



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Wednesday, 30 June 2021; 10am
Meeting Number: RJDAP/27
Meeting Venue: City of Busselton Council Chambers
2 Southern Drive, Busselton
And via Zoom

Due to the current lockdown in the Perth and Peel Region, this DAP meeting was also conducted by electronic means open to the public as well as in person

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Attendance

DAP Members

Ms Kanella Hope (A/Presiding Member)
Mr Brian Curtis (A/Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)
Mayor Grant Henley (Local Government Member, City of Busselton)
Cr Paul Carter (Local Government Member, City of Busselton)

Officers in attendance

Mr Paul Needham (City of Busselton) – *Item 8.1 & 8.2*
Ms Lee Reddell - *Item 8.1 & 8.2*
Mr Oliver Darby - *Item 8.1 & 8.2*
Mr Daniel Abrahams - *Item 8.1 & 8.2*
Mr Andrew Watts (City of Busselton) – *Item 8.1*
Ms Joanna Wilson (City of Busselton) – *Item 8.2*
Mr Krish Seewraj (Department of Water and Environmental Regulation) – *Item 8.2*
Mr Lawry Lim (Department of Mines, Industry Regulation and Safety) – *Item 8.2*
Mr Peter Hanly (Department of Biodiversity Conservation and Attractions) – *Item 8.2*

Minute Secretary

Ms Maureen Dolan (City of Busselton)
Ms Bethany Baker (City of Busselton)
Ms Adele McMahon (DAP Secretariat)

Applicants and Submitters

Item 8.1

Mr Peter Simpson (PTS Town Planning Pty Ltd)
Dr Stephen Proud (Sophron Healthcare)
Mr Edwin Bollig (Bollig Design Group)
Mr Mohammad Rasouli (Transcore)
Mr Long Truong (BPA Engineering)
Mr Shane Caddy (Emerge Associates)
Ms Kirsten Knox (Emerge Associates)
Mr Keith Sims
Mr Gabi Ghaseb
Mr Kelly Brown

Item 8.2

Mr Alessandro Stagno (Apex Planning)
Ms Rebecca Epworth (Urbaqua)
Ms Kristen Watts (Coterra Environment)
Mr Michael Ferritto (McDowall Affleck)
Mr Craig Sisson

Members of the Public / Media

There were 8 members of the public in attendance.



1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 10:10am on 30 June 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

The A/Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2020 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

1.1 Announcements by Presiding Member

The A/Presiding Member advised that the meeting is being audio recorded in accordance with Section 5.16 of the DAP Standing Orders 2020 which states 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.' The A/Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

In response to the COVID-19 situation, this meeting was also convened via electronic means. Members were reminded to announce their name and title prior to speaking.

2. Apologies

Mr Paul Kotsoglo (Presiding Member)

3. Members on Leave of Absence

Nil

4. Noting of Minutes

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

5. Declaration of Due Consideration

The A/Presiding Member noted that an addendum to the agenda was published to include details of a DAP direction for further information and responsible authority response in relation to Item 8.1 & 8.2, received on 29 & 30 June 2021.

Mr Justin Page declared that he was not familiar with the substance of the fourth R13 Direction (for further information) Response in relation to the City of Busselton's response to Mr Gabi Ghasseb's presentation for Item 8.1.



PROCEDURAL MOTION

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That the meeting be adjourned for a period of 5 minutes to allow members and Mr Gabi Ghasseb to read the fourth R13 Direction and Response in relation to the City's response to Mr Gabi Ghasseb's presentation.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: For the members and Mr Ghasseb to read the fourth R13 Direction and Response

The meeting was adjourned at 10:32am.

PROCEDURAL MOTION

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That the meeting be reconvened.

The meeting was reconvened at 10:37am.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To reconvene the meeting

6. Disclosure of Interests

DAP Member, Mr Paul Kotsoglo, declared a Pecuniary Interest in item 8.2. Mr Kotsoglo is the Managing Director of Planning Solutions. Planning Solutions were the applicant for the application at item 8.2 when the application was lodged.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the A/Presiding Member determined that the member listed above, who had disclosed a Pecuniary Interest, was not permitted to participate in the discussion and voting on the item.

7. Deputations and Presentations

- 7.1 Mr Keith Sims addressed the DAP against the recommendation for the application at Item 8.1.
- 7.2 Mr Gabi Ghasseb addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.3 Mr Kelly Brown responded to questions from the panel at Item 8.1.



- 7.4 Dr Stephen Proud (Sophron Healthcare) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.5 Mr Peter Simpson (PTS Town Planning Pty Ltd) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.6 Ms Kirsten Knox (Emerge Associates) responded to questions from the panel at Item 8.1.
- 7.7 Mr Mohamed Rasouli (Transcore) responded to questions from the panel at Item 8.1.
- 7.8 City of Busselton Officers addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

The presentation at Item 7.1 – 7.8 were heard prior to the application at Item 8.1.

- 7.9 Mr Craig Sisson addressed the DAP against the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.10 Ms Rebecca Epworth (Urbaqua) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.11 Mr Lawry Lim (Department of Mines, Industry Regulation and Safety) responded to questions from the panel at Item 8.2.
- 7.12 Ms Kristen Watts (Coterra Environment) responded to questions from the panel at Item 8.2.
- 7.13 Mr Peter Hanly (Department of Biodiversity Conservation and Attractions) responded to questions from the panel at Item 8.2.
- 7.14 Mr Alessandro Stagno (Apex Planning) addressed the DAP against the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.15 Mr Krish Seewraj (Department of Water and Environmental Regulation) responded to questions from the panel at Item 8.2.
- 7.16 City of Busselton Officers addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

The presentations at Items 7.9 - 7.16 were heard prior to the application at Item 8.2.



8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 21 (57) Molloy Street, Busselton

Development Description: Private Hospital (Special Control Area)
Applicant: PTS Town Planning Pty Ltd
Owner: Sophron Property Pty Ltd
Responsible Authority: City of Busselton
DAP File No: DAP/21/01955

REPORT RECOMMENDATION

Moved by: Mr Justin Page

Seconded by: Mr Brian Curtis

That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/21/01955 and accompanying plans (Site Plan Rev A, SK00, SK01, SK02, SK03 and SK04,) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Busselton Local Planning Scheme No. 21, subject to the following conditions:

Conditions

GENERAL CONDITIONS:

1. This decision constitutes development approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, (enclosed), including any notes placed thereon in red by the Regional JDAP and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –



- 3.1 A revised Landscaping Plan which should include:
 - a) the location and species of all trees to be removed and / or retained;
 - b) the location and type of fencing to be installed;
 - c) the location and type of reticulation to be installed;
 - d) the location and type of paving to be installed;
 - e) a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity;
 - f) landscaping proposed on any adjoining road verges;
 - g) if the development is to be completed within stages the landscaping plan shall detail which portions of the landscaping is to be installed upon the completion of each stage; and
 - h) screen planting to address visual impact of the building from Causeway Road.
- 3.2 A detailed plan that shows natural ground levels, finished ground levels and finished floor levels.
- 3.3 Lighting Management Plan consistent with the 'dark sky principles' and the requirements of Australian Standard AS 4282—2019, *Control of the obtrusive effects of outdoor lighting*.
- 3.4 A schedule of the final materials, finishes and colours. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.5 Details setting out a minimum of one loading bay to be provided on site. The loading bay shall be appropriately designed, constructed, drained and line marked.
- 3.6 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.7 Details of the proposed bin storage areas. The details shall include as a minimum, the design and the materials to be used in their construction.
- 3.8 A revised stormwater drainage management plan to the satisfaction of the City. Stormwater is to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of roofed and impervious area and should undergo treatment to a suitable quality prior to any release off site.
- 3.9 The development being connected to reticulated sewerage.
- 3.10 All existing septic sewer systems including all tanks and pipes and associated drainage systems (soakwells or leach drains) and any stormwater disposal systems are to be decommissioned, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.



- 3.11 Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the Lot advising the following:

“This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Hospital is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Emerge Associates dated September 2020 and the accompanying Bushfire Emergency Evacuation Plan (BEEP).”

A copy of the Certificate of Title with the section 70A notification registered against it, or Landgate lodgement receipt, is to be provided to the City.

- 3.12 Details of signage, including but not limited to the design, materials and levels of illumination;
- 3.13 Satisfactory arrangements shall be made with the City to provide public art works - This entails compliance with the Percent for Art provisions of the City’s Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Cost of Development (“ECD”).
- 3.14 A Construction Management Plan (CMP). The CMP shall address the following:
- access to and from the site;
 - delivery of materials and equipment to the site;
 - storage of materials and equipment on the site;
 - parking arrangements for contractors and subcontractors;
 - management of construction waste; and
 - other matters likely to impact on the surrounding properties.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 2 and 3 have been implemented; and, the following conditions have been complied with –
- 4.1 Crossovers are located and constructed to the City’s specifications.
- 4.2 All vehicle parking, access ways, footpaths and external lighting shall be constructed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
- 4.3 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).

ONGOING CONDITIONS

5. The works undertaken to satisfy Conditions 2, 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions shall be complied with:



- 5.1. Compliance with the approved Waste Management Plan.
- 5.2. The approved Bushfire Management Plan shall be implemented and maintained in accordance with the approval details and any recommendations therein.
- 5.3. Landscaping and reticulation shall be maintained in accordance with the approved Landscape Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die, or are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision there may also be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the Regional JDAP.
2. This Decision Notice grants Development Approval to the development the subject of this application. It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
3. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard.
4. Applicants are encouraged to review the *Percent for Art Policy Step by Step Guide for Developers* which can be viewed on the City's website at www.busselton.wa.gov.au and liaise with the City's Cultural Planning Officer at the earliest possible opportunity.
5. The Estimated Cost of Development shall be to the satisfaction of the City and based on demonstrated contract values or estimates provided by a quantity surveyor, with such contract or estimates being no more than 3 months old at the time of calculation of the payment amount, and if such information is more than 3 months old, the Estimated Cost of Development shall be indexed to the general construction industry index for Western Australia.
6. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
7. In accordance with the requirements of the *Local Government (Uniform Local Provisions) Regulations 1996*, you are hereby notified that any vehicle access from the land to a road or other public thoroughfare must be in accordance with the City's adopted Crossover Policy and Vehicle Crossovers Technical Specification.



8. Food handling, preparation and storage areas to be designed and constructed in accordance with the *Food Act 2008*, *Food Regulations 2009* and the *Australian and New Zealand Food Authority (ANZFA) Food Safety Standards*.
9. All public access areas (dining areas, etc) are to comply with the provisions of the *Health (Miscellaneous Provisions) Act 1911*, related regulations and guidelines and in particular Part VI – Public Buildings.
10. The proponent shall refer to Department of Water and Environmental Regulation's acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works". Link: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>

AMENDING MOTION

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That condition no. 1 be amended to read as follows:

This decision constitutes development approval only and is valid for a period of ~~two~~ **four** years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To align with the 4 year timeframe as per the amendments with the *Planning and Development (Local Planning Schemes) Regulations 2015* that came into effect 15 February 2021

REPORT RECOMMENDATION (AS AMENDED)

That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/21/01955 and accompanying plans (Site Plan Rev A, SK00, SK01, SK02, SK03 and SK04,) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Busselton Local Planning Scheme No. 21, subject to the following conditions:

Conditions

GENERAL CONDITIONS:

1. This decision constitutes development approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.



2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, (enclosed), including any notes placed thereon in red by the Regional JDAP and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
 - 3.1 A revised Landscaping Plan which should include:
 - a) the location and species of all trees to be removed and / or retained;
 - b) the location and type of fencing to be installed;
 - c) the location and type of reticulation to be installed;
 - d) the location and type of paving to be installed;
 - e) a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity;
 - f) landscaping proposed on any adjoining road verges;
 - g) if the development is to be completed within stages the landscaping plan shall detail which portions of the landscaping is to be installed upon the completion of each stage; and
 - h) screen planting to address visual impact of the building from Causeway Road.
 - 3.2 A detailed plan that shows natural ground levels, finished ground levels and finished floor levels.
 - 3.3 Lighting Management Plan consistent with the 'dark sky principles' and the requirements of Australian Standard AS 4282—2019, *Control of the obtrusive effects of outdoor lighting*.
 - 3.4 A schedule of the final materials, finishes and colours. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
 - 3.5 Details setting out a minimum of one loading bay to be provided on site. The loading bay shall be appropriately designed, constructed, drained and line marked.
 - 3.6 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
 - 3.7 Details of the proposed bin storage areas. The details shall include as a minimum, the design and the materials to be used in their construction.
 - 3.8 A revised stormwater drainage management plan to the satisfaction of the City. Stormwater is to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of roofed and impervious area and should undergo treatment to a suitable quality prior to any release off site.



- 3.9 The development being connected to reticulated sewerage.
- 3.10 All existing septic sewer systems including all tanks and pipes and associated drainage systems (soakwells or leach drains) and any stormwater disposal systems are to be decommissioned, removed, filled with clean sand and compacted. Proof of decommissioning is to be provided in the form of either certification from a licensed plumber or a statutory declaration from the landowner/applicant, confirming that the site has been inspected and all septic tanks, soak wells, leach drains and any associated pipework have been removed.
- 3.12 Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the Lot advising the following:
- “This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Hospital is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Emerge Associates dated September 2020 and the accompanying Bushfire Emergency Evacuation Plan (BEEP).”*
- A copy of the Certificate of Title with the section 70A notification registered against it, or Landgate lodgement receipt, is to be provided to the City.
- 3.13 Details of signage, including but not limited to the design, materials and levels of illumination;
- 3.14 Satisfactory arrangements shall be made with the City to provide public art works - This entails compliance with the Percent for Art provisions of the City’s Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Cost of Development (“ECD”).
- 3.15 A Construction Management Plan (CMP). The CMP shall address the following:
- access to and from the site;
 - delivery of materials and equipment to the site;
 - storage of materials and equipment on the site;
 - parking arrangements for contractors and subcontractors;
 - management of construction waste; and
 - other matters likely to impact on the surrounding properties.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 2 and 3 have been implemented; and, the following conditions have been complied with –
- 4.1 Crossovers are located and constructed to the City’s specifications.



- 4.2 All vehicle parking, access ways, footpaths and external lighting shall be constructed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
- 4.3 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).

ONGOING CONDITIONS

5. The works undertaken to satisfy Conditions 2, 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions shall be complied with:
 - 5.1. Compliance with the approved Waste Management Plan.
 - 5.2. The approved Bushfire Management Plan shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 5.3. Landscaping and reticulation shall be maintained in accordance with the approved Landscape Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die, or are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision there may also be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made by the Regional JDAP.
2. This Decision Notice grants Development Approval to the development the subject of this application. It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
3. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard.
4. Applicants are encouraged to review the *Percent for Art Policy Step by Step Guide for Developers* which can be viewed on the City's website at www.busselton.wa.gov.au and liaise with the City's Cultural Planning Officer at the earliest possible opportunity.



5. The Estimated Cost of Development shall be to the satisfaction of the City and based on demonstrated contract values or estimates provided by a quantity surveyor, with such contract or estimates being no more than 3 months old at the time of calculation of the payment amount, and if such information is more than 3 months old, the Estimated Cost of Development shall be indexed to the general construction industry index for Western Australia.
6. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
7. In accordance with the requirements of the *Local Government (Uniform Local Provisions) Regulations 1996*, you are hereby notified that any vehicle access from the land to a road or other public thoroughfare must be in accordance with the City's adopted Crossover Policy and Vehicle Crossovers Technical Specification.
8. Food handling, preparation and storage areas to be designed and constructed in accordance with the *Food Act 2008*, *Food Regulations 2009* and the *Australian and New Zealand Food Authority (ANZFA) Food Safety Standards*.
9. All public access areas (dining areas, etc) are to comply with the provisions of the *Health (Miscellaneous Provisions) Act 1911*, related regulations and guidelines and in particular Part VI – Public Buildings.
10. The proponent shall refer to Department of Water and Environmental Regulation's acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works". Link: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>

The Report Recommendation (as amended) was put and CARRIED UNANIMOUSLY.

REASON: The Panel extensively considered the Responsible Authority Report and the key issues in this matter. This included consideration of submitter issues against approval, and with the applicant and their team, in support of the proposal. This consideration included a range of matters, particularly examination of site suitability, traffic, and fire issues, as well as the matters advanced by Mr Ghasseb about his nearby property and suggested acquisition impacts arising from Causeway Road.

The Panel concluded that on merit, the proposal satisfactorily complies with the planning framework. The land use and development are suitable and potential impacts arising have been appropriately considered and managed.

It is evident that there is some community and landowner tension around ongoing traffic management and potential future duplication of Causeway Road, however, the Panel was satisfied that traffic impacts arising from and attributable to this proposal, have been duly considered.



Likewise, was that the bushfire prone land designation and arising obligations on the applicant, now in the planning process, had also been duly examined and managed. The Panel did not agree with Mr Ghasseb or Mr Brown that there was reason to delay this decision or that State Planning Policy pertaining to fire was problematic or not satisfied.

PROCEDURAL MOTION

Moved by: Cr Paul Carter

Seconded by: Mayor Grant Henley

That the meeting be adjourned for a period of 5 minutes to allow members a comfort break.

The meeting was adjourned at 11:59am.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: Comfort Break

PROCEDURAL MOTION

Moved by: Mayor Grant Henley

Seconded by: Cr Paul Carter

That the meeting be reconvened.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: For the meeting to be reconvened

The meeting was reconvened at 12:06pm.

8.2 Lot 16 (100) West Street, West Busselton

Development Description:	Service Station (Special Control Area)
Applicant:	Apex Planning
Owner:	Estate of Winnifred May Watts
Responsible Authority:	City of Busselton
DAP File No:	DAP/21/01961

REPORT RECOMMENDATION

Moved by: Cr Paul Carter

Seconded by: Mr Justin Page

That the Regional JDAP resolves to:

1. Accept that the DAP Application reference DAP/21/01961 is appropriate for consideration as "Service Station" land use and compatible with the objectives of the zoning table in accordance with Clause no. 3.2 of the City of Busselton Local Planning Scheme No. 21;



2. **Approve** DAP Application reference DAP/21/01961 and accompanying plans (DA01 (A); DA02 (E); DA03 (A); DA04 (B); DA05 (C); DA06 (C); DA07 (C); DA08 (C); DA09 (C); DA10 (B); DA11 (C) and DA12 (B)) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Busselton Local Planning Scheme No. 21, subject to the following conditions:

Conditions

GENERAL CONDITIONS:

1. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
 - 3.1 A revised Landscaping Plan for the wetland buffer, infiltration basin and West Street road verge. The Landscaping Plan shall include a plant schedule nominating endemic nutrient stripping species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.
 - 3.2 An exterior lighting plan which shall include the canopy, parking areas and entry/exit points. The lighting plan should minimise light spill over the wetlands to reduce impact upon light-sensitive wildlife behavior and ecosystem function.
 - 3.3 Details setting out a minimum number of 15 car parking bays to be provided on site (including 1 accessible bay). The parking areas, driveways and points of ingress and egress (including crossovers) shall be appropriately designed, constructed, drained and line marked.
 - 3.4 Details setting out a minimum of one loading bay to be provided on site. The loading bay shall be appropriately designed, constructed, drained and line marked.
 - 3.5 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
 - 3.6 Details of the proposed bin storage areas. The details shall include as a minimum, the design and the materials to be used in their construction.



- 3.7 Amended plans for both the pylon sign and blade wall sign with a maximum height of 6 metres above natural ground level.
- 3.8 Engineering drawings for the removal of the existing bus bay embayment, the road verge reinstated and the proposed dual use path.
- 3.9 The relocation of the bus stop to a location to be agreed by the City on advice from the Public Transport Authority.
- 3.10 A revised Stormwater and Drainage Management Plan, incorporating the following revisions:
 - 3.10.1 Managing the stormwater within the site by:
 - i. Amending the water quality treatment of the soakwells to include amended soils to all sides and underneath;
 - ii. Extending the length of the southern infiltration basin along the length of the wetland buffer; and
 - 3.10.2 Managing the overland flows along West Street by ensuring run off is captured.
- 3.11 Details setting out how all septic sewer systems including all tanks and pipes and associated drainage systems (soakwells or leach drains) and any stormwater disposal systems are to be decommissioned, removed, filled with clean sand and compacted.
- 3.12 Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Busselton and for public access are to be placed on the certificate(s) of title of Lot 16 specifying access rights, notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan), the easement(s) are to state as follows:

“The footpath shall be made available to the benefit of the public”.
- 3.13 Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the Lot advising the following:

“This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner. The approval of the Service Station is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Eco Logical Australia dated 4 June 2021 and the accompanying Bushfire Risk Management Plan (BRMP).”

A copy of the Certificate of Title with the section 70A notification registered against it, or Landgate lodgement receipt, is to be provided to the City.
- 3.14 Details of advertising signage, including but not limited to the design, materials and levels of illumination.
- 3.15 Fuel Delivery Management Plan.
- 3.16 The Finished Floor Level of the building shall be 2.28m AHD.



PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Condition 2 and 3 have been implemented; and, the following conditions have been complied with:
 - 4.1 Crossovers are located and constructed to the City's specifications.
 - 4.2 The development being connected to reticulated sewerage.
 - 4.3 Landscaping shall be implemented in accordance with the approved Landscape Plan.

ONGOING CONDITIONS

5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions shall be complied with:
 - 5.1 For the life of the development, all illuminated signs hereby approved shall:
 - a) Not be of a light emission intensity to cause a light overspill nuisance to occupiers of adjacent premises, cause a traffic hazard or distraction to drivers on the adjacent public road or be confused with traffic signals;
 - b) Not flash, pulsate, chase, or otherwise cause a nuisance to occupiers of an adjoining site or the local area;
 - c) Not be animated.
 - 5.2 The pylon and blade wall signs shall be restricted to a maximum of 6 metres above natural ground level.
 - 5.3 The approved Bushfire Management Plan shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 5.4 Landscaping shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision, there may also be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made.
2. This Decision Notice grants development approval to the development the subject of this application. It cannot be construed as granting development approval for any other structure shown on the Approved Development Plans, which was not specifically included in this application.



3. For the purposes of this condition, the term “substantially commenced” has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time. Please note it is the responsibility of the applicant / owner to ensure that this development approval remains current and does not lapse.
4. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
5. The lighting plan shall have regard for the “National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds - Department of the Environment and Energy, 2020”
6. Water Corporation have advised the following:
 - a. *A wastewater pumping station is located opposite to the subject area. Under normal operating conditions there will be minimal odour emanating from the pumping station, however, during maintenance and abnormal operating or weather conditions, an increased level of odour may occur that will be of nuisance to persons within the odour buffer area. The enclosed plan shows the location of the pump station and the odour buffer around the pump station.*
 - b. *This proposal will require approval by our Building Services section prior to commencement of works. Infrastructure contributions and fees may be required to be paid prior to approval being issued.*
7. The food storage, retail and preparation areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code Requirements.
8. The food business is required to be registered with the City of Busselton. A Food Business Notification / Registration Form is to be submitted for approval by an Environmental Health Officer (include a detailed sketch plan of fit out of premise) prior to operating the food business.
9. Noise from the development and land use including but not limited to noise from air-conditioning systems, equipment, machinery, collection of rubbish and recycling bins, business activities and music is to comply with *Environmental Protection (Noise) Regulations 1997*. In particular the assigned decibel levels specified in the Regulations for three different time periods throughout the day.



AMENDING MOTION 1

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That condition no. 1 be amended to read as follows:

*This decision constitutes planning approval only and is valid for a period of ~~two~~ **four** years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To align with the 4 year timeframe as per the amendments with the *Planning and Development (Local Planning Schemes) Regulations 2015* that came into effect 15 February 2021

AMENDING MOTION 2

Moved by: Cr Paul Carter

Seconded by: Mr Brian Curtis

That condition no. 3.7 be amended to read as follows:

*Amended plans for both the pylon sign **and the signage on the blade wall sign** with a maximum height of 6 metres above natural ground level.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: By agreement between City Officers and the applicant. To clarify that the signage panel on the feature blade wall, not the blade wall feature, be positioned a maximum 6m above natural ground level.

AMENDING MOTION 3

Moved by: Mr Justin Page

Seconded by: Mayor Grant Henley

That condition no. 3.9 be amended to read as follows:

*The relocation of the bus stop **at the full cost of the developer** to a location to be agreed by the City on advice from the Public Transport Authority.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: By agreement between City Officers and the applicant. To clarify who will pay for the relocation.



AMENDING MOTION 4

Moved by: Mr Brian Curtis

Seconded by: Cr Paul Carter

That condition no. 3.10 be amended to read as follows:

A revised Stormwater and Drainage Management Plan, incorporating the following revisions:

3.10.1 Managing the stormwater within the site by:

- i. Amending the water quality treatment of the soakwells to include amended soils to all sides and underneath;*
- ii. Extending the length of the southern infiltration basin **to the extent practicable** ~~along the length of the wetland buffer;~~ and*

*3.10.2 ~~Managing~~ **Addressing** the overland flows along West Street by ensuring run off is ~~captured~~ **managed***

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: By agreement between City Officers and the applicant. To clarify obligations concerning Stormwater management.

AMENDING MOTION 5

Moved by: Mr Justin Page

Seconded by: Ms Kanella Hope

That condition no. 5.2 be amended to read as follows:

*The pylon and **signage on the blade wall signs** shall be restricted to a maximum of 6 metres above natural ground level.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: For consistency with amended condition 3.7

AMENDING MOTION 6

Moved by: Mr Justin Page

Seconded by: Mayor Grant Henley

That a new condition no. 3.17 be added to read as follows:

A Construction Management Plan (CMP). The CMP shall address the following:

- a. access to and from the site;***
- b. delivery of materials and equipment to the site;***
- c. storage of materials and equipment on the site;***
- d. parking arrangements for contractors and subcontractors;***
- e. management of construction waste; and***
- f. other matters likely to impact on the surrounding properties.***

The Amending Motion was put and CARRIED UNANIMOUSLY.



REASON: To ensure adequate management of construction given proximity of the site to the adjoining wetlands.

AMENDING MOTION 7

Moved by: Mr Justin Page

Seconded by: Cr Paul Carter

That condition no. 3.6 be amended to read as follows:

*Details of the proposed bin storage areas. The details shall include as a minimum, the design and the materials to be used in their construction **and the ongoing management of litter within the site.***

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To manage potential waste and litter from entering the nearby wetlands.

REPORT RECOMMENDATION (AS AMENDED)

That the Regional JDAP resolves to:

1. Accept that the DAP Application reference DAP/21/01961 is appropriate for consideration as "Service Station" land use and compatible with the objectives of the zoning table in accordance with Clause no. 3.2 of the City of Busselton Local Planning Scheme No. 21;
2. **Approve** DAP Application reference DAP/21/01961 and accompanying plans (DA01 (A); DA02 (E); DA03 (A); DA04 (B); DA05 (C); DA06 (C); DA07 (C); DA08 (C); DA09 (C); DA10 (B); DA11 (C) and DA12 (B)) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Busselton Local Planning Scheme No. 21, subject to the following conditions:

Conditions

GENERAL CONDITIONS:

1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –



- 3.1 A revised Landscaping Plan for the wetland buffer, infiltration basin and West Street road verge. The Landscaping Plan shall include a plant schedule nominating endemic nutrient stripping species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.
- 3.2 An exterior lighting plan which shall include the canopy, parking areas and entry/exit points. The lighting plan should minimise light spill over the wetlands to reduce impact upon light-sensitive wildlife behavior and ecosystem function.
- 3.3 Details setting out a minimum number of 15 car parking bays to be provided on site (including 1 accessible bay). The parking areas, driveways and points of ingress and egress (including crossovers) shall be appropriately designed, constructed, drained and line marked.
- 3.4 Details setting out a minimum of one loading bay to be provided on site. The loading bay shall be appropriately designed, constructed, drained and line marked.
- 3.5 Details of the proposed bicycle parking facilities. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.6 Details of the proposed bin storage areas. The details shall include as a minimum, the design and the materials to be used in their construction and the ongoing management of litter within the site.
- 3.7 Amended plans for both the pylon sign and the signage on the blade wall with a maximum height of 6 metres above natural ground level.
- 3.8 Engineering drawings for the removal of the existing bus bay embayment, the road verge reinstated and the proposed dual use path.
- 3.9 The relocation of the bus stop at the full cost of the developer to a location to be agreed by the City on advice from the Public Transport Authority.
- 3.10 A revised Stormwater and Drainage Management Plan, incorporating the following revisions:
 - 3.10.1 Managing the stormwater within the site by:
 - i. Amending the water quality treatment of the soakwells to include amended soils to all sides and underneath;
 - ii. Extending the length of the southern infiltration basin to the extent practicable; and
 - 3.10.2 Addressing the overland flows along West Street by ensuring run off is managed
- 3.11 Details setting out how all septic sewer systems including all tanks and pipes and associated drainage systems (soakwells or leach drains) and any stormwater disposal systems are to be decommissioned, removed, filled with clean sand and compacted.



- 3.12 Easement(s) in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Busselton and for public access are to be placed on the certificate(s) of title of Lot 16 specifying access rights, notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan), the easement(s) are to state as follows:

“The footpath shall be made available to the benefit of the public”.

- 3.13 Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the Lot advising the following:

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A copy of the Certificate of Title with the section 70A notification registered against it, or Landgate lodgement receipt, is to be provided to the City.

- 3.14 Details of advertising signage, including but not limited to the design, materials and levels of illumination.

- 3.15 Fuel Delivery Management Plan.

- 3.16 The Finished Floor Level of the building shall be 2.28m AHD.

- 3.17 A Construction Management Plan (CMP). The CMP shall address the following:

- a) access to and from the site;
- b) delivery of materials and equipment to the site;
- c) storage of materials and equipment on the site;
- d) parking arrangements for contractors and subcontractors;
- e) management of construction waste; and
- f) other matters likely to impact on the surrounding properties.

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

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- 4.1 Crossovers are located and constructed to the City's specifications.

- 4.2 The development being connected to reticulated sewerage.

- 4.3 Landscaping shall be implemented in accordance with the approved Landscape Plan.



ONGOING CONDITIONS

5. The works undertaken to satisfy Conditions 3 and 4 shall be subsequently maintained for the life of the development; and, the following conditions shall be complied with:
 - 5.1 For the life of the development, all illuminated signs hereby approved shall:
 - a) Not be of a light emission intensity to cause a light overspill nuisance to occupiers of adjacent premises, cause a traffic hazard or distraction to drivers on the adjacent public road or be confused with traffic signals;
 - b) Not flash, pulsate, chase, or otherwise cause a nuisance to occupiers of an adjoining site or the local area;
 - c) Not be animated.
 - 5.2 The pylon and signage on blade wall shall be restricted to a maximum of 6 metres above natural ground level.
 - 5.3 The approved Bushfire Management Plan shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 5.4 Landscaping shall thereafter be maintained to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision, there may also be a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision being made.
2. This Decision Notice grants development approval to the development the subject of this application. It cannot be construed as granting development approval for any other structure shown on the Approved Development Plans, which was not specifically included in this application.
3. For the purposes of this condition, the term “substantially commenced” has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time. Please note it is the responsibility of the applicant / owner to ensure that this development approval remains current and does not lapse.
4. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.



5. The lighting plan shall have regard for the “National Light Pollution Guidelines for Wildlife Including Marine Turtles, Seabirds and Migratory Shorebirds - Department of the Environment and Energy, 2020”
6. Water Corporation have advised the following:
 - a. *A wastewater pumping station is located opposite to the subject area. Under normal operating conditions there will be minimal odour emanating from the pumping station, however, during maintenance and abnormal operating or weather conditions, an increased level of odour may occur that will be of nuisance to persons within the odour buffer area. The enclosed plan shows the location of the pump station and the odour buffer around the pump station.*
 - b. *This proposal will require approval by our Building Services section prior to commencement of works. Infrastructure contributions and fees may be required to be paid prior to approval being issued.*
7. The food storage, retail and preparation areas to be designed and constructed in accordance with Food Act 2008, Food Regulations 2009 and the Food Standards Code Requirements.
8. The food business is required to be registered with the City of Busselton. A Food Business Notification / Registration Form is to be submitted for approval by an Environmental Health Officer (include a detailed sketch plan of fit out of premise) prior to operating the food business.
9. Noise from the development and land use including but not limited to noise from air-conditioning systems, equipment, machinery, collection of rubbish and recycling bins, business activities and music is to comply with *Environmental Protection (Noise) Regulations 1997*. In particular the assigned decibel levels specified in the Regulations for three different time periods throughout the day.

The Report Recommendation (as amended) was put and CARRIED UNANIMOUSLY.

REASON: The Panel extensively considered the Responsible Authority Report and the key issues in this matter. This included consideration of submitter issues against approval, recognising the volume of submissions received, and with the applicant and their consultant team, in support of the proposal.

This consideration focussed on potential environmental impacts of the proposal, including potential for stormwater escaping the site into West Street or the nearby wetlands; litter and construction management; condition requirements for relocating the PTA bus stop; and signage considerations for the blade wall.

The Panel concluded that on merit, the proposal satisfactorily complies with the planning framework. The number of service stations in an area was not considered to be a relevant consideration. The Panel was satisfied environmental considerations were suitably addressed, including by conditions of approval, and were reassured by the detailed rigour applied to the assessment that has included relevant agencies.



9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020

11. General Business

The A/Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 2:20pm.