



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 12 July 2022; 1:00pm
Meeting Number: RJDAP/61
Meeting Venue: Electronic Means

This DAP meeting was conducted by electronic means (Zoom) open to the public rather than requiring attendance in person

1 Table of Contents

1.	Opening of Meeting, Welcome and Acknowledgement.....	2
2.	Apologies.....	3
3.	Members on Leave of Absence.....	3
4.	Noting of Minutes.....	3
5.	Declaration of Due Consideration.....	3
6.	Disclosure of Interests.....	3
7.	Deputations and Presentations.....	4
8.	Form 1 – Responsible Authority Reports – DAP Applications.....	4
	Nil.....	4
9.	Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval	4
	Nil.....	4
10.	State Administrative Tribunal Applications and Supreme Court Appeals	5
	10.1 Lot 9556 Napoleon Promenade, Vasse.....	5
11.	General Business.....	9
12.	Meeting Closure	9



Attendance

DAP Members

Mr Clayton Higham (Presiding Member)
Mr Gene Koltasz (A/Deputy Presiding Member)
Mr John Syme (A/Third Specialist Member)
Cr Paul Carter (Local Government Member, City of Busselton)
Cr Phill Cronin (Local Government Member, City of Busselton)

Officers in attendance

Mr Andrew Watts (City of Busselton)
Ms Lee Reddell (City of Busselton)

Minute Secretary

Ms Ashlee Kelly (DAP Secretariat)

Applicants and Submitters

Ms Kanella Hope (Planned Focus for GDH Enterprises Pty Ltd)
Ms Belinda Moharich (Moharich and More)

Members of the Public / Media

Nil

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1.03pm on 12 July 2022 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 Clayton Higham 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 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 meeting would not be recorded.

This meeting was convened via electronic means (Zoom). Members were reminded to announce their name and title prior to speaking.



2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Ms Kanella Hope (Deputy Presiding Member)
Mr Justin Page (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

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP Member, Mr Paul Kotsoglo, declared an Impartiality Interest in item 10.1. Mr Kotsoglo is the Managing Director of Planning Solutions who are acting on behalf of Saracen Commercial Pty Ltd in relation to a signage matter in Vasse.

DAP Member, Ms Kanella Hope, declared a Direct Pecuniary Interest in item 10.1. Ms Hope is the Director of Planned Solutions who are representing GDH Enterprises Pty Ltd, who have lodged with the City of Busselton, the JDAP application.

DAP Member, Mr Justin Page, declared an Indirect Pecuniary Interest in Item 10.1. Mr Page is employed by Element Advisory, of whom the owner (Perron Developments Pty Ltd) is a client.

DAP Member, Mr Gene Koltasz, declared an Impartiality Interest in Item 10.1. Mr Koltasz is a member of DAP Assessment Panels and has served on DAPS with Ms Kanella Hope in the past. Ms Hope is acting as Planning Consultant for the application on the item before the JDAP meeting.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Clayton Higham, determined that the member, Mr Paul Kotsoglo, who had disclosed an Impartiality Interest, was not permitted to participate in the discussion and voting on the item.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Clayton Higham, determined that the members, Mr Paul Kotsoglo and Mr Justin Page who had disclosed a Pecuniary Interest and an Indirect Pecuniary Interest were not permitted to participate in the discussion and voting on the item.



In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Clayton Higham, determined that the member, Mr Gene Koltasz who have disclosed an Impartiality Interest was permitted to participate in the discussion and voting on the item.

In accordance with section 2.4.10 of the DAP Code of Conduct 2017, DAP Member, Mr Clayton Higham, declared that he participated in a State Administrative Tribunal process in relation to the application at item 10.1. However, under section 2.1.3 of the DAP Code of Conduct 2017, Mr Clayton Higham acknowledged that he is not bound by any confidential discussions that occurred as part of the mediation process and undertakes to exercise independent judgment in relation to any DAP applications before him, which will be considered on its planning merits.

7. Deputations and Presentations

- 7.1** Ms Belinda Moharich (Moharich & More) addressed the DAP in support of the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.2** Ms Kanella Hope (Planned Focus) addressed the DAP in support of the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.3** The City of Busselton Officers addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

8. Form 1 – Responsible Authority Reports – DAP Applications

Nil

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

Nil



10. State Administrative Tribunal Applications and Supreme Court Appeals

10.1 Lot 9556 Napoleon Promenade, Vasse

Development Description: Shop (Fresh Food Retailer) with select advertisements

Summary of Modifications:

- Elevations of the approved building, amended with the two LED signs, and the standard signage board relocated so that they sit at and below a line measured 5 metres above the finished floor level of the of the building;
- Revised dimensions and measurements of signage, with each LED having an area of 14m².

Applicant: Kanella Hope, Planned Focus for GDH Enterprises Pty Ltd

Owner: Perron Developments Pty Ltd / Stawell Pty Ltd

Responsible Authority: City of Busselton

DAP File No: DA{/21/02138

REPORT RECOMMENDATION

Moved by: Cr Paul Carter

Seconded by: Mr John Syme

Responsible Authority Recommendation

That the Regional Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 67 of 2022, resolves to:

Reconsider its decision dated 22 March 2022 and **VARY its** decision for DAP Application reference **DAP/21/02138** 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*, by:

1. Approval of plans as amended (A200 Rev 0, A201 Rev 0, A202 Rev 0, A203 Rev 0, A204 Rev 0, A205 Rev 0, A300 Rev 0, A301 Rev 0, A400 Rev 1, A401 Rev 1, A500 Rev 0, A600 Rev 0, A601 Rev 0, A800 Rev1, A801 Rev1 and A802 Rev1) which shall replace those plans approved by the JDAP at its meeting on 22 March 2022;
2. Deletion of Condition 3.1; and



3. Insertion of a new condition 4.5 which shall read as follows:

4.5 The LED signs are to be operated as follows –

- a. Advertising must relate only to products sold within the premises the subject of this approval;
- b. 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. The 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; and
- g. Operating hours -
 - Eastern facing LED sign – will not be permitted to operate between the hours of 9pm and 7am; and
 - Western facing LED sign – will operate during the trading hours of the business only.

All other conditions and requirements detailed on the previous approval dated 22 March 2022 shall remain unless altered by this resolution.

AMENDING MOTION 1

Moved by: Cr Phill Cronin

Seconded by: Cr Paul Carter

That Condition No. 4.5g be amended to read as follows:

Operating hours -

- *Eastern facing LED sign – will not be permitted to operate between the hours of 9pm and 7am **with the exception of business identification signage;** and*
- *Western facing LED sign – will operate during the trading hours of the business only.*

The Amending Motion was put and LOST.



AMENDING MOTION 2

Moved by: Mr John Syme

Seconded by: Mr Gene Koltasz

That Condition No. 4.5g dot point one be deleted.

The Amending Motion was put and CARRIED (3/2).

For: Mr Clayton Higham
Mr Gene Koltasz
Mr John Syme

Against: Cr Paul Carter
Cr Phill Cronin

REASON: The majority of the panel were of the view that the restricting the hours of operation for the eastern facing sign is unlikely to make any difference to the level of amenity impact on the locality, particularly as it will be facing the activity centre. The panel also considered that the proposed sign satisfied the planning framework and particularly the policy as it is currently worded, although acknowledged that this was not the intent of the City when drafting the policy.

REPORT RECOMMENDATION (AS AMENDED)

That the Regional Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 67 of 2022, resolves to:

Reconsider its decision dated 22 March 2022 and **VARY its** decision for DAP Application reference **DAP/21/02138** 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*, by:

1. Approval of plans as amended (A200 Rev 0, A201 Rev 0, A202 Rev 0, A203 Rev 0, A204 Rev 0, A205 Rev 0, A300 Rev 0, A301 Rev 0, A400 Rev 1, A401 Rev 1, A500 Rev 0, A600 Rev 0, A601 Rev 0, A800 Rev1, A801 Rev1 and A802 Rev1) which shall replace those plans approved by the JDAP at its meeting on 22 March 2022;
2. Deletion of Condition 3.1; and



3. Insertion of a new condition 4.5 which shall read as follows:
- 4.5 The LED signs are to be operated as follows –
- a. Advertising must relate only to products sold within the premises the subject of this approval;
 - b. 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. The 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; and
 - g. Operating hours -
 - Western facing LED sign – will operate during the trading hours of the business only.

All other conditions and requirements detailed on the previous approval dated 22 March 2022 shall remain unless altered by this resolution.

The Report Recommendation (as amended) was put and CARRIED (3/2).

For: Mr Clayton Higham
Mr Gene Koltasz
Mr John Syme

Against: Cr Paul Carter
Cr Phill Cronin

REASON: The amended plans for the proposed LED signs have been lowered in height and marginally reduced in size and, as such, were considered to meet the current planning framework. While the City indicated that it wanted to protect the landscape from intruding signs because the site is on a major entry point to the City and south west the majority of the panel considered that the signs would not have a detrimental impact on the amenity of the locality.



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
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021
DAP/21/02102 DR11/2022	City of Busselton	Lot 108 (No.57) Dunn Bay Road & Lot 109 (No. 6) Cyrilleen Way, Dunsborough	Mixed Use Development (Office, Shops, Restaurant/Cafe, Liquor Store – Small & 42 Multiple Dwellings)	13 January 2022
DAP/21/02120 DR49/2022	City of Busselton	Lot 400 (No.24) Dunn Bay Road, Dunsborough	Proposed six storey mixed use (Restaurant/Cafe and Multiple Dwellings) Development	23 March 2022

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 2.06pm.