



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 9 November 2021; 2:30pm
Meeting Number: RJDAP/33
Meeting Venue: Electronic Means

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

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Attendance

DAP Members

Mr Paul Kotsoglo (Presiding Member)
Ms Kanella Hope (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

Ms Lee Reddell (City of Busselton)
Ms Stephanie Navarro (City of Busselton)

Minute Secretary

Ms Adele McMahon (DAP Secretariat)
Ms Fiona Cohen (DAP Secretariat)

Applicants and Submitters

Ms Karen Wright (Urbis)
Mr Tony Arias (Caves Road 1676 Pty Ltd)
Mr Rob Rowell (Consultant - Caves Road 1676 Pty Ltd)
Mr Stuart Hawley (Blue Rock Projects)

Members of the Public / Media

Nil

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 2:34pm on 9 November 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 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.

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



2. Apologies

Nil

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 9.1, received on 4 & 8 November 2021.

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 8.1. Mr Kotsoglo has served on Development Assessment Panels with Mr Arias over the last two years. Mr Kotsoglo declares that the familiarity would not influence his decision making in relation to the item.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2017, the Deputy Presiding Member determined that the member listed above, who had disclosed an Impartiality Interest, was permitted to participate in the discussion and voting on the item.

DAP Member, Ms Kanella Hope and Mr Justin Page, declared an Impartiality Interest in item 8.1. Ms Hope and Mr Page has served on Regional Development Assessment Panels with Mr Arias. Ms Hope and Mr Page declared that the familiarity would not influence their decision making in relation to the item.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2017, the Presiding Member determined that the members listed above, who have disclosed an Impartiality Interest, were permitted to participate in the discussion and voting on the item.



7. Deputations and Presentations

- 7.1 Mr Tony Arias (Caves Road 1676 Pty Ltd) addressed the DAP in support of the recommendation for the application at Item 9.1 and responded to questions from the panel.
- 7.2 Mr Stuart Hawley (Blue Rock Projects) addressed the DAP in support of the recommendation for the application at Item 9.1 and responded to questions from the panel.
- 7.3 Ms Karen Wright (Urbis) addressed the DAP in support of the recommendation for the application at Item 9.1 and responded to questions from the panel.
- 7.4 City of Busselton officers addressed the DAP in relation to the application at Item 9.1 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

9.1 Lot 200 (1676) Caves Road, Dunsborough

Development Description:	Tourist Accommodation (Reduction of Chalets From 57 to 51 And Design Changes)
Proposed Amendments:	<ul style="list-style-type: none">• Reduction in the number of Chalets from 57 to 51;• Change to internal configuration of Chalets resulting in a 6% increase in floor area and increase from 100 beds (comprising 16 x 1 bed; and 42 x 2 bed = 100 beds) to 109 beds (comprising 44 x 2 bed; and 7 x 3 bed = 109 beds);• Changes to the external appearance and setbacks between Chalets; and• Redesign of the access and car parking areas.
Applicant:	Urbis
Owner:	Caves Road 1676 Pty Ltd Atf The Caves Road Trust
Responsible Authority:	City of Busselton
DAP File No:	DAP/19/01669

REPORT RECOMMENDATION

Moved by: Mayor Grant Henley

Seconded by: Cr Paul Carter

1. **Accept** that the DAP Application reference DAP/19/01669 as detailed on the DAP Form 2 dated 5 August 2021 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



2. **Approve** DAP Application reference DAP/19/01669 and accompanying plans (S1.01, S1.02, S1.03, S1.04, S1.05, S1.06, S2.01, S2.02, S2.03, S2.04, S3.01, S3.02, S3.03, S3.04, S3.05, S3.06 & S4.01) 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, for the proposed minor amendment to the approved development at 1676 (LOT NO. 200) Caves Road, DUNSBOROUGH, subject to the following conditions:

Conditions

- 1 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.
- 2 The development hereby approved shall be undertaken in accordance with the Approved Development Plans (enclosed), including any notes placed thereon in red, 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 Notification in the form of a section 70A notification, pursuant to the Transfer of Land Act 1893 (as amended) is to be placed on the Certificates of Title of Lot advising that:~~

~~*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 Chalets is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Strategen Revision 1 dated September 2020 and the accompanying Bushfire Emergency Evacuation Plan (BEEP). The Caretaker shall be responsible for implementation of the Bushfire Emergency Evacuation Plan (BEEP).*~~

~~*Other than the Caretaker's Dwelling, the Chalets hereby approved are to be made available for temporary accommodation purposes only. A single Chalet shall not be occupied by any one person, family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12 month period.*~~

~~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.~~

- 3.1 A Waste Management Plan - the plan shall include specifications of the methods, facilities and management measures to be put in place for the storage, collection and disposal/collection of waste and rubbish generated by the development.

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



- 3.2 A Construction Management Plan - the areas and facilities so approved shall be made available before construction works commence on site (other than construction of the site access) and shall thereafter be kept available at all times during the construction period.
- ~~3.4 Details setting out a minimum number of 73 car parking bays to be provided on site - the parking bays shall be appropriately designed, constructed, drained and line marked.~~
- ~~3.5 Details of the finished treatment of all hard surfaced areas to be used for the driveway and manoeuvring areas as shown on the Approved Development Plans.~~
- 3.3 Details of stormwater and surface water drainage.
- ~~3.6 Landscape Plan for the site and adjoining Caves Road road reserve. If the development is to be staged, the landscaping plan shall detail which portions of the landscaping is to be installed upon the completion of each stage.~~
- ~~3.7 Details nominating the Caretaker's Dwelling. The Caretaker's Dwelling shall not be subject to the temporary accommodation limitations imposed by the conditions of this approval and an occupant of the Caretaker's Dwelling will be responsible for the provision of onsite management.~~
- 3.4 Details of the proposed vehicular access crossover and necessary road upgrades to Caves Road which shall be designed and constructed to the specifications and satisfaction of Main Roads WA (including appropriate left and right turn treatments).
- 3.5 Details of the finished treatment of the Emergency Access Way, including the new vehicular crossover to Caves Road which shall be designed and constructed to the specifications and satisfaction of the City of Busselton with the advice of Main Roads WA
- ~~3.11 A schedule of final materials, finishes and colours of all proposed buildings and structures; the schedule shall include details of the type of materials proposed to be used, including their colour and texture.~~
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 \$817 per Chalet and \$1,634 for the Caretaker's Dwelling towards community facilities in the Rural Remainder precinct.
- 4.2 A contribution of 1% of the Estimated Cost of Development ('ECD') for the provision of public art in accordance with Local Planning Policy 4.4 Percent for Art.

Alternatively, the Applicant may make satisfactory arrangements with the City to provide public art works of the same value within the development.

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



Prior to issue of a Building Permit

- 5 A building permit for the development hereby approved shall not be issued, until all plans, details or works required by Conditions 3 and 4 have been implemented; and the following conditions complied with:**
- 5.1 Details setting out a minimum number of ~~73~~ 103 car parking bays to be provided on site - the parking bays shall be appropriately designed, constructed, drained and line marked.**
 - 5.2 Details of the finished treatment of all hard surfaced areas to be used for the driveway and manoeuvring areas as shown on the Approved Development Plans.**
 - 5.3 Landscape Plan for the site and adjoining Caves Road road reserve. If the development is to be staged, the landscaping plan shall detail which portions of the landscaping is to be installed upon the completion of each stage.**
 - 5.4 Updated development plans that do not include the “re-used timber wall” from the front property boundary. Screening in the form of the “re-used timber wall” to be provided only to the service area and 10 bay car parking area.**

Prior to Occupation/Use of the Development Conditions:

- 6 The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 3, 4 and 5 have been implemented; and the following conditions complied with:**
- 6.1 Information has been provided to the City demonstrating that the “Prior to occupation of buildings” measures contained in Section 6 ‘Responsibilities for implementation and management of bushfire measures; Table 6: Responsibilities for implementation and management of the bushfire measures’ of the approved *Bushfire Management Plan (BMP)* prepared by Strategen Revision 1 dated September 2020 have been implemented.**
 - 6.2 The Manager shall be residing on site within the ~~nominated~~ Caretaker’s Dwelling **as indicated on the Approved Development Plans as the ‘existing house’.****
 - 6.3 Other than the vehicular entry point and emergency access way approved as part of this development, all other existing access/ gates to Caves Road have been removed and the road verge reinstated to the satisfaction of Main Roads WA.**

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



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

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 Chalets is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Strategen Revision 1 dated September 2020 and the accompanying Bushfire Emergency Evacuation Plan (BEEP). The Caretaker shall be responsible for implementation of the Bushfire Emergency Evacuation Plan (BEEP).

Other than the Caretaker's Dwelling, the Chalets hereby approved are to be made available for temporary accommodation purposes only. A single Chalet shall not be occupied by any one person, family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12 month period.

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.

On-going Conditions:

- 7** The works undertaken to satisfy Conditions 3, ~~and~~ **4, 5 and 6** shall be subsequently maintained for the life of the development and the following conditions shall be complied with:
- 7.1 The Chalets hereby approved are to be made available for temporary accommodation purposes only and shall not be occupied by any one person, family or group of persons (two persons or more) for a period exceeding 3 months (consecutively or intermittently) within any 12 month period.
 - 7.2 The Bushfire Management Plan prepared by Strategen, Revision 1 dated September 2020 shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 7.3 The landscaping detailed within the Approved Landscaping Plan shall be subsequently maintained for the life of the development.
 - 7.4 An occupant of the Caretaker's Dwelling (**indicated on the Approved Development Plans as the 'existing house'**) must be responsible for the provision of onsite management, including the implementation of the Bushfire Emergency Evacuation Plan in the case of a bushfire emergency.



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 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*.
- 6 You are advised that signage is not part of this application and will require separate development approval, unless exempt by Schedule 11 of City of Busselton *Local Planning Scheme No. 21*.
- 7 In relation to the lodgement of a Section 70A, a notification can be pre-filled out via [Landgate's website](#) and needs to be submitted to the City for execution in its 'true form'- it must be an original copy with ink signatures, printed on double sides. You may either post the notification to the City or submit it in person. The Notification will be signed by the City's CEO and Mayor and have the Common Seal affixed. You will be notified once the document has been executed and may choose to come and collect or request it be posted. You must then lodge the document with Landgate (Perth office), and you will be given a receipt for the lodgement. A copy of the receipt provided by you to the City will clear your condition requiring a Section 70A notification.



~~8 You are advised that the 'external materials' shall comprise of 'prescribed materials' as identified by the City of Busselton Local Planning Scheme No.21 which are defined as follows—~~

~~“external surfaces’ means the external walls and cladding (if any), external doors, external door and window frames, columns, roofs, fences and any surface of a building or work visible from the exterior of a building or work; and~~

~~‘prescribed materials’ means materials with dark tones or dark colouring and of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality”.~~

8. The Construction Management Plan should address the following issues:
- a) public safety and amenity;
 - b) site plan and security;
 - c) contact details of essential site personnel, construction period and operating hours;
 - d) community information, consultation and complaints management Plan;
 - e) noise, vibration, air and dust management;
 - f) dilapidation reports of nearby properties;
 - g) traffic, access and parking management;
 - h) waste management;
 - i) sanitary facilities;
 - j) earthworks, excavation, land retention/piling methods and associated matters;
 - k) stormwater and sediment control;
 - l) street tree management and protection; and
 - m) any other matter deemed relevant by the City.
9. The Landscape Plan 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) any adjoining road verges; and
 - 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.
 - h) Details of areas to be rehabilitated.
 - i) Screen Planting along Caves Road, **including in the vicinity of the “recycled timber fence” adjacent to the front boundary to soften the impact of this structure as viewed from the public realm.**



10. A clearing permit may be required from the Department of Water and Environment Regulation, unless the clearing is exempt in accordance with Schedule 6 of the *Environmental Protection Act 1986*. It is the applicant's responsibility to ensure that they have the necessary approvals in place before they commence development and penalties apply under the *Environmental Protection Act 1986* for clearing without a permit where an exemption does not apply. You will be required to contact the Department of Water and Environment Regulation on 9724 6109 and speak with the Native Clearing branch to confirm your obligations under this Act. You are advised *Agonis flexuosa* (WA Peppermint Trees) provide key habitat for the endangered Western Ringtail Possum. The Western Ringtail Possum, and their habitat, are awarded protection under the *Biodiversity Conservation Act 2016* and you may face penalties for destroying their habitat and/or disturbing (including relocating or causing harm/death) a Western Ringtail Possum without the necessary approvals. 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 certified and / or registered fauna handler is required to be present during the removal of vegetation. The Handler is to provide a post clearing report to DBCA swlanduseplanning@dbc.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.
11. Please be advised that when forwarding payment for contributions and/or bonds to the City of Busselton, whether it be in person or through the mail, you will need to include a copy of this correspondence (decision on application for planning consent) for receipting purposes.
12. 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.
13. The payment towards community facilities in the Rural Remainder 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 \$1,634.00 for every additional unit approved in Rural Remainder precinct with 50% of the cost contribution rate payable for tourist accommodation in any zone other than the Residential zone. The contribution will be retained within a separate fund to be used solely for the upgrading, improving and provision of the City's community facilities consistent with a community facility plan for the precinct.
14. In relation to the provision for public art in accordance with Local Planning Policy 4.4 Percent for Art, 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.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

Mr Paul Kotsoglo
Presiding Member, Regional JDAP



REASON: The Panel considered in detail the changes between the originally approved plans and the amended plans. The Panel was satisfied the extent and nature of change met the criteria as a Form 2 matter.

The Panel had several questions for the applicant and the City, including about consultation, built form, presentation to Caves Road, materials, fencing and artwork, wording of conditions and questions about the Dunsborough Burrowing Cray and other environmental considerations. On balance, the Panel was satisfied that the proposal remained consistent with the planning framework and should be supported.

10. 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 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

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 3:24pm.