



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday; 14 February 2022, 1:00pm
Meeting Number: RJDAP/46
Meeting Venue: Electronic Means

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

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Attendance

DAP Members

Mr Ray Haeren (Presiding Member)
Mr Gene Koltasz (A/Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)

Item 8.1

Mayor Peter Carter (Local Government Member, Town of Port Hedland)
Cr Renae Coles (Local Government Member, Town of Port Hedland)

Item 8.2

Cr Betty McCleary (Local Government Member, City of Bunbury)

Officers in attendance

Item 8.1

Ms Clair Morrison (Town of Port Hedland)
Mr Chaz Roberts (Town of Port Hedland)

Item 8.2

Ms Matilda Hodge (City of Bunbury)
Ms Barbara Macauley (City of Bunbury)

Minute Secretary

Ms Samantha Hansen (DAP Secretariat)
Ms Zoe Hendry (DAP Secretariat)

Applicants and Submitters

Item 8.1

Mr Will Davis (Pilbara Solar)
Ms Kylie Chalmers (Pilbara Solar)

Item 8.2

Mr Nik Hidding (Peter Webb and Associates)
Mr Martti Warpenius (Reverberate Consulting)
Mr Regan Harray (7-Eleven)
Mr Tom Carmody (Tomahawk Property)
Mr James Wortley (Tomahawk Property)

Members of the Public / Media

There were 7 members of the public in attendance.



1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1:05pm on 14 February 2022 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

Due to the conflict of interest of the Presiding Member and the conflict of interest of the Deputy Presiding Member, Mr Ray Haeren has been appointed as Presiding Member for this meeting in accordance with regulation 27(3A) of the *Planning and Development (Development Assessment Panel) Regulations 2011*.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2020 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

1.1 Announcements by Presiding Member

The Presiding Member advised that in accordance with Section 5.16 of the DAP Standing Orders 2020 which states 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.', the meeting would not be recorded.

This meeting was convened via electronic means (Zoom). Members were reminded to announce their name and title prior to speaking.

2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Ms Kanella Hope (Deputy Presiding Member)
Cr Michelle Steck (Local Government Member, City of Bunbury)

3. Members on Leave of Absence

Nil

4. Noting of Minutes

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

5. Declaration of Due Consideration

The Presiding Member noted that an addendum to the agenda was published to include details of a DAP direction for further information and responsible authority response in relation to Item 8.2, received on 3 February 2022.

All members declared that they had duly considered the documents.



6. Disclosure of Interests

On 24 January DAP Member, Ms Kanella Hope, declared an Impartiality Interest in item 8.2. Ms Hope is a planning consultant representing clients across the Bunbury Geographe region. Ms Hope has recently been liaising with Mr Hidding (Peter Webb & Associates), the applicant in the matter, about another local service station proposal.

On 28 January 2022 DAP Member, Cr Betty McCleary, declared an Impartiality Interest in item 8.2. Mr Alexandros Karatamoglou is a Rotarian in the same club. Cr McCleary doesn't associate with Mr Karatamoglou or his family.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Paul Kotsoglo determined that the members listed above, who have disclosed an Impartiality Interest, was permitted to participate in the discussion and voting on the item.

On 4 February 2022 DAP Member, Mr Paul Kotsoglo, declared a Pecuniary Interest in item 8.1 and item 8.2.

In relation to item 8.1, Mr Kotsoglo is the Managing Director of Planning Solutions. Planning Solutions quoted for the planning work in April 2020 and was unsuccessful.

In relation to item 8.2, Mr Kotsoglo is the Managing Director of Planning Solutions. Planning Solutions quoted for the planning work and was unsuccessful. Mr Kotsoglo understands that the project manager for the development is also a client of Planning Solutions and they have done work for within the past year.

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

7. Deputations and Presentations

- 7.1 The Town of Port Hedland Officers responded to questions from the panel in relation to the application at Item 8.1.

The presentation at Item 7.1 was heard prior to the application at Item 8.1.

- 7.2 Mr Nik Hidding (Peter Webb and Associates) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.3 Mr Martti Warpenius (Reverberate Consulting) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.4 Mr Regan Harray (7-Eleven) responded to questions from the panel in relation to the application at Item 8.2



- 7.5 The City of Bunbury Officers responded to questions from the panel in relation to the application at Item 8.2.

The presentations at Items 7.2 - 7.5 were heard prior to the application at Item 8.2.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 268 Great Northern Highway, Pippingarra

Development Description: Proposed Solar Farm (Renewable Energy Facility)
Applicant: Pilbara Solar Pty Ltd Mr Will Davis
Owner: Department of Planning, Lands and Heritage
Responsible Authority: Town of Port Hedland
DAP File No: DAP/21/02067

REPORT RECOMMENDATION

Moved by: Cr Peter Carter

Seconded by: Cr Renae Coles

The Presiding Member made the following amendment administratively to Condition 2:

*This decision constitutes planning approval only and is valid for a period of ~~two (2)~~ **four (4)** 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: Regulation 16A (2) of the Planning and Development (Development Assessment Panel) Regulations 2011 provides for four years for the development to be substantially commenced.

That the Regional Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/21/02067 is appropriate for consideration as a “Renewable Energy Facility” land use and compatible with the objectives of the zoning table in accordance with Clause 16 (2) of the Town of Port Hedland Local Planning Scheme No. 7;
2. **Approve** DAP Application reference DAP/21/02067 and accompanying plans (DWG2021/166/01-DWG2021/166/03) 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 Town of Port Hedland Local Planning Scheme No. 7, subject to the following conditions:

Mr Ray Haeren
Presiding Member, JDAP



Conditions

1. All development and use of the development site must be carried out in accordance with the approved plans and all information submitted as part of this application. These details shall not be altered without the prior written consent of the Town of Port Hedland. This approval does not relate to any other development on this lot.
2. This decision constitutes planning approval only and is valid for a period of four (4) 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.
3. Construction Environmental Management Plan
 - 3.1 Prior to the commencement of works, the applicant must submit and have approved by the Town of Port Hedland, and thereafter implement, a Construction Environmental Management Plan. The Construction Environmental Management Plan shall include, but not be limited to, the following matters:
 - (a) Contact details of essential site personnel, construction period and operating hours;
 - (b) Community information, consultation and complaints management plan;
 - (c) Public safety, security and amenity;
 - (d) Traffic and parking management;
 - (e) Noise and dust management plan, or reference to the approved noise management plan and dust management plan;
 - (f) Waste management, including the storage and disposal of hydrocarbons, chemicals, and potentially hazardous substances, to be in accordance with the Department of Water and Environmental Regulation Guidelines and Water Quality Protection Notes;
 - (g) Earthworks, excavation, land retention/piling methods and associated matters, all to be contained within the approved development site; and
 - (h) Stormwater and sediment control.
 - 3.2 The Construction Environmental Management Plan must be complied with at all times, to the satisfaction of the Town of Port Hedland.
4. Dilapidation Report

Prior to the commencement of works, the applicant must submit and have approved a Dilapidation Report to the satisfaction of the Town of Port Hedland, specifically for the condition of Ngarla-Njamal-Jinparinya Road. The applicant shall be liable for rectifying any damage that occurs to Ngarla-Njamal-Jinparinya Road during the construction period of the development, as a result of the construction of the development, to the satisfaction of the Town of Port Hedland.



5. Public Art

Prior to the submission of a building permit application, the owner, or applicant on behalf of the owner, shall comply with the Town of Port Hedland Local Planning Policy 04 Percent for Public Art, and provide public art with a minimum value of 1% (capped at \$150,000) of the estimated total construction cost of the development, being \$150,000. Alternatively, a cash-in-lieu payment of this amount shall be made prior to the occupation or use of the development. In order to comply with the Policy, the owner or applicant, on behalf of the owner shall submit a statutory declaration within 60 days of the date of approval stipulating the choice of:

- Option 1: Owner/Applicant chooses to co-ordinate the Public Art project themselves or by engaging an art consultant; or
- Option 2: Owner/Applicant chooses to pay cash-in-lieu.

6. Bushfire Management

6.1 The applicant must implement all of the recommendations contained in the Bushfire Management Plan prepared by Anthony Rowe (Level 3 BPAD 36690) dated 17 January 2022 and approved by the Joint Development Assessment Panel. These recommendations must be implemented for the duration of the development, unless otherwise approved by the Joint Development Assessment Panel.

6.2 Prior to the use of the approved development, the Asset Protection Zone must be established and the property thereafter maintained in accordance with the Bushfire Management Plan (referred to in Condition 6.1) as approved by the Joint Development Assessment Panel.

6.3 Prior to the use of the development, a Bushfire Emergency Evacuation Plan and Risk Management Plan must be prepared, having regard to all the scenarios outlined in the Bushfire Management Plan (referred to in Condition 6.1) as approved by the Joint Development Assessment Panel.

6.4 A Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended) must be placed on the titles of the lots, at the full cost of the applicant, alerting landowners to the existence of the approved Bushfire Management Plan and advising landowners of their obligations in respect to the use and ongoing management of the land.

7. Dust Management Plan

The approved Dust Management Plan, dated 25 July 2021 and written by NGH Pty Ltd, shall be complied with at all times during the construction and on-going operation of the development, to the satisfaction of the Town of Port Hedland.

8. Noise Management Plan

8.1 The Noise Management Plan, dated 25 July 2021 and written by NGH Pty Ltd, shall be amended and submitted to the Town for approval, to include:

- Assurance that a Regulation 13 Application shall be submitted to the Town of Port Hedland for approval prior to the construction of any works outside of the hours of 7am to 7pm Monday to Saturday; and
- Details relating to the distribution of notice to the Punju Njamal Aboriginal Community and the Jinparinya Aboriginal Community in the event of a Regulation 13 Approval being issued.



- 8.2 The amended Noise Management Plan shall be complied with at all times during the construction and on-going operation of the development, to the satisfaction of the Town of Port Hedland.
9. Stormwater Management
All stormwater must be contained and disposed of on the development site at all times to the satisfaction of the Town of Port Hedland.
10. Biodiversity Management
10.1. All recommendations contained within the Biodiversity Survey Report, dated 31 May 2021 and written by SW Environmental, shall be complied with at all times during the construction and on-going operation of the development, to the satisfaction of the Town of Port Hedland.
10.2. All *Owenia reticulata* trees be relocated (young and mature) to the Jinparinya Aboriginal Community or another suitable location outside of the construction area
11. Car Parking and Access
Prior to the occupation or use of the development, a parking plan shall be submitted and approved by the Town of Port Hedland which shows a minimum of two car parking bays being provided on-site for the duration of the development.
12. Decommissioning and Site Rehabilitation
12.1. At least six months prior to the closure of the development, a Decommissioning and Site Rehabilitation Plan shall be submitted to and approved by the Town of Port Hedland for the rehabilitation of the subject site following the cessation of the land use. The Decommissioning and Site Rehabilitation Plan shall include, but is not limited to, the following information:
(a) Removal of all infrastructure, including underground services and hardstand areas;
(b) Details of site preparation;
(c) Recontouring and revegetation of the land, including list of species and breakdown rates, topsoil and dieback management;
(d) Weed management and ongoing management;
(e) Dust management plan, if required;
(f) Details of the rehabilitation program, including staging and responsibilities.
12.2. The Decommissioning and Site Rehabilitation Plan is to be implemented at all times to the satisfaction of the Town of Port Hedland.

Advice Notes

1. Approval under the *Aboriginal Heritage Act 1972* may be required, to demonstrate that the approved Solar Farm will not have detrimental impacts to surrounding Aboriginal inhabitants.

Mr Ray Haeren
Presiding Member, JDAP



2. Under section 51C of the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless undertaken under the authority of a clearing permit. The proposal is unlikely to be exempt and a clearing permit is likely to be required.
3. The proposed activities occur within the proclaimed Pilbara groundwater and surface water areas and are subject to licensing requirements under the *Rights in Water and Irrigation Act 1914* (RiWI). If the proponent needs to use groundwater or surface water for any purpose, including construction and track maintenance, they will need to apply for a 5C licence to take water and a 26D licence to construct any new water supply bores.
4. The proponent is to be made aware of its obligations, as under section 11 of the *Contaminated Sites Act 2003*, site owners, occupiers or a person who knows or suspects that they have caused or contributed to contamination must report the site to the Department. If the proponent suspects a site to be contaminated it is to be reported as soon as reasonably practical, however, if the proponent knows a site is contaminated it must be reported within 21 days of the proponent first being aware of the contamination. Failure to do so is considered an offence under the Act.
5. An approved effluent disposal system shall be installed to the specification and satisfaction of the Town of Port Hedland's Environmental Health Services. The effluent disposal system may also require the approval of the Western Australian Department of Health.
6. The development must comply with the *Environmental Protection (Noise) Regulations 1997* at all times. The applicant is advised that should any construction work occur outside of the hours of 7 am and 7pm Monday to Saturday, a Regulation 13 Approval shall be required to be obtained. This approval is issued by the CEO of the Town of Port Hedland and 7 day notice sent to nearby residents.
7. If an applicant or owner is aggrieved by this decision there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005*, Part 14.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The panel agreed with the proposal as presented in the RAR and was comfortable with conditions based on clarification from the applicant that there was no objection to the public art requirement.

*Mayor Peter Carter and Cr Renae Coles left the panel at 1:16pm.
Cr Betty McCleary joined the panel at 1:16pm.*

Mr Ray Haeren
Presiding Member, JDAP



8.2 Lot 10 (8D) Picton Road, East Bunbury

Development Description: Proposed Service Station
Applicant: Peter Webb and Associates
Owner: Mr Alexandros Karatamoglou
Responsible Authority: City of Bunbury
DAP File No: DAP/21/02113

REPORT RECOMMENDATION

Moved by: Mr Justin Page

Seconded by: Cr Betty McCleary

The Presiding Member made the following amendment administratively to Condition 1:

*This decision constitutes planning approval only and is valid for a period of ~~two (2)~~ **four (4)** 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: Regulation 16A (2) of the Planning and Development (Development Assessment Panel) Regulations 2011 provides for four years for the development to be substantially commenced.

That the Regional JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/21/02113 is appropriate for consideration as a "Service Station" land use and compatible with the objectives of the zoning table in accordance with Clause 16 of the City of Bunbury Local Planning Scheme No. 8;
2. **Approve** DAP Application reference DAP/21/02113 and accompanying plans contained in attachment 4 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 Bunbury Local Planning Scheme No. 8, subject to the following conditions:

Conditions

General

1. This decision constitutes planning approval only and is valid for a period of four (4) 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. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
3. At all times, the development the subject of this approval must comply with the land use definition of 'Service Station' as contained in Part 6, Division 2 of the City of Bunbury Local Planning Scheme No. 8.

Mr Ray Haeren
Presiding Member, JDAP



4. All works required to satisfy a condition of this approval are required to be installed / constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
5. The approved use must only operate between the hours of 5:00am and 10:00pm Monday to Sunday.

Luminance and Lighting Requirements

6. Before the development commences, the applicant shall submit a Lighting Impact Assessment (LIA) prepared by a suitably qualified lighting consultant to determine the appropriate sign luminance levels and compliance with AS4282:2019. The site shall operate in accordance with the approved LIA at all times.
7. The sign shall be professionally made and kept clean and maintained free of dilapidation at all times.

Landscaping

8. Before the development is occupied, the landscaped areas must be planted, established and reticulated in accordance with the endorsed landscape plans. These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.

Access and Parking

9. Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Austroads Guidelines, and City of Bunbury requirements, for all access, carparking and pedestrian movement requirements, to the satisfaction of the City of Bunbury. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
10. Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.
11. Before the development is occupied, the recommendations of the approved Transport Statement must be and implemented to the satisfaction of the City of Bunbury.

Access and parking arrangements must be designed in accordance with Australian Standards, Ausroad Guidelines and City of Bunbury requirements. Detailed design plans must be submitted to the City of Bunbury for approval prior to construction commencing.

12. Before the development commences, a damage bond to the value of \$5000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy "Bonds".



Stormwater and Drainage

13. Before the development commences, a Stormwater and Drainage Management Plan, prepared in accordance with the Department for Water's Stormwater Management Manual must be submitted for the approval of the City of Bunbury.
14. The Stormwater and Drainage Management Plan will determine the drainage infrastructure required to support the development and as a minimum it must address:
 - proposed development;
 - storm events to be managed;
 - onsite-retention for 1:1 year events;
 - onsite-detention for 1:5 year events;
 - overland flow path for larger events;
 - effect of groundwater;
 - use of water sensitive urban design principles;
 - water quality;
 - protection of adjacent / nearby waterways and wetlands; and
 - conclusions / recommendations.
15. Before the development is occupied, the recommendations of the approved Stormwater and Drainage Management Plan must be constructed and implemented to the satisfaction of the City of Bunbury.

Acoustic Report

16. Prior to the lodgement of the Building Permit Application, an updated Acoustic Report is to be submitted for approval by the City of Bunbury and thereafter implemented. The updated acoustic report is to incorporate mechanical plant details.

Advice Notes

1. This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.
2. The applicant is advised that in accordance with clause 4.2 of the Notice of Exemption from Planning Requirements During a State of Emergency issued by the Minister for Planning under clause 78H of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 on 8 April 2020, the timeframe for the substantial commencement of works associated with this approval is extended by two years from the expiry date stated in the conditions of approval.
3. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.

Mr Ray Haeren
Presiding Member, JDAP



4. The development is subject to the Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The applicant/owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.
5. Where a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved. A permit application form can be obtained on the City's website www.bunbury.wa.gov.au
6. Please be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increases to groundwater table levels on adjoining properties.
7. Prior to works commencing, the applicant is required to obtain a works and thoroughfare permit for any works within Council land other than a crossover.

A permit application form can be obtained on the City's website www.bunbury.wa.gov.au.

8. The City of Bunbury advises that the development the subject of this development approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000
9. The premises and equipment the subject of this development approval is required to comply with clause 3.2.3 of the Australian Food Safety Standards.

Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to commencing development.

10. The development is defined as a "Food Business" under the Food Act 2008. The development must comply with the Food Act 2008 and Food Regulations 2009. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
11. The development the subject of this development approval is required to comply with the requirements of the Department of Mines, Industry Regulation and Safety (Resources Safety Section) in relation to the storage of dangerous goods. Further information may be found at www.dmp.wa.gov.au
12. Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a moderate to low risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation's (DWER) acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.



13. The Stormwater Drainage Plan and Details (Rev A, Project 20602, Drawing: C1, Dated: 10 Sep 2021) (to be referred to as Stormwater Drainage Plan) provided assumes the water table to be over 2.0 metres below ground level.

DWER advises that groundwater levels may be closer than 2.0 metres to the ground surface, noting the flat and low-lying nature of the site. As such, there may be buoyancy issues related to the installation of underground fuel tanks and dewatering works may likely be required.

The subject land is located in the Bunbury Groundwater Area as proclaimed under the Rights in Water and Irrigation Act 1914 (RIWI Act). As such, dewatering activities in this development may be subject to licensing under the RIWI Act if the following thresholds specified below are exceeded:

<https://www.water.wa.gov.au/licensing/water-licensing/exemptions>

14. One of the overall recommendations in Appendix A of the Acoustic Report indicates that the mechanical plant selection will not be finalised until the detailed design stage. The acoustic report must be reviewed and resubmitted for assessment before the building permit is submitted to ensure that the chosen equipment will not result in the assigned levels being exceeded.

AMENDING MOTION

Moved by: Mr Justin Page

Seconded by: Cr Betty McCleary

That Condition No.5 be amended to read as follows:

The approved use ~~must only~~ may operate between the hours of 5:00am and 10:00pm Monday to Sunday 24 hours a day, Monday to Sunday in accordance with an approved Noise Management Plan, which shall include (but not be limited to) noise management in relation to:

- a) Customer pre-payment**
- b) fuel deliveries.**

The Amending Motion was put and CARRIED UNANIMOUSLY

REASON: The panel considered it appropriate to allow 24-hour operation of the service station in the context of the site being existing commercial and with the limited direct interface with residential subject to suitable landscaping and noise management associated with PA system and deliveries.

The Panel considered that noise generated by customer pre-payment and fuel deliveries should be adequately managed to reduce the impact on existing adjoining residential use. The Panel determined that an approved Noise Management Plan to the satisfaction of the City of Bunbury is an appropriate planning control to be included as a condition of approval

Mr Ray Haeren
Presiding Member, JDAP



REPORT RECOMMENDATION (AS AMENDED)

That the Regional JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/21/02113 is appropriate for consideration as a “Service Station” land use and compatible with the objectives of the zoning table in accordance with Clause 16 of the City of Bunbury Local Planning Scheme No. 8;
2. **Approve** DAP Application reference DAP/21/02113 and accompanying plans contained in attachment 4 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 Bunbury Local Planning Scheme No. 8, subject to the following conditions:

Conditions

General

1. This decision constitutes planning approval only and is valid for a period of four (4) 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. All development shall be in accordance with the approved development plans (attached) which form part of this development approval.
3. At all times, the development the subject of this approval must comply with the land use definition of ‘Service Station’ as contained in Part 6, Division 2 of the City of Bunbury Local Planning Scheme No. 8.
4. All works required to satisfy a condition of this approval are required to be installed / constructed and maintained in accordance with the approved plans and conditions of approval for the life of the development.
5. The approved use may operate 24 hours a day, Monday to Sunday in accordance with an approved Noise Management Plan, which shall include (but not be limited to) noise management in relation to:
 - a. Customer pre-payment
 - b. fuel deliveries.

Luminance and Lighting Requirements

6. Before the development commences, the applicant shall submit a Lighting Impact Assessment (LIA) prepared by a suitably qualified lighting consultant to determine the appropriate sign luminance levels and compliance with AS4282:2019. The site shall operate in accordance with the approved LIA at all times.
7. The sign shall be professionally made and kept clean and maintained free of dilapidation at all times.

Mr Ray Haeren
Presiding Member, JDAP



Landscaping

8. Before the development is occupied, the landscaped areas must be planted, established and reticulated in accordance with the endorsed landscape plans. These areas must be maintained as landscaped areas at all times and to the satisfaction of the City of Bunbury.

Access and Parking

9. Before the development is commenced, detailed design plans shall be prepared in accordance with relevant Australian Standards, Austroads Guidelines, and City of Bunbury requirements, for all access, carparking and pedestrian movement requirements, to the satisfaction of the City of Bunbury. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
10. Before the development is occupied, line marking and parking signage must be installed in accordance with the approved plans.
11. Before the development is occupied, the recommendations of the approved Transport Statement must be and implemented to the satisfaction of the City of Bunbury.

Access and parking arrangements must be designed in accordance with Australian Standards, Ausroad Guidelines and City of Bunbury requirements. Detailed design plans must be submitted to the City of Bunbury for approval prior to construction commencing.

12. Before the development commences, a damage bond to the value of \$5000 must be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy "Bonds".

Stormwater and Drainage

13. Before the development commences, a Stormwater and Drainage Management Plan, prepared in accordance with the Department for Water's Stormwater Management Manual must be submitted for the approval of the City of Bunbury.
14. The Stormwater and Drainage Management Plan will determine the drainage infrastructure required to support the development and as a minimum it must address:
 - proposed development;
 - storm events to be managed;
 - onsite-retention for 1:1 year events;
 - onsite-detention for 1:5 year events;
 - overland flow path for larger events;
 - effect of groundwater;
 - use of water sensitive urban design principles;
 - water quality;
 - protection of adjacent / nearby waterways and wetlands; and
 - conclusions / recommendations.



15. Before the development is occupied, the recommendations of the approved Stormwater and Drainage Management Plan must be constructed and implemented to the satisfaction of the City of Bunbury.

Acoustic Report

16. Prior to the lodgement of the Building Permit Application, an updated Acoustic Report is to be submitted for approval by the City of Bunbury and thereafter implemented. The updated acoustic report is to incorporate mechanical plant details.

Advice Notes

1. This is a development approval only. The applicant/owner is advised that it is their responsibility to ensure that the proposed development complies with all other applicable legislation, local laws and/or license requirements that may relate to the development.
2. The applicant is advised that in accordance with clause 4.2 of the Notice of Exemption from Planning Requirements During a State of Emergency issued by the Minister for Planning under clause 78H of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 on 8 April 2020, the timeframe for the substantial commencement of works associated with this approval is extended by two years from the expiry date stated in the conditions of approval.
3. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
4. The development is subject to the Building Act 2011, Building Regulations 2012 and Building Code of Australia. A separate building permit must be granted before the development commences, where offences occur statutory penalties apply. The applicant/owner is advised to liaise further with the City of Bunbury's Building Services on (08) 9792 7000.
5. Where a new crossover is proposed, and before construction of it can commence, a separate verge crossover application must be submitted and approved. A permit application form can be obtained on the City's website www.bunbury.wa.gov.au
6. Please be aware that the subject land is located in a high groundwater table area. Treatments such as subsoil drainage may be required to prevent any increases to groundwater table levels on adjoining properties.
7. Prior to works commencing, the applicant is required to obtain a works and thoroughfare permit for any works within Council land other than a crossover.

A permit application form can be obtained on the City's website www.bunbury.wa.gov.au

Mr Ray Haeren
Presiding Member, JDAP



8. The City of Bunbury advises that the development the subject of this development approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000
9. The premises and equipment the subject of this development approval is required to comply with clause 3.2.3 of the Australian Food Safety Standards.

Regardless of whether a building permit is required, application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to commencing development.

10. The development is defined as a "Food Business" under the Food Act 2008. The development must comply with the Food Act 2008 and Food Regulations 2009. Further information can be obtained from the City of Bunbury's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
11. The development the subject of this development approval is required to comply with the requirements of the Department of Mines, Industry Regulation and Safety (Resources Safety Section) in relation to the storage of dangerous goods. Further information may be found at www.dmp.wa.gov.au
12. Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a moderate to low risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation's (DWER) acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.
13. The Stormwater Drainage Plan and Details (Rev A, Project 20602, Drawing: C1, Dated: 10 Sep 2021) (to be referred to as Stormwater Drainage Plan) provided assumes the water table to be over 2.0 metres below ground level.

DWER advises that groundwater levels may be closer than 2.0 metres to the ground surface, noting the flat and low-lying nature of the site. As such, there may be buoyancy issues related to the installation of underground fuel tanks and dewatering works may likely be required.

The subject land is located in the Bunbury Groundwater Area as proclaimed under the Rights in Water and Irrigation Act 1914 (RIWI Act). As such, dewatering activities in this development may be subject to licensing under the RIWI Act if the following thresholds specified below are exceeded:

<https://www.water.wa.gov.au/licensing/water-licensing/exemptions>



14. One of the overall recommendations in Appendix A of the Acoustic Report indicates that the mechanical plant selection will not be finalised until the detailed design stage. The acoustic report must be reviewed and resubmitted for assessment before the building permit is submitted to ensure that the chosen equipment will not result in the assigned levels being exceeded.

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

REASON: The panel considered the RAR, submissions and depositions and determined the proposal to be appropriate in the context of the site subject to the application of appropriate conditions.

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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021
DAP/21/02102 DR11/2022	City of Busselton	Lot 108 (No.57) Dunn Bay Road & Lot 109 (No. 6) Cyrilleen Way, Dunsborough	Mixed Use Development (Office, Shops, Restaurant/Cafe, Liquor Store – Small & 42 Multiple Dwellings)	13 January 2022

11. General Business

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.



12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 1:56pm.

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

Mr Ray Haeren
Presiding Member, JDAP