



Regional Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 5 December 2024; 1:00pm
Meeting Number: RDAP/31
Meeting Venue: 140 William Street, Perth

A recording of the meeting is available via the following link:
[RDAP/31 - 5 December 2024 - City of Busselton - Shire of Capel](#)

PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement
2. Apologies
3. Members on Leave of Absence
4. Noting of Minutes

PART B – CITY OF BUSSELTON

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 9557 Crn Lynwood Street & Bussell Hwy Vasse Bypass, Vasse – Service Station & motor vehicle wash – DAP/22/02399
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART C – SHIRE OF CAPEL

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 287 South Western Highway, Gwindinup – Sand Gravel extraction – DAP/24/02681
4. Form 2 DAP
5. Section 31 SAT Reconsiderations

PART D – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals
2. Meeting Closure

Eugene Koltasz
Presiding Member, Regional DAP



Attendance	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Eugene Koltasz (Presiding Member)	Kristen Parker
Dale Page (Deputy Presiding Member)	Claire Ortlepp
Jacqueline Jurmann	
<i>Part B – City of Busselton</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Anne Ryan	Andrew Watts
Cr Jarrod Kennedy	
<i>Part C – Shire of Capel</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Peter McCleery	Bob Wallin
Cr John Fergusson	

Eugene Koltasz
Presiding Member, Regional DAP



Applicant and Submitters
<i>Part B – City of Busselton</i>
Nik Hidding (Hidding Urban Planning) Tim Beazley (Peregrine Corporation)
<i>Part C – Shire of Capel</i>
Michael Tichbon (Capel Land Conservation District Committee) Donna Brown Dr Kirsi Kauhanen (MBS Environmental)

Members of the Public / Media

Nil.

Observers via livestream

There were 4 persons observing the meeting via the livestream.

Eugene Koltasz
Presiding Member, Regional DAP



PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1:00pm on 5 December 2024 and acknowledged the traditional owners and custodians of the land on which the meeting was held and welcomed members.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2024 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

1.1 Announcements by Presiding Member

The Presiding Member advised that panel members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

The meeting was recorded and livestreamed on the DAP website in accordance with regulation 40(2A) of the *Planning and Development (Development Assessment Panels) Regulations 2011*. Members were reminded to announce their name and title prior to speaking.

2. Apologies

Cr Kate Cox (Local Government DAP Member, City of Busselton)

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](#).

Eugene Koltasz
Presiding Member, Regional DAP



PART B – CITY OF BUSSELTON

1. Declaration of Due Consideration

All members declared that they had duly considered the documents contained within Part B of the Agenda and Part B of the Related Information.

2. Disclosure of Interests

Nil.

3. Form 1 DAP Applications

3.1 Lot 9557 Crn Lynwood Street & Bussell Hwy Vasse Bypass, Vasse – Service Station & motor vehicle wash – DAP/22/02399

Deputations and Presentations

Nik Hidding (Hidding Urban Planning) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

Andrew Watts (City of Busselton) addressed the DAP in relation to the application at Item Number and responded to questions from the panel.

REPORT RECOMMENDATION

Moved by: Cr Anne Ryan

Seconded by: Cr Jarrod Kennedy

An administrative change was made to correct the numbering of conditions.

That the Regional DAP resolves to:

Approve DAP Application reference DAP/22/02399 and accompanying plans (SK01D, SK02B, SK03B, SK04C, SK05C and SK06B) 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:

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.

Eugene Koltasz
Presiding Member, Regional DAP



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 stormwater and groundwater management plan is prepared and submitted for proposed Lot 71, consistent with the Urban Water Management Plan for the Vasse Light Industrial Area Stage 2.
 - 3.2 Satisfactory arrangements for the provision of a 20 metre wide landscaped visual screening buffer to Bussell Highway along the northern boundary of Lot 9557/proposed Lot 71.
 - 3.3 Final Landscaping Plan. The Landscaping Plan shall include a plant schedule nominating endemic species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.
 - 3.4 An Exterior Lighting Plan which shall include the canopy, parking areas, entry/exit points and other areas accessible to the public, consistent with the requirements of Australian Standard AS 4282—2019, *Control of the obtrusive effects of outdoor lighting*.
 - 3.5 Details setting out a minimum number of 17 car parking bays to be provided on site (including one accessible bay). The parking areas, driveways and point of ingress and egress (including crossover) shall be appropriately designed, constructed, drained and line marked.
 - 3.6 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.
 - 3.7 Details of the proposed bicycle parking, designed in accordance with the Australian Standard AS 2890.3-2015 for *Parking facilities – Bicycle parking*. The details shall include, as a minimum, the location, design and materials to be used in their construction.
 - 3.8 Waste Management Plan, detailing the proposed bin storage areas. The details shall include, as a minimum, the design and the materials to be used in their construction and details of any collection areas (Advice Note 11)
 - 3.9 Arrangements to provide public art works within the development. 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").

Eugene Koltasz
Presiding Member, Regional DAP



- 3.10 A Construction Management Plan (CMP). The CMP shall address the following:
- a. public safety and amenity;
 - b. site security;
 - c. contact details of essential site personnel, construction period and operating hours;
 - d. community information, consultation and complaints management;
 - e. traffic, access and parking management;
 - f. delivery of materials and equipment to the site;
 - g. Storage of materials and equipment on the site
 - h. waste management;
 - i. sanitary facilities;
 - j. dust management during the construction process;
 - k. stormwater and sediment control; and
 - l. any other matter deemed relevant by the City.
- 3.11 Fuel Delivery Management Plan (Advice Note 12).
- 3.12 Pedestrian Management Plan (Advice Note 13).
- 3.13 Details of widened crossover to Lynwood Street to facilitate lane correct, full access movements of service vehicles;
- 3.14 Details of Satisfactory arrangements for modification to the configuration of the existing median island at the northern end of Lynwood Street, to facilitate lane correct, full access movements of service vehicles to and from the northern crossover of the approved development to Lynwood Street.

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 located and constructed to the City's specifications.
 - 4.2 All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard 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).
 - 4.4 Landscaping shall be implemented in accordance with the approved Landscape Plan.

Eugene Koltasz
Presiding Member, Regional DAP



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 For the life of the development, all illuminated signs hereby approved shall be operated as follows –
- a. Advertising must relate only to services or products sold within the premises the subject of this approval;
 - b. LED panel images and messages must not chase, flash or have any moving features or animations effects such as 'fade', 'zoom' or 'fly-in' for the change of messages or images;
 - c. Signage panels will be maintained to a high standard at all times;
 - d. Images or messages will have a minimum dwell time of 45 seconds;
 - e. Luminance levels –
 - Day time – 6000 cd/m²;
 - Dawn/Dusk – 600 cd/m²; and
 - Night time - 300 cd/m²;
 - f. A Certificate of Compliance from a suitable professional to certify luminance levels of LED signage.
- 5.2 Compliance with the Noise Management Plan recommendations detailed by the Environmental Noise Impact report Revision 2 (Reference: P191208RP1) prepared by Reverberate Consulting, dated 11 October 2024, and any other noise mitigation measures to be implemented in order to reduce noise disturbance to noise sensitive premises and comply with the *Environmental Protection (Noise) Regulations 1997*.
- 5.3 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.

Eugene Koltasz
Presiding Member, Regional DAP



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 applicant is advised that the food storage, retail and preparation areas are to be designed and constructed in accordance with *Food Act 2008*, *Food Regulations 2009* and the *Food Standards Code Requirements*.
6. 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.
7. You are advised that a Trade Waste Water permit is required to be attained from the Water Corporation for disposal into deep sewer prior to the commencement of operations.
8. 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.
9. 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.
10. 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.
11. The applicant is advised that a suitable rubbish enclosure adequate to service the development is to be constructed and provided in accordance with the City of Busselton Health *Local Laws 1997*.

Eugene Koltasz
Presiding Member, Regional DAP



12. The applicant shall prepare a Fuel Delivery Management Plan which is to include but limited to:
 - a. Restriction of delivery during School Bus operation times; and
 - b. On peaks times.

13. The applicant shall prepare a Pedestrian Management Plan which is to include the proposed pedestrian access to the retail store front from the proposed and existing pedestrian network surrounding the Site.

14. You are advised of the following requirements from the Department of Water and Environmental Regulations (DWER):
 - i. “Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a moderate to low risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation’s (DWER) acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.”

 - ii. The subject land is located in the Busselton-Capel Groundwater Area as proclaimed under the *Rights in Water and Irrigation Act 1914* (RIWI Act). Any groundwater abstraction in this proclaimed area is subject to licensing by the department, other than supply from the shallow watertable (superficial aquifer) for domestic and non-intensive stock watering purposes.

As such, dewatering activities in this development may be subject to licensing under the RIWI Act if the thresholds specified at <https://www.water.wa.gov.au/licensing/water-licensing/exemptions> are exceeded.

 - iii. The proponent is to refer to the following Water Quality Protection Notes (WQPN), to assist mitigating the risk of spills and leaks to the groundwater resource, as practical and appropriate to the site situation:
 - WQPN 10 – *Contaminant spills — emergency response plan* (May 2020)
 - WQPN 49 – *Service Stations* (Sept 2013)
 - WQPN 56 - *Tanks for fuel and chemical storage near sensitive water resources* (Dec 2018)

15. You are advised of the following requirements from the Department of Mines, Industry Regulation and Safety (DMIRS):
 - a. A Dangerous Goods Licence is required.
 - b. The storage and transportation of dangerous goods and chemicals to be in accordance with the relevant legislation.

Eugene Koltasz
Presiding Member, Regional DAP



AMENDING MOTION 1

Moved by: Dale Page

Seconded by: Cr Anne Ryan

That a new Condition No. 4.5 be added to read as follows:

Venture Road is to be constructed to the satisfaction of the City, prior to occupation of the development.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: Satisfactory access to the development is contingent on the construction of Venture Road. Given the subdivision to create Lot 71 and Venture Road is yet to be finalised, the condition is prudent to guarantee appropriate access.

REPORT RECOMMENDATION (AS AMENDED)

That the Regional DAP resolves to:

Approve DAP Application reference DAP/22/02399 and accompanying plans (SK01D, SK02B, SK03B, SK04C, SK05C and SK06B) 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:

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 stormwater and groundwater management plan is prepared and submitted for proposed Lot 71, consistent with the Urban Water Management Plan for the Vasse Light Industrial Area Stage 2.
 - 3.2 Satisfactory arrangements for the provision of a 20 metre wide landscaped visual screening buffer to Bussell Highway along the northern boundary of Lot 9557/proposed Lot 71.

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- 3.3 Final Landscaping Plan. The Landscaping Plan shall include a plant schedule nominating endemic species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity.
- 3.4 An Exterior Lighting Plan which shall include the canopy, parking areas, entry/exit points and other areas accessible to the public, consistent with the requirements of Australian Standard AS 4282—2019, *Control of the obtrusive effects of outdoor lighting*.
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- 3.7 Details of the proposed bicycle parking, designed in accordance with the Australian Standard AS 2890.3-2015 for *Parking facilities – Bicycle parking*. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.8 Waste Management Plan, detailing the proposed bin storage areas. The details shall include, as a minimum, the design and the materials to be used in their construction and details of any collection areas (Advice Note 11)
- 3.9 Arrangements to provide public art works within the development. 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").
- 3.10 A Construction Management Plan (CMP). The CMP shall address the following:
 - a. public safety and amenity;
 - b. site security;
 - c. contact details of essential site personnel, construction period and operating hours;
 - d. community information, consultation and complaints management;
 - e. traffic, access and parking management;
 - f. delivery of materials and equipment to the site;
 - g. Storage of materials and equipment on the site
 - h. waste management;
 - i. sanitary facilities;
 - j. dust management during the construction process;
 - k. stormwater and sediment control; and
 - l. any other matter deemed relevant by the City.

Eugene Koltasz
Presiding Member, Regional DAP



- 3.11 Fuel Delivery Management Plan (Advice Note 12).
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- 3.13 Details of widened crossover to Lynwood Street to facilitate lane correct, full access movements of service vehicles;
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PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

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 - 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).
 - 4.4 Landscaping shall be implemented in accordance with the approved Landscape Plan.
 - 4.5 Venture Road is to be constructed to the satisfaction of the City, prior to occupation of the development.

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 For the life of the development, all illuminated signs hereby approved shall be operated as follows –
 - a. Advertising must relate only to services or products sold within the premises the subject of this approval;

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Presiding Member, Regional DAP



- b. LED panel images and messages must not chase, flash or have any moving features or animations effects such as 'fade', 'zoom' or 'fly-in' for the change of messages or images;
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 - e. Luminance levels –
 - Day time – 6000 cd/m²;
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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.

Eugene Koltasz
Presiding Member, Regional DAP



5. The applicant is advised that the food storage, retail and preparation areas are to be designed and constructed in accordance with *Food Act 2008*, *Food Regulations 2009* and the *Food Standards Code Requirements*.
6. 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.
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9. 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.
10. 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.
11. The applicant is advised that a suitable rubbish enclosure adequate to service the development is to be constructed and provided in accordance with the City of Busselton Health *Local Laws 1997*.
12. The applicant shall prepare a Fuel Delivery Management Plan which is to include but limited to:
 - a. Restriction of delivery during School Bus operation times; and
 - b. On peaks times.
13. The applicant shall prepare a Pedestrian Management Plan which is to include the proposed pedestrian access to the retail store front from the proposed and existing pedestrian network surrounding the Site.

Eugene Koltasz
Presiding Member, Regional DAP



14. You are advised of the following requirements from the Department of Water and Environmental Regulations (DWER):
- i. “Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a moderate to low risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation’s (DWER) acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.”
 - ii. The subject land is located in the Busselton-Capel Groundwater Area as proclaimed under the *Rights in Water and Irrigation Act 1914* (RIWI Act). Any groundwater abstraction in this proclaimed area is subject to licensing by the department, other than supply from the shallow watertable (superficial aquifer) for domestic and non-intensive stock watering purposes.

As such, dewatering activities in this development may be subject to licensing under the RIWI Act if the thresholds specified at <https://www.water.wa.gov.au/licensing/water-licensing/exemptions> are exceeded.
 - iii. The proponent is to refer to the following Water Quality Protection Notes (WQPN), to assist mitigating the risk of spills and leaks to the groundwater resource, as practical and appropriate to the site situation:
 - WQPN 10 – *Contaminant spills — emergency response plan* (May 2020)
 - WQPN 49 – *Service Stations* (Sept 2013)
 - WQPN 56 - *Tanks for fuel and chemical storage near sensitive water resources* (Dec 2018)
15. You are advised of the following requirements from the Department of Mines, Industry Regulation and Safety (DMIRS):
- a. A Dangerous Goods Licence is required.
 - b. The storage and transportation of dangerous goods and chemicals to be in accordance with the relevant legislation.

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

Eugene Koltasz
Presiding Member, Regional DAP



REASON: The proposal is consistent with the objectives of the Industrial Zone and the structure plan applicable to the site. Although 121 objections were received, a large number of these oppose the proposed development based on a proliferation of service stations in the area, which is not a planning consideration to base a decision on. •The other key themes raised in the submissions, namely noise, traffic and anti-social behaviour have either been addressed by changes to the plans or can be managed via the conditions the City staff have recommended. There is good separation from nearby residences, and the landscaped buffer will assist in managing any interface issues between the site and these residences.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

Nil.

Cr Anne Ryan and Cr Jarrod Kennedy (Local Government DAP Members, City of Busselton) left the panel at 1:19pm.

A handwritten signature in black ink that reads "Eugene Koltasz".

Eugene Koltasz
Presiding Member, Regional DAP



PART C – SHIRE OF CAPEL

Cr Peter McCleery and Cr John Fergusson (Local Government DAP Members, Shire of Capel) joined the panel at 1:19pm.

1. Declaration of Due Consideration

All members declared that they had duly considered the documents contained within Part C of the Agenda and Part C of the Related Information.

2. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Member, Cr Peter McCleery and Cr John Fergusson, declared that they had participated in a prior Council meeting in relation to the application at item 3.1. However, under section 2.1.2 of the DAP Code of Conduct 2024, Cr Peter McCleery and Cr John Fergusson acknowledged that they are not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.

In accordance with section 3.3 of the DAP Code of Conduct 2024, the DAP Executive Director determined that the members listed above, who had disclosed an impartiality interest, are permitted to participate in the discussion and voting on the item.

3. Form 1 DAP Applications

3.1 Lot 287 South Western Highway, Gwindinup – Sand Gravel extraction – DAP/24/02681

Deputations and Presentations

Donna Brown, on behalf of Michael Tichbon (Capel Land Conservation District Committee), addressed the DAP in support of the recommendation for the application at Item 3.1.

Dr Kirsi Kauhanen (MBS Environmental) addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

The panel noted a written submission in support of the recommendation for the application at Item 3.1. was received from Donna Brown.

Bob Wallin (Shire of Capel) addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.

Eugene Koltasz
Presiding Member, Regional DAP



REPORT RECOMMENDATION

Moved by: Cr John Fergusson

Seconded by: Cr Peter McCleery

It is recommended that the Regional Development Assessment Panel resolves to:

Refuse DAP Application reference DAP/24/02681 and accompanying plans dated October 2024 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 Shire of Capel Planning Scheme No. 8, for the following reasons:

Reasons:

1. The proposed development does not meet the objectives of the Rural Zone in the Greater Bunbury Region Scheme with respect to the conservation and use of natural resources.
2. The proposed development does not satisfy the requirements of clause 6 (h) of the Greater Bunbury Region Scheme with respect to achieving rehabilitation outcomes.
3. The proposed development does not meet clause 16 (2) of the Rural Zone objectives in the Shire of Capel Local Planning Scheme No. 8.
4. The proposed development does not meet the requirements of Schedule 4 Rural Zone, Other Requirements 5) of the Shire of Capel Local Planning Scheme No.8 with respect to preserving rural character and amenity and impacts on sensitive land uses.
5. The proposal development does not meet the requirements of Special Control Area 8 Regional Ecological Linkages, Additional Provision 2 of Local Planning Scheme No.8 with respect to removal or harming of significant ecosystems protected under any relevant local, state and or federal government legislation or policy.
6. The proposed development does not meet the Policy Objective 5 (e) of State Planning Policy 2.4 - Basic Raw Materials with respect to avoiding, minimising or mitigating any adverse impacts on the community and biodiversity values.
7. The proposed development does not meet the policy provisions of the Shire of Capel Local Planning Policy 6.2 - Extractive Industries with respect to development criteria:
 - PC1.1.2
 - PC1.2.1
 - PC1.2.2
 - PC1.2.5
 - PC1.3
 - PC1.4

Eugene Koltasz
Presiding Member, Regional DAP



8. The proposed development does not satisfy the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* Clause 67(2) sub clauses (a), (b), (c), (d), (g), (n), (o), (p), (q), (y) and (za).

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: There are significant environmental factors with the proposal and significant concerns have been expressed by more than one agency and on more than one issue. Shire officers have provided a compelling assessment against the objectives and requirements of the GBRS, clause 67 of the Deemed Provisions, the City's Local Planning Scheme and the City's policy on Extractive Industries. The proposal should be refused and then resubmitted and reconsidered once the environmental considerations have been reviewed, assessed and determined to be acceptable.

4. Form 2 DAP

Nil.

5. Section 31 SAT Reconsiderations

Nil.

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Presiding Member, Regional DAP



PART D – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals

The DAP noted the status of the following State Administrative Tribunal Applications and Supreme Court Appeals:

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR65/2020	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
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021

Finalised SAT Applications*				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/23/02510 DR84/2024	Shire of Harvey	Lot 28 (No.79) Tredrea Place, Myalup	Workforce Accommodation	13 June 2024

* Matters finalised during the last meeting cycle.

2. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 2:04pm.

Eugene Koltasz
Presiding Member, Regional DAP