



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 12 February 2024; 9.30am
Meeting Number: RJDAP/133
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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Kanella Hope
A/Presiding Member, Regional JDAP



Attendance

DAP Members

Kanella Hope (A/Presiding Member)
Lee O'Donohue (A/Deputy Presiding Member)
Justin Page (Third Specialist Member)
Deputy Mayor Anne Ryan (Local Government Member, City of Busselton)
Cr Jarrod Kennedy (Local Government Member, City of Busselton)

Officers in attendance

Andrew Watts (City of Busselton)
Lezia Ramsden (City of Busselton)
Jo-Anne Wilson (City of Busselton)

Minute Secretary

Ashlee Kelly (DAP Secretariat)

Applicants and Submitters

Lindsay Bergsma (Harley Dykstra)
Jamie Oates

Members of the Public / Media

There were 3 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 9.32am on 12 February 2024 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

The A/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 A/Presiding Member

The A/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 A/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.

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2. Apologies

Tony Arias (Presiding Member)
Cr Kate Cox (Local Government Member, City of Busselton)

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, Tony Arias, declared an impartiality interest in item 8.1. Tony Arias is presently using Harley Dykstra Pty Ltd services and considers the perception of conflict would prevent him from participating in discussion on the matter.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, Presiding Member, Francesca Lefante, 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 Lindsay Bergsma (Harley Dykstra) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions of the panel.

7.2 The City of Busselton addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

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8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 62 Ludlow-Hithergreen Road, Ruabon

Development Description: Industry Extractive (Gravel)
Applicant: Harley Dykstra
Owner: Jamie Allan Oates
Responsible Authority: City of Busselton
DAP File No: DAP/23/02533

REPORT RECOMMENDATION

Moved by: Justin Page

Seconded by: Cr Jarrod Kennedy

With the agreement of the mover and seconder, an administrative change to the report recommendation was made to correct the numbering of conditions.

REASON: to reflect the correct condition numbers

That the Regional JDAP resolves to:

Approve DAP Application reference DAP/23/0533 and accompanying plans (23089-03 r.E; 23089-01 r.B; 23089-02 r.D; 23089-06 r.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, subject to the following conditions:

CONDITIONS

1. This decision constitutes development approval only and is valid for a period of five years from the date of approval. The Site must be fully rehabilitated in accordance with the Amended Rehabilitation Plan before the expiry date of this development approval.
2. The owner must ensure that the development hereby approved is undertaken in accordance with the approved plans, which are as follows, and any plans approved pursuant to other conditions of this approval:
 - 2.1. Excavation Works Plan (23089-03) prepared by Harley Dykstra (version E dated 3 November 2023); and
 - 2.2. Haulage Routes Plan (23089-06) prepared by Harley Dykstra (version A dated 24 January 2024).

Where there is a conflict between a condition of this development approval and any details shown within one of the plans listed above or approved pursuant to other conditions, the requirements of the condition shall prevail.

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PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. No works can occur on the Site until the following plans/details have been submitted to, and approved by the City:
 - 3.1. Details of the proposed crossover and driveway which shall include the following:
 - a) The location / construction of the crossover shall ensure that adequate sightlines are achieved;
 - b) The crossover and driveway shall be designed, constructed, sealed and drained to a minimum length of 40 metres as measured from the sealed edge of the road; and
 - c) The crossover and driveway shall be of a sufficient width to allow two way traffic (refer to advice notes).
 - 3.2. Warning signage (Main Roads sign W5-22) shall be installed 100 metres from the approved crossover location on both approaches to the pit along Ludlow-Hithergreen Road (refer to above).
 - 3.3. Amended Surface Water Management Plan which is consistent with the approved Excavation Works Plan dated 03/11/2023 (v.E).
 - 3.4. Amended Rehabilitation Plan which is consistent with the approved Excavation Works Plan dated 03/11/2023 (v.E) which shall include the following:
 - a) Sequencing of stages;
 - b) Finish Ground Levels post rehabilitation which shall be no less than 1.5m from the pre-works ground levels identified on the 3D Digital Terrain Model shall be a minimum of 500mm above the maximum seasonal ground water table;
 - c) Final contour gradient 1:6;
 - d) Details seed mix; and
 - e) Pasture Productivity Report (refer to advice notes).
 - 3.5. A Noise Management Plan which is consistent with the approved extraction area within Excavation Works Plan dated 03/11/2023 (v.E) and shall include the following:
 - a) Details of, and expected levels of noise emissions in accordance with Acoustic Assessment;
 - b) Details of noise reduction measures to be implemented to control noise (including vibration) emissions;
 - c) Bund location and revised modelling contours;
 - d) Noise complaint response procedures;
 - e) Limit to the sound power level of the surface miner (or alternate equipment performing a similar function) to be used for the proposed operation to no higher than 98 dB(A).

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- 3.6. Amended Dust Management Plan prepared by MBS Environmental which is consistent with the approved extraction area within Excavation Works Plan dated 03/11/2023 (v.E).
- 3.7. Details of the school bus exclusion time for both am and pm shall be submitted to and approved by the City in consultation with the relevant school bus operators. The times should include the bus operating times on the haulage routes including a 15min exclusion window either side of the earliest and latest bus time.
- 3.8. Details of entry signage to be erected within the lot boundaries adjacent to the driveways and pit entrance visible to vehicles entering/existing the Site. Signage shall include the following details:
 - a) Approved operating hours;
 - b) Site contact details;
 - c) Approved Haulage route and times; and
 - d) School bus times.
- 3.9. A 3D Digital Terrain Model prepared by a licensed surveyor for the whole Site indicating the following in Australian Height Datum (refer to advice notes):
 - a) Existing ground levels;
 - b) Proposed maximum extraction depth;
 - c) Minimum final ground levels after rehabilitation; and
 - d) Global Positioning System (GPS) coordinates of the boundaries of the stages, stockpiles, crusher/ screening location and noise attenuation devices.
- 3.10. A bond of \$35,000 (being an unconditional bank guarantee) to be held by the City for Road Maintenance, Dust Management and Rehabilitation (refer to advice notes).
- 3.11. An executed legal agreement with the City (all associated costs being borne by the owner or nominee). The legal agreement shall provide for:
 - a) The ability for the City to be able to use the bond, or parts of the bond as appropriate, and any costs to the City including administrative costs of completing or rectifying any outstanding works in accordance with the conditions of this development approval and any further costs;
 - b) Written authorisation from the owner of the land that the City may enter the site at any time to permit the City to complete or rectify any outstanding work the subject of the bond, to the satisfaction of the City acting reasonably;
 - c) If at any time any part of the bond is called upon, used or applied by the City in accordance with the legal agreement, the restoration of the bond to the full amount required by these conditions; and

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- d) The power to lodge a caveat over Lot 62 Ludlow-Hithergreen Road to secure the City's interest (all associated costs with lodgement and removal being borne by the owner or nominee).

PRIOR TO COMMENCEMENT OF EXTRACTION CONDITION:

- 4. No material can be extracted from the Site until the following:
 - 4.1. All plans, details and bonds required by Condition 3 have been provided to, approved by and implemented to the satisfaction of the City; and
 - 4.2. The City has issued a 'Permit to Commence', confirming that extraction can commence.

ONGOING CONDITIONS:

- 5. The plans, details and works undertaken to satisfy Condition 1, 2, 3 and 4 must be implemented and maintained for the life of the development and, in addition, the following condition must be complied with:
 - 5.1. The development hereby approval shall be limited to;
 - a) The excavation or movement of gravel from its natural state on the Site from within the approved Extraction Area;
 - b) Crushing of gravel;
 - c) Screening and transportation of sand within the Site for the purpose of constructing bunds and rehabilitation; and
 - d) Construction of internal roads and rehabilitation works.
 - e) At no time shall blasting works be carried out
 - 5.2. To ensure a minimum separation of at least 500mm between extraction cells and the maximum water table level, the depth of the extraction areas shall be a maximum of 1.5m below the NGL but shall not go below the following AHD as follows:
 - a) (Stages 1 & 2) 24.5m AHD in the east and 23.0m AHD in the west
 - b) (Stages 3 & 4) 23.5 m AHD in the east and 23.0 m AHD in the west.
 - 5.3. Operating hours, including the use of any vehicle or machinery, or the transportation/hauling of materials, shall be restricted to the hours between:
 - a) 7:00am and 6:00pm Mondays to Fridays; and
 - b) 7:00am and 1:00pm Saturdays for rehabilitation works only.
 - c) No works of any kind to be carried out at any time on Sundays or public holidays.
 - 5.4. A maximum of 70 truck movements (i.e. 35 entering and 35 exiting the Site) shall be permitted on any operation day (see condition above). No truck movements shall be permitted on any other day or outside the approved operating hours.

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- 5.5. The designated haulage routes will be:
- a) North along Ludlow- Hithergreen Road, then west along Ruabon Road to Bussell Highway; and
 - b) South along Ludlow-Hithergreen Road, to Vasse Highway.
- 5.6. Trucks going to and from the Site are not to operate, prior to 7:00am or after 6:00pm (Monday to Friday excluding public holidays).
- 5.7. Should the school bus operator advise the City of a change in bus times during the school year, the City may impose amended exclusion times and advise the applicant in writing.
- 5.8. The Site shall be sufficiently rehabilitated in accordance with the approved Amended Rehabilitation Plan prior to the expiry of this approval.
- 5.9. All stockpiles, overburden, transport and rehabilitation works shall be contained within the approved development area and shall maintain the following setbacks;
- a) A minimum 30 metre setback to the northern lot boundary; and
 - b) A minimum 20 metre setback to the southern lot boundary.
- 5.10. The maximum height of the Topsoil Stockpile shall be no greater than 2 metres.
- 5.11. The maximum height of the Extraction Stockpile (Gravel) shall be no greater than 3 metres.
- 5.12. A maximum of one stage of the approved extraction area shall be open at any one time for the duration of the extraction operations.
- 5.13. At no time shall the Industry – Extractive (hereby approved) intercept the water table.
- 5.14. Upon completion of rehabilitation, there shall be no standing ground water.
- 5.15. An annual survey of the Extraction Site (in its entirety) from a practicing licensed surveyor is to be received by the City no later than the 1 September of each year (with the surveyors attendance and report date to fall within 60 calendar days of the 1 September) and which includes the following to the satisfaction of the City:
- A copy of the 3D Digital Terrain Model including Global Positioning System (GPS) coordinates and a report/statement by a licensed surveyor certifying:
- a) The extent/size and location of the area which has been extracted;
 - b) The extent/size and location of the area which has been rehabilitated; and
 - c) The extent/size and location of the area which is currently under operation.
 - d) Details confirming that the conditions of this approval have been complied with and how the conditions have been complied with.
 - e) Monthly data from on-going ground water monitoring within the approved extraction area.



5.16. No extraction operations, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, is to be undertaken on the site at any time when an annual written report is due and has not been provided to the City.

5.17. No development, including the use of any vehicle or machinery or the stockpiling or transportation of extracted material, may be carried out at any time when any bond that is required to be in full force and effect is not in full force and effect.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision, including any conditions of approval, there is a right to lodge a request for reconsideration. The application form and information on fees payable can be found on the City's website - www.busselton.wa.gov.au
2. 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 by the City of Busselton.
3. 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 Plan(s), which was not specifically included in this application.
4. You are advised that 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*.
5. In relation to the bonds required under this approval payment is to be a bank guarantee. Should a bank guarantee be provided you will need to provide the original, ink signed bond documentation from your relevant bank to the City.
6. Prior to installing warning signage Main Roads W5-22 please contact the City Engineering team regarding works on the City road reserves.
7. The 3D Digital Terrain Model Survey data shall be delivered to the City of Busselton in 3D .dwg or .dxf with pdf copy to verify digital data. Please contact the City Of Busselton prior to engaging the licenced surveyor.
8. No dewatering is permitted without authorisation under the *Rights in Water and Irrigation Act 1914*.
9. If any interception of groundwater occurs, work shall cease and an advice notice provided to the City and Department of Water and Environmental Regulations within 48 hours, followed by agreed remedial action.

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10. On-site refuelling of equipment is required to comply with the requirements of Department of Mines, Industry Regulations and Safety. No major repairs or maintenance to take place on site.
11. The Extractive Industry must comply with the *EPA Noise Regulations 1997* at all times.
12. The Extractive Industry must comply with the *EPA (Unauthorised Discharge) Regulations 2004*.
13. The Department of Water and Environmental Regulation advise their guidelines – *Water Resource Considerations for Extractive Industries, June 2014, guidelines*. These guidelines contain requirements and recommendations for extractive industry to appropriately address water considerations.
14. Any stormwater impacts from the operation must be managed according with the Department of Water and Environmental Regulations *Water Quality Protection Note 15*, which requires proponents to manage stormwater flowing from disturbed areas, including areas for stockpiles, to prevent turbidity (e.g. via settling pits).
15. Activities such as crushing and screening during extractive industry operations, may cause the premises to become prescribed for the purposes of Part V Division 3 of the '*Environmental Protection Act 1986*' and as such a works approval to construct/install the equipment (mobile or otherwise) and a licence or registration to operate may be required from the Department of Water and Environmental Regulations.
16. The rehabilitation Pasture Productivity Report is to be prepared by Agronomist to demonstrate that a suitable rehabilitation outcome back to productive pasture can be achieved.
17. The Bond is required for the following reasons:
 - i. Road Maintenance – to ensure that the surrounding road network is maintained to the satisfaction of the City for the term of the approval. Those portions of public roads affected by activities related to the approval shall be maintained to a standard acceptable to the City at the cost of the owner. The City may use the bond to maintain the affected public roads as it deems necessary.
 - ii. Dust Management – to ensure compliance with the Dust Management Plan and City's *Dust And Building Waste Control Local Law 2010*
 - iii. Rehabilitation – to ensure satisfactory compliance with the approved Amended Rehabilitation Plan.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

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REASON: The Panel having considered the Responsible Authority Report (RAR) and all materials and information presented, was satisfied with the RAR recommendation and conditions of development approval. The Panel was satisfied that all relevant planning considerations had been appropriately addressed. This included consideration of key issues (i.e., noise, dust, groundwater, visual landscape and rehabilitation) raised in advertising submissions and government agency referrals. The Panel also noted that the size and scale of the proposed development, contained in the original development proposal, had been substantially reduced following discussions with the City, Applicant and government agencies, such as DWER. The Panel concluded that on merit, the proposal satisfactorily complies with the planning framework and that the relevant planning and environmental considerations were suitably addressed.

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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The A/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 DR65/2020	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/23/02479 DR146/2023	Shire of Capel	Lot 148 (No.168) Skippings Road, Boyanup	Extractive Industry Development Proposal	30 August 2023
DAP/23/02506 DR199/2023	Shire of Augusta-Margaret River	Lot 11 & 12 Fearn Avenue, Margaret River	Proposed Hotel and Restaurant	22 December 2023
DAP/23/02549 DR197/2023	City of Greater Geraldton	Lots 150 - 151 (205 and 181-195) Marine Terrace, Lot 152 (15) Fitzgerald Street and Lot 153 (222-228) Lester Avenue, Geraldton	Proposed Mixed Use Development	3 January 2024

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11. General Business

The A/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 A/Presiding Member declared the meeting closed at 10.32am.

Kanella Hope
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