



SHIRE
of
DANDARAGAN

MINUTES - PUBLIC

of the

ORDINARY COUNCIL MEETING

held at the

COUNCIL CHAMBERS, JURIE BAY

on

THURSDAY 22 FEBRUARY 2024

COMMENCING AT 4.00PM

THESE MINUTES ARE YET TO BE CONFIRMED

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

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MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Deputy Shire President declared the meeting open at 4.00pm and welcomed those present.

"I would like to acknowledge the traditional owners of the land we are meeting on today, the Yued people of the great Nyungar Nation and we pay our respects to Elders both past, present and emerging."

1.2 DISCLAIMER READING

The disclaimer was read aloud as there were 2 members of the public present.

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

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

2 RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

Members

Councillor M McDonald	(Deputy President)
Councillor J Clarke	
Councillor W Gibson	
Councillor R Glasfurd	
Councillor S Young	

Staff

Mr B Bailey	(Chief Executive Officer)
Mr L Fouché	(Executive Manager Development Services)
Mr B Waters	(Executive Manager Corporate and Community Services)
Ms R Headland	(Administration Officer)
Mr R Mackay	(Principal Planning & Building Officer)

Apologies

Approved Leave of Absence

Councillor T O'Gorman

Observers

Mrs M Gazeley, Mr A Mackay

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES**6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD 14 DECEMBER 2023****COUNCIL DECISION**

Moved Cr Clarke, seconded Cr Glasfurd

That the minutes of the Ordinary Meeting of Council held 14 December 2023 be confirmed.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

6.2 MINUTES OF THE SPECIAL COUNCIL MEETING HELD 4 JANUARY 2024**COUNCIL DECISION**

Moved Cr Young, seconded Cr Glasfurd

That the minutes of the Special Meeting of Council held 4 January 2024 be confirmed.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024
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9 REPORTS OF COMMITTEES AND OFFICERS

9.1 CORPORATE & COMMUNITY SERVICES

9.1.1 ACCOUNTS FOR PAYMENT FOR THE PERIOD ENDED 31 DECEMBER 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-2042075298-73717
Disclosure of Interest:	None
Date:	12 February 2024
Author:	Rebecca Pink, Accountant
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To accept the cheque, EFT, BPAY and direct debit listing for the month of December 2023.

BACKGROUND

In accordance with the Local Government Act 1995, and Financial Management Regulations 1996, a list of expenditure payments is required to be presented to Council.

COMMENT

The cheque, electronic funds transfer (EFT), BPAY and direct debit payments for December 2023 totalled **\$2,164,861.88** for the Municipal Fund.

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

CONSULTATION

Accountant

STATUTORY ENVIRONMENT

Regulation 13 of the Local Government Financial Management Regulations 1997.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no adverse trends to report currently.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024

ATTACHMENTS

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

- Cheque, EFT, BPAY and direct debit listings for December 2023 (Doc Id: SODR-2042075298-73717)
(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Clarke

That the Cheque, EFT, BPAY and direct debit payment listing for the period ending 31 December 2023 totalling \$2,164,861.88 be received.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

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

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Doc Id: SODR-2042075298-74845
Disclosure of Interest:	None
Date:	13 February 2024
Author:	Rebecca Pink, Accountant
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

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

BACKGROUND

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

COMMENT

Regulation 34 of the Financial Management Regulations (1996) requires the following information to be provided to Council:

1. Net Current Assets

Council's adjusted net current assets surplus / (deficit) position as at the 31 December 2023 was \$3,693,645. Net current Asset are calculated by deducting current liabilities from current assets

<p>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024</p>
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as reported in the Statement of Financial Position. In accordance with regulation 34 of the Local Government Financial Management Regulations (1996) the net current assets are adjusted to establish a surplus / (deficit) position within the monthly financial statements. The current position indicates that Council can easily meet its short-term liquidity or solvency.

The adjusted net current assets position is reflected on page 10 and reconciled with the Rate Setting Statement on page 3 of the financial statements.

The amount raised from rates, shown on the Rate Setting Statement (page 3), reconciles with note 2 (page 9) of the financial statements and provides information to Council on the budget vs actual rates raised.

2. Material Variances

During budget adoption a 10 percent and \$10,000 threshold for these variances to be reported was set.

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

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

CONSULTATION

- Chief Executive Officer

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Financial statements for the period ending 31 December 2023 (Doc Id: SODR-2042075298-74846)

(Marked 9.1.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Glasfurd

That the monthly financial statements for the period 31 December 2023 be received.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.2 INFRASTRUCTURE SERVICES**9.3 DEVELOPMENT SERVICES****9.3.1 PROPOSED OUTBUILDING – LOT 996 (NO.20) BREMER PARADE, JURIEN BAY**

Location:	Lot 996 (No.20) Bremer Parade, Jurien Bay
Landowners:	DL Coleman
File Ref:	SODR-1262144384-20990
Disclosure of Interest:	Nil
Date:	1 February 2024
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The purpose of this report is for Council to consider granting development approval for an outbuilding with reduced side and rear setbacks at Lot 996 (No.20) Bremer Parade, Jurien Bay.



Location Plan – Lot 996 (No.20) Bremer Parade, Jurien Bay

BACKGROUND

The applicant is seeking development approval to construct a 45m² enclosed outbuilding with a wall height of 4m and a ridge height of 4.5m at the rear of the 700m² property. The outbuilding will be constructed with a steel frame and cladded in Colorbond steel sheeting to match the colour palette of the dwelling under construction by WA Country Builders.

The outbuilding will be set back 0.15m from the rear boundary with a wall length of 5m and 0.15m from the adjacent side boundary and a wall length of 9m.

A three-bedroom, two-bathroom dwelling with a 39m² garage is nearing completion on the property.

The applicant has sought the above setback variations from Council's *Local Planning Policy 9.4: Outbuildings Residential Areas* (Policy):

	LPP9.4	Proposed
Area	70m ²	45m ²
Wall/gutter height	3.6m	4m
Ridge Height	4.5m	4.5m
Rear setback	1m	0.15m
Side setback	1m	0.15m

The variations are proposed for increased ease of vehicle access to the outbuilding and maximisation of the backyard space. The wall height variation proposed is a result of the proponent requiring an increased roller door height clearance of 3.6m for storage of a caravan.

The development application was referred to the adjoining rear and adjacent side property owner for comment. The side neighbour raised concern with the reduced side setback as detailed in the consultation section. As a result, this application has been referred to Council for determination in accordance with the Delegation 9.1.2 (Town Planning – Other Use and Development).

COMMENT

Where a proposal does not meet the deemed-to-comply provisions of the Policy the decision maker is to consider the application against the design principles of the Policy (which is as per the R-Codes). The R-Codes design principles applicable for the proposed outbuilding are:

Lot boundary setback 5.1.3, P3.1

P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

Outbuildings 5.4.3, P3

Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.

The merits of the development application are stated below in relation to these (R-Codes) performance-based design principles and the Policy:

- The proposed outbuilding will be located behind the existing dwelling, to the rear of the property, which is a common design characteristic throughout Jurien Bay.
- The reduced side and rear setbacks in lieu of 1m meets the deemed-to comply provision *C2.1 solar access* for adjoining sites of the R-codes; as the proposed shed is located in the north corner of the subject property resulting in all calculated overshadowing falling over the proponent's property only.
- The proposed position of the outbuilding allows efficient backyard driveway access and maximises the useable backyard for the proponent.
- The proposed outbuilding will not result in ventilation, privacy or overlooking issues for adjoining properties.
- The proposed outbuilding is considered to be compatible with its setting in terms of building bulk, relative to the associated dwelling which has an area of 240m² and a maximum ridgeline height of 5.7m.
- The colour of the outbuilding will be complementary to the associated dwelling's design, to not detract from the streetscape or the amenity of neighbouring properties.
- A standard condition of development approval requires that stormwater be contained and controlled on the applicant's

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property. This will ensure that no gutters or downpipes/stormwater are located or run into adjoining properties.

- The proposed outbuilding will meet the open space requirements of the R-Codes of 50% (350m²) of the property not occupied by any building.
- The proposed outbuilding will occupy only 45m² (6.4%) of the 700m² property.
- The proposed outbuilding wall height of 4m is a minor 11% variation to the Shire's policy maximum of wall height of 3.6m.
- The adjoining properties are vacant land which provides these landowners with the ability to construct a residence to site characteristics in due course.

As the proposal is considered to meet the relevant R-Codes performance-based design principles applicable for the proposed outbuilding as well as achieve orderly and proper planning, it is recommended that Council approve the subject development application, subject to conditions.

CONSULTATION

The proposal was forwarded to the adjoining side and rear landowners for comment. The following submission was received:

Submission	Officer Response
<p>Please be advised of our objection to all forms including 3.6 metre high or 4-metre-high Colorbond parapet wall on the boundary line of our property. These objections extend to -</p> <p>1. Height - both 3.6 metres and 4 metre in height.</p> <p>2. Heat projected from the metal parapet wall onto our property including the roof. Will be significantly increased by degrees during the summer months making our outdoor activities on our side of the property, disrupted.</p> <p>3. 9-metre-long parapet expanse of wall, which will ultimately cause massive water</p>	<p>1. The 11% variation to the Shire's policy maximum for a 4m wall height in lieu of 3.6m has been assessed as meeting the performance-based requirements of the R-Codes.</p> <p>2. It is not considered that the proposed outbuilding will have an adverse impact in this regard as this not a factor considered under the Local Planning Framework beyond ventilation. Furthermore, both potential affected adjoining properties are vacant which provides both landowners with the opportunity to design their property to the site characteristics in due course e.g. the subject outbuilding is 9m of a 35m long side boundary.</p> <p>3. A 3.5m high building wall with a length of 9m is permissible for all residential properties in WA with a density coding</p>

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<p>issues onto our property is totally and unequivocally unacceptable.</p> <p>4. Loss of sunlight and breeze - all the reasons to buy land in Jurien Bay in the first place, will be forfeited if parapet wall proceeds.</p> <p>5. Devaluation of our property and not aesthetically pleasing. We strenuously impress upon the Council to reject the application in its entirety.</p>	<p>of R20 or R25 under clause C3.2 of the R-Codes. A standard condition of development approval requires that stormwater be contained and controlled on the applicant's property. This will ensure that no gutters or downpipes/stormwater are located or run into adjoining properties. The proposed 0.15m setback makes allowance for gutter and downpipe widths.</p> <p>4. The proposal meets the deemed-to-comply clause for overshadowing of the R-Codes as outlined in the Comment section of the report.</p> <p>5. There is no evidence provided that the property values have decreased in the locality as the result of outbuildings with reduced boundary setbacks being permitted by the Shire.</p>
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STATUTORY ENVIRONMENT

- Planning and Development (Local Planning Schemes) Regulations 2015
 - Deemed provisions for local planning schemes
 - Cl.67. Consideration of application by local government
- Local Planning Scheme No 7:
 - The subject property is zoned Residential under the Shire's *Local Planning Scheme No.7* with a density code of R20.
 - Clause 4.2 of the Scheme outlines *State Planning Policy 3.1 - Residential Design Codes* is to read as part of the Scheme.

POLICY IMPLICATIONS

- Residential Design Codes (R-Codes) (State Planning Policy 7.3)
An outbuilding is defined as:
An enclosed non-habitable structure that is detached from any dwelling.
- Local Planning Policy 9.4 Outbuildings Residential Areas

FINANCIAL IMPLICATIONS

The applicant has paid the required fee of \$147 for the development application.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Site plan (SODR-1262144384-20994)
- Elevation plan (SODR-1262144384-20991)

(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Gibson

That Council grant development approval for an outbuilding at Lot 996 (No.20) Bremer Parade, Jurien Bay subject to following conditions and advice:

Conditions:

1. All development shall be in accordance with the approved development plans, which form part of this development approval, to the specifications and satisfaction of the Shire of Dandaragan.
2. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.
3. The outbuilding is not to be used for permanent human habitation, to the satisfaction of the Shire of Dandaragan.
4. The outbuilding must be finished, and thereafter maintained, in accordance with the schedule of the colour and texture of the building materials provided and approved by the Shire of Dandaragan, for the life of the development, to the satisfaction of the Shire of Dandaragan.

Advice:

- A. This is a development approval of the Shire of Dandaragan under its Local Planning Scheme No.7. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits, and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
- B. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial, or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.
- C. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and

the *Shire of Dandaragan Local Planning Scheme No.7* and may result in legal action being initiated by the Shire of Dandaragan.

- D. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be submitted within 28 days of this determination.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.3.2 COALSEAM DRIVE LIGHT INDUSTRIAL AREA STAGE 2 SUBDIVISION, JURIE BAY – RELINQUISHING OF MANAGEMENT ORDER FOR PORTION OF RESERVE 35408

Location:	Reserve 35408, Jurien Bay
Applicant:	Development WA
Folder Path:	SODR-1262144384-14235
Disclosure of Interest:	Nil
Date:	21 December 2023
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

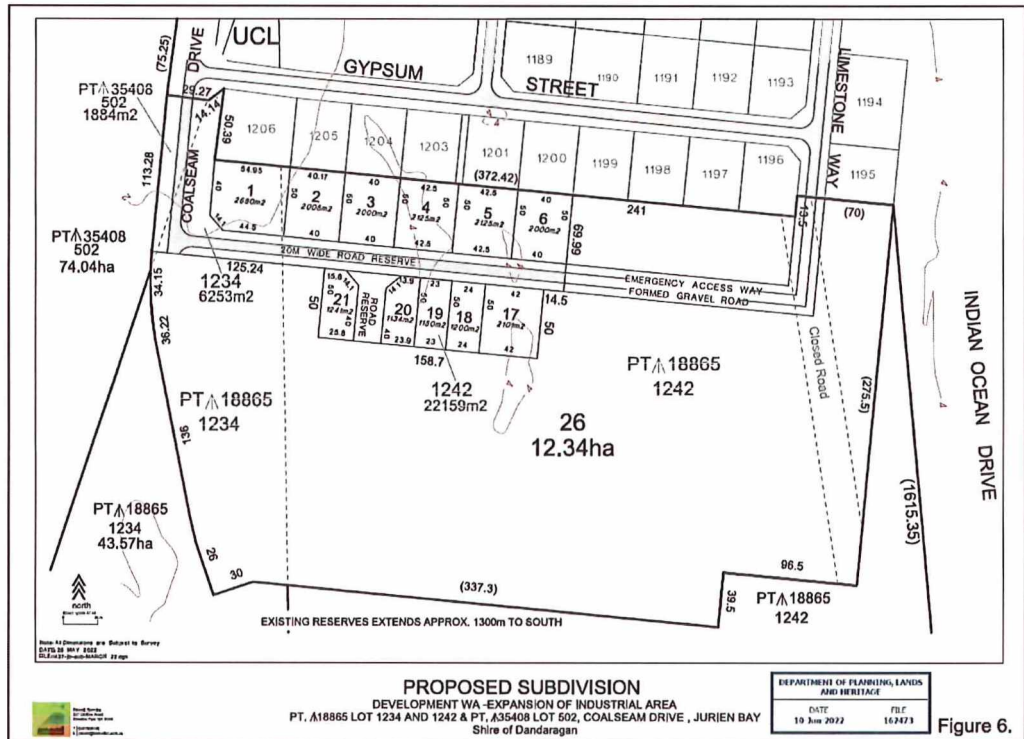
PROPOSAL

The purpose of this report is for Council to consider relinquishing a 3.0296 ha portion of Reserve 35408 to enable the stage 2 subdivision of the Coalseam Drive Light Industrial Area (Jurien Bay).

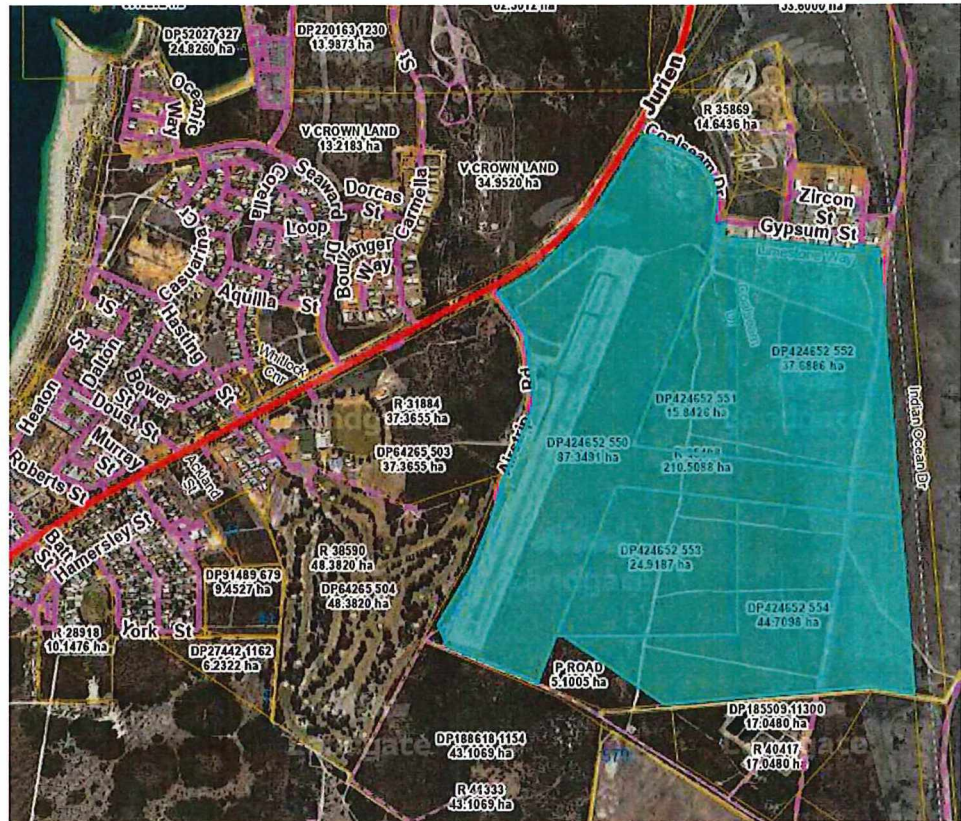
BACKGROUND

In October 2022 the Western Australian Planning Commission granted conditional subdivision approval to the State land developer, Development WA, for a 11-lot subdivision adjoining the existing Coalseam Drive Light Industrial Area.

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At this time the parcel of Crown Land that Development WA were proposing to acquire was part of unmanaged Reserve 18865 with the purpose of 'Excepted from Sale'. The Shire previously provided full support for the continued expansion of the light industrial area. As the Department of Planning, Lands and Heritage (DPLH) recently completed the excision of Reserve 18865 for subsequent amalgamation within adjoining Reserve 35408, the Shire has become the managing body of the land Development WA is requesting to acquire for the subdivision. This was part of the land management arrangements for the Jurien Bay Airport's east-west runway. As such, Council is requested to relinquish a 3.0296 ha portion of Reserve 35408. The land will be relinquished back to DPLH before it will be purchased in freehold by Development WA.



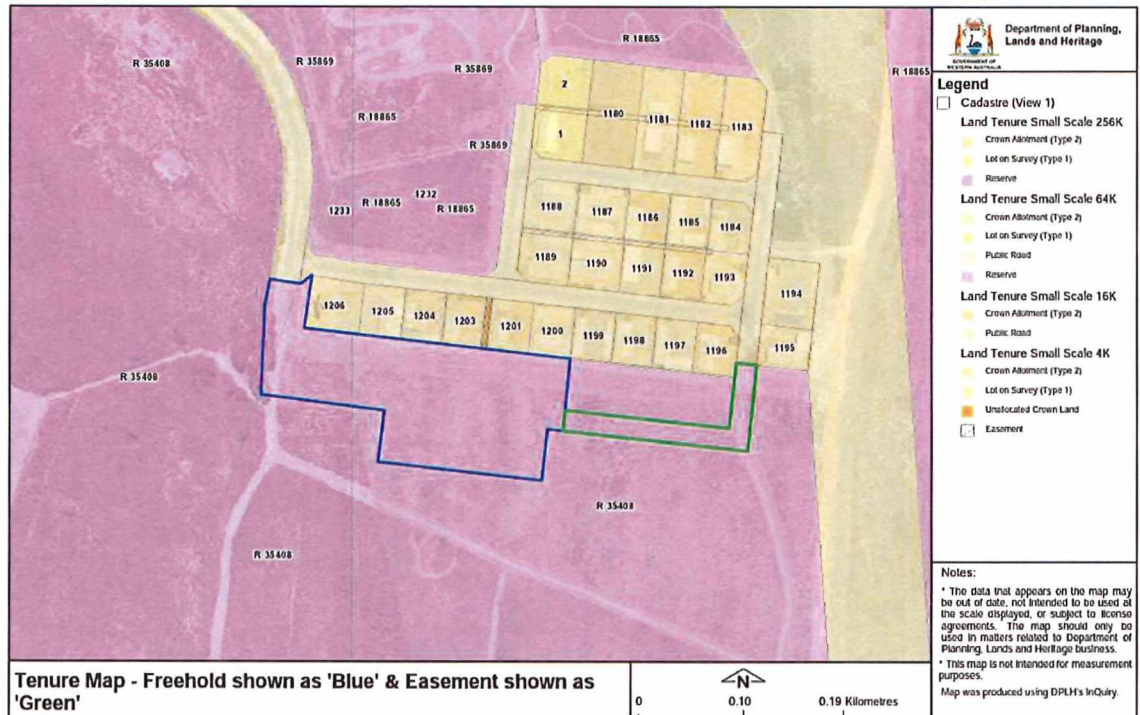
Location map of Reserve 35408

On 11 August 2023, the Management Order and the Reserve Land Listing for Reserve 35408 was amended to include 253ha of additional land (Lots 551-554 formerly part of Reserve 18865) to the east of the existing Jurien Bay Airport (Lot 550) on Deposited Plan 424652. The purpose of the subject reserve was also amended to also include 'terminal and emergency services compound' in addition to the existing purpose of 'aerial landing ground'.

COMMENT

The excision of the requested 3.0296 ha portion of Reserve 35408 (shown below) is a logical expansion of the Coalseam Drive Light Industrial Area, which has been widely supported in the Shire's strategic planning documents, specifically the Shire's current Corporate Business Plan and Local Planning Strategy. It is therefore recommended that Council agrees to relinquish the requested 3.0296ha portion of Reserve 35408 to Development WA.

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CONSULTATION

Development WA

Department of Planning, Lands and Heritage

STATUTORY ENVIRONMENT

The requested 3.0296ha portion of Reserve 35408 is zoned Industrial under the Shire's *Local Planning Scheme No.7* as per the existing lots established within the Coalseam Drive Light Industrial Area.

POLICY IMPLICATIONS

State Planning Policy 4.1.

FINANCIAL IMPLICATIONS

The 3.0296 ha portion of Reserve 35408 has not been valued, however it is acknowledged that the 253ha of additional land (Lots 551-554) was added to the Management Order and the Reserve Land Listing for Reserve 35408 on 11 August 2023. As this substantially exceeds the requested land area, it is considered more than adequate compensation for this land transaction.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029

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02 - Prosperity	The Shire will have experienced broad economic and population growth with decreasing economic barriers, diversified agricultural and fisheries output and increasing tourism visitation to the region.
Priority Outcomes	Our Roles
Jurien Bay Industrial Area Expansion	Advocate for Development WA to develop the next stages of the Jurien Bay and Cervantes industrial areas to facilitate new business entry and land supply in readiness for new opportunities.

Local Planning Strategy 2020

Commerce/Retail and Industry	
Strategic Directions	Actions
Support staged development of land for industrial purposes in the Shire's settlements based on the current functions and future requirements.	Provide for industry growth through the expansion of the Coalseam Road Industrial Area and ensure separation from sensitive land uses in accordance with draft State Planning Policy 4.1.

ATTACHMENTS

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

- Land tenure map (SODR-1262144384-21287)
- Approved subdivision plan (SODR-1262144384-21332)
(Marked 9.3.2)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Glasfurd

That Council agrees to relinquish the management order for a 3.0296 ha portion of Reserve 35408 as outlined in the land tenure map (Doc Id: SODR-1262144384-21287) to the Department of Planning, Lands and Heritage for the purposes of a subdivision expansion of the Coalseam Drive Light Industrial Area, Jurien Bay.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

Cr Glasford declared a financial interest for item 9.3.3 and left the meeting at 4.06pm.

9.3.3 REQUEST FOR AMENDMENTS TO DEVELOPMENT APPROVAL – WADDI WIND FARM

Location:	Several properties where the localities of Badgingarra, Cooljarloo and Dandaragan meet
Applicant:	Waddi Wind Farm Pty Ltd
File Ref:	SODR-1262144384-21072
Disclosure of Interest:	Nil
Date:	1 February 2024
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The purpose of this report is for Council to consider granting approval for minor amendments requested to the development approval issued for the Waddi Wind Farm (WWF) development.

BACKGROUND

The proposed WWF is located approximately 15km north-west of Dandaragan. Development approval for the WWF was granted by the Shire in December 2011, and has been amended two times in 2016 and 2019 respectively.

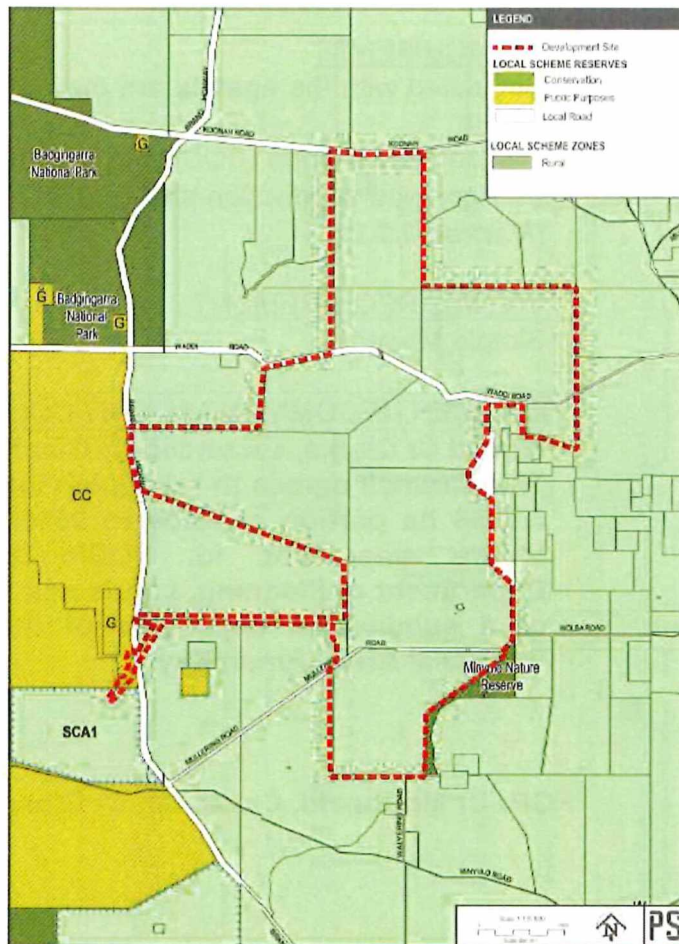


Figure 1 - Zoning Map

Waddi Wind Farm Location and Zoning Map

The proponent is seeking the following new amendments to the subject development approval to reflect the final wind farm development to be progressed in 2024:

- Removal of 39 wind turbines (from 57 total to 18 total);
- Revision to the development area to accurately capture the transmission line;
- Revision to the indicative development works area;
- Allowance for the establishment and use of gravel borrow pits as incidental development to support turbine construction; and
- Updating the reference to background noise levels for the development.
- Administrative changes to ensure the approval conditions reflect the most recent version of referenced legislation.

The proponent has provided detailed background information regarding the proposed amendments to the development approval including expert technical assessments where suitable, as attached to this item.

COMMENT

The following comments are made on each of the requested amendments to the current development approval for the WWF.

Removal of 39 wind turbines (from 57 total to 18 total)

Renewable energy technology has rapidly improved since the development was approved in 2011. As a result of this, the proponent can now reach the approved output capacity of the wind farm with 39 fewer turbines. This results in less disturbance to the host broadacre farming properties over a reduced construction period.

Revision to the development area to accurately capture the transmission line

Renewable energy projects require an incidental transmission line to connect into the public electricity transmission network for power export. The current approved development plans do not reflect the transmission within. As such, revised development plans are presented to include the transmission line from the WWF to the Western Power transmission line to avoid any doubt that the development does include this incidental infrastructure.

The proponent has worked closely with Western Power to design the required transmission line and limit any vegetation clearing required. As the transmission line crosses two land Crown reserves, an easement application to the Department of Planning, Lands and Heritage has been submitted and is well progressed with the support from the two listed land managers - the Shire and the Department of Biodiversity, Conservation and Attractions.

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024Revision to the indicative development works area

The development works area has been slightly amended to allow flexibility for the siting of ancillary infrastructure, such as access tracks and underground cabling. All proposed wind turbines however are retained within the current approved footprint.

Allowance for the establishment and use of gravel borrow pits as incidental development to support turbine construction

It is estimated that approximately 60,000m³ of gravel is required to be used in the civil construction of the WWF. The proponent had initially intended to source this material from off-site suppliers; however it has now been identified that there is suitable material that can be sourced and used on-site. Not only will this be a cost saving exercise for the proponent, but it will also avoid the associated heavy haulage usage of the local road network.

As the on-site gravel is to be used solely for the construction of the development, development approval and an extractive industry licence is not required from the Shire for this purpose. Nonetheless, the proponent has established suitable selection and rehabilitation parameters for the gravel borrow pits to reduce disturbances and amenity impacts to the locality and return the excavated land to a natural looking state which blends with the surrounding land post use. This will be controlled by a condition of approval.

Update the reference to background noise levels for the development

Development approval condition 15 requires the background noise levels of the wind farm to be based on the pre-recorded background noise measurements contained in the original development application report. As these noise levels were established over 10 years ago, the proponent engaged Sonus to undertake contemporary background noise monitoring between 8 September 2023 and 25 October 2023 to ensure background noise levels are relevant to the current conditions.

The contemporary background noise levels are reported in the Waddi Wind Farm Background Noise Monitoring Report within the attachments to this item. The wording of condition 15 is requested to be amended to reference the contemporary background noise levels identified in Section 3.4 of this attachment.

Administrative changes to ensure the approval conditions reflect the most recent version of referenced legislation

Given the time that has transpired since development approval was granted in 2011, legislation referenced in the approval conditions has been amended. As such, the proponent is seeking confirmation that the development is to comply with the latest version of the subject legislation.

<p>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 22 FEBRUARY 2024</p>
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Development approval conditions 12 and 21 which deal with noise and Aboriginal heritage legislation requirements respectively will be amended to reference the latest version of the relevant legislation.

Summary

The amendments requested are considered minor as they do not substantially change the approved wind farm development and will result in enhancements to the development with no adverse impacts to the surrounding locality. It is therefore considered reasonable to approve the minor amendment of development approval subject to the retention of the other previously imposed development approval conditions.

The development in general will provide a positive social, economic, and environmental benefit to the Shire of Dandaragan and wider Western Australian community through employment, local investment, and provision of renewable energy to the State of Western Australia.

CONSULTATION

The amendments requested were referred to all landowners surrounding the approved wind farm development from 5 December 2023 to 29 January 2024. No submissions were received.

STATUTORY ENVIRONMENT

- Aboriginal Heritage Act 1972
- Environmental Protection (Noise) Regulations 1997
- Planning and Development (Local Planning Schemes) Regulations 2015:
 - 77. Amending or cancelling development approval*
 - (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —*
 - (b) to amend or delete any condition to which the approval is subject;*
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved...*
- Local Planning Scheme No 7

POLICY IMPLICATIONS

- State Planning Policy 2.0 Environment and Natural Resources Policy
- State Planning Policy 2.5 Rural Planning & Guidelines
- WAPC Position Statement Renewable Energy Facilities
- WAPC Visual Landscape Planning in Western Australia – A manual for Evaluation, Assessment, Siting and Design
- South Australian Environmental Protection Authority Wind Farms Environmental Noise Guidelines 2009

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FINANCIAL IMPLICATIONS

The applicant has paid the required \$295 fee for the request to amend the current development approval for the wind farm development.

STRATEGIC IMPLICATIONS

Strategic Community Plan - Envision 2029

02 - Prosperity	The region will experience economic and population growth with increasing economic opportunities, diversifying primary production and a vibrant visitor economy.
Priority Outcomes	Our Roles
Our region is celebrated as a major contributor to the State's food production with a diverse range of agricultural, fishery and horticultural enterprises.	Collaborate with local industry to maximise economic returns by supporting and advocating research and development initiatives that have local relevance.

ATTACHMENTS

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

- Waddi Wind Farm Amendment Application (SODR-1262144384-21750).

(Marked 9.3.4) Available electronically only.

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Young, seconded Cr Gibson

That Council pursuant to Clause 77(1) of *Schedule 2: Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015*, approve the following amendments to the development approval for the renewable energy facility known as 'Waddi Wind Farm':

1. The development encompasses the following properties:

Lot Number	Plan Number
3846	209083
2	8424
3	8424
3805	209083
3897	209569
3903	209569
101	72336
3899	209567
2	408189
3	408189
3901	209568
4134	240347
105	59027

2. The development is for the erection of a total of 18 wind turbine generators within the plan titled the 'Waddi Wind Farm Indicative Layout' and dated 3 October 2023 and includes:
 - a. The establishment, use and rehabilitation to the satisfaction of the Shire of Dandaragan of on-site gravel borrow pits as incidental development to support the construction of the development.
 - b. The construction and operation of a transmission line as incidental development to support the operation of the development.
3. The wording of development approval condition 12 is amended to now read as follows:

The development shall comply, at all times, with the Western Australian Environmental Protection Authority Environmental Protection (Noise) Regulations 1997 (as amended) and the South Australian Environmental Protection Authority Wind Farms Environmental Noise Guidelines 2009 (as amended).
4. The wording of development approval condition 15 is amended to now read as follows:

The basis background noise levels of the development are to be based on the pre-recorded background noise measurements outlined within Section 3.4 of the Waddi Wind Farm Background Noise Monitoring Report prepared by Sonus Pty Ltd and dated December 2023.
5. The wording of development approval condition 21 is amended to now read as follows:

Prior to the commencement of construction, the proponent shall commission detailed archaeological and ethnographic surveys, compliant with the Aboriginal Heritage Act 1972 (as amended), over areas of proposed infrastructure.

CARRIED 4 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Young

AGAINST: Nil

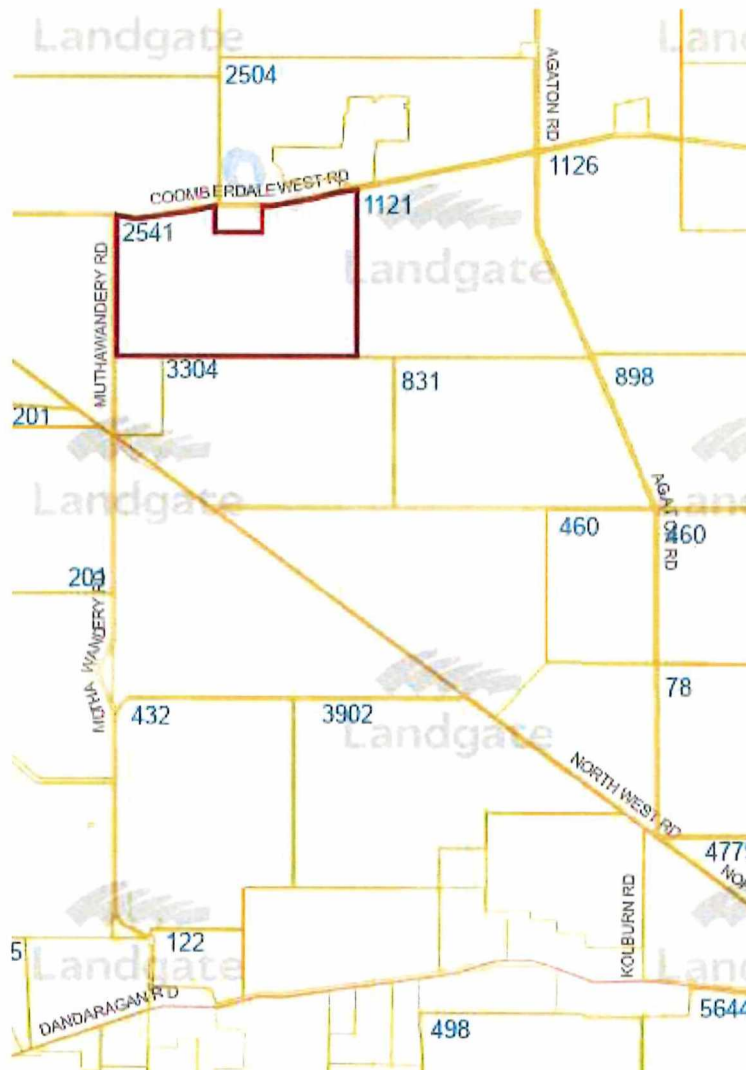
Cr Glasfurd re-entered the meeting at 4.07pm and the CEO advised of the decision.

9.3.4 PROPOSED NATURE BASED PARK – LOT 3613 COOMBERDALE WEST ROAD, DANDARAGAN

Location: Lot 3613 (No.2541) Coomberdale West Road, Dandaragan
 Applicant: Tourism WA (Western Australian Tourism Commission) on behalf of the Beemurra Aboriginal Corporation
 File Ref: SODR-1262144384-21080
 Disclosure of Interest: Nil
 Date: 1 February 2024
 Author: Rory Mackay, Principal Planning & Building Officer
 Senior Officer: Louis Fouché, Executive Manager Development Services

PROPOSAL

The purpose of this report is for Council to consider granting development approval for a nature-based park on Lot 3613 (No.2541) Coomberdale West Road, Dandaragan. A determination whether the proposed land use of 'nature-based park' is consistent with the objectives of the 'Rural' zone, is required in the first instance.

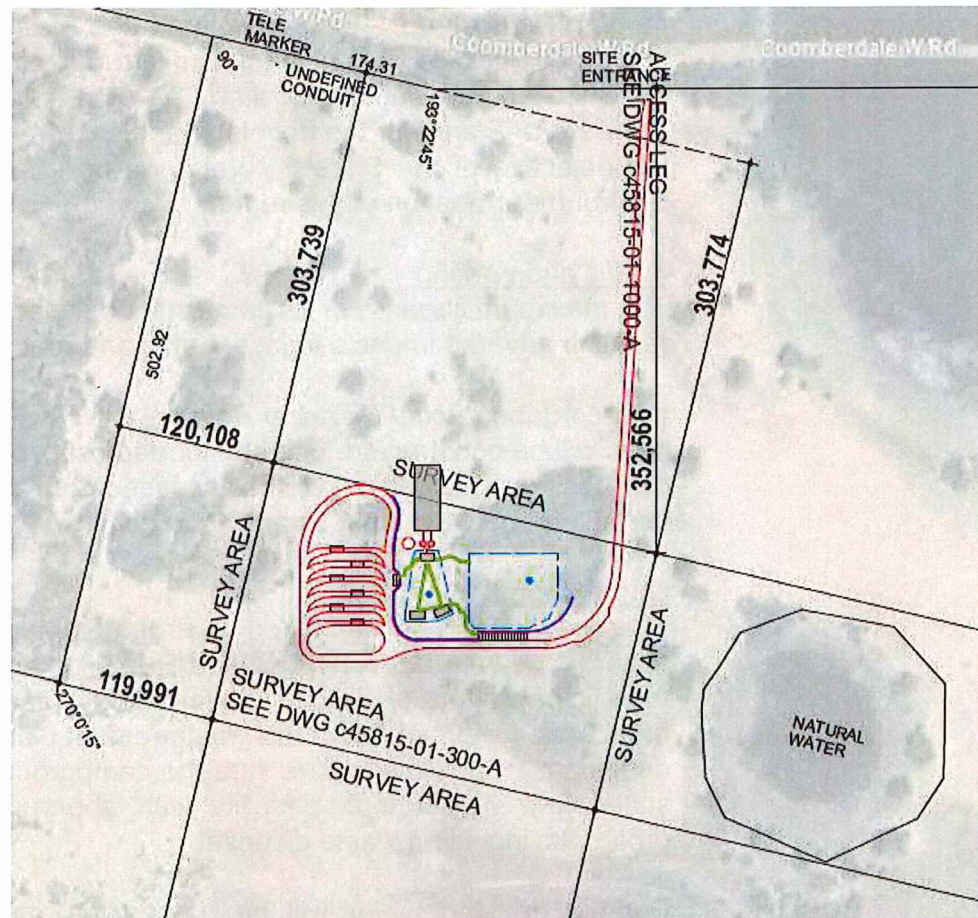


Location Plan: Lot 3613 (No.2541) Coomberdale West Road, Dandaragan

BACKGROUND

The subject property, Lot 3613 (No.2541) Coomberdale West Road, Dandaragan, known as 'Yallalie Downs' is a cattle backgrounding property owned and operated by the Beemurra Aboriginal Corporation.

Tourism WA on behalf of the landowner is seeking development approval for the development of a nature-based park on a portion of the property adjacent to Coomberdale West Road which is segregated from the cattle backgrounding land use.



Site Plan

The 2ha campground will comprise of:

- 20 camping sites (6 unpowered caravan bays and 14 general camp sites);
- an ablution block;
- a camp kitchen;
- storage buildings; and
- a campfire and yarning circle areas.

The proponent has outlined that the campground will operate seasonally, opening for 9 months of the year with the expected peak period being the months of August, September, and October when local wildflowers are prominent throughout the district. Due to bush fire seasons and warm temperatures, the campground will be closed for the summer months of December, January, and February.

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As a nature-based park, the development is aimed at providing opportunities for agritourism, and Aboriginal storytelling and astronomy predominately for cultural tours and school camps.

COMMENT

The following comments are made on the considerations for the proposed development:

Land use compatibility

As the operation of the proposed nature based park will be incidental to and not jeopardise the existing principal broadacre farming (agriculture – extensive) land use of the subject property and that value-add low scale tourism in rural zones is supported by the Shire's *Local Planning Strategy 2020* and *State Planning Policy 2.5 – Rural Planning*; the development is deemed compatible with the objective of the Shire's Rural zone as listed in the Statutory Environment Section of this report.

Traffic and parking

The maximum capacity of 20 camp site bookings is not expected to result in adverse impacts to local traffic and road conditions.

In accordance *Local Planning Policy 9.6 – Car Parking 22* parking bays will be constructed: one bay for each site, plus one visitor bay per 10 sites. This parking will be accessed from a 6m wide driveway from Coomberdale West Road.

Campground management

The proponent has submitted a Property Management Plan in accordance with the Nature Based Parks Guidelines prepared by the Department of Local Government, Sport, and Cultural Industries. Enforcement of this management plan by a condition of development approval will ensure the campground is kept to a low scale, low impact tourist facility with appropriate management protocols, including waste disposal.

Potable drinking water will be harvested from the 211m² roof surface of the buildings proposed, and then filtered, and treated for safe human consumption. Cleaning and bushfire suppression water will be sourced from a dedicated bore and stored in above ground tanks.

Cultural heritage

The development is in close proximity to the Aboriginal Cultural Heritage Site No.4744 – Yallalie Well, therefore a due diligence assessment was undertaken for the development. This assessment concluded that there would be no disturbances made to the declared site by the development.

Visual appearance

Existing vegetation within the development site will be retained for screening from the road frontage, shade, and enhancement of the

campground experience. Additional landscaping (grass, shrubs, and trees) will also be planted in and around the campground, while the proposed buildings are coloured and scaled to blend with the rural landscape of the site. These measures will result in the development having minimal impact on the visual amenity of the locality.

Bushfire management

Although the development site is not declared Bushfire Prone, a Bushfire Management Plan and Bushfire Emergency Plan have been prepared for the vulnerable tourist development in accordance with the Bushfire Protection Criteria under State Planning Policy 3.7 Bushfire Planning.

Under the management plan bushfire fuel loads will be reduced onsite and firefighting equipment and water sources will be provided on site.

The emergency plan provides for defending or early excavation should a bushfire event threaten the property.

Summary

It is recommended that Council applies the relevant discretion by granting conditional development approval for the proposal.

CONSULTATION

The proposed development was advertised to surrounding landowners, on the Shire's Engage Website and within the Shire Matters local newspapers section from 5 December 2023 to 29 January 2024. No submissions were received.

STATUTORY ENVIRONMENT

Local Planning Scheme No 7 (Scheme):

The subject property is zoned 'Rural' under the Scheme. The objective of the Rural zone is:

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

The proposed development of 'nature-based park' is a land use not listed within the Scheme. As such Clause 3.4.2 of the Scheme applies, as follows:

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

- a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- b) determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising*

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

As the use is not listed in the Scheme, the advertising procedure of clause 64 (1)(c) of the Deemed provisions for local planning schemes was undertaken, as noted in the consultation section.

Caravan Parks and Camping Grounds Regulations 1997

nature based park means a facility in an area that —

- (a) is not in close proximity to an area that is built up with structures used for business, industry, or dwelling-houses at intervals of less than 100 m for a distance of 500 m or more; and*
- (b) has been predominantly formed by nature; and*
- (c) has limited or controlled artificial light and noise intrusion;*

The proposed campground is deemed to meet the above definition for the following reasons:

- the development is within segregated rural land with native vegetation and is not actively farmed;
- the campground density is low at one site per 50m²;
- artificial light will be controlled to minimal levels;
- the proposed buildings are the minimum facilities required for the campground; and
- all campsites, including caravan bays are unpowered.

POLICY IMPLICATIONS

- Local Planning Policy 9.6 – Car Parking
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- State Planning Policy 3.5 – Historic Heritage Conservation
- State Planning Policy State Planning Policy 2.5 – Rural Planning:
Support small scale tourism opportunities, such as bed and breakfast, holiday house, chalet, art gallery, micro-brewery and land uses associated with primary production, within the rural zone.
- State Nature Based Parks Guidelines

FINANCIAL IMPLICATIONS

The proponent has paid the required development application fee of \$2,471 for the development which is estimated to cost \$800,000.

STRATEGIC IMPLICATIONS

Local Planning Strategy 2020

Economy Strategic Directions – Support growth of the tourism sector by assisting operators to provide a range of products to cater for differing consumer experiences and expectations.

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Strategic Community Plan – Envision 2029

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

ATTACHMENTS.

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

- Development Report & Plans (Doc Id: SODR-1262144384-21081)
 - Bushfire Management Plan (Doc Id: SODR-1262144384-21281)
 - Bushfire Emergency Plan (Doc Id: SODR-1262144384-21282)
- (Marked 9.3.4) Available electronically only.**

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Young, seconded Cr Clarke

That Council:

- A. determine that the proposed land use of ‘nature-based park’ is consistent with the objectives of the ‘Rural’ zone in accordance with clause 3.4.2 a) of the *Shire of Dandaragan Local Planning Scheme No.7*; and
- B. grant development approval for a nature-based park on Lot 3613 (No. 2541) Coomberdale West Road, Dandaragan subject to the following conditions and advice:

Conditions:

1. All development shall be carried out only in accordance with the details of the application as approved herein and any approved plan. Subject to any modifications required as a consequence of any conditions of this approval the approved plans shall not be altered without the prior written approval of the Shire of Dandaragan.
2. This approval is for a ‘nature-based park’ as shown on the approved plans and defined in Regulation 3 of the *Caravan Parks and Camping Grounds Regulations 1997*.
3. The development must be finished, and thereafter maintained, in accordance with the schedule of the colour and texture of the building materials provided and approved by the Shire of Dandaragan, for the life of the development, to the satisfaction of the Shire of Dandaragan.
4. All external lighting shall comply with the requirements of *AS4282 – Control of Obtrusive Effects of Outdoor Lighting* and the Western Australian Planning Commission’s *Dark*

- Sky Principles* to prevent light spill from the site to the satisfaction of the Shire of Dandaragan
5. The proponent shall provide and maintain a potable water supply to the development with sufficient on-site storage for a minimum of 48 hours peak usage to the satisfaction of the Shire of Dandaragan.
 6. The applicant/landowner must implement all of the recommendations contained in the Bushfire Management Plan prepared by Kathy Nastov (BPAD 27794) dated 18 December 2023 and approved by the Shire of Dandaragan for the duration of the development.
 7. Prior to the commencement of the development, the Asset Protection Zone (APZ) must be established, and the property thereafter maintained in accordance with the Bushfire Management Plan as approved by the Shire of Dandaragan.
 8. A Section 70A Notification pursuant to the *Transfer of Land Act 1893* (or as amended) must be placed on the titles of all lots, at the full cost of the applicant, alerting landowners to the existence of the approved Bushfire Management Plan and advising landowners of their obligations in respect to the use and ongoing management of the land.
 9. The proponent must implement to the satisfaction of the Shire of Dandaragan the Bushfire Emergency Plan prepared by Kathy Nastov (BPAD 27794) dated 18 December 2023 and approved by the Shire of Dandaragan for the duration of the development.
 10. The proponent must implement to the satisfaction of the Shire of Dandaragan the Property Management Plan dated December 2023 and approved by the Shire of Dandaragan for the duration of the development.

Advice:

- A. Should the applicant be aggrieved by the decision (in part or whole) there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such an application must be lodged within twenty-eight (28) days from the date of the decision.
- B. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial, or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.
- C. This is a development approval of the Shire of Dandaragan under its *Local Planning Scheme No.7*. It is not a building permit or an approval to commence or carry

out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits, and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.

- D. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the *Shire of Dandaragan Local Planning Scheme No.7* and may result in legal action being initiated by the Shire of Dandaragan.
- E. Waste/rubbish (e.g. plastic, spoilt food, kitchen waste etc.) should be stored as to prevent animals or humans from dispersing the contents. The bins should be located on a hard stand and constructed in a way as to prevent liquids and other forms of waste from escaping into the environment and contaminating the site. Segregation of waste materials should be undertaken to ensure they are appropriately disposed of.
- F. If the development the subject of this approval is not substantially commenced within a period of 2 years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- G. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.3.5 PROPOSED STORAGE SHED – LOBSTER SHACK – 37 CATALONIA STREET, CERVANTES

Location:	Lots 5-11 & 362 (No. 37) Catalonia Street, Cervantes
Applicant:	Central West Building Pty Ltd on behalf of Timberlane Nominees Pty Ltd
File Ref:	SODR-1262144384-21205
Disclosure of Interest:	Nil
Date:	1 February 2024
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

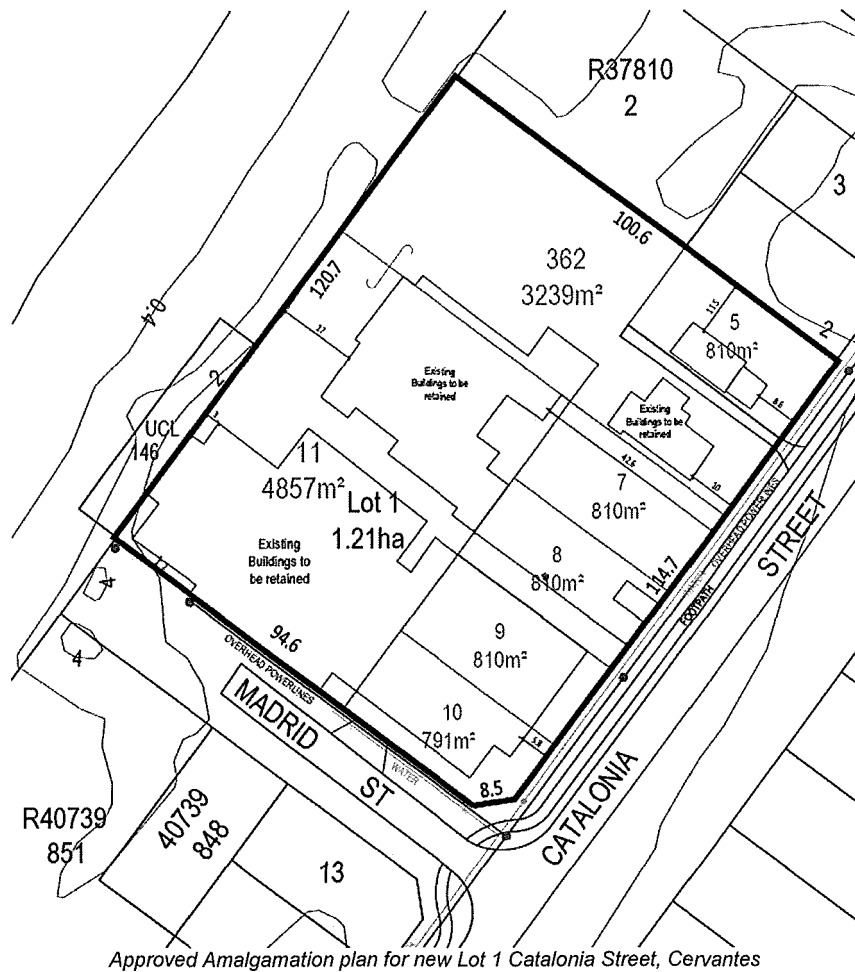
The purpose of this report is for Council to consider granting development approval for the replacement of a storage shed within the Lobster Shack grounds at 37 Catalonia Street, Cervantes.



Location Map - Lobster Shack at 37 Catalonia Street, Cervantes

BACKGROUND

On 26 April 2022 the Western Australian Planning Commission granted approval for the amalgamation of current Lots 5-11 and 362 (No. 37) Catalonia Street, Cervantes, which the Lobster Shack restaurant and lobster processing plant is situated on, subject to two conditions. One of the approval conditions requires arrangements to be made with Western Power regarding the provision of an electricity distribution system for the property. The Lobster Shack entity is in advance discussions regarding the installation of this system and are expected to discharge the amalgamation approval by the required date of 18 July 2025.



Amendment 29 to the *Shire of Dandaragan Local Planning Scheme No.7* gazetted on 10 August 2018 rezoned Lots 5-11 and 362 (No.37) (Future Lot 1) Catalonia Street, Cervantes from 'Residential' and 'Industrial' to 'Special Use 5' to cater for the unique land uses approved for the site to date.

The subject development application seeks approval for construction of a 17m x 9m (153m²) storage shed with a 3.3m wall height on existing Lot 5 Catalonia Street, Cervantes. The proposed storage shed will replace an existing modest sized shed (approximately 40m²) in this location. The storage shed will have weatherboard wall cladding and a Colorbond roof to match the existing external building finishes of the lobster processing plant and restaurant.

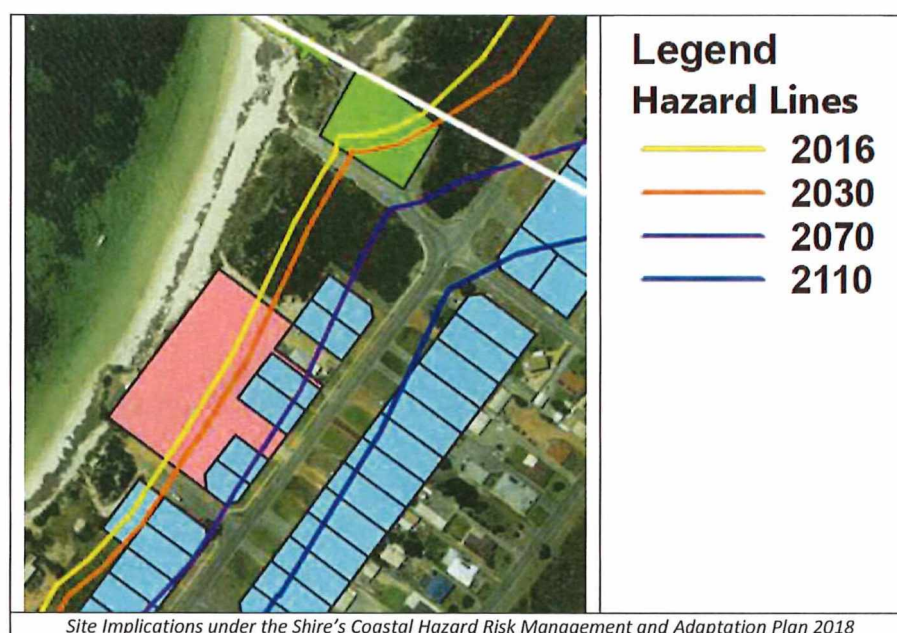
COMMENT

The proposed storage shed is considered consistent with the 'Special Use' zoning for the site (as outlined in the 'Statutory Environment' section of this report) as the storage shed is an incidental building to the existing principal approved lobster processing plant and restaurant land uses for the site.

Table 2 - Site and Development Requirements in the Scheme provide requirements for the development of specific land uses. The

Table is a guide for development and can be varied at the discretion of the Shire. Given the warehouse / storage use is not specifically listed in Table 2, the development standards are at the discretion of the Shire.

As the whole of the subject property is located within 'Special Control Area 3 – Coastal Hazard Risk Area' under the Scheme and is expected to be impacted by coastal processes over the 100-year planning timeframe as shown below, development approval can only be approved on a temporary or a time limited basis.



Although the incidental storage shed is not specifically designed to be transportable or removable as is, it will however be constructed of lightweight materials which can be readily disassembled and relocated at such a time that coastal hazards occur. Accordingly, relevant coastal planning conditions of approval are recommended to be applied, requiring the development to be removed upon coastal trigger points being reached.

The replacement of the storage shed is considered reasonable given the current use of the property and is also of a design consistent with that of the existing development on site.

As a whole, the development is incidental to the existing principal approved land uses for the site and is compatible with its setting. As such, it is recommended that Council applies the relevant discretion by granting conditional development approval for the proposal.

CONSULTATION

The proposed development was referred to surrounding landowners from 18 December 2023 to 29 January 2024. Two submissions were received as listed and responded to below. The second submission was received after the initial advertised closing

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date, however, is included given an approach by the submitters stating that the mailed notification was not received.

Comments	Officer Response
<p>1. We Object to this Storage Shed submission as the purchase of our property at X was to be able to see the beach from our dwelling and live in harmony in a residential town. We are already limited to beach access due to the expansion of the Lobster Shack becoming a commercial business in a residential town area. My future double story-built home plans and drawings are now in doubt.</p> <p>2. This warehouse will obliterate any views we currently have and create forklift noise along with trucks reversing beepers during days, nights and weekends, causing restlessness noise and mental health issues to our family and friends when visiting.</p> <p>3. There is already a lack of car, caravan and bus parking at the lobster shack creating dangerous situations for vehicles, adults, children and animals on a daily basis that we have witnessed and am appalled that there have been no actions put in place to rectify these concerns by the Lobster Shack management team.</p>	<p>1. The Lobster Shack has been granted successive development approvals for the principal lobster processing plant and restaurant land uses of the site. The subject development application for an incidental storage shed, when assessed on merits, is recommended for development approval. The loss of useable beach area on the oceanside of the Lobster Shack site is the result of coastal hazard impacts (erosion) over time.</p> <p>2. Landowners have no right to a view, as there is no legal ownership of a view. Therefore, the protection of this view does not warrant refusal or amendment to the proposed development. The operations of the Lobster Shack are required to meet relevant noise restrictions related to a processing plant, aquaculture and restaurant land uses, as principally set out within the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>3. Previous development approvals granted for the site has permitted the current car parking facilities, including the construction and use of on street parking bays. The continual storage use of the proposed development is not expected to add or alter the current parking arrangements for the site. Internal traffic management of the site rests with the proponent.</p>
<p>4. We have spent over 25 years tolerating noise, odours and industrial lighting day and night from the adjoining IORL premises, some of which came from the Residential zoned land fronting Catalonia Street, Council legitimised these illegal uses by rezoning this land to Special Use in 2018. This was opposed by a number of residents of the area, but all felt that it was futile protesting this change. Now</p>	<p>4. Noted. See response to comment 1.</p>

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<p>this industrial use is being extended by this application to build an industrial shed on previously Residential zoned land.</p> <p>5. What is the definition of "shed"? This needs clarification. Does it mean storage only, or does it include housing loud machinery/ pumps/chemicals and other noxious uses.</p> <p>6. Car parking. Is there a requirement for extra parking?</p> <p>7. Catalonia Street parking is dangerous as it is and should never have been approved by Council. Any busy day is chaotic to say the least. One day someone will be badly injured or worse.</p> <p>8. Did the owner of the overall site pay cash in lieu for this parking or contribute to the construction cost?</p> <p>9. Shed area is 153m². Wall height is 3.3m. Peak of roof height is not shown, but is about 4.6m. Is it allowed and appropriate to have a 153m² shed with a roof height of 4.6m immediately next to a residence?</p> <p>10. The roof is to be made of Colorbond Ultra Roof Decking. Colour is not stipulated. Given the location being immediately opposite and next to residences, this is very important. It potentially impacts on these residences. Is the material non-reflective?</p>	<p>5. The shed structure is to be used for storage purposes related to the primary use on the site. The relevant definition in the Local Planning Scheme is a 'warehouse'.</p> <p>6. The storage / warehousing function of the shed is not considered to generate additional car parking and therefore no additional car parking is required.</p> <p>7. The car parking on Catalonia Street is part of the existing infrastructure in the immediate location, however is not directly affected by the application. Also see comment 6 above.</p> <p>8. See comments 6 and 7 above.</p> <p>9. The shed/warehouse development is of a scale and bulk which is to be expected on a property zoned to permit commercial processing and a restaurant. The structure will be located south of the residence to the north of the site, with a design that will not result in overlooking or overshadowing of the adjoining property. The two properties are also separated by a solid 1.8m Colorbond boundary fence on top of a limestone wall.</p> <p>10. The roof of the shed will be clad with Colorbond and the sides with Hardie weatherboard planking. A condition is proposed for the colour schemes to complement the existing buildings on site and to be maintained to the satisfaction of the Shire. All new metal roof cladding (i.e. Colorbond) is reflective to some extent, although this reduces as the material weathers.</p>
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<p>11. The entrance to the shed is located on the southern side of the building. Access can only be obtained from an adjoining lot. Are they in the same ownership? Is this allowable? Should the lots be amalgamated?</p> <p>12. The shed is proposed to be located between the existing house and the road. Is this allowable?</p> <p>13. If the property was still zoned Residential as previously was the case, then this would not be permitted.</p> <p>14. What Legislation/ Policies apply to such a development in a Special Use 5 Zone? Can the side and front setbacks be varied? What about height and area of the shed. What controls apply?</p> <p>15. The proposed setback to the road is 6m. Is this allowable? All Industries listed under Table 2 Site and Development Requirements Table 2 require 7.5 m Setbacks.</p> <p>16. The side setbacks are 1.1m to Lot 6 and 2m to the Residential Zoned Lot 4. Is this allowable or appropriate?</p>	<p>11. The lots are in the same ownership. It would be preferable for the lots to be amalgamated.</p> <p>12. See comment 11.</p> <p>13. The Special use zoning of the property permits the proposed use.</p> <p>14. The development controls for Special Use Zone 5 are listed in the Local Planning Scheme as noted in the Statutory Environment of the report.</p> <p>15. The storage/warehouse use is not specifically listed in Table 2 - Site and Development Requirements, which provides requirements for the development of specific land uses. The Table is a guide for development and can be varied at the discretion of the Shire. The setbacks and other development requirements are therefore at the discretion of the Local Government. The setback of existing buildings on the site vary from 7.3m to less than a meter for the fire pumps and tanks. With a relatively wide Catalonia Street reserve, a 6m setback is considered acceptable. The bulk and scale of the proposed shed is not considered to have a significant impact on the streetscape, given the more substantial bulk and scale of existing Lobster Shack buildings on the site.</p> <p>16. Internal setbacks to lots that are part of the Lobster Shack development are not of concern. The 2m setback to the adjoining residence to the north is considered acceptable given that the boundary setback for a shed on a residential property with a wall height of 3.3m and a wall length of 9m with no major openings would have required a 1m setback.</p>
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<p>17. Given the location of the proposed shed, adjacent to Residential zoned land then surely Council Policy 9.4 C-90RA04 should apply.</p>	<p>17. Policy 9.4 Outbuildings – Residential areas applies to outbuildings in residential areas, while the subject lot is located within a Special Use Zone. Even in a residential areas a ridge height of 4.6m could be relaxed instead of the 4.5m permitted policy ridge height if sufficient merit exists. In this instance the side setback and lack of overlooking or overshadowing would be considerations in making such a determination. Also see comments 9, 10 and 16.</p>
<p>18. Wall cladding is to be Hardies Linea or approved other. What does this mean? What colour will it be? This information should have been provided in the application.</p>	<p>18. Hardie planking is a commercial fibre cement cladding product manufactured by James Hardie. The Linea range is a linear weatherboard 'planking' product. A condition requiring a colour scheme to complement the existing buildings on site to the satisfaction of the Shire is recommended.</p>
<p>19. Section 4.5.3 of the Local Planning Scheme Variations to Site and Development Standards and Requirements states as follows. "The power conferred by this clause may only be exercised if the local government is satisfied that — a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 of the deemed provisions; and b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality". Does the application comply in all respects or does Council wish to use this clause?</p>	<p>19. As the warehouse / storage use is not specifically listed in Table 2, the development standards are at the discretion of the Shire. The application of clause 4.5.3 is therefore not required. Council needs to have regard to clause 67 of the Deemed Provisions with the consideration of all development applications and consider each application on its planning merits as discussed in the Comment section of the report.</p>
<p>20. Clearly, this application does have an adverse effect on inhabitants of the locality.</p>	<p>20. The effects of the proposed development on the locality have been considered as further set out in the report, including comments 2, 15 and 16.</p>
<p>21. We request Council to refuse this application.</p>	<p>21. Noted.</p>

STATUTORY ENVIRONMENT
Local Planning Scheme No 7 (Scheme):

Storage is defined by the Scheme as follows:

means premises used for the storage of goods, equipment, plant, or materials.

The subject property is zoned 'Special Use 5' under the Scheme. The special use (land use) is described as follows:

Lobster processing plant and restaurant and associated land uses, generally in accordance with development approvals issued by the local government prior to June 2018:

1. *Agriculture – intensive – confined to the existing lobster processing plant (aquaculture).*
2. *Restaurant – confined to the existing 'Lobster Shack'.*
3. *Single house – confined to the existing dwellings on Lots 362 and 5 Catalonia Street.*
4. *Uses incidental to the lobster processing plant and restaurant, being for sale of seafood, lobster-related merchandise and souvenirs, tours of the plant, parking storage, and maintenance of fishing boats.*

The conditions of the special use are as follows:

The Special Use designation seeks to recognise land uses approved on the site prior to June 2018. The following conditions apply:

1. *Parking is to be contained on-site, in accordance with the provisions of the scheme.*
2. *The site is to be landscaped in accordance with local government requirements.*
3. *The site is to be provided with water and wastewater services.*
4. *Any future development on the land (including change of use) shall be subject to an application for approval to commence development and is limited to the defined special uses.*
5. *If all lots within Special Use Zone 5 are amalgamated, the land use grouped dwelling may be permitted at the local government's discretion to recognize the existing dwellings on the site.*

The subject property is also located with the Special Control Area 3 – Coastal Hazard Risk Area which has the following objectives:

The objectives of the Special Control Area are:

- a) *to ensure land in the coastal zone is continuously provided for coastal foreshore management, public access, recreation and conservation;*
- b) *to ensure public safety and reduce risk associated with coastal erosion and inundation;*
- c) *to avoid inappropriate land use and development of land at risk from coastal erosion and inundation;*
- d) *to ensure land use and development does not accelerate coastal erosion or inundation risks; or have a detrimental impact on the functions of public reserves; and*
- e) *to ensure that development addresses the Shire of Dandaragan Coastal Hazard Risk Management and Adaptation Plan prepared in accordance with SPP2.6*

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All proposed development within this Special Control Area requires development approval and development approval can only be issued on a temporary or time limited basis.

POLICY IMPLICATIONS

State Planning Policy 2.6 Coastal Planning:

5.6 Infill development

- (i) New development should be located on the least vulnerable portion of the development site.*
- (ii) Where development is likely to be subject to coastal hazards over the planning timeframe, coastal hazard risk management and adaptation planning measures (Section 5.5) should be implemented to reduce the risk from coastal hazards over the full planning time frame to an acceptable level.*

FINANCIAL IMPLICATIONS

The proponent has paid the required development application fee of \$147 for the development which is estimated to cost \$50,000.

STRATEGIC IMPLICATIONS

- Shire of Dandaragan Coastal Hazard Risk Management and Adaptation Plan 2018:

6.4 Cervantes

6.4.1 Long Term Pathway

The long term pathway for the Cervantes Township should aim for the eventual managed retreat and accommodation of built infrastructure, as it becomes vulnerable to coastal hazards and/or interferes with the maintenance of an appropriate coastal foreshore reserve (as defined in Section 5.9 of SPP2.6). The development of emergency plans and controls should occur for the management of coastal hazards. For major infrastructure, such as residential and commercial property, managed retreat should occur when the risk to infrastructure becomes intolerable and it is no longer viable or acceptable to the Shire's community to implement protection measures. For undeveloped areas, the long-term pathway should focus on avoiding inappropriate development, to prevent unnecessary future cost and potential liability for the Shire...

6.4.2 Short Term Implementation – Cervantes Township Central (CE3)

The following adaptation pathway is proposed:

Short to Medium term: Protect in a manner that maintains existing social values and within budgetary constraints, until such time as triggers for retreat are exceeded following which the planned retreat strategy be implemented.

- Local Planning Strategy 2020:
Economy Strategic Directions – Support growth of the tourism sector by assisting operators to provide a range of products to cater for differing consumer experiences and expectations.

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Strategic Community Plan – Envision 2029

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

ATTACHMENTS.

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

- Development Plans (Doc Id: SODR-1262144384-21206)
(Marked 9.3.5)

VOTING REQUIREMENT

Simple majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Glasfurd

That Council grants development approval for a storage shed upon Lot 5 Catalonia Street, Cervantes subject to the following conditions and advice:

Conditions:

- 1. All development shall be carried out only in accordance with the details of the application as approved herein and any approved plan. Subject to any modifications required as a consequence of any conditions of this approval the approved plans shall not be altered without the prior written approval of the Shire of Dandaragan.**
- 2. This approval is for a ‘storage’ shed only as shown on the approved plans and defined in *Shire of Dandaragan Local Planning Scheme No.7*.**
- 3. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.**
- 4. The development must be finished, and thereafter maintained, in accordance with a schedule of the colour and texture of the building materials to be provided to and approved by the Shire of Dandaragan to complement the existing buildings on site, for the life of the development, to the satisfaction of the Shire of Dandaragan.**
- 5. This development approval is granted for a limited period and shall expire upon the earliest occurrence of any one of the following events:**
 - i. the most landward part of the Horizontal Shoreline Datum being within 22m of the most seaward part of the Lot 5 boundary; or**
 - ii. a public road no longer being available or able to provide legal access to the Lot; or**

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- iii. when water, sewerage or electricity is no longer available as the service has been removed or decommissioned by the relevant authority due to a coastal hazard.
- 6. Upon the expiry of the development approval in accordance with Condition 5, the owner shall at the owner's cost:
 - i. remove the development; and
 - ii. rehabilitate the land to its pre-development condition to the specification of the Shire of Dandaragan.

Advice:

- A. Should the applicant be aggrieved by the decision (in part or whole) there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such an application must be lodged within twenty-eight (28) days from the date of the decision.
- B. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial, or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.
- C. This is a development approval of the Shire of Dandaragan under its *Local Planning Scheme No.7*. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits, and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
- D. Conditions 5 and 6 are imposed given the application site being located within a Coastal Hazard Risk Area.
- E. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the *Shire of Dandaragan Local Planning Scheme No.7* and may result in legal action being initiated by the Shire of Dandaragan.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.3.6 PROPOSED OUTBUILDING – LOT 1001 (NO.30) BREMER PARADE, JURIEN BAY

Location:	Lot 1001 (No.30) Bremer Parade, Jurien Bay
Applicant:	Swan Aussie Sheds on behalf of DJ Hughes
File Ref:	SODR-1262144384-21484
Disclosure of Interest:	Nil
Date:	1 February 2024
Author:	Rory Mackay, Principal Planning & Building Officer
Senior Officer:	Louis Fouché, Executive Manager Development Services

PROPOSAL

The purpose of this report is for Council to consider granting development approval for an outbuilding with reduced side and rear setbacks at Lot 1001 (No.30) Bremer Parade, Jurien Bay.



Location Plan – Lot 1001 (No.30) Bremer Parade, Jurien Bay

BACKGROUND

The applicant is seeking development approval to construct a 41m² enclosed outbuilding with a wall height of 3.6m and a ridge height of 4.1m at the rear of the 700m² property. The outbuilding will be constructed with a steel frame and cladded in Colorbond steel sheeting to match the colour palette of the dwelling under construction by WA Country Builders.

The outbuilding will be built up to the rear boundary with a wall length of 4.5m and will be set back 0.1m from the adjacent side boundary with a wall length of 9.2m.

A four-bedroom, two-bathroom dwelling with a 44m² garage is nearing completion on the property.

The applicant has sought the above setback variations from Council's *Local Planning Policy 9.4: Outbuildings Residential Areas* (Policy). The development proposal comparison against the policy's deemed-to-comply provisions is provided in the table below:

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	LPP9.4	Proposed
Area	70m ²	41m ²
Wall/gutter height	3.6m	3.6m
Ridge Height	4.5m	4.1m
Rear setback	1m	0m
Side setback	1m	0.1m

The variations are proposed for increased ease of vehicle access to the outbuilding and maximisation of the backyard space.

The development application was referred to the adjoining rear and adjacent side property owner for comment. The side neighbour raised concern with the reduced side setback as detailed in the consultation section. As a result, this application has been referred to Council for determination in accordance with the Delegation 9.1.2 (Town Planning – Other Use and Development).

COMMENT

Where a proposal does not meet the deemed-to-comply provisions of the Policy the decision maker is to consider the application against the design principles of the Policy (which is as per the R-Codes). The R-Codes design principles applicable for the proposed outbuilding are:

Lot boundary setback 5.1.3, P3.1

P3.1 Buildings set back from lot boundaries or adjacent buildings on the same lot so as to:

- *reduce impacts of building bulk on adjoining properties;*
- *provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and*
- *minimise the extent of overlooking and resultant loss of privacy on adjoining properties.*

The merits of the development application are stated below in relation to these (R-Codes) performance-based design principles and the Policy:

- The proposed outbuilding will be located behind the existing dwelling, to the rear of the property, which is a common design characteristic throughout Jurien Bay.
- The reduced side and rear setbacks in lieu of 1m meet the deemed-to comply provision *C2.1 solar access* for adjoining sites of the R-codes; as the proposed shed is located in the northern corner of the subject property resulting in all calculated overshadowing falling over the proponent's property only.
- The proposed position of the outbuilding allows efficient backyard driveway access and maximises the useable backyard for the proponent.
- The proposed outbuilding will not result in ventilation, privacy or overlooking issues for adjoining properties.
- The proposed outbuilding is considered to be compatible with its setting in terms of building bulk, relative to the associated

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dwelling which has an area of 289m² and a maximum ridgeline height of 5.5m.

- The colour of the outbuilding will be complementary to the associated dwelling's design, to not detract from the streetscape or the amenity of neighbouring properties.
- A standard condition of development approval requires that stormwater be contained and controlled on the applicant's property. This will ensure that no gutters or downpipes/stormwater are located or run into adjoining properties.
- The proposed outbuilding will meet the open space requirements of the R-Codes of 50% (350m²) of the property not occupied by any building.
- The proposed outbuilding will occupy only 41m² (5.9%) of the 700m² property.
- The adjoining properties are vacant land which provides these landowners with the ability to construct a residence to site characteristics in due course.

As the proposal is considered to meet the relevant R-Codes performance-based design principle applicable for the proposed outbuilding as well as achieve orderly and proper planning, it is recommended that Council approve the development application, subject to conditions.

CONSULTATION

The proposal was forwarded to the adjoining side and rear landowners for comment. The following submission was received:

Submission	Officer Response
<p>As an adjoining landowner and investor in the property located at #28 Bremer Pde – Jurien Bay, I am deeply concerned about the potential negative impact that the construction of a 3m high wall at the edge of the property, in close proximity to the boundary, may have on the value and marketability of my investment.</p> <p>The primary purpose of this objection is to advocate for the adherence to standard regulations, specifically requiring the shed to be located 1m from the boundary. Here are some key points supporting my objection:</p> <p>1. Impact on Property Value: The construction of a 3m high parapet boundary wall in close proximity to the boundary will likely have a detrimental effect on the visual aesthetics of the property. This can lead to a decrease in property value, making it less attractive to potential buyers or tenants.</p> <p>Aesthetic Concerns: The imposing nature of a 3m high wall can negatively impact the overall aesthetic appeal of the neighbourhood. This may result in an adverse effect on the desirability of the block, affecting property values for all adjoining landowners.</p> <p>Adherence to Standard Regulations: Standard regulations are in place to ensure uniformity and</p>	<p>1. The reduced lot boundary setback has been assessed as meeting the performance-based requirements of the R-Codes.</p> <p>There is no evidence provided that the property values have decreased in the locality as the result of outbuildings with reduced boundary setbacks being permitted by the Shire.</p>

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<p>fairness in property development. Enforcing a 1m distance from the boundary is not only in line with these regulations but also promotes a harmonious and aesthetically pleasing environment for all residents.</p> <p>2. Backyard Area Proximity: From the proposed plan, it is evident that there is a large backyard area (named grassed area) located at a 1m distance from the boundary sides. Given the availability of this space, there seem to be no compelling reasons to request a shed with a parapet boundary wall.</p> <p>3. Future Marketability: A shed located at the required 1m distance from the boundary is more likely to be in line with the preferences of potential buyers in the future. This ensures that the property remains marketable and does not face unnecessary challenges in the real estate market.</p>	<p>2. The proposed reduced setback has been sought to enable rear driveway access to the outbuilding. The roller door is also offset to the side boundary to further assist in this regard.</p> <p>3. Both potential affected adjoining properties are vacant which provides both landowners with the opportunity to design their property to the site characteristics in due course e.g. the subject outbuilding is 9m of a 35m long side boundary. It is also noted that a boundary wall of 3.5m high and 9m long is permissible for all residential properties in WA with a density coding of R20 or R25 under clause C3.2 of the R-Codes.</p>
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STATUTORY ENVIRONMENT

- Planning and Development (Local Planning Schemes) Regulations 2015
 - Deemed provisions for local planning schemes
 - Cl.67. Consideration of application by local government
- Local Planning Scheme No 7
 - The subject property is zoned Residential under the Shire's *Local Planning Scheme No.7* with a density code of R20.
 - Clause 4.2 of the Scheme references *State Planning Policy 7.3 – Development of land for residential purposes* are to conform with the provisions of the *Residential Design Codes*.

POLICY IMPLICATIONS

- Residential Design Codes Volume 1 (R-Codes) (State Planning Policy 7.3)

An outbuilding is defined as:

An enclosed non-habitable structure that is detached from any dwelling.

Lot boundary setback 5.1.3, P3.1

- Local Planning Policy 9.4 Outbuildings Residential Areas

FINANCIAL IMPLICATIONS

The applicant has paid the required fee of \$147 for the development application.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Site plan (SODR-1262144384-21594)
 - Elevation plan (SODR-1262144384-21595)
- (Marked 9.3.6)*

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Young

That Council grant development approval for an outbuilding at Lot 1001 (No.30) Bremer Parade, Jurien Bay subject to following conditions and advice:

Conditions:

1. All development shall be in accordance with the approved development plans, which form part of this development approval, to the specifications and satisfaction of the Shire of Dandaragan.
2. All stormwater must be contained and disposed of on-site at all times, to the satisfaction of the Shire of Dandaragan.
3. The outbuilding is not to be used for permanent human habitation, to the satisfaction of the Shire of Dandaragan.
4. The outbuilding must be finished, and thereafter maintained, in accordance with the schedule of the colour and texture of the building materials provided and approved by the Shire of Dandaragan, for the life of the development, to the satisfaction of the Shire of Dandaragan.

Advice:

- A. This is a development approval of the Shire of Dandaragan under its Local Planning Scheme No.7. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits, and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
- B. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial, or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire of Dandaragan to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire of Dandaragan's attention.
- C. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and

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the *Shire of Dandaragan Local Planning Scheme No.7* and may result in legal action being initiated by the Shire of Dandaragan.

- D. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. An application must be submitted within 28 days of this determination.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.4 GOVERNANCE & ADMINISTRATION

9.4.1 2024 REVIEW OF DELEGATIONS REGISTER

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	SODR-878193511-24
Disclosure of Interest:	None
Date:	29 January 2024
Author:	Brent Bailey, Chief Executive Officer

PROPOSAL

To review the Shire of Dandaragan's Delegations Register in accordance with the Local Government Act 1995.

BACKGROUND

The Local Government Act 1995 provides for a local government to delegate some of its powers and duties to the Chief Executive Officer and in some circumstances a committee. The Act also provides for the Chief Executive Officer to delegate any of his / her powers or functions to any employee of the local government. All of the above-mentioned delegations are required to be recorded in a register of delegations and that register must be reviewed on an annual basis.

COMMENT

Under the Local Government Act 1995 Section 5.46, and as part of the annual Compliance Audit Return, delegations are to be reviewed at least once every financial year, in this case 2023-2024. A review of the Shire's Delegations Register has resulted in changes being made primarily to reflect the roles and responsibilities of the current organisational structure.

Council approval is also sought to delegate power to the CEO to address all matters which arise out of the imposition of conditions on a building permit and provide clarification where required.

CONSULTATION

Nil

STATUTORY ENVIRONMENT

The Local Government Act 1995 Section 5.46 establishes the requirement to maintain a delegations register.

Other legislative requirements and references are incorporated within the Delegations Register itself.

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 are no strategic implications relevant to this item.

ATTACHMENTS

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

- Shire of Dandaragan Delegations (Doc Id: SODR-461937211-1528)

(Marked 9.4.1) Available electronically only.

VOTING REQUIREMENT

Absolute majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Young

That Council:

- 1) Endorse the annual review of its Delegations Register (Doc Id SODR-461937211-1528), in accordance with Section 5.46 of the Local Government Act 1995, noting changes have been made to this document to reflect the roles and responsibilities of the current organisational structure.**
- 2) Approve delegation of authority under Section 127(1) & (3) of the Building Act 2011 in accordance with the following functions and conditions.**

Building – Miscellaneous

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Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Express Power or Duty Delegated:	<i>Building Act 2011:</i> s.127(1) & (3) Delegation: special permit authorities and local government
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	<ol style="list-style-type: none"> 1. To address all matters which arise out of the imposition of conditions on a building permit and provide clarification where required. 2. To obtain legal advice in relation to a building matter/s within budget allocations.
Council Conditions on this Delegation:	Nil
	The Chief Executive Officer may further delegate (sub-delegate) to employees which the CEO has determined as being suitably capable of fulfilling the powers and duties contained in this Delegation.

Sub-Delegate/s: <i>Appointed by CEO</i>	Executive Manager Development Services Principal Planning and Building Officer Principal Environmental Health and Regulatory Officer
CEO Conditions on this Sub-Delegation: <i>Conditions on the original delegation also apply to the sub-delegations.</i>	<ol style="list-style-type: none"> 1. The CEO is to be informed of and endorse all requests for legal advice.

Compliance Links:	<i>Building Act 2011</i>
Record Keeping:	<i>Notices issued under this delegated authority are to be held as a Local Government record.</i>

3) Approve delegation of authority under the Shire of Dandaragan Local Government Property Local Law in accordance with the following functions and conditions.

Delegator: <i>Power / Duty assigned in legislation to:</i>	Local Government
Express Power to Delegate: <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
Express Power or Duty Delegated:	<i>Local Government Property Local Law:</i> cl.3.4(1) and (2) Conditions of Permit (Function) cl.3.6(1) Compliance with conditions cl.3.6(2) Variation to conditions of permit

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	cl.3.10(2) Approve or refuse transfer of a permit. cl.3.12(1) Cancellation of permit cl.3.13(2) Exempt a person from requiring a permit cl.3.13(3) Exempt specific local government property from requiring a permit
Delegate:	Chief Executive Officer
Function: <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Decision on application for permit Authority, limited to the permit types listed below, to determine a permit application [cl.3.1(1)(a) and (b)]: <ol style="list-style-type: none"> a. Plant any plant or sow any seeds on local government property b. Conduct a function on local government property c. Camp outside a facility (as per the Caravan Parks and Camping Grounds Regulations 1997) d. Possession and consumption of liquor
Council Conditions on this Delegation:	Nil
Express Power to Sub-Delegate:	Local Government Act 1995: s.5.44 CEO may delegate some powers and duties to other employees

CARRIED BY ABSOLUTE MAJORITY 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.4.2 PROPOSED GROUND LEASE - PORTION OF LOT 179 MEAGHER DRIVE, BADGINGARRA

Location:	Reserve 45274, Lot 179 (No.1) Meagher Drive, Badgingarra
Applicant:	Co-operative Bulk Handling Ltd (CBH)
Folder Path:	SODR-129784381-1357
Disclosure of Interest:	Nil
Date:	25 January 2024
Author:	Louis Fouché, Executive Manager Development Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

The purpose of the report is for Council to consider the ground lease of a portion of Reserve 45274 to CBH for the purpose of a grain sampling facility.



Location Plan - Reserve 45274, Lot 179 (No.1) Meagher Drive, Badgingarra

BACKGROUND

CBH has been using the subject site for a temporary grain sampling facility since the 2017 harvest. At the end of each 3-month long harvest, the temporary facility has been removed from the site.

To avoid the need to remove and reinstall the grain sampling facility each year, CBH submitted a development application in 2023 to have the grain sample facility placed within the truck bay reserve on a permanent basis.

The grain sample facility allows local Badgingarra and surrounding grain growers the opportunity to have their grain sampled before it arrives at a grain receiving site. It is noted that a number of growers transport grain direct to metropolitan receival points after local sampling, alternatively the nearest CBH facilities are Moora (approximately 60km away) and Regans Ford (approximately 82km away). The sample facility provides growers with the opportunity to avoid rejection at a receiving site and the subsequent incurred freight costs and time penalties.

The grain sample facility will consist of a new 10.5m x 3m sample station on a platform 2.6m above natural ground level.

At its meeting of 26 October 2023 Council resolved to grant development approval for a grain sampling facility to be erected on Reserve 45274, Lot 179 (No.1) Meagher Drive, Badgingarra subject to relevant conditions.

CBH has agreed to enter into a lease with the Shire for the exclusive use of a 500m² portion of the reserve in accordance with the development approval. The area covered by the Development Approval and the subject of the proposed lease is shown in the plan below.



Proposed Lease Area Plan

COMMENT

The consideration of the development application for the grain sampling facility included an assessment against the relevant statutory and strategic planning matters. Further detail on matters related to the proposed lease is provided in the Statutory Environment, Strategic Environment and Policy Environment of this report. Additional aspects pertinent to the lease are discussed below.

Infrastructure

No utility services are connected to the site. With ground leases of this nature, the lessee is generally fully responsible for all costs associated with its proposed development, including all services costs. The land is generally provided on an “as is” basis.

Landowner’s consent

The reserve is in the care, control and management of the Shire of Dandaragan and approval for development also requires consent from Council as ‘Landowner’. Council provided landowner’s consent to the development approval on 26 October 2023.

Development Application

Council also granted development approval for a grain sampling facility to be erected on Reserve 45274, Lot 179 (No.1) Meagher Drive, Badgingarra on 26 October 2023.

Building Permit

A Building Permit was issued for the structure on 30 October 2023.

Lease

The proposed lease is subject to approval by the Minister for Land. The general maximum lease period approved by the Minister is 21 years.

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It is recommended that the initial lease be provided for a period of five years with two options to renew for five years. Market rent reviews are generally undertaken every three years with Consumer Price Index reviews undertaken in the remaining years.

Council may also determine a lesser period of lease term with due regard for a reasonable period of time for capital investments to be recouped.

Summary

Given that the location of the grain sampling facility on site is no longer seasonal and subject to a development approval, it is appropriate that this arrangement be further formalised with a lease.

It is recommended that the proposed ground lease be publicly advertised, and that Council consider the proposal, including any submissions received, after the closure of the notice period.

CONSULTATION

The proposed lease is required to be publicly advertised in accordance with Section 3.58 (3) of the Local Government Act 1995. Any submissions received as a result of the public notice will have to be considered by Council.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 3.58 - Disposing of Property
3.58. *Disposing of property*

(1) *In this section —*

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

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

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

(a) the highest bidder at public auction; or

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

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

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

(i) describing the property concerned; and

(ii) giving details of the proposed disposition; and

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

and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the

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council or a committee, the decision, and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

Land Administration Act 1997:

*41. Reserving Crown land, Minister's powers as to
Subject to section 45(6), the Minister may by order reserve Crown land to the Crown for one or more purposes in the public interest.*

The Management Order for the reserve is granted for the land use purpose of 'Parking.'

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 lists the matters that the local government has to give due regard to when determining a development application.

Local Planning Scheme No.7 (Scheme).

Reserve 45274 is reserved for 'Public Purposes' in terms of the Scheme.

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

- a. the matters set out in Clause 67 of the Deemed Provisions (Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015); and
- b. the ultimate purpose intended for the Reserve.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

CBH has not requested that any infrastructure be provided by the Shire and the portion of land will be provided on an "as is" basis. The Shire will therefore not be required to contribute financially towards the provision of infrastructure.

A market valuation obtained from a professional valuer indicated a commercial valuation of \$7,000 (excl. GST) per annum is achievable for the proposed ground lease.

The proposed ground lease could therefore yield the following total rent return over the life of the recommended lease:

Serviced Market Rental Value:	
Return over initial 5-year term:	\$35,000 excl. GST
Return over 3 terms (5yr + 5yr + 5yr):	\$105,000 excl. GST

The rent return in the table above does not include indexation (periodic CPI and Market Rent reviews).

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The legal fees to the Shire associated with the preparation of the lease is estimated at \$2,000.

Council will need to consider whether the rental return is value for money in the context of the broader benefits and costs of introducing the grain sampling hut sea into the reserve area.

STRATEGIC IMPLICATIONS

Strategic Community Plan – Envision 2029

01 – Infrastructure	The Shire will work cooperatively with private enterprise and government agencies to develop and maintain a dynamic infrastructure network responsive to usage demand that attracts and retains residents and businesses.
Priority Outcomes	Our Roles
Our communities contain vibrant activated public open space and buildings with high levels of utilisation and functionality.	To manage and facilitate community assets that are flexible, vibrant, adaptable and enjoyable places to occupy employing the principles of placemaking and design thinking.

ATTACHMENTS

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

- Market Valuation - Confidential (Doc id: SODR-129784381-1363)

(Marked 9.4.2)

VOTING REQUIREMENT

Simple Majority.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Clarke

That Council authorise the CEO to:

- 1. Advertise the proposed ground lease to Co-operative Bulk Handling Ltd in accordance with Section 3.58(3) of the Local Government Act 1995 inclusive of the following material terms:**
 - a. Land / Premises: A 500m² portion of Reserve 45274, Lot 179 (No.1) Meagher Drive, Badgingarra. The ground lease area shall be generally in accordance with the Proposed Lease Area Plan.**
 - b. Initial Term: 5 years**
 - c. Further Term Options: 2 further terms of 5 Years.**
 - d. Rent: \$7,000 p.a. excluding GST.**
 - e. Rent Review: Indexed to CPI annually with Market Rent Review every 3 years.**
 - f. Services: The land is provided on an “as is” basis. The lessee will be fully responsible for all costs associated**

with its proposed development, including all services costs.

- g. **Authorised Use: Grain Sampling Facility and uses reasonably ancillary thereto.**
2. **Subject to no adverse submissions being received during the public notice period, execute the lease agreement with Co-operative Bulk Handling Ltd.**

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – DECEMBER 2023 COUNCIL STATUS REPORT

Document ID: SODR-1739978813-6419

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

9.5.2 SHIRE OF DANDARAGAN – BUILDING STATISTICS – DECEMBER 2023

Document ID: SODR-2045798944-8577

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

9.5.3 SHIRE OF DANDARAGAN – BUILDING STATISTICS – JANUARY 2024

Document ID: SODR-2045798944-8578

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for January 2024. *(Marked 9.5.3)*

9.5.4 SHIRE OF DANDARAGAN – PLANNING STATISTICS – DECEMBER 2023

Document ID: SODR-2045798944-8573

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for December 2023. *(Marked 9.5.4)*

9.5.5 SHIRE OF DANDARAGAN – PLANNING STATISTICS – JANUARY 2024

Document ID: SODR-2045798944-8574

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for January 2024. *(Marked 9.5.5)*

9.5.6 SHIRE OF DANDARAGAN TOURISM / LIBRARY / COMMUNITY ACTIVITIES REPORT FOR DECEMBER 2023 & JANUARY 2024

Document ID: SODR-1876983588-1395

Attached to the agenda is monthly report for Tourism / Library for December 2023 & January 2024. *(Marked 9.5.6)*

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

10.1 CORPORATE & COMMUNITY SERVICES

Any new business of an urgent nature requires a resolution of Council in order to be considered.

The following item requires urgent consideration by Council:

Adoption of the Statutory Compliance Audit Return 2023 and to receive the Audit Committee Meeting Minutes (unconfirmed) held on 21 February 2024.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Young, seconded Cr Clarke

That the following new business of an urgent nature be considered by Council:

Audit Committee Meeting Minutes (unconfirmed) held on 21 February 2024 and Adoption of the Statutory Compliance Audit Return 2023.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

10.1.1 AUDIT COMMITTEE MINUTES – 21 FEBRUARY 2024

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Corporate Services / Finance and Rates / Audits / Audit Committee Meetings
Disclosure of Interest:	None
Date:	22 February 2024
Author:	Brad Waters, Executive Manager Corporate and Community Services
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To receive the Audit Committee Meeting Minutes (unconfirmed) held on 21 February 2024.

BACKGROUND

The Local Government Act (1995) requires Council to establish an Audit Committee to assist Council to fulfil corporate governance, stewardship, leadership, and control responsibilities in relation to the Shire's financial reporting and audit responsibilities.

Due to the small number of Audit Committee meetings held during the year there is a significant delay between the audit meetings and the subsequent confirmation of the minutes of that meeting at the following audit committee meeting and hence, a further delay in

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presentation to Council of the minutes for adoption.

Therefore, it is considered more appropriate to present the unconfirmed minutes to Council for receipt. Should any issue arise at the adoption of these minutes at the following audit committee meeting varying the accuracy of the unconfirmed minutes, these changes will be presented to Council at the following Council meeting.

COMMENT

The purpose of the Audit Committee Meeting held 21 February 2024 was to consider the Compliance Audit Return 2023.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

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

- Minutes of the Audit Committee Meeting (unconfirmed) held on 21 February 2024 (Doc Id: SODR-2042075298-75179)

(Marked 10.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Young

That the unconfirmed minutes of the Audit Committee Meeting (Doc Id: SODR-2042075298-75179) held on 21 February 2024 be received.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

10.1.2 STATUTORY COMPLIANCE AUDIT RETURN 2023

Location:	Shire of Dandaragan
Applicant:	N/A
Folder Path:	Corporate Services / Finance and Rates / Audits / Internal Reviews / Compliance Audit Returns
Disclosure of Interest:	None
Date:	22 February 2024
Author:	Nikita Winsloe, Executive Secretary
Senior Officer:	Brent Bailey, Chief Executive Officer

PROPOSAL

To adopt the Statutory Compliance Audit Return for the period 1 January 2023 to 31 December 2023 be adopted.

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BACKGROUND

Local governments in Western Australia are required to complete, on an annual basis, a Compliance Audit Return (CAR). The Return is a self-assessment of compliance with Local Government (Audit) Regulation 13 and covers areas of compliance considered high risk as follows:

- financial interest disclosures;
- procurement and tendering;
- delegation and use of delegated power;
- the recruitment and appointment of the Chief Executive Officer; and
- integrated planning and reporting.

The Compliance Audit Return has been reviewed by the Audit Committee at its meeting held on Wednesday, 21 February 2024 with the following recommendation being carried:

OFFICER RECOMMENDATION / AUDIT COMMITTEE DECISION

Moved Cr McDonald, seconded Cr O'Gorman

That the Compliance Audit Return as per attached (Doc Id: SODR-SODR-2042075298-74908) for the period 1 January 2023 to 31 December 2023 be presented to Council for adoption.

CARRIED 3 / 0

Following Council's review and adoption of the Compliance Audit Return a certified copy of the return, along with the relevant section of the minutes and any additional information explaining or qualifying the compliance audit, is to be submitted to the Director General of the Department of Communities by **31 March 2024**.

COMMENT

For the period 1 January 2023 to 31 December 2023, the following matters have been identified as requiring further explanation or not addressing legislative compliance. The Audit Committee will note that where compliance findings relate to timing requirements, the matters have been rectified or in the case of the Regulation 17 and Financial Management Regulation 5(2)(c), will be presented imminently.

Reference	Question	Management Comment
s5.75 Admin Reg 22, Form 2	Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?	While an annual return for this individual was completed, a primary return was not requested following their promotion. This matter has been rectified.
s5.88(3)	When a person ceased to be a person required to lodge a return under sections 5.75 and 5.76 of the Local Government Act 1995, did the CEO remove from the register all returns relating to that person?	On review of the current returns register, it contained a return from an individual who had ceased employment at the end of 2023. The returns register has been rectified to remove this item.
s5.89A(6)	When people cease to be a person who	On review of the current returns register, it

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	is required to make a disclosure under section 5.87A or 5.87B of the Local Government Act 1995, did the CEO remove from the register all records relating to those people?	contained a return from an individual who had ceased employment at the end of 2023. The returns register has been rectified to remove this item.
s7.9(1)	Was the auditor's report for the financial year ended 30 June 2023 received by the local government by 31 December 2023?	The Auditor's report was not available in time for the December Ordinary Council Meeting and on advice from the Department of Local Government, Sport and Cultural Industries, the requirement thereafter was to receive within two months from receipt of the auditor's report applies. A Special Council Meeting was held on 5/01/24 to receive the Auditor's Report.
F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of the Local Government (Functions and General) Regulations 1996, Regulation 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?	All relevant tender information was included in the register. At the time of review, a tender register had not been created on the Shire's website. This matter has been rectified.
Financial Management Reg 5(2)(c)	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with the Local Government (Financial Management) Regulations 1996 regulations 5(2)(c) within the three financial years prior to 31 December 2023? If yes, please provide the date of council's resolution to accept the report.	This review was not completed within the 3-year period due to staffing shortages. The review was outsourced and has now been completed with the final report due for the Audit Committee's review in Q1 2024.
Audit Reg 17	Did the CEO review the appropriateness and effectiveness of the local government's systems and procedures in relation to risk management, internal control and legislative compliance in accordance with Local Government (Audit) Regulations 1996 regulation 17 within the three financial years prior to 31 December 2023? If yes, please provide date of council's resolution to accept the report.	This review was not completed within the 3-year period due to staffing shortages. The review was outsourced and has now been completed with the final report due for the Audit Committee's review in Q1 2024.
s6.4(3)	By 30 September 2023, did the local government submit to its auditor the balanced accounts and annual financial report for the year ending 30 June 2023?	In accordance with the provisions of the Act, the Shire of Dandaragan was given an extension by the Department and submitted the balanced accounts in the first week of October 2023.

CONSULTATION

- Chief Executive Officer
- Executive Manager Corporate and Community Services
- Coordinator Governance & Human Resources
- Executive Secretary

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STATUTORY ENVIRONMENT

The contents of the Compliance Audit Return relates to Section 14.3A of the *Local Government (Audit) Regulations 1996* whereby the local government's audit committee is to review the compliance audit return and is to report to the council the results of that review in order for Council to then adopt the Compliance Audit Return.

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 are no strategic implications relevant to this item.

ATTACHMENTS

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

- Compliance Audit Return 2023 (Doc Id: SODR-2042075298-74908)

(Marked 10.1.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION

Moved Cr Gibson, seconded Cr Clarke

That the Compliance Audit Return as per attached (Doc Id: SODR-2042075298-74908) for the period 1 January 2023 to 31 December 2023 be adopted.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

11 CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC

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

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

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

Local Government Act 1995

5.23. *Meetings generally open to public*

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - (a) a matter affecting an employee or employees;
 - (b) the personal affairs of any person;
 - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret;
 - (ii) information that has a commercial value to a person; or
 - (iii) information about the business, professional, commercial, or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating, or dealing with any contravention or possible contravention of the law;
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
 - (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Local Government (Administration) Regulations 1996

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

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

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11.1 GOVERNANCE

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Gibson, seconded Cr Clarke

That the meeting be closed to members of the public at 4:12pm in accordance with Section 5.23 (2) (a) and (c) of the Local Government Act 1995 and Regulation 4A of the Local Government (Administration) Regulations 1996 to allow Council to discuss Item 11.1.1 'Disposal of property – 3486 Dandaragan Road, Dandaragan'.

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

Members of Staff and public left the meeting at 4.12pm

11.1.1 DISPOSAL OF PROPERTY – 3486 DANDARAGAN ROAD, DANDARAGAN

Location:	3486 Dandaragan Road, Dandaragan
File Ref:	SODR-129784381-1373
Date:	13 February 2024
Author:	Tricia Slee, Economic Development Manager
Senior Officer:	Louis Fouché, Executive Manager Development Services

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Clarke, seconded Cr Young

That Council:

1. Commence the process to dispose of Lot 7 on Diagram 57174 Volume 1539 Folio 703, 3486 Dandaragan Road, Dandaragan, to Mr. Joseph Collova for the sum of \$310,000 by giving 14 days local public notice inviting submissions of the proposed disposition in accordance with Section 3.58 of the Local Government Act 1995.
2. Subject to no adverse submissions be received before the date specified in the notice, authorise the Chief Executive Officer to accept the offer from Mr. Joseph Collova to purchase Lot 7 on Diagram 57174 Volume 1539 Folio 703, Dandaragan Road, Dandaragan, for the sum of \$310,000 and approve the asset disposition.

CARRIED BY ABSOLUTE MAJORITY 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

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COUNCIL DECISION

Moved Cr Clarke, seconded Cr Young

That the meeting be re-opened to the public at 4.13pm

CARRIED 5 / 0

FOR: Cr McDonald, Cr Clarke, Cr Gibson, Cr Glasfurd, Cr Young

AGAINST: Nil

Mrs Gazeley and Staff re-entered the meeting at 4.13pm

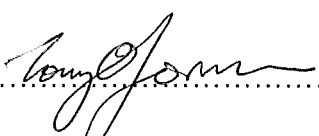
12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13 CLOSURE OF MEETING

The presiding member declared the meeting closed at 4.15pm.

These minutes were confirmed at a meeting on ... 28/3/2024

Signed 

Presiding person at the meeting at which the minutes were confirmed

Date 28/3/2024