



SHIRE
of
DANDARAGAN

MINUTES
of the
ORDINARY COUNCIL MEETING
held at the
COUNCIL CHAMBERS, JURIE BAY
on
THURSDAY 27 JUNE 2019
COMMENCING AT 3.59PM

(THIS DOCUMENT IS AVAILABLE IN LARGER PRINT ON REQUEST)

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| MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019 |
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1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

1.1 DECLARATION OF OPENING

The Shire President declared the meeting open at 3.59pm 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 3 members of the public present.

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

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

2 RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

Members

| | |
|-------------------------|--------------------|
| Councillor L Holmes | (President) |
| Councillor P Scharf | (Deputy President) |
| Councillor J Clarke | |
| Councillor A Eyre | |
| Councillor W Gibson | |
| Councillor K McGlew | |
| Councillor D Richardson | |
| Councillor R Shanhun | |
| Councillor D Slys | |

Staff

| | |
|---------------|--|
| Mr B Bailey | (Chief Executive Officer) |
| Mr S Clayton | (Executive Manager Corporate & Community Services) |
| Mr D Chidlow | (Executive Manager Development Services) |
| Ms R Headland | (Council Secretary & Personal Assistant) |
| Mr R Mackay | (Planning Officer) |
| Mr T O'Gorman | (Community Service Coordinator / Club Development Officer) |

Apologies

Nil

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019**Approved Leave of Absence**

Nil

Observers

Mr M Sheppard, Mrs S Lowe, Mr R Rybarczyk

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Shanhun, seconded Cr Gibson

That the following request for leave of absence be approved:

Cr McGlew – 22 July to 26 July 2019 inclusive.

CARRIED 9 / 0

6 CONFIRMATION OF MINUTES**6.1 MINUTES OF THE ORDINARY COUNCIL MEETING HELD THURSDAY
23 MAY 2019****COUNCIL DECISION**

Moved Cr Eyre, seconded Cr Clarke

That the minutes of the Ordinary Meeting of Council held
23 May 2019 be confirmed.

CARRIED 9 / 0

**7 NOTICES AND ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT
DISCUSSION****8 PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**Sue Lowe on behalf of Jurien Bay Progress Association requesting Council
representation on their committee.

9 REPORTS OF COMMITTEES AND OFFICERS

9.1 CORPORATE & COMMUNITY SERVICES

9.1.1 FINANCIAL STATEMENTS - MONTHLY REPORTING FOR THE PERIOD ENDING 31 MAY 2019

| | |
|-------------------------|--|
| Location: | Shire of Dandaragan |
| Applicant: | N / A |
| Folder | Business Classification Scheme / Financial Management / Financial Reporting / Periodic Reports |
| Disclosure of Interest: | None |
| Date: | 11 June 2019 |
| Author: | Scott Clayton, Executive Manager Corporate and Community Services |
| Senior Officer: | Brent Bailey, Chief Executive Officer |

PROPOSAL

To table and adopt the monthly financial statements for the period ending 31 May 2019.

BACKGROUND

As part of 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 May 2019.

COMMENT

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

1. Net Current Assets

Council's Net Current Assets [i.e. surplus / (deficit)] position as at the 31 May 2019 was \$1,603,471. The composition of this equates to Current Assets minus Current Liabilities less Cash Assets that have restrictions on their use placed on them, in this case Reserves and Restricted Assets. The current position indicates that Council can easily meet its short-term liquidity or solvency.

The Net Current Asset position is reflected on page 12 and reconciled with the Statement of Financial Activity on page 3 of the financial statements.

The amount raised from rates, shown on the Statement of Financial Activity (page 3), reconciles with note 6 (page 13) 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 13 of the attached report details any significant variances.

MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019

Should Councillors wish to raise any issues relating to the 31 May 2019 financial statements, please do not hesitate to contact the Executive Manager Corporate and Community Services 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

2016 – 2026 Strategic Community Plan

| | |
|---|------------|
| <i>Goal 5: Proactive and leading local government</i> | |
| Business as Usual | k) Finance |

ATTACHMENTS

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

- Financial statements for the period ending 31 May 2019 (Doc Id: 135103)
(Marked 9.1.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr McGlew

That the monthly financial statements for the period 31 May 2019 be adopted.

CARRIED 9 / 0

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| MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019 |
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9.1.2 ACCOUNTS FOR PAYMENT – MAY 2019

| | |
|-------------------------|---|
| Location: | Shire of Dandaragan |
| Applicant: | N/A |
| Folder Path: | Business Classification Scheme / Financial Management / Creditors / Expenditure |
| Disclosure of Interest: | None |
| Date: | 17 June 2019 |
| Author: | Scott Clayton, Executive Manager Corporate & Community Services |
| Senior Officer: | Brent Bailey, Chief Executive Officer |

PROPOSAL

To accept the cheque, EFT and direct debit listing for the month of May 2019.

BACKGROUND

As part of the Local Government Act 1995, Financial Management Regulations 1996, a list of expenditure payments is required to be presented to Council.

COMMENT

The cheque, electronic funds transfer (EFT) and direct debit payments for May 2019 totalled \$915,922.23 for the Municipal Fund.

Should Councillors wish to raise any issues relating to the May 2019 Accounts for payment, please do not hesitate to contact the Executive Manager Corporate and Community Services 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 13 of the Local Government Financial Management Regulations 1997.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no adverse trends to report at this time.

STRATEGIC IMPLICATIONS

2016 – 2026 Strategic Community Plan

| | |
|---|------------|
| <i>Goal 5: Proactive and leading local government</i> | |
| Business as Usual | k) Finance |

| |
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| MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019 |
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ATTACHMENTS

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

- Cheque, EFT and direct debit listings for May 2019 (Doc Id: 135423)

(Marked 9.1.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Eyre

That the Municipal Fund cheque and EFT listing for the period ending 31 May 2019 totalling \$915,922.23 for the Municipal Fund be accepted.

CARRIED 9 / 0

Cr Scharf and Cr Shanhun declared an impartiality interest in Item 9.1.3 being active members of the Jurien Bay Community Men's Shed Inc.

9.1.3 JURIEN BAY COMMUNITY MEN'S SHED GRANT APPLICATION

| | |
|-------------------------|---|
| Location: | Jurien Bay Sport and Recreation Reserve |
| Applicant: | Jurien Bay Community Men's Shed Inc. |
| Folder Path: | Business Classification Scheme / Grants and Subsidies / Applications / Community Groups |
| Disclosure of Interest: | N/A |
| Date: | 4 June 2019 |
| Author: | Tony O'Gorman, Community Services Coordinator |
| Senior Officer: | Scott Clayton Executive Manager Corporate and Community Services |

PROPOSAL

To consider a request from the Jurien Bay Community Men's Shed to access a grant from the Shire of Dandaragan's Sporting and Recreational Capital Works Programme, for the purposes of constructing a new Men's Shed on a 2,500m² portion of lot 503 Jurien Bay Sport and Recreation Reserve 31884.

BACKGROUND

The background information has been provided by the Jurien Bay Community Men's Shed.

"Jurien Bay Community Men's Shed (JBCMS) commenced on 3 September 2012, the result of a meeting of likeminded men in the function room of the Jurien Sport & Recreation Centre. The first Executive Committee was established and a potential home, a privately owned shed located on a light industry block adjacent to the business district, was identified. Mr Glenn Featherby, owner of the shed, agreed to provide access to the land and the shed

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free of charge. This generous support enabled JBCMS to become established and to begin the process of acquiring tools, equipment and materials. It also accommodated a rapidly expanding membership.

Members of the JBCMS come from all walks of life. The bond that unites them is that they are men with time on their hands and would like something meaningful to do with that time. JBCMS has developed a safe and happy environment where men are welcome to work on community projects, specific Men's Shed projects or a project of their choice in their own time and where the only "must" is to observe safe working practices....all in a spirit of mateship.

JBCMS has proven itself to be a valuable contributor to the community. It provides a unique environment for the learning, communication and sense of belonging for men, with positive effects on their own health and well-being, as well as positive effects on their partners, families and broader community. JBCMS undertakes a range of voluntary services as well as initiating a wide variety of programs and projects.

The owners of the shed on Doust Street have requested JBCMS vacate the building by 30 June 2019. No deadline extension could be negotiated, necessitating a temporary relocation to another privately owned industrial shed, capable only of storing equipment, machinery and tools. There is insufficient space to establish a workshop of any size.

Without a new building the future of JBCMS is at risk."

Council has previously provided a lease over a portion of reserve 31884 Jurien Bay Recreation Reserve to the JBCMS. To proceed with constructing a shed on the reserve all planning and building approvals will need to be sought and granted prior to any construction taking place.

COMMENT

Applications for grants through the Shire of Dandaragan Sport and Recreation Facilities Capital Works Fund have traditionally been triggered by a Community Sport and Recreation Facilities Fund (CSRFF) grant application to the Department of Local Government Sport and Cultural Industries.

This application is different in that it is not eligible to apply to CSRFF. This application has been triggered by the Jurien Bay Community Men's Shed grant application to Lotterywest. The grant application to Lotterywest is to construct a facility for the Jurien Bay Community Men's Shed.

The Sport and Recreation Fund Policy 6.1 provides eligibility criteria as follows:

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To be eligible for funding under this program applicants must have

| Eligible Applications. | Assessment |
|--|-------------------|
| Submitted a Community Sport Recreation Facilities Fund Application (CSRFF) to the Department of Local Government, Sport and Cultural Industries' or submitted an application to another funding source for the project. | Yes |
| An own source contribution comprising a minimum of 1/6th of the total project cost in cash. | Yes |
| In determining applications to this fund the Council will give priority to applications that; <ul style="list-style-type: none"> ▪ have successfully sourced CSRFF funds or other source of funding; ▪ can demonstrate that their organisation has a strong membership base and is financially sustainable; ▪ can demonstrate strong demand for the proposed infrastructure; and ▪ can deliver projects without the organisation requiring loan funds. | N/A |
| applicants that have been unsuccessful in a CSRFF application, or other major funding process, remain eligible for funding under this program, however Council's total commitment will not exceed 50% of the approved project budget or the maximum annual funding allocation in a given year. | N/A |
| requests must be for a total project cost of greater than \$40,000 (ex gst)" | Yes |

Applications for grant funding under Shire of Dandaragan Sporting and Recreational Capital Works Fund have traditionally been from sporting groups. This is the first time an application from a non-sporting recreation group has been submitted.

Recreation is defined by the Oxford English Dictionary as "an activity done for enjoyment when one is not working".

CONSULTATION

- Jurien Bay Community Men's Shed

STATUTORY ENVIRONMENT

There are no statutory implications relevant to this item.

POLICY IMPLICATIONS

Policy 6.1 Sport and Recreation Funding - Sporting and Recreational Capital Works Fund

The objective of this Policy is to set out how the Shire of Dandaragan (Shire) will provide assistance to sporting and recreational groups for funding:

1. capital infrastructure for sporting and recreational facilities; and
2. non-consumable sporting and recreational equipment.

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Policy Statement

Council recognises and values the important part that excellent sporting and recreational facilities and equipment play in the community. It is committed to ensuring that adequate funding is provided to assist in the provision and maintenance of these facilities and the groups that utilise them.

In order to meet this objective, the Shire has established the following two funds through which annual grants will be made available:

- 1. Sporting and Recreational Capital Works Fund; and*
- 2. Tronox Management and Shire of Dandaragan Sporting and Recreation Facilities Fund*

FINANCIAL IMPLICATIONS

Council is being asked to authorise expenditure from the Sporting and Recreation Facilities Capital Works fund of up to maximum of \$20,000 which is approximately 6% of the total project cost.

| | |
|---------------------------------|-----------|
| Cost of project | \$349,027 |
| Shire Funding | \$20,000 |
| Lotterywest Funding | \$201,818 |
| Jurien Bay Community Men's Shed | \$85,466 |

STRATEGIC IMPLICATIONS

2016 -2026 Strategic Community Plan

| <i>Goal 2: Healthy, Safe and Active Community</i> | |
|---|---|
| Objective | What the Shire will contribute |
| 2.4: Provide Recreation and Community Facilities and Activities | d) Plan for future Recreation needs, including feasibility in accordance with the Major Recreation Facilities Fund and review of cycle ways and dual use paths. |

ATTACHMENTS

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

- Sport and Recreation Capital Works Policy 6.1 (Doc Id: 131688)
- Lotterywest grant application (Doc Id; 135045)
- Notice to Vacate Letter (Doc Id: 135044)
- Financial Statements (Doc Id: 135091)
- Term Deposit 1 & 2 (Doc Id: 135090)
- Bank Statement (Doc Id: 135089)
- Shed Budget (Doc Id: 135021)
- Feasibility Study (Doc Id: 135027)
- Project Management Plan (Doc Id 135022)
- Project Evaluation & Impact Assessment (Doc Id: 135040)
- JBCMS Business Plan Doc Id: 135023)

(Marked 9.1.3)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION**Moved Cr McGlew, seconded Cr Gibson****That Council,**

- 1. support the Jurien Bay Community Men's Shed Inc., application to Lotterywest to provide a shed suitable for their needs, and;**
- 2. include the amount of \$20,000 in the 2019 / 2020 budget to be sourced from unused allocation from the Sport & Recreation Capital Works fund as a transfer from the Sport & Recreation Reserve.**
- 3. make these budgeted funds available to the Jurien Bay Community Men's Shed Inc. subject to a successful funding approval from Lotterywest.**

CARRIED 9 / 0**9.1.4 TRANSFER OF RESTRICTED ASSET FUNDS**

| | |
|-------------------------|---|
| Folder Path: | Business Classification Scheme / Financial Management / Banking / Account Establishment |
| Disclosure of Interest: | Nil |
| Date: | 17 June 2019 |
| Author: | Scott Clayton, Executive Corporate and Community Service |
| Senior Officer: | Brent Bailey, Chief Executive Officer |

PROPOSAL

For Council to authorise the creation of two reserve funds to allow for the transfer of the existing balance within the "Restricted Assets" bank account to the most appropriate account in accordance with those permitted in the Local Government Act 1995 (Act).

BACKGROUND

Section 6.6 of the Act states;

6.6. Funds to be established

- (1) A local government is to have —*
 - (a) a municipal fund; and*
 - (b) a trust fund.*
- (2) The municipal fund is to be kept separate and distinct from the trust fund.*

When producing and publishing the annual financial statements the statements and notes to and forming the statements are based on the municipal fund transactions. Except for one note that outlines the current balance and obligations of funds held in trust.

Funds are distinct from bank accounts and it is common that funds can be split across multiple bank accounts.

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| <p>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019</p> |
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The Shire's bank accounts named "municipal fund" and "reserve fund" are classified as the municipal fund for the purpose of Section 6.6 of the Act.

The Shire's bank account named "trust fund" is classified as a trust fund for the purpose of Section 6.6 of the Act.

The Shire has for many years held an additional bank account named "restricted assets" and it has been the source of some confusion over the years.

Up until the financial year ended 30 June 2012 the funds held in the restricted assets were treated as municipal funds for the purpose of section 6.6 of the Act. As such, the balance of the account appeared as a "Cash or cash equivalent" in the current asset section of the balance sheet and the corresponding performance obligations of the funds were listed as a current liability in the balance sheet.

However, in the 2012 / 2013 financial year, the Council's auditors, were of the opinion that the nature of the funds within the restricted assets account were more akin to the definition of trust in the Act and as such these funds were removed from the balance sheet and included in the separate note for trust funds in the financial statements for the financial year ended 30 June 2013.

COMMENT

Money is to be held in trust when the Local Government is the Trustee of funds for the benefit of a third party in accordance with agreed-upon terms.

The most common type of trust items for the Shire of Dandaragan are;

- Bonds
- Construction Training Fund Levy
- Builder Registration Board Levy

The types of funds held in the Restricted Assets account over the years are those which have some obligation attached to them. However, obligations to perform an action are not justification alone for the money to be classed as a trust fund. It appears that the restricted asset account has been used to isolate these funds to ensure they are not spent elsewhere.

It is this officers opinion that the ability to segregate funds for future use through the creation of reserve accounts provides adequate mechanisms to avoid such an error occurring and a separate "restricted assets" account simply adds an unnecessary layer of confusion.

Regulation 8(1)(c) of the Local Government (Financial Management) Regulations 1996 (Regs) states;

8. Separate bank etc. accounts required for some moneys

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| MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019 |
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- (1) A local government is to maintain a separate account with a bank or other financial institution for each of the following purposes —
- (c) money required to be held in reserve accounts.

Regulation 38 of the Regs goes on to state;

38. Reserve accounts, information about in annual financial report
- (1) In relation to each reserve account, the annual financial report is to include details of —
- (a) the purpose for which the money in the account is set aside; and
- (b) the amount set aside during the financial year; and
- (c) the amount used during the financial year; and
- (d) the opening balance brought forward on 1 July; and
- (e) the closing balance at 30 June.

In discussions with the Office of the Auditor General staff who attended the Shire for the 2018 / 19 interim audit it was agreed the maintaining of the separate restricted asset account was unnecessary and staff committed to clarifying the situation.

In researching the conditions over the existing amounts in the restricted assets bank account it was clear that each amount can be transferred to either the municipal fund or the trust fund in accordance with the Act.

Where possible appropriate transfers have occurred. However, two amounts remain that will require transfer to a reserve fund.

Section 6.11 of the Act states;

6.11. Reserve accounts

- (1) Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*

The current balance of the restricted asset bank account is;

| | |
|--|---------------|
| Cash in Lieu - Landscaping | \$ 2,464.95 |
| Cash in Lieu of public open space - LandCorp | \$ 200,277.45 |
| Total | \$ 202,742.40 |

The Cash in Lieu of landscaping relates to a commercial development at Lot 1146 Sandpiper Street, Jurien Bay – I I & J B A Kelly Superannuation Fund.

An extract from item 9.4.1 of the Ordinary Council Meeting held 9 February 2006 states;

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| <p>MINUTES OF ORDINARY COUNCIL MEETING HELD THURSDAY 27 JUNE 2019</p> |
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“If Council accepts a cash-in-lieu contribution towards parking, then these funds can be put towards the provision of future car-parking within the Jurien Bay Commercial Area.”

Condition 1 of the decision to grant planning consent states;

“That a satisfactory agreement be reached with Council to provide cash-in-lieu of landscaping subject to the provisions of Clause 6.7.1 of the Town Planning Scheme No 6 and that Council not enforce Clause 6.7.2 requiring the relaxation of standards to be advertised.”

It is recommended that this amount be transferred to a newly created reserve titled “Cash in lieu of landscaping – Lot 1146 Sandpiper Street” for the purpose of “to be used for purposes allowable under the planning consent granted to I I & J B A Kelly Superannuation Fund for the commercial development at Lot 1146 Sandpiper Street, Jurien Bay.”

The cash in lieu of public open space – LandCorp relates to the subdivision approval for the Lot 9000 Valencia Road development (WAPC reference 131361).

Section 20C of the Town Planning and Development Act 1928 which was in force at the time of the payment stated, in relation to cash in lieu of open spaces;

All money received by a local government under subsection (1) shall be paid into a separate account of the local government and shall be applied —

- (a) for the purchase of land by the local government for parks recreation grounds or open spaces generally, in the locality in which the land included in the plan of subdivision referred to in that subsection is situated;
- (b) in repaying any loans raised by the local government for the purchase of any such land; or
- (c) with the approval of the Minister, for the improvement or development as parks, recreation grounds or open spaces generally of any land in the said locality vested in or administered by the local government for any of those purposes.

It is recommended that this amount be transferred to a newly created reserve titled “Cash in lieu of Public Open Space – Lot 9000 Valencia Road” for the purpose of “to be used for purposes allowable under the subdivision granted to LandVision Pty Ltd on behalf of LandCorp for Lot 9000 Valencia Road Cervantes. (WAPC reference 131361)”

CONSULTATION

- Executive Management Team
- Planning Officer

STATUTORY ENVIRONMENT

- Local Government Act 1995 Section 6.6 – Funds to be Established
- Local Government (Financial Management) Regulations 1996 (Regulation 8)
- Local Government (Financial Management) Regulations 1996 (Regulation 38)
- Local Government Act 1995 Section 6.11 – Reserve Accounts
- Town Planning and Development Act 1928 Section 20C - When owner may pay money in lieu of land being set aside for open spaces

Local Government Act 1995 – Section 6.6 – Funds to be established

6.6. Funds to be established

- (1) A local government is to have —
 - (a) a municipal fund; and
 - (b) a trust fund.
- (2) The municipal fund is to be kept separate and distinct from the trust fund.

Local Government (Financial Management) Regulations 1996 - Reg 8

8. Separate bank etc. accounts required for some moneys

- (1) A local government is to maintain a separate account with a bank or other financial institution for each of the following purposes —
 - (a) money required to be held in the municipal fund (other than money for which an account is to be established under paragraph (c)); and
 - (b) money required to be held in the trust fund; and
 - (c) money required to be held in reserve accounts.
- (2) Money related to a purpose set forth in subregulation (1) is to be banked in the account maintained for that purpose.
- (3) Money from different accounts may be placed in a common investment authorised by the Act.

Local Government (Financial Management) Regulations 1996 - Reg 38

38. Reserve accounts, information about in annual financial report

- (1) In relation to each reserve account, the annual financial report is to include details of —
 - (a) the purpose for which the money in the account is set aside; and
 - (b) the amount set aside during the financial year; and
 - (c) the amount used during the financial year; and
 - (d) the opening balance brought forward on 1 July; and

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- (e) *the closing balance at 30 June; and*
 - (f) *if the money held in a financial institution or institutions is insufficient to match the corresponding asset account in the balance sheet —*
 - (i) *the extent of the insufficiency; and*
 - (ii) *the reason for the insufficiency; and*
 - (iii) *when the insufficiency is likely to be made up;*
 - and*
 - (g) *when the local government anticipates the money in the account will be used; and*
 - (h) *if the purpose of the account was changed or if money in the account was used for another purpose —*
 - (i) *the purpose for which the money was used; and*
 - (ii) *the amount changed or used; and*
 - (iii) *the objects of, and reasons for, the change or use.*
- (2) *In relation to an asset re-valuation reserve established in accordance with the AAS, the annual financial report is not to include the details set forth in subregulation (1).*

Local Government Act 1995 – Section 6.11 – Reserve accounts

6.11. Reserve accounts

- (1) *Subject to subsection (5), where a local government wishes to set aside money for use for a purpose in a future financial year, it is to establish and maintain a reserve account for each such purpose.*
- (2) *Subject to subsection (3), before a local government —*
 - (a) *changes* the purpose of a reserve account; or*
 - (b) *uses* the money in a reserve account for another purpose,**it must give one month's local public notice of the proposed change of purpose or proposed use.*

** Absolute majority required.*

- (3) *A local government is not required to give local public notice under subsection (2) —*
 - (a) *where the change of purpose or of proposed use of money has been disclosed in the annual budget of the local government for that financial year; or*
 - (b) *in such other circumstances as are prescribed.*
- (4) *A change of purpose of, or use of money in, a reserve account is to be disclosed in the annual financial report for the year in which the change occurs.*
- (5) *Regulations may prescribe the circumstances and the manner in which a local government may set aside money for use for a purpose in a future financial year without the requirement to establish and maintain a reserve account.*

*Town Planning and Development Act 1928 – Section 20C***20C. When owner may pay money in lieu of land being set aside for open spaces**

- (1) *Where the Commission has approved a plan of subdivision of land upon condition that portion thereof be set aside and vested in the Crown for parks, recreation grounds or open spaces generally, if the local government in whose district the portion is situated and the Commission approve, the owner of the land may, in lieu thereof, pay to that local government a sum that represents the value of the portion.*
- (2) *All money received by a local government under subsection (1) shall be paid into a separate account of the local government and shall be applied —*
 - (a) *for the purchase of land by the local government for parks, recreation grounds or open spaces generally, in the locality in which the land included in the plan of subdivision referred to in that subsection is situated;*
 - (b) *in repaying any loans raised by the local government for the purchase of any such land; or*
 - (c) *with the approval of the Minister, for the improvement or development as parks, recreation grounds or open spaces generally of any land in the said locality vested in or administered by the local government for any of those purposes.*
- (3) *For the purposes of subsection (1), the value of the portion shall be such percentage of the market value of the land of which the portion forms part as the area of the portion bears to the area of that land on the date of the subdivision.*
- (4) *For the purposes of subsection (3), the market value of land —*
 - (a) *is the capital sum which an unencumbered estate in fee simple in the land might reasonably be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require;*
 - (b) *shall be determined, at the cost of the owner of the land, by a licensed valuer agreed upon by the parties or, failing agreement, appointed by the local government; and*
 - (c) *shall be so determined —*
 - (i) *as at the date of the subdivision;*
 - (ii) *on the basis that there are no buildings, fences or other improvements of a like nature on the land;*
 - (iii) *on the assumption that any rezoning necessary for the purpose of the subdivision has come into force; and*

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- (iv) *taking into account the added value of all other improvements on or appurtenant to the land.*
- (5) *If either the owner of the land or the local government disputes a valuation made under subsection (4), the valuation may be varied by agreement between the parties or the dispute may be settled by such method as they may agree upon.*
- (6) *If after 28 days from the date when both parties have received the valuation the dispute has not been settled or an agreement made as to the method of settlement, either the owner of the land or the local government may refer the dispute for determination by an arbitrator under the Commercial Arbitration Act 1985.*
- (7) *For the purposes of this section —*
- (a) *land is subdivided on the date on which the Commission approves of the plan of subdivision of the land subject to the condition mentioned in subsection (1); and*
- (b) **“licensed valuer”** means —
- (i) *a licensed valuer within the meaning of the Land Valuers Licensing Act 1978;*
- (ii) *the Valuer-General,*
- but nothing in subsection (4)(b) or in this paragraph shall be construed as obliging the Valuer-General to undertake any valuation for the purposes of this section.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

The transfer of the funds from restricted assets to Reserve will not affect the Surplus / deficit of the Shire however, an increase in restricted cash within the balance sheet will occur.

STRATEGIC IMPLICATIONS

2016 – 2026 Strategic Community Plan

| | |
|---|------------|
| <i>Goal 5: Proactive and leading local government</i> | |
| Business as Usual | k) Finance |

ATTACHMENTS

Nil

VOTING REQUIREMENT

Absolute majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Scharf

That Council:

1. authorise the creation of a reserve titled “Cash in lieu of landscaping – Lot 1146 Sandpiper Street” for the purpose of “to be used for purposes allowable under the planning consent granted to I I & J B A Kelly Superannuation Fund for the commercial development at Lot 1146 Sandpiper Street, Jurien Bay”, and that the balance of \$2,464.95 currently held in the restricted assets bank account for this purpose be transferred to this new reserve, and;
2. authorise the creation of a reserve titled “Cash in lieu of Public Open Space – Lot 9000 Valencia Road” for the purpose of “to be used for purposes allowable under the subdivision granted to LandVision Pty Ltd on behalf of LandCorp for Lot 9000 Valencia Road Cervantes. (WAPC reference 131361)”, and that the balance of \$200,277.45 currently held in the restricted assets bank account for this purpose be transferred to this new reserve.

CARRIED BY ABSOLUTE MAJORITY 9 / 0

9.2 INFRASTRUCTURE SERVICES

9.3 DEVELOPMENT SERVICES

9.3.1 BROGATE PTY LTD – PERRON WIND FARM REQUEST

| | |
|-------------------------|--|
| Location: | Perron Farm comprising of Lots 3788, 3739, 3742, 3743, 3744 in the Badgingarra & Hill River localities |
| Applicant: | Brogate Pty Ltd |
| Folder Path: | Development Services Apps / Development Applications / 2018 / 15 / 2018 |
| Disclosure of Interest: | Nil |
| Date: | 10 June 2019 |
| Author: | Rory Mackay, Planning Officer |
| Senior Officer: | David Chidlow, Executive Manager Development Services |

PROPOSAL

Brogate has requested the planning approval for the Badgingarra Wind Farm which is currently valid over Perron Farm be renamed to the Perron Wind Farm with Zephyr Energy Pty Ltd to be listed as the new proponent for the approval. The approval period is also requested to be extended a further 5 years from the 12 December 2019 substantial commencement expiry date.

BACKGROUND

The recently completed Badgingarra Wind Farm was initially approved by Council in December 2008 and amended in April 2013. A number of extensions of planning approval were passed

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by Council over this time period with the last being in November 2016, with the expiry being 12 December 2019.

This development approval was granted over the following 17 titles of land:

| No. | House No. | Lot No. | Road | Plan No. | Certificate of Title | Area (ha) |
|-----|-----------|---------|--------------------------------------|----------|----------------------|---------------|
| 1 | 1192 | 3850 | Bibby Road / Yerramullah Road | P209077 | 387 - 27A | 1,597 |
| 2 | 1359 | 3755 | Yerramullah Road / Bibby Road | P207065 | 1949 - 781 | 1,594 |
| 3 | N/A | 51 | Yerramullah Road / Cadda Road | P20080 | 2034 - 798 | 807 |
| 4 | 2481 | 3745 | Yerramullah Road / Cowalla Peak Road | P207067 | 1383 - 850 | 1,391 |
| 5 | 218 | 3704 | Cowalla Peak Road / Yerramullah Road | P206786 | 2153 - 111 | 1,376 |
| 6 | 2007 | 50 | Cadda Road | P20080 | 2034 - 797 | 807 |
| 7 | 2030 | 3747 | Cadda Road | P207067 | 1754 - 557 | 1,546 |
| 8 | 1750 | 3754 | Bibby Road / Cadda Road | P207065 | 1581 - 112 | 1,475 |
| 9 | 2349 | 3753 | Cadda Road / Munbinea Road | P207071 | 1680 - 747 | 1,401 |
| 10 | 1581 | 3748 | Munbinea Road / Cadda Road | P207071 | 2060 - 600 | 1,123 |
| 11 | N/A | 1651 | Cowalla Peak Road | P133599 | 1629 - 941 | 41 |
| 12 | N/A | 3774 | Cadda Road | P207065 | 1786 - 255 | 92 |
| 13 | 2446 | 3742 | Yerramullah Road / Cowalla Road | P207066 | 508-160A | 1,710 |
| 14 | N/A | 3743 | Yerramullah Road / Cowalla Road | P207069 | 69-37A | 1,823 |
| 15 | N/A | 3744 | Yerramullah Road | P207069 | 2125-563 | 1,660 |
| 16 | N/A | 3738 | Cowalla Road | P207066 | 1687-897 | 1,736 |
| 17 | N/A | 3739 | Cowalla Road | P207069 | 2125-562 | 1,483 |
| | | | | | Total Area | 21,661 |

As the turbine design and layout was finalised, some of the initial landholdings were not leased for the installation of the required infrastructure. However, approval over the 17 titles remained valid with the modifications sought over the project's timeline.

The proponent fully aware of this, wishes to utilise the subject development approval for the Perron Wind Farm as a renewable energy project separate to the recently completed Badgingarra Wind Farm.

COMMENT

The following questions need to be asked for this request:

1. is it within the scope of the existing approval;
2. is minor in nature; or
3. does it substantially alter the original development approval?

It is found the request is permissible within the terms of the existing planning consent as it is materially the same as the

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December 2008 approval granted. The scope of the development remains to contain the

- Construction of a number of wind turbines on the site;
- Installation of internal access roads and underground cables between each turbine;
- Construction of a substation;
- Connection of power lines from the new substation across to the existing Western Power electricity grid;
- Site compound comprising various support buildings; and
- Meteorological mast installation (approved under delegation March 2018).

The turbines are proposed to be situated on previously cleared farmland, causing minimal environmental impact during and after the construction phase. The supporting independent assessments of the 2008 approval remain valid for Perron Farm. However, as the Perron Wind Farm progresses a fresh noise impact assessment and visual impact assessment will be required to be undertaken once the turbine type, number and layout is known to Zephyr Energy Pty Ltd.

As there is still a large amount of work to do on the logistics side of the Perron Wind Farm, the applicant has requested a five-year extension to the current approval to facilitate such. This request is not seen as unreasonable given the Badgingarra Wind Farm had approval extended nine years collectively.

Town planning staff have identified several of the conditions of the development approval are either invalid or require updating in the current legislative climate. This has been flagged with the proponent who has consented to changes where deemed necessary. The conditions and recommend changes are outlined in the table below.

| Condition | Recommendation |
|--|--|
| Noise from the operational Wind Farm shall not exceed 45dB(A) or background +5dB whichever is the higher (using LA90), at surrounding noise sensitive premises within the wind farm boundary, unless otherwise agreed with the respective landowner. | Remove this condition. The proponent is the sole owner of the subject lots. |
| Noise from the operational Wind Farm shall not exceed 5dB(A) above the background noise level or 35dB(A) (using LA90), whichever is the greater, at surrounding noise sensitive premises outside the wind farm boundary. | This condition is amended to match the conditions placed on the Yandin Wind farm after a review of the noise level conditions. |
| A display panel designated to the Badgingarra Wind Farm shall be included in the existing Viewing Area Information Stand at the Emu Downs Wind Farm. | Remove this condition. Completed as part of the Badgingarra Wind Farm. |
| Any leasehold arrangements exceeding 20 years for part lots are to be referred to the Western Australian Planning Commission for approval; | Remove this condition. The proponent is the sole owner of the subject lots. |
| The submissions / objections lodged by the | Remove this condition. |

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| Condition | Recommendation |
|---|--|
| Department of Industry and Resources, Image Resources NL and Jurien Industrial Minerals Ltd being withdrawn and that Council be indemnified against any possible action from these organisations with regard to granting of planning approval, prior to the commencement of any on site works | Completed as part of the Badgingarra Wind Farm. |
| Planning consent is granted for a maximum period of two years from the date of this approval during which time the development must be substantially commenced. | *maximum period of five years |
| The proponent is advised that planning approval is not a building licence. A building licence must be formally applied for and obtained from Building Services before commencement of any site and / or development works. | Remove this condition. Such infrastructure is now exempt from requiring building approval under current legislation. |
| Prior to the commencement of construction, the proponent shall commission detailed archaeological and ethnographic surveys, compliant with Aboriginal Heritage Act (1972) dated September 2011, over areas of proposed infrastructure. | Remove this condition. Completed as part of the Badgingarra Wind Farm. |

In granting the modifications and extension it should be made clear to the proponent that the Council's decision does not afford a right of appeal to the State Administrative Tribunal. The decision merely relates to the period of time upon which construction work must have substantially commenced, generally interpreted as 'slab on the ground', or in this instance could mean footings completed for the wind turbines.

CONSULTATION

The applicant is also the landowner unlike past wind farm dealings.

As there are no physical changes proposed to the approval, no community consultation was undertaken.

STATUTORY ENVIRONMENT

Clause 77 of the Deemed Provisions of Local Planning Scheme No.7:

- (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 —*
- (a) *to amend the approval so as to extend the period within which any development approved must be substantially commenced;*
 - (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;*

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- (d) *to cancel the approval.*
- (2) *An application under subclause (1) —*
- (a) *is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and*
- (b) *may be made during or after the period within which the development approved must be substantially commenced.*
- (3) *Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.*
- (4) *The local government may determine an application made under subclause (1) by —*
- (a) *approving the application without conditions; or*
- (b) *approving the application with conditions; or*
- (c) *refusing the application.*

POLICY IMPLICATIONS

WAPC Position Statement: Renewable energy facilities

FINANCIAL IMPLICATIONS

Estimated value of the project is \$6,600,000. The planning fees as set out in the Planning & Development Regulations 2009 and Council schedule of fees and charges designate a reduced fee of 50% of the scale of fees for renewing an approved application prior to expiry. This equates to a fee of \$7,342 payable.

STRATEGIC IMPLICATIONS

Local Planning Strategy 2019 – Assess applications for wind farms and other alternative energy infrastructure, having regard to visual landscape issues and other relevant matters set out in Position Statement on Renewable Energy Facilities (WAPC, 2018).

2016 – 2026 Strategic Community Plan

| Goal 1: Great Place for Residential and Business Development | |
|--|--|
| Objectives | How the Shire will contribute |
| 1.2 Ensure effective and efficient development and building services | a) Process development applications and undertake building regulation functions and services |

ATTACHMENTS

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

- Letter from Brogate Pty Ltd (Doc Id: 135168)
(Marked 9.3.1)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Eyre, seconded Cr Scharf

That Council:

- A. Recognise 'Perron Wind Farm' as the title for the wind turbines to be constructed upon Lots 3738, 3739, 3742, 3743, 3744 in the Badgingarra and Hill River localities.
- B. Recognise Zephyr Energy Pty Ltd as the approved proponent for the 'Perron Wind Farm'.
- C. Pursuant to clause 77 of the Deemed Provisions of the Shire of Dandaragan Local Planning Scheme No.7 grant a five-year extension to the planning approval originally granted December 2008 and as amended in 2010, 2012 & 2014 for a wind farm (upon Lots 3738, 3739, 3742, 3743, 3744 in the Badgingarra and Hill River localities), resulting in the revised expiry date of 12 December 2024 subject to the following conditions:
 1. The proponents shall (prior to the erection of wind turbine generators) provide notification to the RAAF Aeronautical Service, Air Service Australia and the Civil Aviation Safety Authority of the location and height details of the wind turbine generators.
 2. The access points onto the subject land and any road works shall be located and constructed to the satisfaction of the Executive Manager Infrastructure and include all necessary drainage and signage. Costs applicable to the construction of the access points onto the site and any related issues shall be borne by the proponents.
 3. Access to the proposed development will only be allowed along Cadda Road and Yerramullah Road. The proponents will be required to undertake routine maintenance works on Cadda Road (from the Brand Highway to Munbinea Road) and Yerramullah Road (from Cantabilling Road to the intersection with Cadda Road) for the duration of the construction phase. The cost of the routine maintenance will be determined on a shared basis with the Shire (to be agreed prior to the commencement of the project based upon forecast traffic volumes). Any costs associated with required upgrades needed before development of the Wind Farm occurs shall be to the satisfaction of the Executive Manager Infrastructure and be at the cost of the proponent.
 4. The proponents in conjunction with the Shire of Dandaragan shall commission a Road Condition Report prepared by a recognised engineer (agreed to by both parties) prior to the commencement of the project. The Road Condition Report shall, at least but not be limited to, identifying the following issues;

- a) suitability of the existing pavement strength (in wet and dry conditions) to cater for the proposed haulage loads and traffic volumes;
 - b) suitability of the existing horizontal and vertical alignments to cater for the proposed haulage loads and traffic volumes; and
 - c) identify and provide plans and costings for any required upgrade works to the existing road network to make it suitable for the proposed haulage loads and traffic volumes.
- The costs associated with the preparation of the Road Condition Report and any road works identified in the Road Condition Report shall be undertaken at the cost of the proponent prior to any works commencing onsite.
5. The Shire of Dandaragan requires Cadda Road (from the Brand Highway to Munbinea Road) and Yerramullah Road (from Cantabilling Road to the intersection with Cadda Road) to be in no lesser standard at the end of the construction phase as they were prior to the development commencing. A photographic record of the condition of the subject roads shall be prepared prior to commencement of the project.
 6. The proponents shall provide a Traffic Management Plan to Main Roads WA and the Shire of Dandaragan prior to the commencement of construction. The Traffic Management Plan shall address;
 - a) transportation of materials to the project site;
 - b) obtaining the necessary written approvals / permits from Main Roads WA Heavy Vehicle Operations Branch; and
 - c) the transport of all divisible and indivisible loads and acquisition of necessary permits for transport of these loads.
 7. Following the submission of the development application, if the proponents propose changes resulting in significant additional environmental impact in the opinion of the Shire of Dandaragan, these changes shall not be undertaken without prior consultation with the Shire of Dandaragan and the Environmental Protection Authority Service Unit.
 8. The proponents are required to obtain a Clearing Permit in accordance with the provisions of the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* in the case of any proposal to clear existing remnant native vegetation on the site.
 9. The Wind Farm shall comply with the South Australian Environment Protection Authority's *Wind Farms Environmental Noise Guidelines* dated July 2009 and the Western Australian Environmental Protection Authority's *Environmental Protection Bulletin No. 21*

- Guidance for wind farm developments* dated February 2014.
10. Noise from the operational Wind Farm shall not exceed 5dB(A) above the background noise level or 35dB(A) (using LA90), whichever is the greater, at surrounding noise sensitive premises outside the wind farm boundary.
 11. The background noise limits for the proposed development are to be based on the pre-recorded background noise measurements.
 12. The proponents shall develop and implement a post construction noise monitoring program at the noise sensitive receptors to assess compliance of the operational Wind Farm with the noise limits. The post-construction noise monitoring program shall be conducted at the same time of year as when the background noise measurements were recorded. Results of the program shall be forwarded to the relevant authority.
 13. Prior to the commencement of construction, the proponents shall commission third party noise modelling studies to demonstrate the final Wind Farm design complies with the noise limits outlined in this approval. The intended noise modelling methodology shall be discussed with the Department of Water and Environmental Regulation Noise Branch, at the appropriate time.
 14. The proponents shall develop and implement a bird mortality monitoring program within 12 months of commencement of Wind Farm operations. The program shall be developed in consultation with the Department of Biodiversity, Conservation and Attractions and / or the WA Museum. Results of the program shall be forwarded to the Shire of Dandaragan.
 15. The proponents shall develop and implement an annual monitoring program for Carnaby's Black Cockatoo (*Calyptohynchus latirostris*) bird strike, foraging and roosting (including any avoidance) behaviour, with reporting to the Commonwealth Department of the Environment and Energy. The WA Museum (Mr Ron Johnstone or his nominated appointment) is to be consulted in developing appropriate surveying methodologies for Carnaby's Black Cockatoo. The duration of this monitoring will be defined during the development of the program and subject to review, based on findings during the first two years' monitoring.
 16. The proponents shall provide road signage to the specification and satisfaction of Main Roads WA and the Shire of Dandaragan.
 17. The proponents shall submit a Drainage Management Plan for internal access roads for the endorsement of

- the Executive Manager Infrastructure and a Drainage Management Plan where any impacts occur externally to the properties contained within the application.
18. The proponents shall ensure sufficient clearance is maintained from Western Power's existing and planned transmission and distribution lines and associated facilities to the satisfaction of Western Power.
 19. The proponents shall provide landscaping to screen buildings to a similar standard as was planted at the Emu Downs Wind Farm.
 20. Decommissioning of the above ground plant and equipment (excluding concrete pads; footings; and inground cables) on the subject land will commence within a period of 12 months from termination of operations and be completed within a time period of the satisfaction of the Shire of Dandaragan. This will occur following submission by the proponents of a plan outlining the process of decommissioning.
 21. Planning consent is granted for a maximum period of five years from the date of this approval during which time the development must be substantially commenced.
 22. Prior to the commencement of construction, the proponent shall make arrangements in consultation with the South West Aboriginal Land and Sea Council for any required Aboriginal heritage monitoring.
 23. Prior to the commencement of construction, the proponent shall provide and implement a Fire Management Plan that addresses the impacts of the Wind Farm through the construction phase to operation, approved by the Shire and the Department of Fire and Emergency Services.
 24. All fencing shall be of rural construction such as open post and rail or post and wire, to the satisfaction of the Shire.
 25. Prior to the commencement of construction, the proponent will consult with landowners on the location of known weed infestations and will implement measures in accordance with any relevant regulation under the *Biosecurity and Agriculture Management Act 2007* and measures recommended by the Department of Primary Industries and Regional Development.
 26. The proponent shall prior to commencement of construction, implement necessary strategies to mitigate any future noise non-compliance that may arise from the construction or operation of the Wind Farm.

CARRIED 9 / 0

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9.3.2 STATE ADMINISTRATIVE TRIBUNAL RECONSIDERATION – PROPOSED SINGLE HOUSE LOT 350 PINETREE CIRCUIT, JURIEN BAY

| | |
|-------------------------|---|
| Location: | Lot 350 (#24) Pinetree Circuit, Jurien Bay |
| Applicant: | G J & G E Motteram |
| File Ref: | Development Services Apps\Development Application\2019\21 |
| Disclosure of Interest: | Nil |
| Date: | 6 June 2019 |
| Author: | David Chidlow, Executive Manager of Development Services |
| Senior Officer: | Brent Bailey, Chief Executive Officer |

PROPOSAL

The State Administrative Tribunal invites Council to reconsider its refusal of the proposed single house on Lot 350 (#24), Jurien Bay based on the proponent's revised plans.



BACKGROUND

Council unanimously resolved the following at Ordinary Meeting of Council held on 24 April 2019:

That Council refuse development approval for the proposed single house on Lot 350 Pinetree Circuit, Jurien Bay for the following reasons:

1. *The proposed rear garage does not comply with Local Planning Policy 8.5 – Outbuildings ‘Residential Areas’ as it exceeds the specified floor area and wall, ridge height maximums for both a garage and outbuilding.*
2. *The proposed development would detract from the streetscape and the visual amenity of the neighbouring properties.*
3. *The proposed development does not comply with orderly and proper planning for the locality.*

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4. *Approval of such development would set an undesirable precedent for similar applications in the future in contravention of Council adopted policy.*

Advice:

The applicant be advised that “should you be aggrieved by this decision, or any conditions imposed, there is a Right of Review under the Planning and Development Act 2005. An application for Review must be submitted in accordance with Part XIV of the Planning and Development Act within 28 days of the date of this decision to:

*The State Administrative Tribunal
GPO Box U1991
PERTH WA 6845”*

As a result of the above decision, the proponent lodged a review with the State Administrative Tribunal (SAT). The Directions Hearing for the review was held on 24 May 2019 with the Shire of Dandaragan represented by the Executive Manager of Development Services and Planning Officer via teleconference.

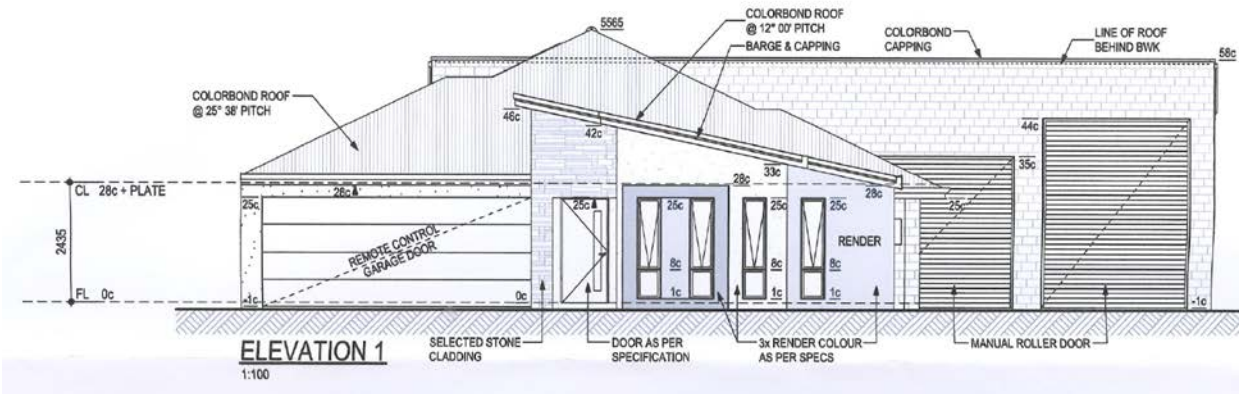
COMMENT

In the Directions Hearing, staff reinforced the reasons for refusal of the rear garage being that it was over the specified area and height maximums in the Residential zone. The applicant outlined the same reasons for the size increases that were contained within the initial application; storage of a large collection of recreational vehicles from the elements.

From here, with guidance from the SAT Member, what changes were needed for Council to reconsider the refusal and acceptable to the applicant were discussed. The result of these discussion are the attached revised plans which display a rear garage within the height and area restrictions of *Local Planning 8.5: Outbuildings – ‘Residential Areas’* (LPP8.5). Attached to this rear garage is a carport, which is also within the height maximums, but is over LPP8.5’s permitted area of 40m² for a carport, with 70m² being sought by the applicant due to the roof coverage required for the storage of the several owned recreational vehicles.

The roof of the carport is now set 1m off the side boundary where a parapet wall was first proposed. Additionally, the two different wall sizes of the rear garage and carport in addition to overall height reduction have decreased the impact of the overall building on neighbouring properties and the collective streetscape, resulting in outcome which is less detrimental. This is detailed in the comparison elevation plans below:

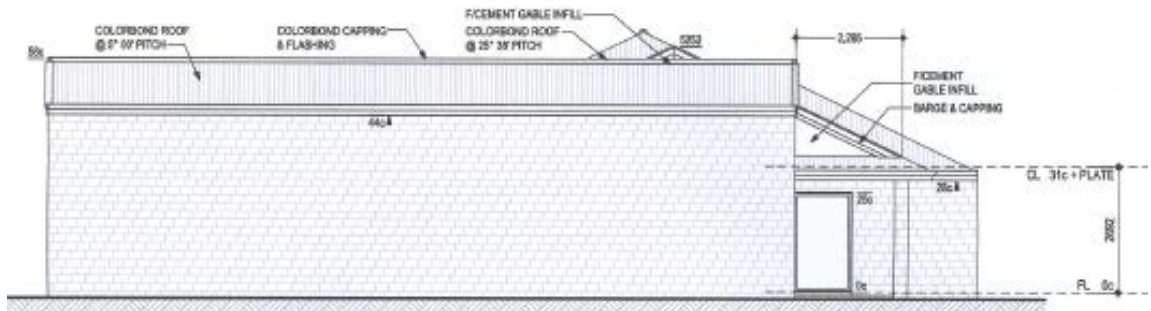
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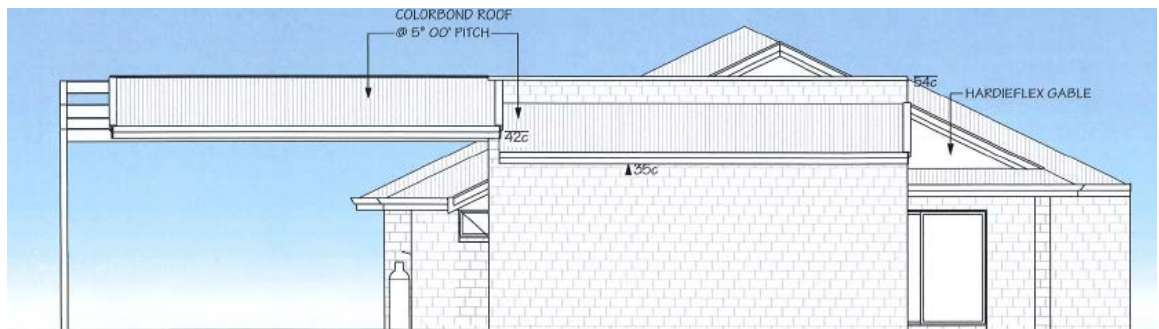
Previous front elevation



Revised front elevation



Previous rear elevation



Revised rear elevation

The rear neighbour who strongly objected to the previous proposal was provided with an opportunity to review the revised plans. They are satisfied with the size reductions and have verbally stated support subject to a condition preventing any unsightly infrastructure being installed on the rear wall i.e. air conditioning units. Such a condition has an ultimate planning purpose and is recommended to be enforced by Council.

The question remains whether dispensation should be provided for the 30m² area increase of the proposed carport and whether this would set an undesirable precedent for future like applications.

Firstly, given the proposal still does not meet the deemed to comply provisions of LPP8.5 the new proposal must be questioned against the relevant design principle of:

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

The offset open sided roof only carport is less dominant than the previous parapet solid wall proposal and the height has also been reduced to be 100mm above the applicant's motorhome (the largest recreational vehicle owned) and within LPP8.5's height provisions. The new design has been drafted to take in the adverse impacts in the context of the design principle and has been reduced in size where practically possible to still meet the landowner's objective for the building.

In terms of setting a precedent, if no future changes to the size provisions of LPP8.5 are made, staff will be able to recommend refusal in the first instance for a similar development application. It will then rest with the subject applicant whether it is worthwhile them taking a SAT review in the specific instance, where alternative outcomes will be discussed and possible reached.

Based on this discussion, the revised application is recommended for approval. Reasons for this recommendation are: the point of variance, the carport is an open walled - roof only structure which reduces the impacts on the neighbourhood; the attached rear garage is now within the height and area maximums of LPP8.5; and the objector to the initial application is satisfied with the revised design subject to a condition being enforced by Council.

If Council does not agree with the officer recommendation and are still uncomfortable with approving the variance, an alternative recommendation is provided below:

Alternative Recommendation

That Council refuse development approval for the proposed single house on Lot 350 Pinetree Circuit, Jurien Bay for the following reasons:

1. The proposed rear carport does not comply with *Local Planning Policy 8.5 – Outbuildings ‘Residential Areas’* as it exceeds the specified floor area.
2. The proposed development would detract from the streetscape and the visual amenity of the neighbouring properties.
3. The proposed development does not comply with orderly and proper planning for the locality.

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4. Approval of such development would set an undesirable precedent for similar applications in the future in contravention of Council adopted policy.

Advice:

The applicant be advised that “should you be aggrieved by this decision, or any conditions imposed, you are required to advise the State Administrative Tribunal as soon as possible.

CONSULTATION

The officer met with the adjoining rear neighbour who objected to the initial design. The outcome of this meeting is discussed above.

STATUTORY ENVIRONMENT

- Local Planning Scheme No 7
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

- Local Planning Policy 8.11 Residential Design Codes - Side and Rear Boundary Setbacks
- Local Planning Policy 8.5 Outbuildings – ‘Residential Areas’:

Carpports and Garages

1. *All garages and carports shall not exceed a floor area of 40m², a wall height of 3.0m or a ridge height of 4.5m.*
2. *The Council may consider applications for carports and garages that exceed the size limitations defined in Part 1, where the following criteria are, in the opinion of Council, satisfactorily addressed;*
 - a. *the garage or carport is attached to and forms part of the adjoining dwelling;*
 - b. *the garage or carport is situated under the roof line of the adjoining dwelling;*
 - c. *the garage or carport is located at least 0.5m behind the dwelling alignment (excluding any porch, verandah or balcony);*
 - d. *the garage or carport will not have an impact on the streetscape or amenity of the area; and*
 - e. *the garage or carport complies with any design guidelines adopted by Council.*
3. *All carports and garages shall be constructed of materials that match or complement the dwelling on the site.*
4. *The use of zincalume wall cladding in garages and carports will not be permitted.*

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Outbuildings

5. An outbuilding within a Residential area shall be deemed as meeting the design principles criteria of section 5.4.3 P3 of the Residential Design Codes where the following area and height requirements can be achieved:

| Outbuilding External Appearance | Permitted Area of Outbuilding | Permitted Wall Height | Permitted Ridge Height |
|--|---|------------------------------|---|
| Reflective Cladding | 12m ² | 2.4m * | 4.2m * |
| Non-Reflective Cladding or Masonry | 80m ² , or 10% of the site area, whichever is the lesser | 3.6m * | 4.5m or the highest point of the roof cladding of the residence whichever is lesser * |
| * Note that total wall / ridge heights are measured from the ground level at the closest common boundary | | | |

6. When giving consideration to an application for an outbuilding, the Shire of Dandaragan shall have regard to the Design Principles contained in section 5.4.3 P3 of the Residential Design Codes, namely that outbuildings do not detract from the streetscape or the amenity of residents or neighbouring properties.
7. All outbuildings are to otherwise maintain a minimum rear / side setback in accordance with the Residential Design Codes Tables 2a and 2b. Any variation to these setback requirements will require the submission of a Planning Application with adjoining property owner comment for a council decision.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item.

STRATEGIC IMPLICATIONS

2016 – 2026 Strategic Community Plan

| Goal 1: Great Place for Residential and Business Development | |
|--|--|
| Objectives | How the Shire will contribute |
| 1.2 Ensure effective and efficient development and building services | a) Process development applications and undertake building regulation functions and services |

ATTACHMENTS

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

- Revised Plans (Doc Id: 134544)
- Minute Extract April 2019 Ordinary Meeting of Council (Doc Id: 132774)

(Marked 9.3.2)

VOTING REQUIREMENT

Simple majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Shanhun, seconded Cr Richardson

That Council grant development approval for the proposed single house on Lot 350 Pinetree Circuit, Jurien Bay subject to the following conditions and advice notes:

1. All development shall be in accordance with the attached plans date stamped 27 June 2019 subject to any modifications required as a consequence of any conditions of this approval and shall not be altered without the prior written approval of the local government.
2. The building materials being of non-reflective nature and colour consistent with the existing structure and/or predominant colours of the individual site.
3. External fixtures integrated into the building design shall not be visually obtrusive when viewed from the street to protect the visual amenity of residents in neighbouring properties.
4. Landscaping of the site is to be undertaken with appropriate planting, paving and other landscaping to contribute to the streetscape.
5. External fixtures are not to be placed on the rear elevation of the 'shed' denoted on the date stamped plans.
6. The 'shed' denoted on the date stamped plans is not be used for commercial purposes.
7. The carport is to remain as open on all sides excluding any existing walls attached to.

Advice Notes:

1. The applicant is advised this is planning approval only and not a building permit. A building permit must be obtained for this development.
2. Stormwater is to be managed on site or directed to a suitable disposal system in accordance with *AS3500 Plumbing and Drainage*.
3. 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.
4. 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.
5. The applicant be advised that "should you be aggrieved by this decision, or any conditions imposed, you are required to advise the State Administrative Tribunal as soon as possible.
6. Council has granted dispensation for this specific application due to the over-area carport being an open walled - roof only structure which reduces the impacts on the neighbourhood and that the attached rear garage is within the height and area maximums of *Local Planning Policy 8.5*.

CARRIED 6 / 3

9.3.3 REQUEST FOR REDUCTION IN DEVELOPMENT APPLICATION FEE – PROPOSED MIXED USE TOURISM DEVELOPMENT LOT 62 ROBERTS STREET, JURIE BAY

| | |
|-------------------------|---|
| Location: | Lot 62 (#20) Corner Roberts and Heaton Streets |
| Applicant: | Burgess Design Group on behalf of Aliceville Holdings Pty Ltd |
| Folder Path: | Development Services Apps / Development Applications / 2017 / 35 / 2017 |
| Disclosure of Interest: | Nil |
| Date: | 15 June 2019 |
| Author: | Rory Mackay, Planning Officer |
| Senior Officer: | David Chidlow, Executive Manager of Development Services |

PROPOSAL

For Council to consider a request from Burgess Design Group for a reduction in the development application fee for the proposed mixed-use tourism development on Lot 62 Roberts Street, Jurie Bay and part of Heaton Street road reserve.

BACKGROUND

Landowner, Aliceville Holdings Pty Ltd previously obtained planning approval on 20 January 2012. At the time full application fees were paid to the Shire, to the sum of \$31,100. Development did not substantially commence within the valid three (3) period and the approval lapsed.

When a fresh development application was lodged in 2017 it was captured by the Joint Development Assessment Panel (JDAP) State planning decision making process. The JDAP fee paid in 2017 totalled, \$8,511. Shire records do not show any fee was paid to the Shire outside of the JDAP fee.

As part of the Shire's Responsible Authority report assessment of the JDAP application it became apparent that several of the gazetted conditions for the Special Use Zone comprising the subject property required modification to allow some outstanding issues to be resolved later in the planning process. As a result, the JDAP application was withdrawn, with the Wheatbelt JDAP only refunding 75% (\$6,385.25) of the fee they received to the applicant.

With all planning requirements modified or met by the applicant a development application can now be considered by the JDAP. The applicant has lodged the required documentation for the process to begin, however this does not become live until the application fee is paid. The applicant has stated an estimated value of \$20million on the application forms. This results in a required Shire fee of \$34,196, plus the JDAP's \$10,486 fee.

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Council are requested via the attached letter from the applicant to consider a reduction in the development application fee given that the proposed development is almost identical to the previous application approved on 20 January 2012, where this fee was paid in full, and the withdrawn 2017 JDAP application, where a reduced fee was paid to the JDAP and partially refunded.

COMMENT

Shire staff have informed the applicant they do not support the fee reduction based on the cost of the future need for planning services over the coming years as the development proceeds through various stages in constructing the eight building blocks. It is believed the cost of staff time in providing future service and dealing with the DA require the fee to be paid in full as per the Shire's Schedule of Fees and Charges.

The applicant also states a fee was paid to the Shire as part of the 2017 withdrawn application, which is incorrect outside of the fee paid and passed onto the JDAP at the time.

Council is requested to review the applicant's attached letter in determining this item. If Council find the request to have merit an alternative recommendation is provided below.

Alternative Recommendation

That Council approve the request from Burgess Design Group, on behalf of Aliceville Holdings Pty Ltd to charge the proposed mixed-use tourism development upon Lot 62 Roberts Street, Jurien Bay & part of Heaton Street road reserve a reduced development application fee of \$12,633 based on the reasoning stated within the letter dated 11 June 2019 from Mark Szabo, Associate Director of Burgess Design Group.

CONSULTATION

- Executive staff

STATUTORY ENVIRONMENT

Planning and Development Regulations 2009: Schedule 2 —
Maximum fees for certain planning services
Local Government Act 1995 Section 6.12 – Power to defer, grant discounts, waive or write off debts

6.12. Power to defer, grant discounts, waive or write off debts

- (1) *Subject to subsection (2) and any other written law, a local government may —*
- (a) *when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money; or*
 - (b) *wave or grant concessions in relation to any amount of money; or*
 - (c) *write off any amount of money, which is owed to the local government.*

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** Absolute majority required.*

- (2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*
- (3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*
- (4) *Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.*

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

As discussed above.

STRATEGIC IMPLICATIONS

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

2016 – 2026 Strategic Community Plan

| <i>Goal 1: Great Place for Residential and Business Development</i> | |
|---|---|
| Objectives | How the Shire will contribute |
| 1.1 Ensure planning and land availability provides opportunity for sustainable growth and lifestyle options / choices | a) Strategic land use planning across the Shire, with focus on coastal settlement and town centre strategy b) Strategic projects with a focus on planning and land availability for health precinct and further residential development c) Activate Growth Plan |
| <i>Goal 2: Healthy, Safe and Active Community</i> | |
| 2.4 Provide recreation and community facilities and activities | e) Plan, develop and manage key foreshore locations to focus activity in particular areas |

ATTACHMENTS

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

- Letter from Burgess Design Group (Doc Id: 135152)
(Marked 9.3.3)

VOTING REQUIREMENT

Absolute majority if waiver of fees is granted

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Scharf, seconded Cr Slyns

That Council refuse the request from Burgess Design Group, on behalf of Aliceville Holdings Pty Ltd to charge the proposed mixed-use tourism development upon Lot 62 Roberts Street, Jurien Bay & part of Heaton Street road reserve a reduced development application fee due to the cost of future staff time in dealing with site matters as the major development progresses.

CARRIED 9 / 0

9.4 GOVERNANCE & ADMINISTRATION

9.4.1 PROPOSED ADOPTION OF VARIOUS LOCAL LAWS FOR THE SHIRE OF DANDARAGAN IN ACCORDANCE WITH THE LOCAL GOVERNMENT ACT 1995

| | |
|-------------------------|--|
| Location: | Shire of Dandaragan |
| Applicant: | N / A |
| Folder Path: | Business Classification Scheme / Laws & Enforcement / Local Laws / Reviews of Local Laws |
| Disclosure of Interest: | Nil |
| Date: | 17 June 2019 |
| Author: | Philip Swain, Local Laws Consultant |
| Senior Officer: | Brent Bailey, Chief Executive Officer |

PROPOSAL

The purpose of this report is for Council to progress, in accordance with the Local Government Act 1995 and other relevant Acts, adoption of new and amendment local laws for the Shire of Dandaragan.

BACKGROUND

The Shire of Dandaragan's current Local Laws were gazetted on various dates since 2001. A review of the Shire of Dandaragan Local Laws was commenced, following a resolution of Council, on 26 May 2016. Following that review, at its full meeting of 18 December 2016, Council directed Administration to;

1. Prepare amendments for the following Local Laws;
 - a) Local Government Property Local Law;
 - b) Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law;
 - c) Extractive Industries Local Law;
 - d) Local Laws Relating to Fencing;
 - e) Parking and Parking Facilities Local Law 2010;
 - f) Cemeteries Local Law 2001;
 - g) Bush Fire Brigades Local Law;
 - h) Health Local Laws 2005;
2. To prepare draft local laws to repeal the following local laws subject to the preparation of suitable replacement local laws;
 - a) Standing Orders Local Law 2001;

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- b) Sand Drift Prevention and Abatement Local Law 2009;
- c) Local Law Relating to Pest Plants;
- d) Dogs Local Law;
- 3. To prepare the necessary documentation to repeal the Local Law Relating to Beekeeping; and
- 4. To prepare a draft Shire of Dandaragan Waste Local Law 2017.

The Health Local Laws 2005 (Gazetted 13 September 2005 & subsequently amended 19 September 2006 & 22 May 2007), following the local law review, were proposed for amendment. However, with the adoption of the Public Health Act 2016, and the substantial amendment of the former Health Act 1911, (now the Health (Miscellaneous Provisions) Act 1911), it was determined that the Health Local Laws not be amended, at this time.

At its meeting of the 25 October 2018 Council resolved the following;

That Council approves the draft local laws, as outlined in Attachment A, for consultation and authorises the CEO to give state-wide and Local Public Notice of the Shire's intention to make the following local laws;

- 1. *Shire of Dandaragan Waste Local Law 2018*
- 2. *Shire of Dandaragan Local Government (Council Meetings) Local Law 2018;*
- 3. *Shire of Dandaragan Site Erosion and Sand Drift Prevention Local Law 2018;*
- 4. *Shire of Dandaragan General Amendment Local Law 2018;*
- 5. *Shire of Dandaragan Local Law Relating to Pest Plants 2018;*
and
- 6. *Shire of Dandaragan Dogs Local Law 2018.*

Where Council has determined that a local law should be adopted, repealed or amended, a local government is required give state-wide notice of the proposed local law. Submissions must be accepted for a period of six (6) weeks. The Council must consider any submissions made before making, repealing or amending a local law.

It is important to note that local laws made under Acts other than the Local Government Act are also subject to the procedures outlined in the Local Government Act 1995 for making, repeal or amendment.

COMMENT

The Shire has given statewide public and local notice of the proposed local laws, as outlined in **Attachment A** and copies of the report of the review and the draft amendment and local laws have been made available to the public.

All local laws are required to be consistent with National

Competition Policy and unless justified, under the Public Benefit Test, should not contain provisions that restrict competition. Generally new local laws are adopted using models, developed by the Western Australian Local Government Association (WALGA), to minimise legal costs and the complications of the benefit tests. Most of the proposed local laws, are based on WALGA models.

The current drafts have been improved, following various circulars and comments in recent years, from the Department of Local Government Sport and Cultural Industries (formerly DLGC) and the Joint Standing Committee on Delegated Legislation (JSCDL). Comments received from the Department and Ministerial offices have been considered and minor changes included. The draft local laws have also been changed to 2019 as the year they will be “made” in.

The following minor changes have been made to the advertised laws:

1. Shire of Dandaragan Waste Local Law 2019

The local law has been amended in accordance with advice from the Department of Local Government Sport and Cultural Industries and the Department of Water and Environmental Regulation. The amendments have been minor formatting and wording changes to bring the local law into conformity with the current WALGA model.

2. Shire of Dandaragan Local Government (Council Meetings) Local Law 2018

The local law has been amended in accordance with advice from the Department of Local Government Sport and Cultural Industries. Most of the amendments have been minor formatting and wording changes as proposed by the Department. In Clause 8.14 which provides that a member must not reflect adversely on previous decisions of the council, the words “unless the meeting resolves, without debate, that the matter before the meeting cannot otherwise be adequately considered”. The Standing Committee on Delegated Legislation has requested this addition to ensure valid criticism and the reviewing past decisions is enabled. Finally, in clause 8.14(3) the word ‘objectionable’ which is open to interpretation, has been changed to “insulting”.

3. Shire of Dandaragan Site Erosion and Sand Drift Prevention Local Law 2018

The local law has been amended in accordance with advice from the Department of Local Government Sport and Cultural Industries. The amendments have been minor formatting and wording changes as proposed by the Department. Additionally, the “purpose” has been removed from the local law as superfluous;

4. Shire of Dandaragan General Amendment Local Law 2018;

The local law has been amended in accordance with advice from the Department of Local Government Sport and Cultural Industries. The amendments have been minor formatting and wording changes as proposed by the Department. These have included current format for amendments and the removal of some provisions relating to modified penalties with respect to the Extractive Industries and Cemeteries Local Laws, as these were not enforceable in law. With respect to the extractive industries the removal of penalties shown at the end of each clause and the insertion of a general penalty provision at the end of the local law, may be a substantial change at this point in the process, and hence the provisions have been retained. With respect to the cemeteries, the increases in penalties have been deemed not possible due to a restriction in modified penalties under the Cemeteries Act.

5. Shire of Dandaragan Local Law Relating to Pest Plants 2018;

Comments were received from the Minister for Regional Development, Agriculture and Food and the Department of Local Government Sport and Cultural Industries. The local law has been amended in accordance with advice from Department. The amendments have been minor formatting and wording changes as proposed by the Department. The enabling clause has been amended in accordance with this advice and the “purpose” has been removed as superfluous.

The Department has raised the issue of one plant “doublegee” (*Emex australis Steinh*) being prescribed for only part of the local government (Townsites and rural development and special rural zoned land) however this provision exists in the current local law and Administration has not pursued further advice in this regard.

Some concern has been expressed that the proposed list of pest plants is too extensive. It should also be noted that the local law simply provides for the ability of the local government to issue notice to remove “pest plants” within a given timeframe and creates an offence for failure to do the same. It is likely that most instances, where the law will be utilised, will be complaint generated. And the local law enables Administration to compel removal of pest plants in those circumstances. The existing local law includes only the following four (4) plants;

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| COMMON NAME | SCIENTIFIC NAME |
|---------------------|---|
| Afghan Thistle | <i>Solanum hystrix</i> , R. Ba.) <i>Solanum hoplopetalum</i>) |
| Mossman River Grass | <i>Cenchrus Echinatus</i>) |
| Spiny Burrgrass | <i>Cenchrus Incertus</i>) |
| Doublegee | <i>Emex australis Steinh</i> |

The proposed local law includes several additional species, which were recommended for inclusion, following the 2016 review of the local law. Administration has some concerns regarding the demand on resources to enforce the local law with respect to some of the inclusions in the “draft”. Consequently the list of plants has been reduced to the existing local law requirements with some additions.

It should be noted that African Boxthorn (*Lycium ferocissimum*) and Golden Crownbeard (*Verbesina encelioides*) have been specifically requested for inclusion by the Department of Biodiversity, Conservation and Attractions, as they are pest plants that government agencies are currently engaged in trying to eradicate. As such it is appropriate that these plants be retained to assist those efforts. It is proposed that the following plants be included in the local law. It remains at the discretion of the local government to amend the local law at any time to include additional plants.

| COMMON NAME | SCIENTIFIC NAME |
|---------------------|--|
| Afghan Thistle | <i>Solanum hystrix</i> , R. Ba. <i>Solanum hoplopetalum</i> |
| Mossman River Grass | <i>Cenchrus Echinatus</i> |
| Spiny Burrgrass | <i>Cenchrus Incertus</i> |
| Golden crownbeard | <i>Verbesina encelioides</i> |
| African Boxthorn | <i>Lycium ferocissimum</i> |
| Doublegee | <i>Emex australis Steinh</i> |

6. Shire of Dandaragan Dogs Local Law 2018

The local law has been amended in accordance with advice from the Department of Local Government Sport and Cultural Industries. The amendments have been minor formatting and wording changes as proposed by the Department. Additionally, the definition of **thoroughfare** has been removed from the local law as superfluous and a definition of **owner** had been included.

At this point, Council is requested to note the draft amendments and various replacement local laws and to direct Administration to

seek the consent of the CEO of the Department of Water and Environmental Regulation, to make the waste local law. It is necessary that the CEO give consent before the Council “makes” the waste local law, to ensure validity. Once consent has been granted all local laws will come back to Council to be finally “made”.

CONSULTATION

The adoption of new Shire of Dandaragan Local Laws is both a legislative and consultative process. The public notice through advertisement is the first step in the adoption and making of new local laws and amendments.

Statewide public notice in the West Australian newspaper was given on 3 December 2018 and local public notice in the Shire Administration Centre and all four (4) libraries, was undertaken around the same dates. The proposed local laws were also advertised on the Shire website. Submissions closed on the 24th January 2019 and no public submissions were received.

As above, Administration also sought comments from relevant government agencies and Ministers offices, on the legislative changes. A series of minor formatting and wording changes were proposed by the Department of Local Government and Communities and the Department of Water and Environmental Regulation (DWER) with respect to the draft Waste Local Law 2019. The recommended changes have been incorporated into the drafts as described above.

STATUTORY ENVIRONMENT

It is a requirement of the Waste Avoidance and Resource Recovery Act 2007 that any local government local law has the consent of the CEO of the relevant Department (DWER), prior to being “made” by the local government.

The Local Government Act 1995 requires that after the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed. None of the changes included in the drafts amount to “substantial change” and the local laws can be made once consent to make the Waste Local Law 2019 is obtained.

Once made the local laws will be published in the Government *Gazette* and copies will be forwarded to the relevant Ministers. Explanatory Memorandums for each local law will be prepared and be forwarded to the Joint Standing Committee on Delegated Legislation.

The final step will be for the Shire to give local public notice —

- (a) stating the titles of the local laws; and
- (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and

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- (c) advising that copies of the local law may be inspected or obtained from the local government's office.

Although not essential with respect to this report, it is a requirement of the Local Government Act that at a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of any proposed local law including any amendment. The *Local Government (Functions and General) Regulations 1996* Part 1A-Local Laws, prescribe the following:

Notice of purpose and effect of proposed local law - s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that -

- (a) *the purpose and effect of the proposed local law is included in the agenda for that meeting; and*
 (b) *the minutes of the meeting of the council include the purpose and effect of the proposed local law.*

The intended Purpose and Effect of the Shire of Dandaragan Waste Local Law 2019 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the Shire of Dandaragan.

Effect: The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the Shire of Dandaragan.

The intended Purpose and Effect of the Shire of Dandaragan Local Government (Council Meetings) Local Law 2019 are:

Purpose: The purpose of the local law is to provide for rules and guidelines which apply to the conduct of meetings of the Council and its Committees and to the meetings of electors within the district of the Shire of Dandaragan.

Effect: The effect of the local law is to establish requirements for better decision making by the Council and Committees, the orderly conduct of meetings, better understanding of the processes of conducting meetings and the more efficient and effective use of time at meetings, within the district of the Shire of Dandaragan.

The intended Purpose and Effect of the Shire of Dandaragan Site Erosion and Sand Drift Prevention Local Law 2019 are;

Purpose: The purpose of this local law is to provide for the regulation, control and management of site erosion, sand and dust on land within the district.

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Effect: The effect of the local law is to establish controls on site erosion, sand and dust, with which owners and occupiers of land within the district of the Shire of Dandaragan must comply, if directed.

The intended Purpose and Effect of the Shire of Dandaragan General Amendment Local Law 2019 are:

Purpose: The purpose of the local law is to provide for the repeal and amendment of the Shire of Dandaragan Local Laws to provide for the good governance of the district of the Shire of Dandaragan.

Effect: The effect of the local law is to repeal and amend existing local laws within the district of the Shire of Dandaragan to provide for the good governance of the municipality.

The intended Purpose and Effect of the Shire of Dandaragan Local Law Relating to Pest Plants 2019 are;

Purpose: The purpose of the local law is to provide for the regulation, control and management of pest plants on land within the district.

Effect: The effect of the local law is to establish controls on specified pest plants, with which owners and occupiers of land within the district of the Shire of Dandaragan must comply, if directed.

The intended Purpose and Effect of the Shire of Dandaragan Dogs Local Law 2019 are:

Purpose: The purpose of the local law is to provide for the regulation, control and management of the keeping of dogs within the district of the Shire of Dandaragan.

Effect: The effect of the local law is to establish the requirements with which owners and occupiers of land within the district of the Shire of Dandaragan must comply in order to keep dogs and provides the means of enforcing the local law.

The adoption and amendment of the Shire of Dandaragan Local Laws is both a legislative and consultative process.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

Direct costs associated with this report will be limited to Administration and consultancy fees. All costs, including the preparation of the final local law report, letters to Ministers and Departments, the preparation of Explanatory Memos, and final gazettal will be undertaken via budgeted expenditure.

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STRATEGIC IMPLICATIONS

2016 - 2026 Strategic Community Plan

| <i>Goal 5: Proactive and Leading Local Government</i> | |
|--|---|
| Objectives | How the Shire will contribute |
| 5.3 Ensure community is well informed and facilitate community engagement in visioning, strategic planning and other significant decisions that affect the community | a) Consult and engage with the community on issues, projects and decisions that affect them b) Provide relevant and timely information through the Council website, newsletters, and local media |

ATTACHMENTS

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

- Attachment A – Shire of Dandaragan Draft Local Laws (Doc Id: 135449)

(Marked 9.4.1)

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr McGlew, seconded Cr Gibson

That Council notes the minor changes to the draft local laws, as outlined in Attachment A, and directs Administration to seek the consent of the CEO of the Department of Water and Environmental Regulation to “make” the Shire of Dandaragan Waste Local Law 2019.

CARRIED 9 / 0

9.4.2 SHIRE OF DANDARAGAN – STRATEGIC COMMUNITY PLAN – ENVISION 2029

| | |
|-------------------------|--|
| Location: | Shire of Dandaragan |
| Applicant: | Not Applicable |
| Folder Path: | Business Classification Scheme / Corporate Management / Planning / Strategic Plans |
| Disclosure of Interest: | Nil |
| Date: | 14 June 2019 |
| Author: | Brent Bailey, Chief Executive Officer |
| Senior Officer: | Not Applicable |

PROPOSAL

This purpose of this report is for Council to adopt the Strategic Community Plan – Envision 2029.

BACKGROUND

Since August 2018 the Shire has been undertaking public consultation and drafting the new Strategic Community Plan (SCP)

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– Envision 2029. Throughout the development of this draft SCP there has been a multi-layered approach to public consultation to ensure a wide range of opinions, priorities and views of the community have been considered.

Envision 2029 is the highest level document in the Shire’s suite of integrated planning framework documents. It provides the Vision, Strategic themes and high level aspirations for the community which will guide the development of the Corporate Business Plan containing a higher level of detail in regards to projects and initiatives which will be implemented to address the strategic themes.

COMMENT

Throughout the variety of consultation approaches there were a number of recurring themes and initiatives that have been situated under the following headings:

- 1) Environment
- 2) Infrastructure
- 3) Prosperity
- 4) Community

Featuring underneath each key theme are a suite of aspirations / desired future states which are fully detailed within the SCP.

These are supported by key actions and activities that will be expanded on with particular initiatives, projects and strategies in the Corporate Business Plan and resourced through annual budget processes. Future decision making and opportunities assessment will also be considered against these key themes to align the community’s future vision with the operations and direction of the Shire.

The Draft SCP was advertised for public comment on 10 May 2019 with the submission period closing on 7 June 2019. During this time there were a number of submissions which are summarised in the table below.

| Respondent | Submission Summary | Influence of Final SCP |
|--------------------------------|--|--|
| Jurien Bay Chamber of Commerce | <p>“Generally endorse the thrust of the document, while noting the real actions arising will be detailed in yearly Corporate Business Plans.”</p> <p>“Chamber would like to work closely with the Shire to help identify the priority for projects to be included in the yearly Corporate Business Plans... We take this opportunity to congratulate the Shire on the relatively swift progression of the Community Plan.”</p> | Submission noted. No changes associated with submission. |

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| Department of Primary Industries and Regional Development | <p>Infrastructure: DPIRD supports the Shire's priority outcome of an effective power and road infrastructure network that assists the agricultural industry. This includes the limesand road network supporting some of the most significant sources of limesand in the region.</p> <p>Prosperity: DPIRD recognises the importance of the Shire as a major contributor to the state's food production. We support the encouragement of industry which displays strong adherence to industry codes of practice and up-to-date industry standards and guidelines for animal welfare, biosecurity and the environment.</p> <p>Environment: the Shire needs to include careful planning mechanisms to ensure that any land use development on Bassendean soils, particularly for intensive agriculture, do not degrade environmental values, particularly for the prevention of eutrophication of waterways in the shire.</p> | <p>Submission noted. No changes associated with submission.</p> <p>Items relating to industry standards, codes of Practice and Bassendean sands to be further considered through development of Corporate Business Plan and other Shire planning documents.</p> |
| Water Corporation | SCP Reviewed. No suggestion for further amendments. | Submission noted. No changes associated with submission. |

CONSULTATION

The Shire of Dandaragan community has been consulted throughout the Envision 2029 process.

This process has also included workshops with staff and elected members as detailed within the final document.

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations Part 5

Division 3 — Planning for the future

19C. Strategic community plans, requirements for (Act s. 5.56)

- (1) *A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) *A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*
- (3) *A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*
- (4) *A local government is to review the current strategic community plan for its district at least once every 4 years.*

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- (5) *In making or reviewing a strategic community plan, a local government is to have regard to —*
- (a) *the capacity of its current resources and the anticipated capacity of its future resources; and*
 - (b) *strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*
 - (c) *demographic trends.*
- (6) *Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*
- (7) *A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*
- *Absolute majority required.*
- (8) *If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*
- (9) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*
- (10) *A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.*

POLICY IMPLICATIONS

The process undertaken during Envision 2029 has been consistent with Council's Community Communication Policy.

FINANCIAL IMPLICATIONS

Financial implications associated with Envision 2029 will be forecast through the development of the Corporate Business Plan and the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

This item addresses a major review of the Shire's Strategic Community Plan.

ATTACHMENTS

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

- Strategic Community Plan – Envision 2029. (Doc Id: 135878)
(Marked 9.4.2)

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Slyns, seconded Cr Shanhun
That Council adopt the Shire of Dandaragan Strategic
Community Plan – Envision 2029 Doc Id: 135878.

CARRIED BY ABSOLUTE MAJORITY 9 / 0

9.4.3 CONSENT FOR SUBLEASE – RAC CERVANTES HOLIDAY PARK

| | |
|-------------------------|---|
| Location: | Shire of Dandaragan |
| Applicant: | Not Applicable |
| Folder Path: | Business Classification Scheme / Council Properties / Leasing Out / Reserves and Public Land |
| Disclosure of Interest: | Nil |
| Date: | 13 May 2019 |
| Author: | Brent Bailey, Chief Executive Officer |
| Senior Officer: | Not Applicable |

PROPOSAL

This purpose of this report is for Council to consider the subletting of the café / shop at the RAC Cervantes Holiday Park. Council is the lessor of the caravan park and under the current lease agreement consent is required for any subletting. The recommendation supports Council providing consent for this proposal.

BACKGROUND

The Shire has been approached by Minter Ellison lawyers who are acting on behalf of RAC Tourism Assets Pty Ltd to gain consent for subletting the café / shop to Wilchrist Pty Ltd (John and Denise Johansen). Currently the operation of the café / shop is undertaken via a license agreement between the operator and the lessee (RAC Tourism Assets Pty Ltd).

The lessee is seeking to change the instrument of agreement to run the café / shop to enable a greater level of security for the operator which will in turn increase their capacity to invest in the facility and improve service delivery. The instrument to sublease has been prepared by the lessee's solicitors and is provided as attachment 9.4.3.

The lessee will also be required to obtain consent from the Minister for Lands before the sublease is effective.

COMMENT

This proposal does not present a material change to the day to day operation or functionality of the "Seashells Café". Contained within the sublease documents are minimum standards of product lines which are consistent with current offerings. An increased length of tenure to a subtenant may provide greater opportunity for capital improvement to the building and internal fit out. The

reception desk/area within the building is not included as part of this sublease.

The proposed sublease's expiry date is linked to the management agreement between the lessee and Australian Tourist Park Management Pty Ltd – this agreement and thus the term of the sublease will expire on 5 April 2021.

The existing lease between the Shire and the lessor provides the following key terms in relation to subleases:

15.1 No Assignment or Subletting Without Consent

The rights in this lease are personal to the Lessee, and Lessee may not transfer, assign, sublet or otherwise part with possession or any way dispose of any of its rights or obligations under this Lease without the written consent of the lessor and the Minister for Lands, which consent must not be unreasonably withheld, except for the purpose of allowing tenancies under the Caravan Parks and Camping Grounds Act 1995 and the Residential Parks (Long Stay Tenants) Act 2006. The creation of these tenancies will be in the absolute discretion of the Lessee and will not require the consent of the Lessor.

15.3 Lessors Consent to Assignment and Subletting

Provided all parties whose consent is required under this Lease or at law to an assignment or subletting give their consent, then the Lessor may not unreasonably without its consent to the assignment or subletting of the leasehold estate created by this Lease if:

- a) The proposed assignee or sublessee is a respectable and responsible person of good financial standing;*
- b) All amounts payable due and payable have been paid and there is no existing remedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;*
- c) The Lessee procures the execution by:

 - i. The proposed assignee of a deed of assignment; or*
 - ii. The proposed sublease of a deed of sublease,**To which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and**
- d) The deed of assignment contains a covenant, by the assignee with the Lessor, for the assignee to pay all Amounts Payable and to perform and observe all the Lessee's Covenants or the deed of sublease contains a covenant, by the sublessee with the Lessor for the sublessee to pay all the Amounts Payable and to perform and observe all of the Lessee's Covenants in respect of the subleased area of the Premises.*

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The lessor has provided the Shire with documentation provided within the attachments to satisfy the requirements of 15.3(a) and the remainder of the items listed above have been incorporated into the sublease agreement.

The proposal discussed above has the general support of staff. The lease agreement terms between the Shire and the head lease holder (RAC Tourism Assets Pty Ltd) remain in-tact to protect the Shire's interests on the broader site. The approval of a sublease with the terms presented will provide the same level of service to the community and patrons albeit with increased scope for the sublessee to reinvest in the business.

The greatest level of risk that has been identified is the loss of amenity for residents and visitors should the sublessee fail in their enterprise. If this circumstance was to eventuate the lessee would reassume the café business and either operate it themselves under the current license methodology or sublease again. Either way there would be some short term interruption to customers during the transition however it would be in the principal lessee's best interests to reinstate the commercial venture.

CONSULTATION

- RAC Tourism Assets Pty Ltd
- Minter Ellison Solicitors

STATUTORY ENVIRONMENT

Normally Section 3.58 of the Local Government Act 1995 applies to the disposal of property via lease. In this case however the lease (property disposal) is already in place between the Shire and RAC Tourism Assets Pty Ltd and this process is to accommodate a sublease. Accordingly there is no need to advertise this request for public notice.

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no net financial implications associated with this position. All direct costs are funded via the lessee and there are no new revenue streams associated with the proposal.

STRATEGIC IMPLICATIONS

2016 – 2026 Strategic Community Plan

| <i>Goal 1 – Great Place for Residential and Business Development</i> | |
|--|---|
| Objectives | How the Shire will contribute |
| 1.4 Ensure Shire is "open for business" and supports industry and business development | r) Tourism and Marketing s) Business development |

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ATTACHMENTS

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

- Lease Agreement Café and Shop Pinnacles Holiday Park (Doc Id: 133403) (Confidential)
- Resume` Denise Johansen (Doc Id: 135503) (Confidential)
- Resume` John Johansen (Doc Id: 135504) (Confidential)
- ADIS Organisational Extract (Doc Id: 135505) (Confidential)
- Shire Consent to sublease (Doc Id: 133404)

(Marked 9.4.3)

VOTING REQUIREMENT

Simple Majority

| |
|--|
| OFFICER RECOMMENDATION / COUNCIL DECISION |
|--|

Moved Cr McGlew, seconded Cr Clarke

That Council:

- 1) provide consent to the proposal from RAC Tourism Assets Pty Ltd to sublease a portion of Lot 229, Reserve 30838 comprising the Seashells Café building and alfresco area.
- 2) authorise the Chief Executive Officer to execute the associated sublease documents as presented within attachment 9.4.3 - Doc Id: 133403 and Doc Id: 133404.

CARRIED 9 / 0

9.5 COUNCILLOR INFORMATION BULLETIN

9.5.1 SHIRE OF DANDARAGAN – MAY 2019 COUNCIL STATUS REPORT

Document ID: 134414

Attached to the agenda is a copy of the Shire's status report from the Council Meeting held 23 May 2019. **(Marked 9.5.1)**

9.5.2 SHIRE OF DANDARAGAN – INFRASTRUCTURE REPORT – APRIL – JUNE 2019

Document ID: 135834

Attached to the agenda is a copy of the Shire of Dandaragan's Infrastructure Report for April – June 2019. **(Marked 9.5.2)**

9.5.3 SHIRE OF DANDARAGAN – BUILDING STATISTICS – MAY 2019

Document ID: 135326

Attached to the agenda is a copy of the Shire of Dandaragan Building Statistics for May 2019. **(Marked 9.5.3)**

9.5.4 SHIRE OF DANDARAGAN – PLANNING STATISTICS – MAY 2019

Document ID: 135333

Attached to the agenda is a copy of the Shire of Dandaragan Planning Statistics for May 2019. **(Marked 9.5.4)**

9.5.5 SHIRE OF DANDARAGAN TOURISM / LIBRARY REPORT FOR MAY 2019

Document ID: 135473

Attached to the agenda is monthly report for Tourism / Library for May 2019. *(Marked 9.5.5)*

9.5.6 MAIN ROADS WA – HARVEST MASS MANAGEMENT SCHEME - CHANGES

Document ID: 134079

Attached to the agenda is correspondence from Main Roads WA in relation to Harvest Mass Management Scheme – Changes *(Marked 9.5.6)*

9.5.7 NACC PROPOSAL FOR COASTCARE SUPPORT PROGRAM

Document ID: 134105

Attached to the agenda is correspondence from NACC requesting support from the Shire of Dandaragan. *(Marked 9.5.7)*

9.5.8 FIRE CONTROL OFFICERS – AGM MINUTES (UNCONFIRMED) – 3 APRIL 2019

Document ID: 132075

Attached to the agenda is a copy of AGM Minutes of Fire Control Officer meeting held 3 April 2019. *(Marked 9.5.8)*

9.5.9 DEPARTMENT OF TRANSPORT, MAIN ROADS WA, DEPARTMENT OF PRIMARY INDUSTRIES & REGIONAL DEVELOPMENT – REVITALISING AGRICULTURE REGIONAL FREIGHT STRATEGY

Document ID: 135826

Attached to the agenda is a copy of the Draft Revitalising Agricultural Region Freight Strategy or this can be viewed by accessing the following link:

https://www.transport.wa.gov.au/mediaFiles/Freight-Ports/FRE_P_RARF_Draft_Strategy_June.pdf *(Marked 9.5.9)*

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

Nil

11 CONFIDENTIAL ITEMS FOR WHICH MEETING IS CLOSED TO THE PUBLIC

Nil

12 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

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13 CLOSURE OF MEETING

The presiding member declared the meeting closed at 4.20pm.

These minutes were confirmed at a meeting on

Signed

Presiding person at the meeting at which the minutes were confirmed

Date