



Our ref: TPS/2980
Enquiries: Local Planning Schemes

Chief Executive Officer
Shire of Shark Bay
65 Knight Terrace
DENHAM WA 6537

Transmission via electronic mail to: admin@sharkbay.wa.gov.au

Dear Sir/Madam

LOCAL PLANNING SCHEME NO. 4 - AMENDMENT NO. 3

The Western Australian Planning Commission (Commission) has considered the amendment and submitted its recommendation to the Minister in accordance with section 87(1) of the *Planning and Development Act 2005* (the Act).

The Minister has approved the amendment in accordance with section 87(2)(a) of the Act. In accordance with section 87(3) of the Act, the Commission will cause the approved amendment to be published in the Government Gazette.

The Commission has forwarded notice to the Department of Premier and Cabinet (attached) and it is the local governments' responsibility to make arrangements for the payment of any publication costs. The local government is required under section 87(4B) of the Act, and regulation 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to publish the approved amendment, ensure that it is available to the public, and notify each person who made a submission.

For all payment and purchase order queries, please contact the Department of Premier and Cabinet on (08) 6552 6012. One signed set of the amending documents is returned for your records.

Please direct any queries about this matter to localplanningschemes@dph.wa.gov.au.

Yours sincerely

Ms Sam Fagan
Secretary
Western Australian Planning Commission

12/06/2023

PLANNING AND DEVELOPMENT ACT 2005

APPROVED LOCAL PLANNING SCHEME AMENDMENT
Shire of Shark Bay

LOCAL PLANNING SCHEME No. 4 - AMENDMENT No. 3

Ref: TPS/2980

It is hereby notified for public information, in accordance with section 87 of the *Planning and Development Act 2005* that the Minister for Planning approved the Shire of Shark Bay Local Planning Scheme amendment on 6 June 2023 for the purpose of:

- i) Including the use class 'Brewery' in Schedule B of the Scheme Text as a discretionary (i.e. 'D') use under the heading 'Special Use' as it applies specifically to Special Use Zone 14 (i.e SU14); and
- ii) Including the following additional condition in Schedule B of the Scheme Text under the heading 'Conditions' as it applies specifically to Special Use Zone 14 (i.e. SU14):

13) The use class 'Brewery' is limited to Lot 62 on Deposited Plan 103194 only and is not permitted on Lots 303, 304 & 305.

C COWELL
SHIRE PRESIDENT

D CHAPMAN
CHIEF EXECUTIVE OFFICER



RECEIVED

19 JUN 2023

SHIRE OF SHARK BAY

**SHIRE OF SHARK BAY
LOCAL PLANNING SCHEME NO.4**

AMENDMENT NO.3

Purpose: Basic Amendment to Local Planning Scheme No.4 to include the use class 'Brewery' as a discretionary use in Special Use Zone 14 as it applies specifically to Lots 62, 303, 304 & 305 Dirk Hartog Island as well as a new condition limiting the proposed new use to Lot 62 only.

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION TO ADOPT AMENDMENT TO LOCAL PLANNING SCHEME

SHIRE OF SHARK BAY LOCAL PLANNING SCHEME NO.4

AMENDMENT NO.3

Resolved that the Local Government, pursuant to section 75 of the *Planning and Development Act 2005*, amend the above Local Planning Scheme by:

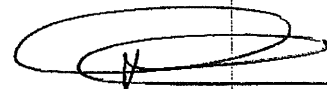
- i) Including the use class 'Brewery' in Schedule B of the Scheme Text as a discretionary (i.e. 'D') use under the heading 'Special Use' as it applies specifically to Special Use Zone 14 (i.e. SU14); and
- ii) Including the following additional condition in Schedule B of the Scheme Text under the heading 'Conditions' as it applies specifically to Special Use Zone 14 (i.e. SU14):

13) *The use class 'Brewery' is limited to Lot 62 on Deposited Plan 103194 only and is not permitted on Lots 303, 304 & 305.*

The amendment is basic under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:

- i) It is consistent with clause 38 in Part 2 of the Model Provisions in Schedule 1 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (i.e. 'Land use terms used'), the general aims of Local Planning Scheme No.4 (i.e. clause 9 in Part 1 of the Scheme Text) as well as the relevant land use term (i.e. use class and associated definition) for 'brewery' currently contained in clause 40, Part 6 of the Scheme Text; and
- ii) It will have minimal effect on the Scheme or landowners in the Scheme Area.

Dated this 30th day of November 2022



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Chief Executive Officer

PROPOSAL TO AMEND A LOCAL PLANNING SCHEME

1. **Local Authority:** Shire of Shark Bay
2. **Description of Scheme:** Local Planning Scheme No.4
3. **Type of Scheme:** Local Planning Scheme
4. **Serial No. of Amendment:** 3
5. **Proposal:**
 1. Inclusion of the use class 'Brewery' in Schedule B of the Scheme Text as a discretionary (i.e. 'D') use under the heading 'Special Use' as it applies specifically to Special Use Zone 14 (i.e. SU14).
 2. Inclusion of the following additional condition in Schedule B of the Scheme Text under the heading 'Conditions' as it applies specifically to Special Use Zone 14 (i.e. SU14):
 - 13) *The use class 'Brewery' is limited to Lot 62 on Deposited Plan 103194 only and is not permitted on Lots 303, 304 & 305.*
6. **Type of Amendment:** Basic

SCHEME AMENDMENT REPORT

1.0 INTRODUCTION

The current owner of Lot 62 on Deposited Plan 103194 Dirk Hartog Island is proposing to establish and operate a small scale, boutique-type distillery in an existing shed on the property to manufacture gin (i.e. a distilled alcoholic spirit made from grain and flavoured with botanicals).

The proposed development falls within the use class 'Brewery' which is defined in Part 6, Division 2, clause 40 of the Shire of Shark Bay Local Planning Scheme No.4 as '*premises the subject of a producer's licence authorising the production of beer, cider or spirits granted under the Liquor Control Act 1988*'.

Under the terms of clause 21(2) and Schedule B of the Shire of Shark Bay Local Planning Scheme No.4 the development of a 'Brewery' on Lot 62 is not currently permitted and cannot therefore be lawfully approved by the local government unless a suitable amendment to the Scheme is prepared and ultimately approved by the Minister for Planning.

This report has been prepared to provide a general description of Lot 62, explain the scheme amendment and development proposal in further detail, and provide justification for the scheme amendment in the context of the local government's local planning framework.

It should be noted the landowner will seek and obtain all other regulatory approvals required should the Minister for Planning ultimately approve the scheme amendment proposal. This would include development and building approvals from the local government pursuant to the specific requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* and *Building Regulations 2012* as well as a 'Producers Licence' from the Racing, Gaming and Liquor division of the Department of Local Government, Sport and Cultural Industries under the *Liquor Control Act 1988* and *Liquor Control Regulations 1989*.

2.0 BACKGROUND

2.1 Location

Lot 62 is located in the Gascoyne region of Western Australia on the eastern, leeward side of Dirk Hartog Island in a small, sheltered sandy bay.

2.2 Site Area

Lot 62 comprises a total area of approximately 40.6755 hectares.

2.3 Ownership

Lot 62 is currently owned in fee simple (i.e. freehold) by Hypermarket Pty Ltd.

2.4 Current & Surrounding Land Uses

Lot 62 has been developed and used for tourist accommodation purposes for many years (i.e. Dirk Hartog Island Eco Lodge) and contains a number of associated built form improvements in its northern-most portion including the original homestead and associated structures.

Lot 303 on Deposited Plan 50257 located immediately west is also owned by Hypermarket Pty Ltd. This property forms part of the Dirk Hartog Island Eco Lodge and contains a nature based park and various associated improvements also in its northern-most portion.

Lots 62 and 303 are bounded on all sides by Crown Reserve 50325 which is formally known as the Dirk Hartog Island National Park. The reserve has been vested in the Conservation Commission of Western Australia and is managed by the Department of Biodiversity, Conservation and Attractions on behalf of the Western Australian Government.

Lots 62 and 303 are both burdened by restrictive covenants registered on title in perpetuity which clearly recognise and allow for the development and use of the land for low impact ecotourism purposes. The covenants include a range of legally enforceable controls relating to occupancy by staff and visitors (i.e. frequency and numbers), the protection of native fauna and flora, biosecurity measures and pest management.

2.5 Physical Characteristics

Lot 62 forms part of a sandy coastal environment comprising unlithified/unconsolidated sediments with little to no rock and features gently sloping shores backed by small, elevated dunes behind the coastal foreshore reserve with no historical evidence of dune blowouts in the immediate area.

The adjoining sandy coastal bay is a low-energy, low-wave environment with a micro-tidal range and gentle currents. As such the coastal foreshore area abutting Lot 62 is stable with limited sand drift and no evidence of any coastal erosion problems over the past 20 years.

Soils on the land are sandy in nature with a deep limestone base and have proven capability to accommodate small-scale built form improvements and on-site effluent disposal given the land's historical development and use.

There are no rivers, creeks or wetlands traversing Lot 62. It is understood groundwater is available at a depth ranging from 10 to 25 metres below the land's natural ground level.

Lot 62 is located within the Edel Vegetation System which covers approximately 20,000 hectares of the eastern and southern portions of Dirk Hartog Island. The existing vegetation on that portion of the land where the existing tourism accommodation facilities and associated improvements have been developed mainly comprises low level shrubland less than two (2) metres in height dominated by *Acacia ligulata* and sparse understorey.

It is significant to note the existing native vegetation in the northern-most portion of Lot 62 has been partially cleared and/or modified with evidence of degradation and weed infestation arising from the land's historical development and use for pastoral and tourism purposes. It should also be noted the existing shed proposed to be used to manufacture gin is located in the northern portion of the property which has already been cleared of all existing native vegetation.

2.6 Infrastructure

The current landowner has made significant investments in the provision of vehicle accessways and parking areas, strategic firebreaks, renewable energy, potable water, on-site effluent disposal, telecommunications, stormwater drainage and firefighting infrastructure. As such, the existing development is self-sufficient, easily accessible and suitably serviced to accommodate the needs and provide for the safety of all staff and visitors.

3.0 LOCAL PLANNING CONTEXT

3.1 State & Regional Planning Context

Planning for all future development on Dirk Hartog Island is guided by the Gascoyne Coast Sub-Regional Strategy published by the Department of Planning, Lands and Heritage on behalf of the Western Australian Planning Commission in June 2018.

The Strategy is a third tier strategic planning document preceded by the Western Australian State Planning Strategy (WAPC, 2014) and the Gascoyne Regional Planning and Infrastructure Framework (WAPC, 2015) which is recognised as a

sub-regional strategy under the State Planning Framework (State Planning Policy No.1).

Lot 62 is classified as a 'Minor Tourism Node' in the settlement hierarchy described in the Gascoyne Regional Planning and Infrastructure Framework and Gascoyne Coast Sub-Regional Strategy, within which further tourism development and growth is recognised and supported due to its significance to the local economy subject to sustainable management and consideration of environmental impacts and heritage values.

3.2 Local Planning Strategy

Planning for all future development on Dirk Hartog Island is also guided by the Shire of Shark Bay Local Planning Strategy (2013) which seeks to plan for all future development in a responsible manner that reflects the aspirations of the local government and local community, accommodate future needs, create opportunity to enhance local attributes, and support long term objectives and goals.

Key objectives of the Local Planning Strategy of relevance to the proposal for Lot 62 are as follows:

- *Protect the natural environment, resources and coastal areas from inappropriate development that may have any undesirable or negative impact in terms of amenity, social, environmental, or visual;*
- *Promote sustainable development and conservation of water resources;*
- *Promote Shark Bay and its World Heritage Listing as a place for recreation and nature-based tourism, and ensure that the local community continues to enjoy a natural lifestyle experience.*

The Local Planning Strategy provided the basis for the 'Special Use' zoning classification that now applies to Lot 62 in the Shire of Shark Bay Local Planning Scheme No.4, the key objective to accommodate all existing and future proposed eco-tourism development, all uses considered appropriate on the land pursuant to this and other objectives, and the range of land use controls required to guide all future development of the property in an ecologically sustainable manner.

3.3 Shire of Shark Bay Strategic Community Plan 2020-2030

The Shire of Shark Bay Strategic Community Plan 2020-2030 outlines the local community's long term vision, values, aspirations and priorities, with reference to other local government plans, information and resourcing capabilities.

The key strategic objectives of the plan are as follows:

- *Economic: A progressive, resilient and diverse economy;*
- *Environment: Help protect our unique natural and built environment;*
- *Social: A safe, welcoming and inclusive community; and*
- *Leadership: A transparent, resilient organisation demonstrating leadership and governance*

The plan seeks to:

- i) support local business and encourage further investment in the district by promoting and supporting the local tourism industry;
- ii) protect the natural environment for the benefit and enjoyment of current and future generations by promoting reduced environmental impacts throughout the Shire;
- iii) create a safe, welcoming and inclusive community with a strong sense of spirit and pride.

3.4 Local Planning Policies

There are no Local Planning Policies adopted under the Shire of Shark Bay Local Planning Scheme No.4 of relevance to the proposal for Lot 62.

3.4 Heritage Listings

Dirk Hartog Island is located in the Shark Bay World Heritage Area due to its exceptional natural features and is managed by the Western Australian Government in accordance with Australia's obligations under the World Heritage Convention.

The northern-most portion of Lot 62, including the original homestead and associated structures, has also been included in the National Heritage List which recognises and protects places of outstanding heritage value to the nation.

4.0 PROPOSAL

In order to allow for the development of a distillery on Lot 62 the following amendments to the Shire of Shark Bay Local Planning Scheme No.4 are proposed:

- i) *Inclusion of the use class 'Brewery' in Schedule B of the Scheme Text as a discretionary (i.e. 'D') use under the heading 'Special Use' as it applies specifically to Special Use Zone 14 (i.e. SU14); and*

ii) *Inclusion of the following additional condition in Schedule B of the Scheme Text under the heading 'Conditions' as it applies specifically to Special Use Zone 14 (i.e. SU14):*

13) The use class 'Brewery' is limited to Lot 62 on Deposited Plan 103194 only and is not permitted on Lots 303, 304 & 305.

As previously mentioned, under the terms of clause 21(2) and Schedule B of the Shire of Shark Bay Local Planning Scheme No.4 the development of a 'Brewery' on Lot 62 is not currently permitted and cannot therefore be lawfully approved by the local government unless a suitable amendment to the Scheme is prepared and ultimately approved by the Minister for Planning.

The proposed amendment to Local Planning Scheme No.4 outlined above is justified on the following grounds:

1. The development of a distillery on Lot 62 will complement the existing ecotourism development on the land, enhance its attractiveness as a unique tourist destination and help provide for the long term sustainability of the tourism business;
2. The proposed distillery will be established in an existing 134m² shed constructed in a previously cleared portion of the land which will be expanded slightly to comprise a total floor area of 148m² and upgraded in accordance with all relevant standards and requirements pursuant to all regulatory approvals needed;
3. The proposed distillery will be small-scale, boutique-type operation designed to attract new tourists (i.e. it won't be a bulk production facility). The distillery will only operate 3 to 4 days per month, create employment for two (2) to three (3) people on a part-time basis, and produce up to 3,200 x 700ml bottles of gin per annum from eight (8) separate production batches;
4. A total of 1,600 litres of ethanol will be required to manufacture the total amount of gin proposed to be produced annually. All ethanol will be purchased in 200 litre sealed drums from an authorised supplier and stored in a separate, secure storage shed on the property in accordance with the manufacturer's specifications and other regulatory requirements to minimise any potential risks;
5. All products imported to the island from the mainland to allow for the production of gin will be subject to the protocols and procedures prescribed in the Dirk Hartog Island Biosecurity Implementation Plan (2014, Revised 2015) published by the Department of Parks and Wildlife to prevent the accidental introduction of weeds, pests and diseases;
6. A total of 270 litres of wastewater will be produced during each production run (i.e. 2,160 litres per annum). All wastewater will be recycled and used on-site with no negative impacts on the natural environment;
7. A total of 200 grams of waste arising from the use of botanicals in the production process will be generated during each production run (i.e. 1,600 grams / 1.6

- kilograms per annum). All botanical waste produced will be composted on-site with other organic waste with no negative impacts on the natural environment;
8. All gin produced will be securely stored on-site and sold to tourists from an existing approved visitors' centre and associated bar/café in accordance with the rights afforded by a 'Producers Licence' issued by the Racing, Gaming and Liquor division of the Department of Local Government, Sport and Cultural Industries;
 9. There is sufficient essential service capacity to accommodate the power and water supply needs of the proposed distillery;
 10. The proposed development is well removed from and will have no impacts on the adjoining Dirk Hartog Island National Park (i.e. Crown Reserve 50325); and
 11. The proposed development, by virtue of its location and limited scale, will not compromise the heritage values of the Shark Bay World Heritage Area or the original homestead and associated structures in the northern-most portion of Lot 62.

In light of all the above, it is contended the proposal is consistent with the strategic direction and objectives of the Gascoyne Coast Sub-Regional Strategy (2018), Shire of Shark Bay Local Planning Strategy (2013) and Shire of Shark Bay Strategic Community Plan 2020-2030 as they apply specifically to further tourism development and growth and protection of the natural environment, resources and coastal areas from inappropriate development and will therefore have no negative impacts or give rise to any significant risks provided it is undertaken in accordance with all regulatory requirements and guidelines.

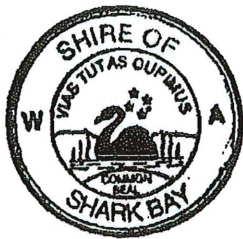
5.0 CONCLUSION

The proposal to amend the Shire of Shark Bay Local Planning Scheme No.4 to allow for the establishment and operation of a small scale, boutique-type distillery on Lot 62 on Deposited Plan 103194 Dirk Hartog Island is well founded, consistent with the local government's local planning framework, as well as the objectives of all relevant heritage listings, and is therefore unlikely to give rise to any negative impacts.

As such, it is requested the local government, the Environmental Protection Authority, the Western Australian Planning Commission and the Hon. Minister for Planning consider the proposal favourably and approve the Scheme amendment proposal outlined above to allow the landowner to seek and obtain all other regulatory approvals required to enable the project to proceed.

COUNCIL ADOPTION

This Basic Amendment was adopted and is recommended for approval by resolution of the Council of the Shire of Shark Bay at the Ordinary Meeting of the Council held on the 30th day of November, 2022 and the Common Seal of the Shire of Shark Bay was hereunto affixed by the authority of a resolution of the Council in the presence of:



Clawell

SHIRE PRESIDENT

[Signature]

CHIEF EXECUTIVE OFFICER

WAPC ENDORSEMENT (r.63)

[Signature]

DELEGATED UNDER S.16 OF THE P&D ACT 2005

DATE: 5 May 2023

APPROVAL GRANTED

It is hereby certified that this is a true copy of the ~~Scheme~~ Amendment, final approval to which was endorsed by the Minister for Planning on *6/6/2023*

Certified by *[Signature]*

Officer of the Commission Duty authorised pursuant to Section 24 of the Planning and Development Act 2005 and Regulation 32(3) Scheme and Regulation 63(3) (Amendment) of the Planning and Development (Local Planning Scheme) Regulations 2015.

MINISTER FOR PLANNING

DATE.....