts Street, Jurien Bay consisting of 2.199 hectares in area, and the adjoining South West portion of Heaton Street Road Reserve with an area of 910m² from Tourist to Special Use.

BACKGROUND

The proposed Amendment 21 is a request by the Shire of Dandaragan, as a condition of approval for a 'Hotel & Residential Resort Development' dated 20 January 2012, approved at the Ordinary Council Meeting (OCM) on the 15 December 2011. The proponent seeks to rezone the subject land from 'Tourism' to 'Special Use' under the Shire of Dandaragan's (The Shire) Local Planning Scheme No.7 (LPS7).

The Site, Lot 62 Roberts Street Jurien Bay, is located within Central Jurien Bay Town site, bounded by Roberts Street (south west), Heaton Street (north west), Sandpiper Street (south east) and Lot 63 Heaton Street (north east), having a total area of 2.199 Hectares.

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The subject land is predominantly vacant with some existing vegetation with two (2) abandoned outbuildings situated on it. According to the Landgate Interest Enquiry online mapping system showed the land to be a “Contaminated Site”. This is currently being ‘remediated’ to the satisfaction of the Department of Environment and Conservation (DEC) in accordance with requirements set out in the “Contaminated Sites Act 2003”. Surrounding land uses are predominantly Tourist Activities, north and south of the site. Jurien Bay Commercial Town Centre to the east of subject site with area immediately to the west reserved for ‘Parks and Recreation’ and Jurien Bay foreshore.

The Site has direct frontage to three (3) roads, Roberts Street (Primary Road), Heaton Street and Sandpiper Street with Bashford Street 200m east along Roberts Street.

The proposal requires the closure of a portion of Heaton Street road reserve and reposition the location in accordance with the proposal of “Building H – Hotel. Realignment of the road will provide better access to new development and allow for the creation of a pedestrian friendly route to the beach. This has been approved by Council at the 15 December 2011 OCM.

Water Corp has confirmed reticulated sewerage runs along Sandpiper Street which service the subject land. Required level of sewer supply has been assessed and determined during Development Application (DA) approval process, as with the power supply and telecommunications levels for services and infrastructure.

The Shire LPS7 states the purpose of the “Special Use” Zones are:

“Special use zones are set out in Schedule 4 and are in addition to the zones in the Zoning Table.

A Person must not use any land, or structure of buildings on land, in a Special Use Zone except for the purpose set out against that land in Schedule 4 and subject to compliance with any conditions set out in Schedule 4 with respect to that land.

Note: Special use zones apply to special categories of land use which do not comfortably sit within any other zone in the Scheme.”

In accordance with the WAPC State Coastal Planning Policy No.2.6, which has specific measures that relate to tourism development, requires development to:

“Maintain and enhance public enjoyment of the coast where this is consistent with the objectives of this Policy.

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Ensure that any structure plan, zoning, subdivision, strata subdivision or development proposal for public purposes, residential, industrial, commercial, tourist, special rural and similar uses on the coast is only approved based upon or in conjunction with a current detailed coastal planning strategy or foreshore management plan (whichever is appropriate for the stage and scale of development).

Ensure that the use of the coast including the marine environment, for recreation, conservation, tourism, commerce, industry, housing, ocean access and other appropriate activities, is sustainable and located in suitable areas.

Ensure that when identifying areas suitable for development, consideration is given to strategic sites for coastal access and commercial development that is demonstrably dependent on a foreshore location including ports, boat harbours and regional boat ramps.

Ensure that land use and development, including roads, adjacent to the coast is sited and designed to complement and enhance the coastal environment in terms of its visual, amenity, social and ecological values.

A restriction in building heights to 5 storeys within 300 metres of the coast, or in special circumstances, 8 storeys, with broad community support.”

Given the intention of this amendment is to rezone the land to ‘Special Use’ with the land-use being focused around tourism, and the design being specifically tailored to allow for maximum use of the foreshore by the public, the proposed amendment accords with the goals of the State Coastal Planning Policy.

The WAPC Planning Bulletin 83 / 2011 – Planning for Tourism addresses matters relating to the objectives of the amendment. The Planning Bulletin highlights the importance of strategic planning, recognising local and regional variations in tourism demand, providing guidance for local government and to help provide flexibility in the design and assessment of tourism and mixed use developments. The policy seeks to improve tourism precincts by incorporating the ‘5 A’s’ into tourism development, these being access, amenities, attractions, accommodation and activities.

The proposal addresses these objectives, with the subject site strategically positioned less than 2km from Jurien Bay airport, and within 250m of the Indian Ocean Drive, being the main road to Perth. The site has good aspect and outlook being situated within the Jurien Bay Commercial Centre and 150m off the beach. The large lot area gives opportunity for the site to support a varied range of accommodation, increasing the diversity of accommodation available within the town centre, and to allow for

multiple attractions associated with tourism.

As part of the Shire being selected as a SuperTown under the Royalties for Regional Centres Development Plan, aiming to enhance and stimulate growth. Tourism and recreation has been identified within the Jurien Bay Growth Plan as providing 'significant economic, social and environmental opportunities for the Jurien Bay Region'.

The Shires Draft Local Tourism Planning Strategy seeks to further develop and diversify tourism within the Shire, focusing on key tourism hot spots, including Jurien Bay. It suggests that '*Jurien Bay and Cervantes currently have a good provision of affordable accommodation; however lack diversity*'. This rezoning will help diversify the local amenities and accommodation, therefore meeting the objectives of the strategy.

A Site Assessment has been conducted on the subject site within the strategy, with the recommendation being that Lot 62 be classified as a 'Non-Strategic Tourism Site' of Local Significance; and to rezone the site from 'Tourist' to 'Special Use' within Schedule 4.

The Jurien Bay Town Centre Strategy Plan provides a clear direction for future development, its main aims that affect the subject site are:

"A vision (and possible theme) for the town centre of Jurien Bay looking forward 10 - 15 years.

Where future commercial, tourist, medium density residential and mixed use developments occur based on physical, social and environmental conditions.

Appropriate scale and density of development (residential, commercial, tourist) to achieve a sustainable economic benefit, whilst enhancing the quality of well-being lifestyle and services for the broader community.

Consolidation of land use and establish a framework to deliver a more integrated, sustainable, and functional town centre environment."

The Town Centre Strategy states that the development of Lot 62 would 'bookend and frame the view looking to the coast along Roberts Street, and about the pedestrian link from Roberts Street to the foreshore and jetty'.

Given the intention to rezone the land to 'Special Use' with the development focusing on tourism as a land use, the vision of the Town Centre Strategy Plan will be achieved, by providing:

- a long term economic benefit to the town centre;

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- providing jobs for the local community;
- establishing a central tourist core for Jurien Bay for the future;
- providing a bookend development to Roberts Street; and
- provide a pedestrian link along Roberts Street to the Jurien Bay Foreshore.

The proposal in light of the guiding planning framework, seeks to rezone lot 62 Roberts Street an area of 910m² of the adjoining south west portion of Heaton Street Road Reserve from 'Tourist' to 'Special Use' zone with a SU3 designation under schedule 4 of the existing Scheme. The proposed rezoning is in association with a current Development Application approval dated 20 January 2012 for a Hotel & Residential Resort Development.

The rezoning will allow for the development of the subject land for the currently adopted DA and required, in accordance with a condition associated with the DA, with the conditions associated with the 'Special Use' for the subject site. The proposed Amendment No.21 therefore requests the Shire of Dandaragan's Scheme be amended by:

1. rezoning Lot 62 from 'Tourist' to 'Special Use' zone with a 'Special Use Area No. 3' designation as shown on the Scheme Amendment Map;
2. amending the Scheme Map accordingly; and
3. amend Schedule 4 – Special Use Areas, contained with the Scheme Text by Inserting SU 3 – Lot 62 (No. 20) Roberts Street, Jurien Bay as follows:

Schedule 4 - Special Use Areas

No.	Description of Land	Special Use	Conditions
SU 3	Lot 62 Roberts Street, Jurien Bay	<p>Permitted Uses: Tourist Resort Serviced Apartment Restaurant Tavern Shop Office Café Hotel Grouped Dwelling Multiple Dwelling Cinema/theatre</p> <p>Discretionary Uses: 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"> 1. Development of the site shall be generally in accordance with the Development Approval granted by Council, unless otherwise determined by the local government in accordance with this Schedule. 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. 3. All development shall commence at a minimum finished floor level of 3.4 metres above the Australian Height Datum. 4. Ease of public access to areas of high amenity within or adjoining the site shall be maintained at all times. 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. 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. 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.

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			<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 Bay Foreshore area.</p> <p>13. Subdivision of the land is prohibited within the development site, other than via built strata subdivision or for the creation of separate lots for the completion of individual buildings as approved on the development application.</p> <p>14. Permanent residential accommodation upon the land area, which the hotel is proposed (shown as Building H on the Development Application) is prohibited. Council shall make it permissible for that land to be used only for a hotel and associated ancillary uses (such as a bar and/or restaurant).</p> <p>15. Any building strata subdivision of tourist accommodation 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;</p> <ul style="list-style-type: none"> ▪ 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 need 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 (i.e. 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 Schedule 1, 2, and 2a of the <i>Strata Titles Act</i> together with the 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
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			<p>bookings, lengths of stay, availability of services, and approval process.</p> <p>16. Require that any built strata subdivision of short stay accommodation will include a notification in accordance with section 6 of the <i>Strata Titles Act (1985)</i> to the following effect: "No person shall occupy any tourist accommodation unit for more than 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."</p>
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COMMENT

Under the Draft Local Tourism Planning Strategy Lot 62 is described to be located in immediate proximity to the beach, town centre, Dobbyn Park and Jurien Bay Tourist Park with no alternative vacant sites available with such proximity to beach and town centre.

The site is flat with the potential for a landmark tourist accommodation development, connecting surrounding tourism uses and forming the focal point for a tourism precinct. Potential development of lot 62 is conducive to a high yielding property with a high degree of activity occurring along the street frontage. It is important that any development of the site retains public access throughout the surrounding area.

The Jurien Bay Foreshore Plan provides two options for the development of Lot 62. Council is in support of option 2 that proposes to realign Heaton Street through Lot 62 to Roberts Street, to create an iconic freehold site on the ocean side of the road fronting the foreshore reserve, exactly what has been proposed. The approved Hotel and Residential Resort Development on the two parcels of land would 'Bookend' and frame the view looking to the coast along Roberts Street and abut the pedestrian link from Roberts Street to the Foreshore and Jetty, a desirable objective from the State Planning Bulletin 83 / 2011 – Planning for Tourism.

The proposal to rezone the subject lot from 'Tourism' to 'Special Use' will not compromise the pursuit of the tourism objectives for the site. The rezoning is to allow for the tourist vision for the site to be achieved while still allowing for the permitted uses on site, approved by council at the Ordinary Council Meeting on 15 December 2011, which would not be permitted under the current zoning under the LPS7.

The approved multi-storey mixed-use development is to comprise of retail shops, offices, restaurants, bars, function centre, health club, reception area, short-stay and permanent residencies, a hotel, swimming pools and outdoor cinema, as well as additional development attributes such as car parking, landscaping and pedestrian access ways.

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Given the identification of tourism being of economic and social importance to Jurien Bay, and the sites inclusion within the SuperTown document as a site with opportunity for a major tourism development, the rezoning of the site to 'Special Use' will allow the vision to be realised by providing jobs for the local community and increasing the availability in amenities to visitors and residents alike.

The subject site is currently being 'remediated' to the satisfaction of the Department of Environment and Conservation in accordance with the requirements of the *Contaminated Sites Act 2003*. The proposal requires the closure of Heaton Street 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).

Provisions of public access to be provided on the Western, Northern and Eastern Boundaries constructed / landscaped as part of the Development.

Basement and ground level car, boat, bus and bicycle parking with onsite policy of 498 bays for commercial and residential use with 6 boat bays, 85 on street parking with 1 bus bay provided.

The development requires no setbacks for any of the property boundaries with all boundaries adjoining a thoroughfare. The design of the building incorporates 5 star design principles using solar and wind power generation systems with cross ventilation with the design and positions of all the buildings aiding to achieve this.

It is highly likely the proposal is to generate an extremely diverse tourist base in high volumes, creating an attractive tourism precinct that captures the natural quality associated with the turquoise coast and Jurien Bay's coastal development. The development has the potential of being an iconic landmark along the coast capturing the tourism industry in Perth's Mid-West.

In addressing the issues of Clause 10.2 of the LPS7, stated under the statutory environment. The development, in rezoning the Road Reserve, is to create an interactive development with the Foreshore, Jetty and Beach precinct as well as opening up the hotel and resort development to the public. The development will enhance the aesthetics and amenity of the coastal property contributing to the tourist pursuit of the Shires Local Planning Strategy, Plans and State Planning Bulletin 83 / 100 – Planning for Tourism.

The rezoning of Lot 62 will provide a long term economic benefit to the town centre by providing jobs for the local community, establishing a central tourist core for Jurien Bay for the future.

CONSULTATION

There is no requirement to undertake community consultation at

this stage. A mandatory consultation process will apply should a proposal to rezone the land be supported.

STATUTORY ENVIRONMENT

Rezoning of the land by way of a Local Planning Scheme Amendment is undertaken in accordance with the provisions of the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.

Shire of Dandaragan Local Planning Scheme No.7

Part 3 – Reserves

3.4.2 In determining an application for planning approval the local government is to have due regard to –

- a) The matters set out in clause 10.2; and*
- b) The ultimate purpose intended for the reserve.*

Part 10 – Procedure for Dealing with Applications

10.2 The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application –

- (g) in the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- (i) the compatibility of a use or development with its setting;*
- (l) the likely effect of the proposal on the natural environment and any means that area proposed to protect or to mitigate impacts on the natural environment;*
- (n) the preservation of the amenity of the locality;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (x) the potential loss of any community service or benefit resulting from the planning approval; and*
- (za) any other planning consideration the local government considers relevant.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item.

STRATEGIC IMPLICATIONS

There is a need for Lot 62 Roberts to be a highly intensive development for a tourism use, given its strategic location. The approved development for Lot 62 is focused on tourism as a land

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use, conforming to the objectives of the Tourism Planning Strategy and Jurien Bay Town Centre Plan. The rezoning is to allow for the additional approved uses that do not conform with the tourism zoning, but complement the development of the Hotel and Residential Resort.

ATTACHMENTS

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

- Amendment Proposal (Doc Id: 8347)
(Marked 9.4.4)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION

That Council:

1. in pursuance of Section 75 of the *Planning and Development Act 2005* (as amended), amend Local Planning Scheme No.7 by rezoning Lot 62 Robert Street Jurien Bay from Tourism to Special Use and the adjoining south west portion (910m²) of Heaton Street from a Road Reserve to Special Use zone;
2. advise the applicant of its resolution and request Scheme Amendment documents be updated in accordance with requirements of the *Town Planning Regulations 1967*;
3. upon receipt of Amendment documents updated in accordance with its resolution, refer a copy of the amendment document to the Western Australian Planning Commission, and the Environmental Protection Authority pursuant to Section 81 of the *Planning and Development Act 2005*;
4. subject to no objections being received from the Environmental Protection Authority, advertise the amendment for a period of 42 days seeking public comment pursuant to Regulation 25(2) of the *Town Planning Regulations 1967* (as amended).

COUNCIL DECISION

Moved Cr Love, seconded Cr Short

To defer the item to the next council meeting so that further advice can be sought to be assured that the deed of agreement previously agreed to is still valid if this change is made.

CARRIED 8 / 0

Council did not adopt the Staff Recommendation due to concerns about the process involved.