



# Regional Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Thursday, 21 April 2022; 9:30am  
**Meeting Number:** RJDAP/53  
**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 Clayton Higham (Presiding Member)  
Mr Gene Koltasz (A/Deputy Presiding Member)  
Mr Justin Page (Third Specialist Member)  
Cr Peter McCleery (Local Government Member, Shire of Capel)  
Cr Kaara Andrew (Local Government Member, Shire of Capel)

### Officers in attendance

Mr Kim Muste (Shire of Capel)  
Ms Louise Hughes (Shire of Capel)

### Minute Secretary

Ms Ashlee Kelly (DAP Secretariat)  
Mr Christopher Dodson (DAP Secretariat)

### Applicants and Submitters

Mr Nik Hidding (Peter Webb & Associates)

### Members of the Public / Media

There were 2 members of the public in attendance.

## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.29am on 21 April 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)

## 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 a Direct Pecuniary Interest in Item 8.1. Mr Kotsoglo advised that the matter involves Leyton Properties. Planning Solutions has been engaged in the past by Leyton Properties of which Mr Kotsoglo is the Managing Director.

DAP Member, Ms Kanella Hope declared an Indirect Pecuniary Interest in Item 8.1. Ms Hope is the Planning Consultant for the landowner in this matter. Ms Hope continues to have direct involvement in this proposal on behalf of the landowner, including with the applicant, Peter Webb & Associates.

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 a Direct Pecuniary 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 Paul Kotsoglo, determined that the member, Ms Kanella Hope, who had disclosed an Indirect Pecuniary Interest, was not permitted to participate in the discussion and voting on the item.

## 7. Deputations and Presentations

- 7.1 Mr Nik Hidding (Peter Webb & Associates) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.



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

### 8.1 Tiffany Centre, Part Lot 9046, Dalyellup

Development Description: Service Station and Fast Food Outlet  
Applicant: Peter Webb & Associates  
Owner: Dalyellup Beach Pty Ltd  
Responsible Authority: Shire of Capel  
DAP File No: DAP/22/02178

### REPORT RECOMMENDATION

**Moved by:** Cr Peter McCleery

**Seconded by:** Mr Gene Koltasz

It is recommended that the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/22/02178 and accompanying plans (Plan Nos A100 Rev A, A101 Rev D, A102 Rev C, A103 Rev B, A104 Rev B, A105 Rev D, A106 Rev A, A107 Rev A, A108 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 Clause 8.3 of the Shire of Capel Town Planning Scheme No. 7, subject to the following conditions:

#### Conditions

1. Prior to commencement of development a shared access way shall be designed, approved by the Shire of Capel, constructed and covered by a registered Easement in Gross on the certificate of title. The design and location of the shared access way shall include finished ground levels and drainage that demonstrate suitable shared access arrangements and vehicle manoeuvrability for the development.
2. Prior to commencement of development a site plan showing finished ground levels, pavement levels and finished floor levels is to be submitted for assessment and approval by the Shire of Capel. The finished ground levels shall conform to the surrounding existing levels and finished levels of the proposed shared access way.
3. Prior to commencement of development a Stormwater Management Plan is to be submitted for assessment and approval by the Shire of Capel.
4. Prior to commencement of development construction plans for all off street parking and access shall be submitted for assessment and approval by the Shire of Capel and thereafter implemented as per the approved plan. The parking and access shall comply with Australian Standard 2890.1.
5. The installation of outdoor lighting shall be in accordance with the requirements of Australian Standard AS4282-1997 'Control of the Obtrusive Outdoor Lighting'.
6. Any illuminated signs on site shall have a maximum luminance in accordance with the following:
  - a. Daytime – 6000cd/m<sup>2</sup>
  - b. Dawn/dusk – 600cd/m<sup>2</sup>
  - c. Night – 300cd/m<sup>2</sup>



7. Prior to commencement of development a Landscape Plan for the lot and the street verge shall be submitted for approval by the Shire of Capel and implemented thereafter as per the approved plan to the specification and satisfaction of the Shire of Capel.
8. Prior to commencement of development a Hydrocarbon Management Plan is to be submitted for assessment and approval by the Shire of Capel, detailing management and treatment of hydrocarbons with appropriate reporting mechanisms.
9. Prior to commencement of development a Construction Management Plan is to be submitted for assessment and approval by the Shire of Capel.
10. Prior to occupation the property shall be connected to reticulated sewerage.
11. Prior to occupation details are to be submitted regarding the provision for onsite storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view and the garbage waste collected regularly to the satisfaction of the Shire of Capel.
12. Prior to commencement suitable arrangements being made to demonstrate how the proposed use complies with the Environmental Protection (Noise) Regulations 1997.

#### **Advice Notes**

1. If the development the subject of this approval is not substantially commenced within a period of two years the approval shall lapse and be of no further effect.
2. Where an approval has so lapsed, no development shall be carried out without further approval having first being sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1) of the Development Panel Regulations 2011.
3. The Stormwater Management Plan is to details the following:
  - a. Catchments, flow paths, water quality improvement measures, area calculations and design criteria demonstrating that all stormwater from a 1 year ARI can be retained on site and infiltrated.
  - b. Overflows from soak wells and / or rain gardens are to enter the road pipe network by a direct piped lot connection with a capacity for a 10 year ARI.
  - c. Events beyond a 10 year ARI are to be directed to the road by overland flow.
  - d. Mosquito breeding control measures where stormwater infrastructure is likely to result in standing water that will provide breeding habitat.



- e. Stormwater drainage levels should have regard to the invert level of the adjacent pipe within the public road drainage pipe network. The Stormwater Management Plan should be in accordance with the Shire of Capel information sheet 'Specifications for Stormwater; and incorporate the principles and guidelines set out in the WAPC Guidelines for Better Urban Water Management and the Department of Water Stormwater Management Manual for Western Australia.
  - f. The first 10mm of stormwater flow must be detained on site with the remainder flowing to the Shire drainage system via a Gross Pollutant Trap. Overland flows beyond a 1:10 year capacity are to be directed to the road verge and not to the adjacent lot.
4. The development that is the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions.
  5. The applicant will need to conform to the requirements of the Food Standards Code and the registration as a Food Premises as per the Food Act 2008 and Food Regulations 2009 will be required prior to the premises opening. An application is to be submitted including floor plan showing fixtures and fittings to the Shire's Environmental Health Services for assessment and approval.
  6. The development that is the subject of this planning approval is required to comply with the requirements of the Department of Mines and Petroleum (Resources Safety Section) in relation to the storage of dangerous goods. Further information may be found at [www.dmp.wa.gov.au](http://www.dmp.wa.gov.au)

#### **AMENDING MOTION 1**

**Moved by:** Mr Gene Koltasz

**Seconded by:** Cr Peter McCleery

That a new Condition no. 13 be added to read as follows:

***Prior to commencement of development a Hydrocarbon Management Plan is to be submitted for assessment and approval by the Shire of Capel, detailing management and treatment of hydrocarbons with appropriate reporting mechanisms.***

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

**REASON:** The condition was in the officer's recommendation but was thought to have been inadvertently excluded from the final RAR recommendation.



## REPORT RECOMMENDATION (AS AMENDED)

It is recommended that the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/22/02178 and accompanying plans (Plan Nos A100 Rev A, A101 Rev D, A102 Rev C, A103 Rev B, A104 Rev B, A105 Rev D, A106 Rev A, A107 Rev A, A108 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 Clause 8.3 of the Shire of Capel Town Planning Scheme No. 7, subject to the following conditions:

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8. Prior to commencement of development a Hydrocarbon Management Plan is to be submitted for assessment and approval by the Shire of Capel, detailing management and treatment of hydrocarbons with appropriate reporting mechanisms.





9. Prior to commencement of development a Construction Management Plan is to be submitted for assessment and approval by the Shire of Capel.
10. Prior to occupation the property shall be connected to reticulated sewerage.
11. Prior to occupation details are to be submitted regarding the provision for onsite storage and collection of garbage and other solid waste. A waste storage and collection area must be graded, drained and screened from public view and the garbage waste collected regularly to the satisfaction of the Shire of Capel.
12. Prior to commencement suitable arrangements being made to demonstrate how the proposed use complies with the Environmental Protection (Noise) Regulations 1997.
13. Prior to commencement of development a Hydrocarbon Management Plan is to be submitted for assessment and approval by the Shire of Capel, detailing management and treatment of hydrocarbons with appropriate reporting mechanisms.

### **Advice Notes**

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  - c. Events beyond a 10 year ARI are to be directed to the road by overland flow.
  - d. Mosquito breeding control measures where stormwater infrastructure is likely to result in standing water that will provide breeding habitat.
  - e. Stormwater drainage levels should have regard to the invert level of the adjacent pipe within the public road drainage pipe network. The Stormwater Management Plan should be in accordance with the Shire of Capel information sheet 'Specifications for Stormwater'; and incorporate the principles and guidelines set out in the WAPC Guidelines for Better Urban Water Management and the Department of Water Stormwater Management Manual for Western Australia.





- f. The first 10mm of stormwater flow must be detained on site with the remainder flowing to the Shire drainage system via a Gross Pollutant Trap. Overland flows beyond a 1:10 year capacity are to be directed to the road verge and not to the adjacent lot.
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*Cr Kaara Andrew (Local Government Member, Shire of Capel) left the panel at 9.44am.*

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

**REASON:** The proposal was considered to satisfy the objectives of the planning framework including the amended Local Development Plan No.5. The panel members noted the extensive blank wall on the southern boundary, however, were satisfied that under the amended LDP it is likely that a building will be located backing on to that wall. Overall the development was considered to be well designed for the location.

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

Nil



## 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
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 9.45am.