



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 10 January 2022; 1pm
Meeting Number: RJDAP/41
Meeting Venue: City of Busselton Council Chambers
2 Southern Drive, Busselton

This DAP meeting was conducted both in person and through electronic means (YouTube or Zoom for presenters) and was open to the public.

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Mr Ray Haeren
Presiding Member, JDAP



Attendance

DAP Members

Mr Ray Haeren (Presiding Member)
Mr Gene Koltasz (A/Deputy Presiding Member)
Mr Jason Hick (Third Specialist Member)
Mayor Grant Henley (Local Government Member, City of Busselton)
Cr Paul Carter (Local Government Member, City of Busselton)

Officers in attendance

Mr Paul Needham (City of Busselton)
Mr Andrew Watts (City of Busselton)
Ms Lee Reddell (City of Busselton)
Mr Oliver Darby (City of Busselton)
Mr Tim Allingham (City of Busselton)
Ms Emma Heyes (City of Busselton)

Minute Secretary

Ms Maureen Dolan (City of Busselton)
Ms Bethany Baker (City of Busselton)

Applicants and Submitters

Mr Paul Kotsoglo (Planning Solutions)
Mr Finn Smith (Planning Solutions)

Members of the Public / Media

There were 120 members of the public in attendance; which included 94 members of the public in the gallery; 23 members of the public attending via Livestream on Youtube; and 3 members of the public attending via Zoom.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1:00pm on 10 January 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 unavailability 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*.

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Presiding Member, JDAP



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.

This meeting was convened both in person and through electronic means (YouTube or Zoom for presenters). Members were reminded to announce their name and title prior to speaking.

2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Mr Justin Page (Third Specialist Member)

3. Members on Leave of Absence

DAP Member, Mr Justin Page has been granted leave of absence by the Director General for the period of 23 December 2021 to 18 January 2022 inclusive.

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 Kotsoglo declared a Pecuniary Interest in item 8.1. Mr Kotsoglo is the Managing Director of Planning Solutions, the applicant for the proposed development.

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

Cr Paul Carter declared an Impartiality Interest as Ms Helena Nicholson presenting as Chair of the Dunsborough Coastal and Landcare in support of the recommendation and against the application is a closely associated person of Cr Carter as she is his sister, and they are Directors of a company that (along with another sister) manages some family investments. Cr Carter does not see this as affecting his ability to consider the matter on its merits and will vote and act accordingly.



In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Ray Haeren, determined that the member listed above, who had disclosed a Impartiality Interest, was permitted to participate in the discussion and voting on the item.

DAP Member, Mr Haeren declared an Impartiality Interest in item 8.1. Mr Haeren is a director of Urbis who prepared an Urban Design Assessment for Dunsborough. Although referred to, the document is only out for comment and would not be a basis for decision. In addition, the two lawyers that have made written submissions (for and against) are known to Mr Haeren through his professional dealings, however, he does not see this affecting his ability to consider the matter.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Ms Francesca Lefante determined that the member listed above, who had disclosed an Impartiality Interest, was permitted to participate in the discussion and voting on the item.

In accordance with section 2.4.6 of the DAP Code of Conduct 2017, DAP members participated in a site visit for the application at Item 8.1 prior to the DAP Meeting.

7. Deputations and Presentations

- 7.1** Ms Lizzie Nunn addressed the DAP in support of the recommendation and against the application at Item 8.1.
- 7.2** Mr Peter Kyle (DUNSBOROUGH2030) addressed the DAP in support of the recommendation and against the application at Item 8.1 and responded to questions from the panel.
- 7.3** Ms Helena Nicolson (Dunsborough Coastal and Land Care) addressed the DAP in support of the recommendation and against the application at Item 8.1.
- 7.4** Mr Tony Sharp (Dunsborough Progress Association) addressed the DAP in support of the recommendation and against the application at Item 8.1 and responded to questions from the panel.
- 7.5** Mr David Read (element) addressed the DAP in support of the recommendation and against the application at Item 8.1 and responded to questions from the panel.
- 7.6** Mr Tim Boekhoorn (Hames Sharley) addressed the DAP against the recommendation but in support of the application at Item 8.1.
- 7.7** Mr Behnam Bordbar (Transcore) addressed the DAP against the recommendation but in support of the application at Item 8.1 and responded to questions from the panel.
- 7.8** Mr Paul Kotsoglo (Planning Solutions) and Mr Finn Smith (Planning Solutions) addressed the DAP against the recommendation but in support of the application at Item 8.1 and responded to questions from the panel.



7.9 Mr Julius Skinner (Thomson Greer) addressed the DAP against the recommendation but in support of the application at Item 8.1.

7.10 Mr Paul Needham (City of Busselton) addressed the DAP in relation to the application at item 8.1 and responded to questions from the panel.

The Presiding Member declared that the meeting be adjourned for a period of 5 minutes to allow panel members and members of the public to have a short recess.

The meeting was adjourned at 3:09pm.

The meeting was reconvened at 3:16pm.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 108 (No. 57) Dunn Bay Road & Lot 109 (No. 6) Cyrilleen Way, Dunsborough

Development Description:	Mixed Use Development (Office, Shops, Restaurant/Café, Liquor Store – Small & 42 Multiple Dwellings
Applicant:	Planning Solutions
Owner:	DCSC Pty Ltd
Responsible Authority:	Shire of Busselton
DAP File No:	DAP/21/02102

REPORT RECOMMENDATION

Moved by: Cr Paul Carter

Seconded by: Mayor Grant Henley

That the Regional JDAP resolves to:

Refuse DAP Application reference DAP/21/02102 and accompanying plans (DA050 Rev K, DA150 Rev E, DA200 Rev H, DA201 Rev K, DA202 Rev J, DA203 Rev J, DA204 Rev H, DA205 Rev H, DA206 Rev G, DA207 Rev B, DA400 Rev F, DA401 Rev F, DA500 Rev E, DA501 Rev F, DA601 Rev C, DA602 Rev C and DA609 Rev A). 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 following reasons:

Reasons

1. The application does not satisfy the following Element Objectives of SPP7.3, and the issues that arise from that assessment cannot reasonably be addressed via conditions of approval or provision of further information–
 - O2.2.1 (Building Height);
 - O2.5.1 (Plot Ratio); and
 - O2.7.2 (Building Separation);

As the height and bulk of the proposed development is considered to be excessive and inconsistent with the desired future scale and character of the local area and the immediate context of the site; and

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Presiding Member, JDAP



2. The application does not satisfy the following matters identified at clause 67(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the issues that arise from that assessment cannot reasonably be addressed via conditions of approval or provision of further information –
- (m) the compatibility of the development with its setting, including —
 - (i) the compatibility of the development with the desired future character of its setting; and
 - (ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; and
 - (n) the amenity of the locality including the following —
 - (ii) the character of the locality;

As the height and bulk of the proposed development is considered to be excessive and inconsistent with the desired future scale and character of the local area and the immediate context of the site; and

3. The application is also not considered to have sufficiently satisfied the following Element Objectives of SPP7.3, although the issues that arise from that assessment could potentially be addressed via conditions of approval or provision of further information –
- O2.4.1, O2.4.2 and O2.4.4 (Side and Rear Setbacks);
 - O2.6.1 (Building Depth);
 - O3.6.1 (Public Domain Interface);
 - O3.9.1, O3.9.2 and O3.9.4 (Car and Bicycle Parking);
 - O4.3.2 (Size and Layout of Dwellings);
 - O4.5.1 (Circulation and Common Spaces);
 - O4.10.1 (Façade Design);
 - O4.11.1 (Roof Design);
 - O4.12.3 (Landscape Design); and
 - O4.16.1 and O4.16.2 (Water Management and Conservation);

For reasons summarised below -

- a. The height and bulk of the proposed development is considered to be excessive and inconsistent with the desired future scale and character of the local area and the immediate context of the site;
- b. Inadequate floor to ceiling heights in parts of the development;
- c. It is not clear that there is sufficient parking to meet the demands that will be generated by the commercial component of the development;
- d. Inadequate space within residential lift lobbies;
- e. Insufficient detail in terms of the treatment of the decked car park adjacent to Cyrilleean Way;
- f. Insufficient information in relation to location and screening of AC and some other plant; and
- g. Insufficient information about on-site stormwater retention and re-use; and



4. The application is also not considered to have sufficiently satisfied the following matters identified at clause 67(2) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, although the issues that arise from that assessment could potentially be addressed via conditions of approval or provision of further information –
- (s) the adequacy of -
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles; and
 - (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

As it is not clear that there is sufficient parking to meet the demands that will be generated by the commercial component of the development, and it is also not clear that the potential impact on the Dunn Bay Road/Cyrillean Way intersection has been adequately assessed.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: Key issues raised were regarding to the six (6) storey component and the precedent it would set, with regards to its acceptability in the site context, given the intended future form in the locality; and the substantial parapet wall design. Although there were commendable design elements that went above and beyond a ‘base level’ response, they did not receive support in a broad sense. General support for the Officer’s Recommendation was therefore agreed upon, as the panel were unable to resolve issues raised through conditions.

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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications –

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021

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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 3:36pm.

A handwritten signature in black ink, appearing to read "Haeren".