



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 23 February 2021; 9:30am
Meeting Number: RJDAP/21
Meeting Venue: via Zoom

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

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Attendance

DAP Members

Ms Francesca Lefante (Presiding Member)
Ms Lee O'Donohue (A/Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)
Cr 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)
Ms Lee Reddell (City of Busselton)
Ms Stephanie Navarro (City of Busselton)

Minute Secretary

Ms Zoe Hendry (DAP Secretariat)

Applicants and Submitters

Mr Lindsay Allen (DMG Australia)
Mr Lex Barnett (Taylor Burrell Barnett)
Ms Sue Riccelli
Mr Mark Webster
Mr Peter Kyle
Mr Peter De Cuyper
Mr Tony Sharp
Mr Brad Thomason
Ms Norma Thomason

Members of the Public / Media

There were 13 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:34am on 23 February 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 unavailability of the Deputy Presiding Member, Ms Francesca Lefante 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*.

Ms Francesca Lefante
Presiding Member, Regional JDAP



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.

In response to the COVID-19 situation, this meeting was convened via electronic means. 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 Eugene Koltasz (A/Deputy Presiding 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 17 & 19 February 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. Planning Solutions, Mr Kotsoglo's employer and company in which he's the major shareholder, have been involved in a series of projects in which DMG Architects (applicant) have also been involved in.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, Deputy Presiding Member, Ms Kanella Hope determined that the member listed above, who had disclosed an Impartiality Interest, was not permitted to participate in the discussion and voting on the item.



7. Deputations and Presentations

- 7.1 Ms Sue Riccelli addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.2 Mr Mark Webster addressed the DAP against the recommendation for the application at Item 8.1.
- 7.3 Mr Peter Kyle addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.4 Mr Peter De Cuyper addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.5 Mr Tony Sharp (Dunsborough Progress Association) addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.6 Mr Brad & Ms Norma Thomason addressed the DAP against the recommendation for the application at Item 8.1.
- 7.7 Mr Lex Barnett (TBB) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.8 Mr Lindsay Allen (DMG Architecture) addressed the DAP in support of the recommendation for the application at item 8.1 and responded to questions from the panel.
- 7.9 City of Busselton Officers addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.
- 7.10 The panel noted Mr Tony Sheard presentation as a written submission.

PROCEDURAL MOTION

Moved by: Mayor Grant Henley

Seconded by: Ms Francesca Lefante

That the meeting be adjourned for a period of 5 minutes to allow members to allow the members a comfort break.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

The meeting was adjourned at 11:27am.

The meeting was reconvened at 11:32am.

Ms Francesca Lefante
Presiding Member, Regional JDAP



8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 26 & 28 Geographe Bay Road and Lots 23 & 25 Lorna Street, Dunsborough

Development Description: Mixed use development
(Restaurant/Café & 28 multiple dwellings)
Applicant: DMG Australia
Owner: A & R Development Holdings Pty Ltd
Responsible Authority: City of Busselton
DAP File No: DAP/20/01845

REPORT RECOMMENDATION

Moved by: Mr Justin Page

Seconded by: Ms Lee O'Donohue

With the approval of the mover and seconder the following amendments were made:

- (i) To Amend Condition 3.10 to read as follows:

An exterior lighting plan which shall include all awnings, parking areas, communal corridors and entry points. The lighting plan shall be submitted to and approved by the City of Busselton to control the intrusive effects of any outdoor lighting. The lighting plan is to be implemented prior to occupation of the development and thereafter maintained.

REASON: For clarify and to adequately address and manage any potential impacts of external lighting.

- (ii) To add 3.12 (c) to read as follows:

Two onsite parking bays are to be designated for the exclusive use of the "Restaurant/café."

REASON: To provide a component of permanent parking for the commercial use.

- (iii) To amend Condition 4.2 to read as follows:

A contribution of ~~\$65,011.62~~ \$43,341.08 as cash in-lieu of 4 parking bays not provided on-site for the "Restaurant/Café."

REASON: The Applicant has now designated two of the on-site parking bays to offset the parking shortfall.

- (iv) To add a new Condition 7 to read as follows:

The "Restaurant/Café" operating hours are to be limited to Monday to Sunday, 7am to 7pm.

REASON: To clarify the operating hours for the commercial use.



That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/20/01845 and accompanying plans (A01.01, A02.01, A02.02, A02.03, A02.04, A02.05, A06.01 and A06.02) 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 two 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 Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area.
 - 3.2 A schedule of the final materials, finishes and colours.
 - 3.3 A Waste Management Plan.
 - 3.4 A Construction Management Plan.
 - 3.5 A hard and soft Landscaping Plan which shall include:
 - a. The location and type of all species to be planted within the Site; and
 - b. The location and type of all plant species to be planted within the Geographe Bay Road and Lorna Street verges. A minimum two *Agonis flexuosa* (WA Peppermint Trees) are to be located within the Geographe Bay Road reserve; and
 - c. Plant schedule nominating planting distances, numbers, planting sizes and anticipated height of each plant at maturity; and
 - d. The location and type of reticulation to be installed; and
 - e. The location and type of paving; and
 - 3.6 A Noise Impact Assessment for the dwellings and Restaurant/Café and, if the Noise Impact Assessment indicates that the assigned levels under the *Environmental Protection Act 1986* cannot be met, a Noise Management Plan is to be submitted, which may require attenuation measures, to the satisfaction of the City.



- 3.7 Details setting out a minimum number of four on-street car parking bays to be provided within the Geographe Bay Road reserve. The on-street parking bays shall be located and designed to the satisfaction of the City.
- 3.8 Notification in the form of a section 70A notification, pursuant to the Transfer of Lands Act 1893 (as amended) is to be placed on the Certificates of Title of the Lot advising the following:
- VULNERABLE COASTAL AREA – This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years. 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.*
- 3.9 Details of the proposed fencing;
- Fencing around the courtyards of the ground floor dwellings facing Geographe Bay Road; and
 - Fencing around the courtyards of the ground floor dwellings facing Seymour Park; and
 - Fencing, including vehicular entry gate, to the secured resident parking area.
Details shall include, but not be limited to, the design and the materials to be used and shall comply with the definition of Visually Permeable as defined by *State Planning Policy 7.3 Residential Design Codes*.
- 3.10 An exterior lighting plan which shall include all awnings, parking areas, communal corridors and entry points. The lighting plan shall be submitted to and approved by the City of Busselton to control the intrusive effects of any outdoor lighting. The lighting plan is to be implemented prior to occupation of the development and thereafter maintained.
- 3.11 Details of advertising signage, including but not limited to the design, materials and levels of illumination.
- 3.12 Plans that satisfactorily address the following:
- Screening to the south-eastern elevation of the front and rear balconies for Units 14, 23 and 27.
 - Two onsite parking bays are to be designated for the exclusive use of the “Restaurant/café.”
- 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 \$77,616.00 towards community facilities in the Dunsborough precinct.
 - 4.2 A contribution of \$43,341.08 as cash-in-lieu of 4 parking bays not provided on-site for the “Restaurant/Café.”



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 Condition 3 and 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 Hard and soft landscaping, as detailed in the approved landscaping plan, installed at the full cost of the applicant.

ONGOING CONDITIONS

- 6 The works undertaken to satisfy Conditions 3, 4 and 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 the ground floor commercial tenancy.
 - 6.2 All glazing to the Restaurant/Café to the Geographe Bay Road and Seymour Park frontages 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 The external surface of the boundary wall abutting the adjoining lots is to be finished and maintained to the same standard as the rest of the development, to the satisfaction of the City.
 - 6.4 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.
 - 6.5 Clothes drying shall not occur on open balconies at any time unless behind purpose-built screening approved as part of the development.
 - 6.6 Any vehicular entry gate shall be a minimum 50% visually permeable and not obstruct vehicle manoeuvring.
 - 6.7 Any fencing facing Seymour Park or Geographe Bay Road shall be a minimum 50% visually permeable above 1.2m above natural ground level as measured from the external side of the fence.
 - 6.8 The car parking bays along the eastern lot boundary are required to have wheels stops installed in accordance with AS 2890.1.
 - 6.9 Landscaping and reticulation shall be maintained in accordance with the approved Landscape 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.

- 7 The “Restaurant/Café” operating hours are to be limited to Monday to Sunday, 7am to 7pm.

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. 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 that is not part of this application will require separate development approval, unless exempt by Schedule 11 of City of Busselton *Local Planning Scheme No. 21*.
7. The Waste Management Plan should include 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.
8. The Construction Management Plan should address the following issuesZ
 - 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 Noise Impact Statement and Noise Management Plan should include, but is not limited to, the following:
- a. Noise generated by the air-conditioning units and other services; and
 - b. Noise generated by the Restaurant/Café; and
 - c. Noise generated by waste disposal and collection.
10. 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.
11. 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 every additional unit approved in Dunsborough precinct. As the development is over four existing lots contributions are payable for 24 dwellings only (i.e. 28 dwellings proposed minus the existing dwelling on each lot). 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.
12. The payment towards cash-in-lieu for car parking is required in accordance with City of Busselton Local Planning Scheme No. 21, clause 4.25 Cash-in-lieu of parking in the regional centre, centre, local centre and service commercial zones and Additional Use (A74) and is calculated at a rate of \$10,835.27 per car bay.
13. You are advised that the development shall be required to comply with the Environmental Protection (Noise) Regulations 1997 at all times.

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

For: Ms Francesca Lefante
Ms Lee O'Donohue
Mr Justin Page

Against: Mayor Grant Henley
Cr Paul Carter

REASON: The majority of Panel Members considered the proposal is a high-quality well-designed articulated development. The material and finishes are considered to be

Ms Francesca Lefante
Presiding Member, Regional JDAP



appropriate within its context and positively contribute to the diversity of residential accommodation and architectural styles. The proposal will also provide for an commercial use within the street. The proposal is considered consistent with the existing planning framework as a consolidated growth area. The variations to the R-Codes (including plot ratio) are considered minor and acceptable in the context of building bulk and scale which is mitigated through building articulation and façade treatment, setbacks. The proposed landscaping and interface with the adjoining park will enhance the character and amenity of the area. In weighing the planning considerations, the proposal is considered acceptable in the context of the approved planning framework.

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

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 12:44pm.