



Regional Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 18 April 2024; 9.30am
Meeting Number: RDAP/9
Meeting Venue: 140 William Street, Perth
Public Observing: Online

A recording of the meeting is available via the following link:

[RDAP/9 - 18 April 2024 - Shire of Merredin - City of Busselton - Shire of Harvey](#)

PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement
2. Apologies
3. Members on Leave of Absence
4. Noting of Minutes

PART B – SHIRE OF MERREDIN


1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 5 Robartson Road, Merredin – Battery Energy Storage System – DAP/24/02631
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART C – CITY OF BUSSELTON

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 101 (1603) Wildwood Road, Yallingup – Rural Holiday Resort – DAP/23/02617
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART D – SHIRE OF HARVEY

1. Declaration of Due Consideration
2. Disclosure of Interests

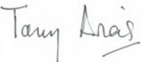

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3. Form 1 DAP Applications
 - 3.1 Lot 565 Paris Road, Australind – Convenience Store – DAP/23/02586
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART E – OTHER BUSINESS


1. State Administrative Tribunal Applications and Supreme Court Appeals
2. General Business
3. Meeting Closure


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Attendance	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Tony Arias (Presiding Member)	Ashlee Kelly
Lindsay Baxter (Deputy Presiding Member)	Zoe Hendry
Neema Premji	
<i>Part B – Shire of Merredin</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Megan Simmonds	Peter Zenni
Cr Renee Manning	John Merrick
	Paul Bashall
<i>Part C – City of Busselton</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Kate Cox	Andrew Watts
Cr Anne Ryan	Adam Prestage
	Anne Ryan
<i>Part D – Shire of Harvey</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Craig Carbone	Elizabeth Edwards
Cr Michelle Campbell	

Applicant and Submitters
<i>Part B – Shire of Merredin</i>
Michael Taylforth (Land Insights)
Rebekah Hampson (Land Insights)
Guy Beesley (Nomad Energy)


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Part C – City of Busselton

Andrew Jones

John White (Kwokka Pty Ltd)

Mark Zed (Dougs Farm Pty Ltd)

Pieter Visser

Marc Halsall (Halsall and Associates)

Part D – Shire of Harvey

Paul McQueen (Lavan)


Leigh Caddy (element)

Members of the Public / Media

There was 1 member of the public in attendance.

Observers via livestream

There were 6 persons observing the meeting via the livestream.


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PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.36am on 18 April 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 Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2024 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

1.1 Announcements by Presiding Member

The Presiding Member advised that panel members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

The meeting was recorded and livestreamed on the DAP website in accordance with regulation 40(2A) of the *Planning and Development (Development Assessment Panels) Regulations 2011*. Members were reminded to announce their name and title prior to speaking.

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](#).


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PART B – SHIRE OF MERREDIN

1. Declaration of Due Consideration

All members declared that they had duly considered the documents contained within Part B of the Agenda and Part B of the Additional Information.

2. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Member, Cr Megan Simmonds and Cr Renee Manning, declared that they had participated in a prior Council meeting in relation to the application at Item 3.1. However, under section 2.1.2 of the DAP Code of Conduct 2024, Cr Simmonds and Cr Manning acknowledged that they are not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.

In accordance with section 3.3 of the DAP Code of Conduct 2024, the Presiding Member determined that the members listed above, who had disclosed an impartiality interest, were permitted to participate in the discussion and voting on the item.

3. Form 1 DAP Applications

3.1 Lot 5 Robartson Road, Merredin – Battery Energy Storage System – DAP/24/02631

Deputations and Presentations

Michael Taylforth (Land Insights) addressed the DAP in support of the recommendation for the application at Item 3.1.

Shire of Merredin officers addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.



REPORT RECOMMENDATION

Moved by: Lindsay Baxter

Seconded by: Neema Premji

That the Regional Development Assessment Panel resolves to:


1. **Approve** DAP Application reference DAP/24/02631 and accompanying plans (Attachment 12.2A) 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** 3.4.2 (b) of the Shire of Merredin Local Planning Scheme No. 6, subject to the following conditions:

Conditions

1. The submission and approval of a dedicated Construction Management Plan (CMP), including a transport impact assessment, details showing the proposed interim and longer-term facilities including building/structure setbacks, carparking facility, landscaping/ screening etc, to the satisfaction of the local government.
2. The removal of all construction infrastructure once the facility has been completed to the satisfaction of the local government.
3. The preparation and lodgement of a Drainage Management Plan (DMP) to contain all drainage on site to the satisfaction of the local government.
4. The design and location of on-site effluent systems for the construction phase as well as the longer term to be designed and located to the satisfaction of the local government.
5. Compliance with the Bushfire Management Plan (BMP) dated 14 December 2023 recommendations (including the Bushfire Risk Assessment & Management Report).
6. Any new crossover to Robartson Road shall be located and constructed to the satisfaction of the local government.

Advice Notes

1. If the development, the subject of this approval, is not substantially commenced within a period of 24 months from the date of the approval, the approval will lapse and be of no further effect. 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.
2. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.


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3. The applicant is advised that granting of development approval does not constitute a building permit and that an application for relevant building permits must be submitted to the Shire of Merredin and be approved before any work requiring a building permit can commence on site.

AMENDING MOTION

Moved by: Lindsay Baxter

Seconded by: Neema Premji

That Advice Note No.1 be deleted, inserted as Condition No.1 and the remaining Conditions and Advice Notes be renumbered accordingly to read as follows:

If the development, the subject of this approval, is not substantially commenced within a period of 4 years ~~24 months~~ from the date of the approval, the approval will lapse and be of no further effect. 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.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide additional flexibility for the substantial commencement date given the current delays and shortages with building construction.

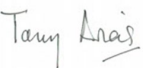
REPORT RECOMMENDATION (AS AMENDED)

That the Regional Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/24/02631 and accompanying plans (Attachment 12.2A) 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 3.4.2 (b)** of the Shire of Merredin Local Planning Scheme No. 6, subject to the following conditions:

Conditions

1. If the development, the subject of this approval, is not substantially commenced within a period of 4 years from the date of the approval, the approval will lapse and be of no further effect. 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.
2. The submission and approval of a dedicated Construction Management Plan (CMP), including a transport impact assessment, details showing the proposed interim and longer-term facilities including building/structure setbacks, carparking facility, landscaping/ screening etc, to the satisfaction of the local government.
3. The removal of all construction infrastructure once the facility has been completed to the satisfaction of the local government.


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4. The preparation and lodgement of a Drainage Management Plan (DMP) to contain all drainage on site to the satisfaction of the local government.
5. The design and location of on-site effluent systems for the construction phase as well as the longer term to be designed and located to the satisfaction of the local government.
6. Compliance with the Bushfire Management Plan (BMP) dated 14 December 2023 recommendations (including the Bushfire Risk Assessment & Management Report).
7. Any new crossover to Robartson Road shall be located and constructed to the satisfaction of the local government.

Advice Notes

1. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.
2. The applicant is advised that granting of development approval does not constitute a building permit and that an application for relevant building permits must be submitted to the Shire of Merredin and be approved before any work requiring a building permit can commence on site.

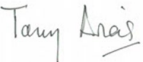
The Report Recommendation (as amended) was put and CARRIED UNANIMOUSLY.

REASON: The Panel was satisfied that the proposed development comprising Battery Energy Storage System and related battery packs, inverters, transformers and control systems is appropriately considered as a 'use not listed' under the Shire's Scheme and therefore a discretionary land use within the 'General Farming' zone and capable of being approved.

Its location adjacent the Western Power's Merredin Terminal to the south and Merredin Solar Farm to the east/ southeast and proximity to other energy infrastructure assets provides an appropriate locational context.

The subject site is cleared and relatively flat with no remnant vegetation contained and the closest sensitive receptor is over 2km away from the site and does not create undesirable environmental impacts.

Whilst the site is zoned General Farming in the Shire's Scheme the proposed development has a small footprint with the majority of the lot to continue to be used for rural purposes. The Panel considered the proposed development was consistent with the applicable planning framework and consistent with the objectives of the General Farming zone.


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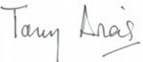
4. Form 2 DAP Applications

Nil

5. Section 31 SAT Reconsiderations

Nil

Cr Megan Simmonds and Cr Renee Manning (Local Government DAP Member, Shire of Merredin) left the panel at 9.51am.


Tony Arias
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PART C – CITY OF BUSSELTON

Cr Kate Cox and Cr Anne Ryan (Local Government DAP Member, City of Busselton) joined the panel at 9.51am.

1. Declaration of Due Consideration

All members declared that they had duly considered the documents contained within Part C of the Agenda and Part C of the Additional Information.

2. Disclosure of Interests

Nil

3. Form 1 DAP Applications

3.1 Lot 101 (1603) Wildwood Road, Yallingup – Rural Holiday Resort – DAP/23/02617

Deputations and Presentations

Andrew Jones addressed the DAP against the recommendation for the application at Item 3.1.

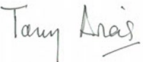
John White (Kwikka Pty Ltd) addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Mark Zed (Dougs Farm Pty Ltd) addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Pieter Visser addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Marc Halsall (Halsall and Associates) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

The City of Busselton officers addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.


Tony Arias
Presiding Member, Regional DAP



REPORT RECOMMENDATION

Moved by: Lindsay Baxter

Seconded by: Neema Premji

That the Regional DAP resolves to:

1. **Approve** DAP Application reference DAP/23/2617 and accompanying plans (A0.1 Rev 0, A0.2 Rev 1, A0.3 Rev 1, A0.4 Rev 0, A0.5 Rev 0, A0.6 Rev 0, A0.7 Rev 0, A0.8 Rev 0, A0.9 Rev 0, A0.10 Rev 0 and Figure 1) 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 planning approval only and is valid for a period of 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.
3. The main facilities building component of the Rural Holiday Resort, incorporating dining, bar and other related amenities is for use only by guests staying in the short stay accommodation.

Prior to Commencement of Any Works Conditions:

4. 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:
 - 4.1 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 Rural Holiday Resort is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Envision Bushfire Protection (Version V4) dated March 2024 (As Amended) and the accompanying Bushfire Emergency Evacuation Plan (BEEP).


The Rural Holiday Resort hereby approved is to be made available for temporary accommodation purposes only. A single Chalet or suite 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.


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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.

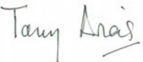
- 4.2 A Waste Management Plan.
- 4.3 A Construction Management Plan.
- 4.4 A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 4.5 A detailed plan which shows natural ground levels, finished ground levels and finished floor levels (in metres AHD)
- 4.6 The parking area(s) (minimum 68 car parking bays), primary driveway and point(s) of ingress and egress [including crossover(s) to Wildwood Road] shall be designed, constructed, sealed, drained and marked.
- 4.7 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
- 4.8 Details of stormwater and surface water drainage.
- 4.9 Details of the proposed vehicular access crossover and necessary road upgrades to Wildwood Road which shall be designed and constructed to the specifications and satisfaction of City of Busselton.
- 4.10 Details of the finished treatment of the Emergency Access Way, including upgrades to existing vehicular crossover to Wildwood Road and access leg to comply with bushfire requirements and which shall be designed and constructed to the specifications and satisfaction of City of Busselton.
- 4.11 Landscape Plan for the site and adjoining Wildwood 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. The Landscape plan shall address:
 - a) Screening between buildings on site;
 - b) Screening of headlight glare for adjacent properties; and
 - c) All planting and reticulation requirements on site.
- 4.12 Details of signage, including but not limited to the design, materials and levels of illumination (where applicable).


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- 4.13 A suitably qualified Fauna Habitat expert shall:
- Undertake a Fauna Habitat Survey to identify Black Cockatoo and Western Ringtail Possum habitat trees to be retained.
 - Provide a map and GPS co-ordinates of trees to be retained to the contractor to ensure no clearing is undertaken.
 - Trees identified for retention shall be clearly marked with flagging tape and numbered tags.
- 4.14 Lighting Management Plan consistent with the 'dark sky principles' and the requirements of *Australian Standard AS 4282—2023 Control of the obtrusive effects of outdoor lighting*, including no use of flood lights and not causing light emissions off site.
- 4.15 A Noise Management Plan detailing the control of all noise emanating from the property including (but not limited to) loading docks, service bays, waste management/ bin areas, exhaust air outlets, air conditioning plants, business activities and amplified music.
- 4.16 A Tourism Facilities Management Plan detailing:
- 24 hour on-site management presence;
 - Implementation of the approved Noise Management Plan;
 - No Amplified music after 6pm;
 - Advice for guests of agricultural implications;
 - Operating hours of the Main Facilities Building from 7am to 10pm.
 - Management of guests leaving the site;
 - Complaints and conflict resolution process;
5. 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:
- 5.1 A contribution of \$32,856.00 towards community facilities in the Rural Remainder precinct.
- 5.2 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 site.


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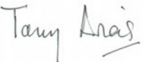


Prior to Occupation/Use of the Development Conditions:

6. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 3 and 4 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 Envision Bushfire Protection (Version V4) dated March 2024 (as Amended) have been implemented.
 - 6.2 Crossovers located and constructed to the City’s specifications.
 - 6.3 All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
 - 6.4 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).
 - 6.5 The portion of land (subject to survey) shown in the approved development plans ‘Figure 1’ shall be ceded as road reserve free of cost and without any payment of compensation to the Crown within 90 days of occupation of the development.

On-going Conditions:

7. The works undertaken to satisfy Conditions 3 and 5 shall be subsequently maintained for the life of the development and the following conditions shall be complied with:
 - 7.1 The Rural Holiday Resort hereby approved is 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 Envision Bushfire Protection (Version V4) dated March 2024 (as amended) shall be implemented and maintained in accordance with the approval details and any recommendations therein.


Tony Arias
Presiding Member, Regional DAP



- 7.3 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping 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.
- 7.4 The lighting detailed within the Approved Lighting Management Plan shall be subsequently maintained for the life of the development.
- 7.5 A 24-hours on-site management presence shall be provided to service the Rural Holiday Resort.

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*.



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Presiding Member, Regional DAP



6. 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.
7. 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 is required to 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.


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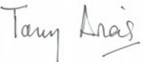
9. The Landscape Plan should include:
 - a) the location and species of all trees to be removed and/or retained;
 - b) the location and type of screening to be provided to reduce headlight glare to neighbouring properties.
 - c) the location and type of fencing to be installed;
 - d) the location and type of reticulation to be installed;
 - e) the location and type of paving to be installed;
 - f) a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity;
 - g) any adjoining road verges; and
 - h) 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

10. The Waste Management 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.

11. 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.

12. 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 speciesandcommunities@dbca.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.

13. You are advised that the lighting plan shall deal with sensible timed management of lighting and demonstrate adequate design and management so there will be no impact on the amenity of neighbouring properties and the area in general.


Tony Arias
Presiding Member, Regional DAP



14. You are advised to have regard for the maximum light level permitted to be emitted into the relevant portion of the environment (including impact on surrounding properties (*Environmental Protection Act 1986*)).
15. 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.
16. 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.
17. It is recommended that the owner / operator of the property undertakes suitable management practices to ensure impact or agricultural activities on the property do not negatively impact guests.
18. You are advised to ensure proposed infrastructure and site works do not create additional mosquito breeding habitat as follows:
 - Changes to topography resulting from earthworks (e.g., the installation of pipelines, footpaths, roads and the like) must prevent run-off from creating surface ponding as it may become mosquito breeding habitat.
 - Constructed water bodies (drainage infrastructure, infiltration basins and swales, settling ponds, wetlands, and the like) must be located, designed, and maintained so they do not create or contribute to mosquito breeding.
 - Constructed water bodies (drainage infrastructure, infiltration basins and swales, settling ponds, wetlands, etc) may require regular monitoring and application of herbicides and/or removal of invasive vegetation to prevent the harbourage of mosquito larvae.
19. 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 \$1776.00 for every additional unit approved in Rural Remainder precinct (tourist accommodation units attract a 50% contribution rate). 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.
20. In relation to the provision of 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.



21. It is advised that a Hotel-Restricted liquor license would be supported such that guests can be provided with mini-bar facilities within the rooms and chalets and as such this is part of the proposal. The City will not support service of alcohol in any form to persons not staying as guests in the Rural Holiday Resort.
22. Main Roads WA advise that the existing access / gates and crossovers to Caves Road has not been approved, should be removed and the road verge reinstated.
23. Department of Planning Lands and Heritage advises that the landowner should submit an application to purchase UCL PIN 534836 for subsequent conveyance and amalgamation into adjoining freehold Lot 101 on D84031 pursuant to section 87 of the *Land Administration Act 1997*.

AMENDING MOTION 1

Moved by: Lindsay Baxter

Seconded by: Neema Premji

The following amendments were made en bloc:

- (i) That Condition No.6 be amended to read as follows:

The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 3 4 and 4 5 have been implemented; and the following conditions complied with:

- (ii) That Condition No.7 be amended to read as follows:

The works undertaken to satisfy Conditions 3 4 and 5 shall be subsequently maintained for the life of the development and the following conditions shall be complied with:

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To correct typographical and grammatical errors

AMENDING MOTION 2

Moved by: Neema Premji

Seconded by: Lindsay Baxter

That Condition No. 4.8 be amended to read as follows:

Details of stormwater and surface water drainage to be provided as per the Shire's engineering specification to the satisfaction of the City of Busselton.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide clarity as to requirements and responsible authority.


Tony Arias
Presiding Member, Regional DAP



AMENDING MOTION 3

Moved by: Cr Anne Ryan

Seconded by: Cr Kate Cox

That Condition No. 7.1 be amended to read as follows:

The short stay accommodation components of the Rural Holiday Resort hereby approved is to be made available for temporary accommodation purposes only. Chalets and suites 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.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide clarity as to condition requirements.

AMENDING MOTION 4

Moved by: Cr Anne Ryan

Seconded by: Cr Kate Cox

That a new Condition No. 4.8 be added to read as follows:

Amended plans demonstrating arrangements for the primary vehicular access crossover and necessary road upgrades for primary access to be taken from Caves Road, which shall be designed and constructed to the satisfaction of the City of Busselton on advice from Main Roads WA.

The Amending Motion was put and LOST.

For: Cr Anne Ryan
Cr Kate Cox

Against: Tony Arias
Lindsay Baxter
Neema Premji


Tony Arias
Presiding Member, Regional DAP



AMENDING MOTION 5

Moved by: Cr Anne Ryan

Seconded by: Cr Kate Cox

That a new Condition No. 4.8 be added to read as follows:

Amended plans removing granite rooftop architectural features from the “Main Facilities Building” and four “Chalet” buildings, to reduce building height and bulk to the satisfaction of the City of Busselton.

The Amending Motion was put and LOST.

For: Cr Anne Ryan
Cr Kate Cox

Against: Tony Arias
Lindsay Baxter
Neema Premji

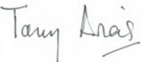
REPORT RECOMMENDATION (AS AMENDED)

That the Regional DAP resolves to:

1. **Approve** DAP Application reference DAP/23/2617 and accompanying plans (A0.1 Rev 0, A0.2 Rev 1, A0.3 Rev 1, A0.4 Rev 0, A0.5 Rev 0, A0.6 Rev 0, A0.7 Rev 0, A0.8 Rev 0, A0.9 Rev 0, A0.10 Rev 0 and Figure 1) 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 planning approval only and is valid for a period of 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.
3. The main facilities building component of the Rural Holiday Resort, incorporating dining, bar and other related amenities is for use only by guests staying in the short stay accommodation.


Tony Arias
Presiding Member, Regional DAP



Prior to Commencement of Any Works Conditions:

4. 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:

- 4.1 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 Rural Holiday Resort is conditional upon the details contained within the Bushfire Management Plan (BMP) prepared by Envision Bushfire Protection (Version V4) dated March 2024 (As Amended) and the accompanying Bushfire Emergency Evacuation Plan (BEEP).

The Rural Holiday Resort hereby approved is to be made available for temporary accommodation purposes only. A single Chalet or suite 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.

- 4.2 A Waste Management Plan.
- 4.3 A Construction Management Plan.
- 4.4 A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 4.5 A detailed plan which shows natural ground levels, finished ground levels and finished floor levels (in metres AHD)
- 4.6 The parking area(s) (minimum 68 car parking bays), primary driveway and point(s) of ingress and egress [including crossover(s) to Wildwood Road] shall be designed, constructed, sealed, drained and marked.
- 4.7 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
- 4.8 Details of stormwater and surface water drainage to be provided as per the Shire's engineering specification to the satisfaction of the City of Busselton.



- 4.9 Details of the proposed vehicular access crossover and necessary road upgrades to Wildwood Road which shall be designed and constructed to the specifications and satisfaction of City of Busselton.
- 4.10 Details of the finished treatment of the Emergency Access Way, including upgrades to existing vehicular crossover to Wildwood Road and access leg to comply with bushfire requirements and which shall be designed and constructed to the specifications and satisfaction of City of Busselton.
- 4.11 Landscape Plan for the site and adjoining Wildwood 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. The Landscape plan shall address:
- Screening between buildings on site;
 - Screening of headlight glare for adjacent properties; and
 - All planting and reticulation requirements on site.
- 4.12 Details of signage, including but not limited to the design, materials and levels of illumination (where applicable).
- 4.13 A suitably qualified Fauna Habitat expert shall:
- Undertake a Fauna Habitat Survey to identify Black Cockatoo and Western Ringtail Possum habitat trees to be retained.
 - Provide a map and GPS co-ordinates of trees to be retained to the contractor to ensure no clearing is undertaken.
 - Trees identified for retention shall be clearly marked with flagging tape and numbered tags.
- 4.14 Lighting Management Plan consistent with the 'dark sky principles' and the requirements of *Australian Standard AS 4282—2023 Control of the obtrusive effects of outdoor lighting*, including no use of flood lights and not causing light emissions off site.
- 4.15 A Noise Management Plan detailing the control of all noise emanating from the property including (but not limited to) loading docks, service bays, waste management/ bin areas, exhaust air outlets, air conditioning plants, business activities and amplified music.
- 4.16 A Tourism Facilities Management Plan detailing:
- 24 hour on-site management presence;
 - Implementation of the approved Noise Management Plan;
 - No Amplified music after 6pm;
 - Advice for guests of agricultural implications;
 - Operating hours of the Main Facilities Building from 7am to 10pm.
 - Management of guests leaving the site;
 - Complaints and conflict resolution process;



5. 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:
 - 5.1 A contribution of \$32,856.00 towards community facilities in the Rural Remainder precinct.
 - 5.2 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 site.

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 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 Envision Bushfire Protection (Version V4) dated March 2024 (as Amended) have been implemented.
 - 6.2 Crossovers located and constructed to the City's specifications.
 - 6.3 All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
 - 6.4 Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).
 - 6.5 The portion of land (subject to survey) shown in the approved development plans 'Figure 1' shall be ceded as road reserve free of cost and without any payment of compensation to the Crown within 90 days of occupation of the development.

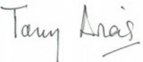


On-going Conditions:

7. The works undertaken to satisfy Conditions 4 and 5 shall be subsequently maintained for the life of the development and the following conditions shall be complied with:
 - 7.1 The short stay accommodation components of the Rural Holiday Resort hereby approved is to be made available for temporary accommodation purposes only. Chalets and suites 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 Envision Bushfire Protection (Version V4) dated March 2024 (as amended) shall be implemented and maintained in accordance with the approval details and any recommendations therein.
 - 7.3 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping 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.
 - 7.4 The lighting detailed within the Approved Lighting Management Plan shall be subsequently maintained for the life of the development.
 - 7.5 A 24-hours on-site management presence shall be provided to service the Rural Holiday Resort.

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.

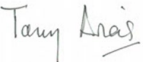

Tony Arias
Presiding Member, Regional DAP



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. 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.
7. 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 is required to 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;


Tony Arias
Presiding Member, Regional DAP



- 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 screening to be provided to reduce headlight glare to neighbouring properties.
 - c) the location and type of fencing to be installed;
 - d) the location and type of reticulation to be installed;
 - e) the location and type of paving to be installed;
 - f) a plant schedule nominating species, planting distances, numbers, planting sizes, together with the anticipated height of each plant at maturity;
 - g) any adjoining road verges; and
 - h) 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
10. The Waste Management 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.
11. 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.



12. 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 speciesandcommunities@dbca.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.
13. You are advised that the lighting plan shall deal with sensible timed management of lighting and demonstrate adequate design and management so there will be no impact on the amenity of neighbouring properties and the area in general.
14. You are advised to have regard for the maximum light level permitted to be emitted into the relevant portion of the environment (including impact on surrounding properties (*Environmental Protection Act 1986*)).
15. 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.
16. 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.
17. It is recommended that the owner / operator of the property undertakes suitable management practices to ensure impact or agricultural activities on the property do not negatively impact guests.
18. You are advised to ensure proposed infrastructure and site works do not create additional mosquito breeding habitat as follows:
 - Changes to topography resulting from earthworks (e.g., the installation of pipelines, footpaths, roads and the like) must prevent run-off from creating surface ponding as it may become mosquito breeding habitat.
 - Constructed water bodies (drainage infrastructure, infiltration basins and swales, settling ponds, wetlands, and the like) must be located, designed, and maintained so they do not create or contribute to mosquito breeding.
 - Constructed water bodies (drainage infrastructure, infiltration basins and swales, settling ponds, wetlands, etc) may require regular monitoring and application of herbicides and/or removal of invasive vegetation to prevent the harbourage of mosquito larvae.


Tony Arias
Presiding Member, Regional DAP



19. 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 \$1776.00 for every additional unit approved in Rural Remainder precinct (tourist accommodation units attract a 50% contribution rate). 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.
20. In relation to the provision of 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.
21. It is advised that a Hotel-Restricted liquor license would be supported such that guests can be provided with mini-bar facilities within the rooms and chalets and as such this is part of the proposal. The City will not support service of alcohol in any form to persons not staying as guests in the Rural Holiday Resort.
22. Main Roads WA advise that the existing access / gates and crossovers to Caves Road has not been approved, should be removed and the road verge reinstated.
23. Department of Planning Lands and Heritage advises that the landowner should submit an application to purchase UCL PIN 534836 for subsequent conveyance and amalgamation into adjoining freehold Lot 101 on D84031 pursuant to section 87 of the *Land Administration Act 1997*.

The Report Recommendation (as amended) was put and CARRIED (4/1).

For: Tony Arias
Lindsay Baxter
Neema Premji
Cr Kate Cox

Against: Cr Anne Ryan

REASON: The Panel was satisfied that the proposed 'Rural Holiday Resort' is a discretionary land use within the 'Viticulture and Tourism' zone under the Scheme and capable of being approved. The proposal is consistent with the planning framework of the Viticulture and Tourism zone, Rural Tourism Local Planning Policy and State Planning Policy 6.1 Leeuwin-Naturaliste Ridge.


Tony Arias
Presiding Member, Regional DAP



The Panel, by majority vote, accepted the RAR conclusion that the proposed development complies with the policy requirements of the State Planning Policy 6.1 Leeuwin-Naturaliste Ridge. It considered that the visual impact of the proposal from Caves Road and Wildwood Road would not be significant as the existing vegetation along Wildwood Road and the topography of the site provides significant screening of the development. Noting that the applicant has minimised the visual impact of the development when viewed from neighbouring properties by positioning the development away from the top of the ridgelines, proposing only single storey buildings and proposing colours and material that are sympathetic to the amenity of the surrounding area.

The Panel considered the proposal meets the objectives of the Viticulture and Tourism zone, which includes - To facilitate the development of tourist facilities of a scale and nature appropriate in rural settings without prejudice to the scenic quality of the land within this zone and without creating or increasing ribbon development on any road. The number of chalets proposed is consistent with the Rural Tourism Local Planning Policy which sets out density standard for the number of chalets and guest suites.

Issues were regarding noise from the site, however, discussions from the applicant and the City's officers regarding use of the Restaurant building and the imposition of conditions for a Noise Management Plan and Tourism Facilities Management Plan will manage and reduce potential the impacts to the rural amenity.

There was also discussion regarding traffic movement in the locality as a result of the approval of the proposed development and potential noise. The Transport Impact Statement indicates that the development will generate relatively low additional traffic and that access requirements met required standards subject to some design modifications. The Panel, by majority vote considered that this issue could be managed by the imposition of conditions.

4. Form 2 DAP Applications

Nil

5. Section 31 SAT Reconsiderations

Nil

Cr Kate Cox and Cr Anne Ryan (Local Government DAP Member, City of Busselton) left the panel at 11.27am.


Tony Arias
Presiding Member, Regional DAP



PART D – SHIRE OF HARVEY

Cr Craig Carbone and Cr Michelle Campbell (Local Government DAP Member, Shire of Harvey) joined the panel at 11.27am.

1. Declaration of Due Consideration

The Presiding Member noted an addendum to the responsible authority report was published in relation to Item 3.1, received on 10 April 2024.

All members declared that they had duly considered the documents contained within Part C of the Agenda and Part C of the Additional Information.

2. Disclosure of Interests

Nil

3. Form 1 DAP Applications

3.1 Lot 565 Paris Road, Australind – Convenience Store – DAP/23/02586

Deputations and Presentations

Paul McQueen (Lavan Legal) presenting in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

The Shire of Harvey officers addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.



REPORT RECOMMENDATION

Moved by: Cr Craig Carbone

Seconded by: Nil

That the Regional DAP resolves to:

1. **Approve** DAP Application reference DAP/23/02586 and accompanying plans (contained within the Plans Schedule at **Attachment 1**) as a 'Fuel Filling Station and Retail of 300m²' 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 4.2.1 of the Shire of Harvey District Planning Scheme No. 1, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of two 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 approved development shall be in accordance with the attached approved development plans and documentation which form part of this development approval, subject to modifications required as a consequence of any condition(s) of this approval.
3. Prior to a Building Permit being issued, a Groundwater Management Plan shall be prepared in accordance with the Department of Water and Environmental Regulation's Water Quality Protection Note 56 'Tanks for fuel and chemical storage near sensitive water resources', and shall be submitted to and approved by the Shire of Harvey, in consultation with the Department of Water and Environmental Regulation, and thereafter implemented to the satisfaction of the Shire of Harvey.
4. Prior to a Building Permit being issued, a Stormwater Management Plan shall be prepared in accordance with the Department of Water and Environmental Regulation's 'Stormwater Management Manual for Western Australia' and 'Decision process for stormwater management in WA', and shall be submitted to and approved by the Shire of Harvey, in consultation with the Department of Water and Environmental Regulation, and thereafter implemented to the satisfaction of the Shire of Harvey. The Stormwater Management Plan shall include detailed plans and specifications of all stormwater management measures.


Tony Arias
Presiding Member, Regional DAP



5. Prior to a Building Permit being issued, an amended Landscape and Reticulation Plan shall be submitted to and approved by the Shire of Harvey. The amended Landscape and Reticulation Plan shall include all landscaped and reticulation areas within the development site and specify the following:
 - a. Vegetation species utilising only local endemic species.
 - b. Number, location and spacing of plants.
 - c. Location and details of treatments for non-vegetated areas.
 - d. Source of water for reticulation.
 - e. Ongoing maintenance and weed control.
6. Prior to a Building Permit being issued, an Operational Waste Management Plan shall be submitted to and approved by the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey.
7. Prior to commencement of works associated with the approved development, a Construction Management Plan shall be submitted to and approved by the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey. The Construction Management Plan shall detail how the following matters will be managed during the construction phase:
 - a. Delivery of materials and equipment to the site.
 - b. Storage of materials and equipment on the site.
 - c. Provision of parking for contractors and subcontractors on the site.
 - d. Management of construction waste.
 - e. Management of dust and noise emissions.
 - f. Traffic management within and around the site.
 - g. Complaints handling procedure.
8. Prior to the commencement of any works proposed within the future 'Clayfield Road' road reserve, detailed plans and specifications for such works shall be submitted to and approved by the Shire of Harvey.
9. Prior to occupation of the approved development, the approved plans for works within the future 'Clayfield Road' road reserve shall be implemented to the satisfaction of the Shire of Harvey.
10. Prior to occupation of the approved development, vehicle crossovers, car parking areas, access ways and pedestrian paths shall be constructed, sealed, drained, marked, appropriately signposted to the satisfaction of the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey.
11. Prior to occupation of the approved development, all car parking and pedestrian areas shall be illuminated in accordance with AS 428-1997 'Control of the Obtrusive Effects of Outdoor Lighting' to the satisfaction of the Shire of Harvey, and thereafter maintained to the satisfaction of the Shire of Harvey.
12. Prior to occupation of the approved development, the approved development shall be connected to reticulated sewer.


Tony Arias
Presiding Member, Regional DAP




13. Prior to occupation of the approved development, all landscaping and reticulation shown on the approved amended Landscaping and Reticulation Plan shall be installed to the satisfaction of the Shire of Harvey, and thereafter maintained to the satisfaction of the Shire of Harvey.
14. Goods shall not be stored, or left exposed, outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Shire of Harvey.

Advice Notes:

1. With respect to the amended Landscape and Reticulation Plan, the Shire of Harvey advises that the planting of *Corymbia calophylla* adjacent to dual use paths and roads is not supported.
2. The proponent/landowner is reminded of their obligation to manage acid sulfate soils and should refer to the Department of Water and Environmental Regulation's guidelines for identifying and managing acid sulfate soils.
3. The proponent/landowner is reminded of their obligation to liaise with the Department of Water and Environmental Regulation with respect to any requirement for a dewatering licence.
4. The proponent/landowner is reminded that the installation of underground fuel storage tanks should be in accordance with Australian Standard 4897—2008 'The design, installation and operation of underground petroleum storage systems'.
5. The proponent/landowner is reminded of their obligation to liaise with the Department of Energy, Mines, Industry Regulation and Safety to obtain the necessary approvals, including a dangerous goods licence.
6. In accordance with the *Building Act 2011*, a Building Permit will be required.
7. The building and internal facilities are to be designed having particular regard to the accessibility and convenience of people with a disability in accordance with the Building Code of Australia, *Building Regulations 2012*, Disability (Access to Premises Building) Standards 2010 and AS 1428.1 Design for Access and Mobility.
8. The development is required to comply with the *Food Act 2008*, *Food Standards Code*, *Food Regulations* and *Health Act 1911*.

The motion was withdrawn by the mover, Cr Craig Carbone.


Tony Arias
Presiding Member, Regional DAP



ALTERNATE MOTION

Moved by: Cr Craig Carbone

Seconded by: Lindsay Baxter

With the agreement of the mover and seconder, the following amendment was made to the report recommendation:

That Condition No. 1 be amended to read as follows:

*This decision constitutes planning approval only and is valid for a period of **four** ~~two~~ 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.*

REASON: To provide additional flexibility for the substantial commencement date given the current delays and shortages with building construction.

That the Regional DAP resolves to:

1. **Approve** DAP Application reference DAP/23/02586 and accompanying plans (contained within the Plans Schedule at **Attachment 1**) as a 'Service Station' in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clauses 18 and 34 of the Shire of Harvey Local Planning Scheme No. 2, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 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 approved development shall be in accordance with the attached approved development plans and documentation which form part of this development approval, subject to modifications required as a consequence of any condition(s) of this approval.
3. Prior to a Building Permit being issued, a Groundwater Management Plan shall be prepared in accordance with the Department of Water and Environmental Regulation's Water Quality Protection Note 56 'Tanks for fuel and chemical storage near sensitive water resources', and shall be submitted to and approved by the Shire of Harvey, in consultation with the Department of Water and Environmental Regulation, and thereafter implemented to the satisfaction of the Shire of Harvey.


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4. Prior to a Building Permit being issued, a Stormwater Management Plan shall be prepared in accordance with the Department of Water and Environmental Regulation's 'Stormwater Management Manual for Western Australia' and 'Decision process for stormwater management in WA', and shall be submitted to and approved by the Shire of Harvey, in consultation with the Department of Water and Environmental Regulation, and thereafter implemented to the satisfaction of the Shire of Harvey. The Stormwater Management Plan shall include detailed plans and specifications of all stormwater management measures.
5. Prior to a Building Permit being issued, an amended Landscape and Reticulation Plan shall be submitted to and approved by the Shire of Harvey. The amended Landscape and Reticulation Plan shall include all landscaped and reticulation areas within the development site and specify the following:
 - a. Vegetation species utilising only local endemic species.
 - b. Number, location and spacing of plants.
 - c. Location and details of treatments for non-vegetated areas.
 - d. Source of water for reticulation.
 - e. Ongoing maintenance and weed control.
6. Prior to a Building Permit being issued, an Operational Waste Management Plan shall be submitted to and approved by the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey.
7. Prior to commencement of works associated with the approved development, a Construction Management Plan shall be submitted to and approved by the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey. The Construction Management Plan shall detail how the following matters will be managed during the construction phase:
 - a. Delivery of materials and equipment to the site.
 - b. Storage of materials and equipment on the site.
 - c. Provision of parking for contractors and subcontractors on the site.
 - d. Management of construction waste.
 - e. Management of dust and noise emissions.
 - f. Traffic management within and around the site.
 - g. Complaints handling procedure.
8. Prior to the commencement of any works proposed within the future 'Clayfield Road' road reserve, detailed plans and specifications for such works shall be submitted to and approved by the Shire of Harvey.
9. Prior to occupation of the approved development, the approved plans for works within the future 'Clayfield Road' road reserve shall be implemented to the satisfaction of the Shire of Harvey.
10. Prior to occupation of the approved development, vehicle crossovers, car parking areas, access ways and pedestrian paths shall be constructed, sealed, drained, marked, appropriately signposted to the satisfaction of the Shire of Harvey, and thereafter implemented to the satisfaction of the Shire of Harvey.


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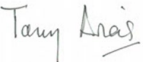


11. Prior to occupation of the approved development, all car parking and pedestrian areas shall be illuminated in accordance with AS 428-1997 'Control of the Obtrusive Effects of Outdoor Lighting' to the satisfaction of the Shire of Harvey, and thereafter maintained to the satisfaction of the Shire of Harvey.
12. Prior to occupation of the approved development, the approved development shall be connected to reticulated sewer.
13. Prior to occupation of the approved development, all landscaping and reticulation shown on the approved amended Landscaping and Reticulation Plan shall be installed to the satisfaction of the Shire of Harvey, and thereafter maintained to the satisfaction of the Shire of Harvey.
14. Goods shall not be stored, or left exposed, outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Shire of Harvey.

Advice Notes:

1. With respect to the amended Landscape and Reticulation Plan, the Shire of Harvey advises that the planting of *Corymbia calophylla* adjacent to dual use paths and roads is not supported.
2. The proponent/landowner is reminded of their obligation to manage acid sulfate soils and should refer to the Department of Water and Environmental Regulation's guidelines for identifying and managing acid sulfate soils.
3. The proponent/landowner is reminded of their obligation to liaise with the Department of Water and Environmental Regulation with respect to any requirement for a dewatering licence.
4. The proponent/landowner is reminded that the installation of underground fuel storage tanks should be in accordance with Australian Standard 4897—2008 'The design, installation and operation of underground petroleum storage systems'.
5. The proponent/landowner is reminded of their obligation to liaise with the Department of Energy, Mines, Industry Regulation and Safety to obtain the necessary approvals, including a dangerous goods licence.
6. In accordance with the *Building Act 2011*, a Building Permit will be required.
7. The building and internal facilities are to be designed having particular regard to the accessibility and convenience of people with a disability in accordance with the Building Code of Australia, *Building Regulations 2012*, Disability (Access to Premises Building) Standards 2010 and AS 1428.1 Design for Access and Mobility.
8. The development is required to comply with the *Food Act 2008*, *Food Standards Code*, *Food Regulations* and *Health Act 1911*.

The Alternate Motion was put and CARRIED UNANIMOUSLY.


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REASON: The Panel was satisfied that the proper land use classification of the proposed development is 'Service Station' as defined in the Shire's Scheme No. 2. A 'Service Station' is capable of being approved in the Urban Development zone.

The Panel noted that the proposed retail component is larger than provided by requirements of Schedule 5, however, it did not consider it a significant increase. Clause 34 of the Scheme provides discretion to vary requirements where the variation would not have a significant adverse impact on the occupiers or users of the development, the inhabitants of the locality or the likely future development. The Panel considered approval to the variation would not have a significant adverse impact on the occupiers or users of the development, the inhabitants of the locality or the likely future development.

The Panel considered the proposed development was consistent with the Urban Development zoning in Scheme No. 2 and the Lot 561 Paris Road Local Structure Plan and the applicable planning framework.

4. Form 2 DAP Applications

Nil

5. Section 31 SAT Reconsiderations

Nil


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PART E – OTHER BUSINESS


1. State Administrative Tribunal Applications and Supreme Court Appeals

The DAP noted the status of the following State Administrative Tribunal 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
DAP/23/02591 DR26/2024	City of Kalgoorlie-Boulder	Lot 9003, 9004 and 9005 Hart Kerspian Drive, Broadwood	Key workers lifestyle village – 394 grouped dwellings, communal open space, caretaker, office & communal facilities	22 February 2024

2. General Business

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2024 a DAP member must not publicly comment on any action or determination of a DAP.


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3. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 11.38am.


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