



## Regional Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Tuesday, 14 September 2021; 1pm  
**Meeting Number:** RJDAP/30  
**Meeting Venue:** City of Busselton  
Council Chambers  
2 Southern Drive, Busselton

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## Attendance

### DAP Members

Mr Ray Haeren (Presiding Member)  
Mr Brian Curtis (A/Deputy Presiding Member) - *via electronic means*  
Mr John Taylor (A/Third Specialist Member)  
Mayor Grant Henley (Local Government Member, City of Busselton)  
Cr Paul Carter (Local Government Member, City of Busselton)

### Officers in attendance

Ms Lee Reddell (City of Busselton)  
Mr Paul Needham (City of Busselton)  
Mr Daniell Abrahamse (City of Busselton)  
Mr Oliver Darby (City of Busselton)

### Minute Secretary

Ms Maureen Dolan (City of Busselton)  
Mr Tim Allingham (City of Busselton)

### Applicants and Submitters

Mr Rod Dixon (Rowe Group)  
Mr Stan Lawrence Brown (LB Planning)  
Mr Owen McLean (Main Roads WA)  
Mr Rob Barnsley (Main Roads WA)

### Members of the Public / Media

There were 7 members of the public in attendance.

#### 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1:07pm on 14 September 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

Due to the conflict of interest of the Presiding Member and the conflict of interest of the Deputy Presiding Member, Mr Ray Haeren has been appointed as Presiding Member for this meeting in accordance with regulation 27(3A) of the *Planning and Development (Development Assessment Panel) Regulations 2011*.

The 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 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 Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

In accordance with regulation 43 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the Presiding Member approved the A/Deputy Presiding Member to attend the meeting via electronic means (zoom), due to their inability to attend the meeting in person.

## 2. Apologies

Mr Paul Kotsoglo (Presiding Member)  
Ms Kanella Hope (Deputy Presiding Member)  
Mr Justin Page (Third Specialist 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 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, received on 13 September 2021.

All members declared that they had duly considered the documents.

## 6. Disclosure of Interests

DAP Member, Mr Paul Kotsoglo, declared a Pecuniary Interest in item 8.1. Planning Solutions act for DCSC the owners of Dunsborough Central Shopping centre which has frontage to the same road (Dunn Bay Road). Mr Kotsoglo is Managing Director of Planning Solutions.

DAP Member, Ms Kanella Hope, declared an Impartiality Interest in item 8.1. Ms Hope has engaged Rowe Group (the applicant) in her capacity as the Planning Consultant for Satterley Property Group.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Ray Haeren, determined that the members listed above, who have disclosed a Pecuniary Interest and Impartiality Interest, are not permitted to participate in the discussion and voting on the item.



## 7. Deputations and Presentations

- 7.1 Mr Rod Dixon (Rowe Group) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to the questions from the panel.
- 7.2 Mr Stan Lawrence-Brown (LB Planning) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to the questions from the panel.
- 7.3 Mr Paul Nguyen (Shawmac) was noted as a written submission as he was unavailable to attend the meeting.
- 7.4 Mr Owen McLean and Mr Rob Barnsley (Main Roads WA) addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.
- 7.5 City of Busselton and MRWA officers addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

## 8. Form 1 – Responsible Authority Reports – DAP Applications

### 8.1 Lot 5 (52) and Part Strata Lot 12 (50) Dunn Bay Road, Dunsborough

Development Description:	Mixed Use Development (Shop, Restaurant/Cafe & Tourist Accommodation)
Applicant:	Rowe Group Pty Ltd & LB Planning
Owner:	Dunsborough Holdings Pty Ltd, Clare Nominees Pty Ltd, White Property Holdings Pty Ltd, Danmar Homes Pty Ltd, Michael Lawley Edwards, Tumblegum Pty Ltd, Bayview Sunset Pty Ltd, Todd Michael Grigo, Sugiharto Wijaya & Jeffrey Allan Skinner
Responsible Authority:	City of Busselton
DAP File No:	DAP/21/01996

## REPORT RECOMMENDATION

**Moved by:** Cr Grant Henley

**Seconded by:** Cr Paul Carter

That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/21/01996 and accompanying plans (SK06 Rev J, SK07 Rev J, SK08 Rev J, SK08A Rev J, SK09 Rev J, SK09A Rev J, Recommended Easement Plan) 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:

**Mr Ray Haeren**  
Presiding Member, Regional JDAP



### **GENERAL CONDITIONS:**

1. The development hereby approved shall be substantially commenced within four years from the date of this decision letter.
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 Suitable access arrangements between the Site and Caves Road to the satisfaction of Main Roads WA.
  - 3.2 Suitable access arrangements between the Site and Dunn Bay Road to the satisfaction of the City.
  - 3.3 Arrangements to ensure service vehicles exiting the site can do so in a safe manner.
  - 3.4 A revised site plan showing the deletion of:
    - a. The westernmost planter box shown on the Dunn Bay Road street verge.
    - b. The deletion of the northernmost 90 degree parking bay in front of the supermarket airlock.
    - c. The deletion of the car parking bay, to the east of the main pedestrian crossing point across the proposed link road (being the westernmost bay on the northern side of the northernmost parking aisle), and inclusion of the area that would be occupied by the bay and the area immediately to the north in the footpath.
  - 3.5 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area.
  - 3.6 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.



- 3.7 A final Landscaping Plan (LP). The LP shall include the following:
- a. the location, number, size and species type of existing and proposed trees and shrubs, including calculations for the landscaping area;
  - b. any lawns to be established;
  - c. any existing trees to be retained;
  - d. those areas to be reticulated or irrigated; and
  - e. verge treatments, including hard and soft landscaping treatments as shown on the concept Landscaping Masterplan within the Dunn Bay Road and Caves Road verges.
- 3.8 A Tree Protection Plan (TPP) for the trees to be retained on the site and adjoining road reserves. The approved TPP shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within any areas identified to be fenced, nothing shall be stored or placed, and the ground levels shall not be altered.
- 3.9 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 Plan;
  - e. traffic, access and parking management;
  - f. waste management;
  - g. sanitary facilities;
  - h. stormwater and sediment control; and
  - i. any other matter deemed relevant by the City.
- 3.10 An exterior lighting plan which shall include all awnings, parking areas, footpaths and areas accessible to the public.
- 3.11 Final details of advertising signage, including but not limited to the design, materials and levels of illumination.
- 3.12 Details of the proposed bicycle parking facilities, including a minimum of 52 bays. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.13 Satisfactory arrangements shall be made with the City to provide public art works within the development site. 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").



4. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:

- 4.1 A contribution of \$8,085.00 towards community facilities in the Dunsborough precinct.

#### **PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS**

5. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 3 & 4 have been implemented; and the following conditions have been complied with –

- 5.1 Crossovers are located and constructed to the City's specifications.
- 5.2 An easement, provided over proposed Lot 1, in accordance with Sections 195 and 196 of the *Land Administration Act 1997*, for the benefit of the City and the public at large for the purposes of providing unrestricted public vehicular and pedestrian access over the areas as generally set out on the Recommended Easement Plan and as described as follows:
- a. the land designated as the 'link road' and the associated footpath on the eastern side; and
  - b. the remainder of the land between the 'link road' and the eastern boundary of strata plan 17047, between the northernmost parking aisle wholly within the site and Dunn Bay Road; and
  - c. the northernmost parking aisle and the car parking to the immediate east of this parking aisle; and
  - d. a condition shall be included preventing access to the area described in 'c' above from strata plan 17047 until that site has been redeveloped in a way that integrates with the subject site.
- 5.3 Easements in accordance with Section 136C of the *Land Administration Act 1997* to the benefit of Lot 12 (proposed Lots 2 and 3) generally in accordance with the Recommended Easement Plan for the purpose of ensuring all landowners have secure access to a public street.
- 5.4 Access to Caves Road constructed to the satisfaction of Main Road WA;
- 5.5 Hard and soft landscaping, as detailed in the approved landscaping plan, installed at the full cost of the applicant.
- 5.6 Lighting, in accordance with the approved exterior lighting plan has been installed at the full cost of the applicant.
- 5.7 Bicycle parking and end of trip facilities, in accordance with the approved details, installed at the full cost of the applicant.



- 5.8 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.
- 5.9 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**

- 6 The works undertaken to satisfy Conditions 3, 4 & 5 shall be subsequently maintained for the life of the development, and the following conditions must be complied with –
  - 6.1 No roller doors or screens are permitted to be installed to the frontages of any of the ground floor commercial tenancies.
  - 6.2 All glazing to the ground floor commercial tenancies are to be clear, non-tinted glazing and shall not be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the City.
  - 6.3 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City.
  - 6.4 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping 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.
  - 6.5 The Tourist Accommodation hereby approved is to be made available for temporary accommodation purposes only and shall not be occupied by any one person or family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or cumulatively) within any 12 month period.

## **ADVICE TO APPLICANT**

1. If the applicant and/or owner are aggrieved by this decision there is 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.
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. 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.
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. You are advised that the contribution fees are upgraded in line with the Consumer Price Index for Perth on 30 June each year. The fee applicable will be determined at the time of payment and may therefore vary from the quoted figure.
6. The payment towards community facilities in the Dunsborough precinct is required as a result of the City of Busselton Local Planning Scheme No. 21 - Development Contribution Special Control Area provisions and is calculated on the basis of \$3,234.00 for the five approved accommodation units, with a discount of 50% applied on the basis of them being approved as Tourism Accommodation.
7. You are advised *Agonis flexuosa* (WA Peppermint Trees) provide key habitat for the “critically endangered” *Pseudocheirus occidentalis* (Western Ringtail Possum). The Western Ringtail Possum are awarded protection under the *Biodiversity Conservation Act 2016* and you may face penalties for taking or disturbing (including intentionally disturbing, trapping/relocating or causing harm/death) a Western Ringtail Possum. A section 40 ministerial authorisation to take or disturb threatened fauna under the *Biodiversity Conservation Act 2016* is to be obtained prior to clearing occurring. A fauna handler is required to be onsite prior to and during any clearing operations and is required to hold a Section 40 Ministerial Authorisation. The fauna handler is to provide a post clearing report to [DBCA swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au) that includes the numbers of adult or juvenile western ringtail possums observed, taken or disturbed, any injuries or fatalities, and the location of the fauna after clearing has occurred.
8. 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>
9. 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.
10. 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*.



11. 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.
12. The applicant/land owner is advised that a suitable rubbish enclosure adequate to service the development is to be constructed and provided in accordance with the Shire of Busselton Health Local Laws 1997 prior to the occupation or use of the development. Please contact the City's Environmental Health Department on 9781 0471 for further information.

*The meeting was adjourned for a fire drill at 2:13pm*

*The meeting convened after a fire drill at 2:20pm*

### **AMENDING MOTION 1**

**Moved by:** Mr John Taylor

**Seconded by:** Cr Paul Carter

*The following amendments were made en bloc;*

- (i) That Condition No 1 be amended to read as follows:

*Approve DAP Application reference DAP/21/01996 and accompanying plans (SK06 Rev J, SK07 Rev J, SK08 Rev J, SK08A Rev J, SK09 Rev J, SK09A Rev J, Recommended Easement Plan, **Waste Management Plan**) 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:*

**REASON:** to clarify the requirement to comply with the Waste Management Plan

- (ii) That Condition No 3.12 be amended to read as follows:

*Details of the proposed bicycle parking facilities, including a minimum of 52 bays **on the site, or immediately adjoining**. The details shall include, as a minimum, the location, design and materials to be used in their construction.*

**REASON:** To enable some of the bike bays to be in front of street facing shops

- (iii) That Condition No 6.2 be amended to read as follows:

*All glazing to the ground floor commercial tenancies are to be clear, ~~non-tinted~~ glazing and shall not be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the City.*

**REASON:** to address concern that tinting may be required to meet BCA requirements on north facing glazing.

**The Amending Motion was put and CARRIED UNANIMOUSLY.**



## AMENDING MOTION 2

**Moved by:** Cr Paul Carter

**Seconded by:** Mr Ray Haeren

That a new Advice Note Number 13 be added to read as follows:

***The Applicant/Landowner is advised that in relation to Condition 5.2c and 5.2d, the future development of Lot 13 is subject to normal on-site parking requirements. Should redevelopment of the existing Lot 13 parking area be pursued, an equivalent car park area proportionate to the new development would then be required internally within the site.***

**The Amending Motion was put and CARRIED UNANIMOUSLY.**

**REASON:** noting that the position is non-binding, but to provide assurance that consideration would be applicable to any redevelopment of the adjoining car park.

### REPORT RECOMMENDATION (AS AMENDED)

That the Regional JDAP resolves to:

1. Approve DAP Application reference DAP/21/01996 and accompanying plans (SK06 Rev J, SK07 Rev J, SK08 Rev J, SK08A Rev J, SK09 Rev J, SK09A Rev J, Recommended Easement Plan, Waste Management Plan) 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. The development hereby approved shall be substantially commenced within four years from the date of this decision letter.
- 2.
3. 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

4. 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 –
  - 4.1 Suitable access arrangements between the Site and Caves Road to the satisfaction of Main Roads WA.
  - 4.2 Suitable access arrangements between the Site and Dunn Bay Road to the satisfaction of the City.
  - 4.3 Arrangements to ensure service vehicles exiting the site can do so in a safe manner.

**Mr Ray Haeren**  
Presiding Member, Regional JDAP



- 4.4 A revised site plan showing the deletion of:
- a. The westernmost planter box shown on the Dunn Bay Road street verge.
  - b. The deletion of the northernmost 90 degree parking bay in front of the supermarket airlock.
  - c. The deletion of the car parking bay, to the east of the main pedestrian crossing point across the proposed link road (being the westernmost bay on the northern side of the northernmost parking aisle), and inclusion of the area that would be occupied by the bay and the area immediately to the north in the footpath.
- 4.5 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m<sup>3</sup> per 40m<sup>2</sup> of impervious area.
- 4.6 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.
- 4.7 A final Landscaping Plan (LP). The LP shall include the following:
- a. the location, number, size and species type of existing and proposed trees and shrubs, including calculations for the landscaping area;
  - b. any lawns to be established;
  - c. any existing trees to be retained;
  - d. those areas to be reticulated or irrigated; and
  - e. verge treatments, including hard and soft landscaping treatments as shown on the concept Landscaping Masterplan within the Dunn Bay Road and Caves Road verges.
- 4.8 A Tree Protection Plan (TPP) for the trees to be retained on the site and adjoining road reserves. The approved TPP shall be implemented before any of the substantive development is commenced and shall be retained throughout the development period until such time as all equipment, machinery and surplus materials have been removed from the site. Within any areas identified to be fenced, nothing shall be stored or placed, and the ground levels shall not be altered.
- 4.9 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 Plan;
  - e. traffic, access and parking management;
  - f. waste management;
  - g. sanitary facilities;
  - h. stormwater and sediment control; and



- i. any other matter deemed relevant by the City.
- 4.10 An exterior lighting plan which shall include all awnings, parking areas, footpaths and areas accessible to the public.
- 4.11 Final details of advertising signage, including but not limited to the design, materials and levels of illumination.
- 4.12 Details of the proposed bicycle parking facilities, including a minimum of 52 bays on the site, or immediately adjoining. The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 4.13 Satisfactory arrangements shall be made with the City to provide public art works within the development site. 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").
5. The development hereby approved, or any works required to implement the development, shall not commence until the following contributions have been paid to the City:
  - 5.1 A contribution of \$8,085.00 towards community facilities in the Dunsborough precinct.

#### **PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS**

5. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 3 & 4 have been implemented; and the following conditions have been complied with –
  - 5.1 Crossovers are located and constructed to the City's specifications.
  - 5.2 An easement, provided over proposed Lot 1, in accordance with Sections 195 and 196 of the Land Administration Act 1997, for the benefit of the City and the public at large for the purposes of providing unrestricted public vehicular and pedestrian access over the areas as generally set out on the Recommended Easement Plan and as described as follows:
    - a. the land designated as the 'link road' and the associated footpath on the eastern side; and
    - b. the remainder of the land between the 'link road' and the eastern boundary of strata plan 17047, between the northernmost parking aisle wholly within the site and Dunn Bay Road; and
    - c. the northernmost parking aisle and the car parking to the immediate east of this parking aisle; and
    - d. a condition shall be included preventing access to the area described in 'c' above from strata plan 17047 until that site has been redeveloped in a way that integrates with the subject site.



- 5.3 Easements in accordance with Section 136C of the Land Administration Act 1997 to the benefit of Lot 12 (proposed Lots 2 and 3) generally in accordance with the Recommended Easement Plan for the purpose of ensuring all landowners have secure access to a public street.
- 5.4 Access to Caves Road constructed to the satisfaction of Main Road WA;
- 5.5 Hard and soft landscaping, as detailed in the approved landscaping plan, installed at the full cost of the applicant.
- 5.6 Lighting, in accordance with the approved exterior lighting plan has been installed at the full cost of the applicant.
- 5.7 Bicycle parking and end of trip facilities, in accordance with the approved details, installed at the full cost of the applicant.
- 5.8 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.
- 5.9 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**

6. The works undertaken to satisfy Conditions 3, 4 & 5 shall be subsequently maintained for the life of the development, and the following conditions must be complied with –
  - 6.1 No roller doors or screens are permitted to be installed to the frontages of any of the ground floor commercial tenancies.
  - 6.2 All glazing to the ground floor commercial tenancies are to be clear, glazing and shall not be subsequently obscured by alternative window treatments, signage or internal shelves, to the satisfaction of the City.
  - 6.3 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City.
  - 6.4 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping 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.



- 6.5 The Tourist Accommodation hereby approved is to be made available for temporary accommodation purposes only and shall not be occupied by any one person or family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or cumulatively) within any 12 month period.

### **ADVICE TO APPLICANT**

1. If the applicant and/or owner are aggrieved by this decision there is 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.
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. 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.
4. In accordance with the provisions of the Building Act 2011, and Building Regulations 2012, an application for a demolition license and a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
5. You are advised that the contribution fees are upgraded in line with the Consumer Price Index for Perth on 30 June each year. The fee applicable will be determined at the time of payment and may therefore vary from the quoted figure.
6. The payment towards community facilities in the Dunsborough precinct is required as a result of the City of Busselton Local Planning Scheme No. 21 - Development Contribution Special Control Area provisions and is calculated on the basis of \$3,234.00 for the five approved accommodation units, with a discount of 50% applied on the basis of them being approved as Tourism Accommodation.





7. You are advised *Agonis flexuosa* (WA Peppermint Trees) provide key habitat for the “critically endangered” *Pseudocheirus occidentalis* (Western Ringtail Possum). The Western Ringtail Possum are awarded protection under the Biodiversity Conservation Act 2016 and you may face penalties for taking or disturbing (including intentionally disturbing, trapping/relocating or causing harm/death) a Western Ringtail Possum. A section 40 ministerial authorisation to take or disturb threatened fauna under the Biodiversity Conservation Act 2016 is to be obtained prior to clearing occurring. A fauna handler is required to be onsite prior to and during any clearing operations and is required to hold a Section 40 Ministerial Authorisation. The fauna handler is to provide a post clearing report to DBCA [swlanduseplanning@dbca.wa.gov.au](mailto:swlanduseplanning@dbca.wa.gov.au) that includes the numbers of adult or juvenile western ringtail possums observed, taken or disturbed, any injuries or fatalities, and the location of the fauna after clearing has occurred.
8. 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>
9. 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.
10. 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.
11. 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.
12. The applicant/land owner is advised that a suitable rubbish enclosure adequate to service the development is to be constructed and provided in accordance with the Shire of Busselton Health Local Laws 1997 prior to the occupation or use of the development. Please contact the City’s Environmental Health Department on 9781 0471 for further information.
13. The Applicant/Landowner is advised that in relation to Condition 5.2c and 5.2d, the future development of Lot 13 is subject to normal on-site parking requirements. Should redevelopment of the existing Lot 13 parking area be pursued, an equivalent car park area proportionate to the new development would then be required internally within the site.

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





**REASON:** To address matters raised during deliberations in accordance with officer advice. Changes were made in response to applicant request and DAP member queries and supported by Council officers in relation to:

- Consideration and inter-relationship between site and adjoining carpark
- Clarifying requirements of waste management and bike parking on adjoining public land;
- Including provision for some tinting due to potential BCA conflict.

**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 Application -

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

The Presiding Member noted the following Supreme Court Appeal -

Current Supreme Court Appeals				
File No.	LG Name	Property Location	Application Description	Date Lodged
CIV 1496 of 2021 (DAP/20/01845)	City of Busselton	Lot 26 & 28 Geographe Bay Road and Lots 23 & 25 Lorna Street, Dunsborough	Mixed Use Multiple Residential	15 June 2021

**11. General Business**

The 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 2:49pm.