



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 27 November 2023; 9.30am
Meeting Number: RJDAP/121
Meeting Venue: Electronic Means

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

1 Table of Contents

1.	Opening of Meeting, Welcome and Acknowledgement.....	2
2.	Apologies.....	3
3.	Members on Leave of Absence.....	3
4.	Noting of Minutes.....	3
5.	Declaration of Due Consideration.....	3
6.	Disclosure of Interests.....	3
7.	Deputations and Presentations.....	4
8.	Form 1 – Responsible Authority Reports – DAP Applications.....	4
	8.1 Lot 51 (#6) & Lot 59 (#2) Austral Parade, East Bunbury.....	4
9.	Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval	20
	Nil	20
10.	State Administrative Tribunal Applications and Supreme Court Appeals ...	21
11.	General Business.....	21
12.	Meeting Closure	21

Tony Arias
Presiding Member, Regional JDAP



Attendance

DAP Members

Tony Arias (Presiding Member)
Lindsay Baxter (A/Deputy Presiding Member)
Justin Page (Third Specialist Member)
Cr Marina Quain (Local Government Member, City of Bunbury)
Cr Cheryl Kozisek (Local Government Member, City of Bunbury)

Officers in attendance

Alice Baldock (City of Bunbury)
Barbara Macaulay (City of Bunbury)
Brandon Goodwin (City of Bunbury)

Minute Secretary

Tenielle Brownfield (DAP Secretariat)
Adele McMahon (DAP Secretariat)

Applicants and Submitters

Ross Underwood (Planning Solutions)
Michael Prosser (Citygate)
Geoff Prosser (Citygate)
David Hillam (Hillam Architects)
Dean Robinson (Hillam Architects)
Luis Shilling (Hillam Architects)
Dr Marilyn Palmer

Members of the Public / Media

There was 1 member of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.32am on 27 November 2023 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 2020 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.

Tony Arias
Presiding Member, Regional JDAP



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

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 8.1, received on 23 November 2023.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP Member, Kanella Hope, declared an impartiality interest in item 8.1. Kanella Hope is the planning consultant for the Parade Hotel at 1 Austral Parade. The Parade Hotel land is in 2 parts, the main Hotel building on the inlet side of Austral Parade, and the Hotel car park on the other side of Austral Parade, both of which are immediately opposite the land subject to this application. Ms Hope has a current Scheme Amendment with the City of Bunbury seeking to apply an Additional Use over the Parade Hotel land, and this was adopted by the city for purpose of consultation on 7 November 2023.

DAP Member, Cr Michelle Steck, declared a direct pecuniary interest in item 8.1. Cr Michelle Steck's partner is the proponent requesting approval.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member determined that the members listed above, who had disclosed a impartiality interest and direct pecuniary interest were not permitted to participate in the discussion and voting on the item.

Tony Arias
Presiding Member, Regional JDAP



7. Deputations and Presentations

- 7.1 Dr Marilyn Palmer addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.2 Ross Underwood (Planning Solutions), Michael Prosser (Citygate) and David Hillam (Hillam Architects) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.3 The City of Bunbury addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 51 (#6) & Lot 59 (#2) Austral Parade, East Bunbury

Development Description:	Proposed Three Storey Mixed Use Development
Applicant:	Planning Solutions
Owner:	Citygate Properties Pty Ltd
Responsible Authority:	City of Bunbury
DAP File No:	DAP/23/02498

REPORT RECOMMENDATION

Moved by: Cr Cheryl Kozisek

Seconded by: Lindsay Baxter

With the agreement of the moving and seconder the following changes were made en bloc:

- (i) That Advice Note. 2 be amended to read as follows:

*The **applicant is advised that 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 on ~~(08) 9792 7000~~.*

- (ii) That Advice Note. 3 be amended to read as follows:

*~~Prior to works commencing,~~ the applicant is advised that ~~required to obtain~~ a works and thoroughfare permit **is required** 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*

Tony Arias
Presiding Member, Regional JDAP



- (iii) That Advice Note. 5 be amended to read as follows:

With regards to the condition requiring an addendum to the acoustic report, the applicant is advised that noise attenuation engineered design for the exhaust fan(s) and alfresco areas are ~~required~~ to be considered to enable the restaurant/café to open on Sundays and Public Holidays prior to 9am.

- (iv) That Advice Note. 6 be amended to read as follows:

~~The City of Bunbury advises~~ *The applicant is advised 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 at all times including demolition and construction phases of the development. Should works be required to occur outside of the hours of 7am to 7pm Monday to Saturday, an application for approval to undertake Out-of-hours work must be made under regulation 13 of the Environmental Protection (Noise) Regulations 1997.*

- (v) That Advice Note. 7 be amended to read as follows:

The applicant is advised that any demolition work involving asbestos must be in accordance with the Health (Asbestos) Regulations 1992.

- (vi) That Advice Note. 8 be amended to read as follows:

The applicant is advised that 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. An application shall be made to the City of Bunbury's Environmental Health Services for assessment and approval prior to commencing development.

- (vii) That Advice Note. 9 be amended to read as follows:

The applicant is advised that 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.

REASON: To clarify that the Advice Notes are advisory and not conditions of the development.

That the JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02498 is appropriate for consideration as a 'Shop', 'Restaurant/café' and 'Multiple Dwelling' 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;

Tony Arias
Presiding Member, Regional JDAP



-
2. **Approve** DAP Application reference DAP/23/02498 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and 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 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 development approval must comply with the definition of 'Multiple Dwelling', 'Shop' and 'Restaurant/Café' as contained in Part 6 of the City of Bunbury Local Planning Scheme 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. Before the development is occupied, the subject land parcels must be amalgamated into the one certificate of title and the new title issued, and a copy of the new title provided, to the satisfaction of the City of Bunbury.
6. All deliveries and waste collection vehicles shall be restricted to Monday to Saturday 7am to 7pm and Sunday (including public holidays) 9am to 7pm.

Tony Arias
Presiding Member, Regional JDAP



Construction Management

7. Prior to issuing a building permit, a Construction Management Plan (CMP) shall be submitted for approval to the specifications and satisfaction of by the City of Bunbury. The management plan shall include details regarding mitigation measures to address impacts associated with construction works and must address the following issues:
- public safety and amenity;
 - site plan and security;
 - contact details of essential site personnel, construction period and operating hours;
 - community information, consultation and complaints management plan;
 - construction staging plan;
 - noise, vibration and dust management;
 - pre-work dilapidation reports of surrounding properties and City of Bunbury assets;
 - traffic, access and parking management;
 - waste management and materials re-use and/or recycling;
 - earthworks, excavation, land retention / piling and associated matters;
 - contamination risks;
 - storm water and sediment control;
 - street tree management and protection;
 - any other matters deemed appropriate by the local government

The construction works shall be undertaken in accordance with the approved Construction Management Plan at all times.

8. Prior to issuing a building permit, damage bond to the value of \$25,000 shall be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
9. Before the development is occupied, any alterations, relocation and/or damage of existing infrastructure within the road reserve shall be completed and/or reinstated to the specification and satisfaction of the City of Bunbury.

Design and Landscaping

10. Prior to the submission of a building permit, a detailed art concept for the proposed car park screen along Hough Road shall be submitted to the City of Bunbury for approval.
11. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a minimum of 11 residential apartments satisfy the Silver Level requirements outlined in the *Liveable Housing Design Guidelines*.
12. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a continuous awning/canopy is provided along the frontage of Austral Parade and extends to the residential entrances on Hough Road and King Road to the satisfaction of the City of Bunbury.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



13. External fixtures shall be integrated into the design of the building or screened so as not to be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties to the satisfaction of the City of Bunbury.
14. Proposed fencing along the southern lot boundary, within 1.5m of the front setback, shall be truncated or reduced to a maximum height of 0.75m above natural ground level to ensure adequate sightlines for neighbouring properties driveways are maintained.
15. Prior to the submission of a building permit, a detailed landscaping plan must be submitted for the approval of the City of Bunbury. The landscape plan is to include water sensitive urban design planting and water management methods; and must address the following:
 - A site plan showing the location, species, garden bed depths, size, separation distances and number of the proposed vegetation.
 - A key or schedule detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.
 - Mulching or similar treatments of garden beds including edges.
 - Details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance.
 - Treatment of paved areas (parking and pedestrian areas).

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

Sustainability

16. Prior to the submission of a building permit, a Sustainability Report shall be prepared by a suitably qualified sustainability consultant and submitted to the City of Bunbury for approval. The Sustainability Report shall outline the delivery of identified sustainability measures for the development to the satisfaction of the City of Bunbury.
17. Before the development is occupied, the outcomes and recommendations outlined in the approved Sustainability Report must be implemented onsite. Written certification is required to be submitted by a suitably qualified consultant to confirm the outcomes and recommendations outlined in the Sustainability Report have been implemented to the satisfaction of the City of Bunbury.

Lighting

18. Prior to the submission of a building permit, a Lighting Plan detailing the proposed lighting to pathways, communal areas and car parking areas shall be submitted and approved by, the City of Bunbury. All illumination must be confined to the land in accordance with the requirements of Australian Standard AS4282-1997 – Control of the obstructive effects of outdoor lighting, at all times.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



19. Before the development is occupied, the approved Lighting Plan shall be installed and maintained thereafter, to the satisfaction of the City of Bunbury.

Acoustic

20. Prior to submission of a building permit, an addendum to the report titled Leschenault Quays Acoustics Report Development Application (Ref: 301270080 dated 10 May 2023) is required to be submitted by a suitably qualified acoustic engineer (a member of the Australian Acoustical Society,) to City of Bunbury confirming all final design specifications relating to noise mitigation and / or noise reduction measures for the development, including, mechanical plant and refrigeration, have been modelled to achieve compliance with the *Environmental Protection (Noise) Regulations 1997*.
21. Before the development is occupied, the outcomes and recommendations of the submitted acoustic report Leschenault Quays Acoustics Report Development Application (Ref: 301270080 dated 10 May 2023) and any subsequent addendum, must be implemented on site. Written certification by a suitably qualified person (e.g., mechanical engineer, acoustic engineer etc.) for those aspects of the development the report & subsequent addendum refers to, will be required to be provided to the City of Bunbury confirming that all design specifications relating to noise mitigation and / or noise reduction measures have been implemented to achieve compliance with the *Environmental Protection (Noise) Regulations 1997*.
22. Prior to occupation of the development of the ground floor commercial tenancies, a Noise Management Plan (NMP) shall be submitted to the City of Bunbury for approval which states the controls to be put in place to address noise emissions of the proposed operation and any operating restrictions outlined in the endorsed acoustic report and subsequent addendum.

Access and Parking

23. Before the development is occupied, a minimum of 101 car parking bays, being 41 bays for the commercial component, 60 bays for the residential component and 9 bays for visitors, must be provided on the land the subject of this development approval and to the satisfaction of the City of Bunbury. A minimum of 1 car parking bays for the commercial component must be provided for the exclusive use of disabled persons in accordance with AS/NZS 2890.6:2009.
24. Prior to the submission of a building permit, 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, line marking and signage is to be in accordance with the approved plans and be completed before the development is occupied.
25. Before the development is occupied, all disused or redundant vehicular crossover(s) must be removed and the area reinstated to the satisfaction of the City of Bunbury.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



26. Before the development is occupied, linemarking (including visitor bay marking) and parking signage must be installed in accordance with the approved plans and to the satisfaction of the City of Bunbury.
27. Footpaths are to be provided on King Road, Austral Parade and Hough Road generally in accordance with the proposed routes on DWG No. SK2-01. Detailed design plans are to be submitted to the City of Bunbury for approval prior to the submission of a building permit, with the footpaths being connected to the existing path network and be constructed to a minimum width of 2 metres.

Waste and Stormwater Management

28. Prior to occupation, an updated Waste Management Plan shall be submitted to the City of Bunbury for approval in accordance addressing the revised bin store location. The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.
29. Prior to the submission of a building permit, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development.

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report.

30. Prior to the submission of a building permit, 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.

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;
 - A minimum of 2 m³ of storm water storage for each 65m² of impervious area;
 - 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;
 - water quality;
 - protection of adjacent / nearby waterways and wetlands; and
 - conclusions / recommendations.
31. 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.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



32. This property is situated within the 1% Annual Exceedance Probability (AEP) and is susceptible to flooding. The building must have a minimum finished floor level of 1.9 metres AHD in accordance with the City of Bunbury's Local Planning Policy: Development in Flood Affected Areas.
33. Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

Contamination

34. Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out at Lot 51 and Lot 59 to determine if remediation is required.

If required, remediation (including validation of remediation), of any contamination identified shall be completed prior to completion of construction works at Lot 51 and Lot 59 to the satisfaction of the City of Bunbury on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.

Investigations and remediation are to be carried out in compliance with the *Contaminated Sites Act 2003* and current Department of Water and Environmental Regulation contaminated sites guidelines.

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 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.
3. The applicant is advised that a works and thoroughfare permit is required 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
4. With regards to the condition relating to contamination, in accordance with regulation 31(1)(c) of the *Contaminated Sites Regulations 2006*, a mandatory auditor's report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with the condition. A current list of accredited auditors is available from <https://www.wa.gov.au/service/environment/environment-information-services/contaminated-sites-auditors>.

Tony Arias
Presiding Member, Regional JDAP



5. With regards to condition requiring an addendum to the acoustic report, the applicant is advised that noise attenuation engineered design for the exhaust fan(s) and alfresco areas are to be considered to enable the restaurant/café to open on Sundays and Public Holidays prior to 9am.
6. The applicant is advised that the development must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions at all times including demolition and construction phases of the development. Should works be required to occur outside of the hours of 7am to 7pm Monday to Saturday, an application for approval to undertake Out-of-hours work must be made under regulation 13 of the *Environmental Protection (Noise) Regulations 1997*.
7. The applicant is advised that any demolition work involving asbestos must be in accordance with the Health (Asbestos) Regulations 1992.
8. The applicant is advised that 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. An application shall be made to the City of Bunbury for assessment and approval prior to commencing development.
9. The applicant is advised that the development is defined as a “Food Business” under the *Food Act 2008*. The development is required to comply with the *Food Act 2008* and *Food Regulations 2009*.
10. Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a high to moderate risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation’s acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works.
11. In the event dewatering is proposed, the proponent is advised to contact the Department of Water and Environmental Regulation (DWER) on 9726 4111 for a licence to dewater under the RIWI Act if the proposed activity is to exceed the threshold specified at <https://www.water.wa.gov.au/licensing/water-licensing/exemptions>
12. The applicant is advised that a public open space contribution may be applicable should the lot be subdivided in the future.

AMENDING MOTION 1

Moved by: Lindsay Baxter

Seconded by: Cr Cheryl Kozisek

- (i) That Condition No. 28 be amended to read as follows:

Prior to occupation, an updated Waste Management Plan shall be submitted to the City of Bunbury for approval ~~in accordance~~ addressing the revised bin store location. The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.

Tony Arias
Presiding Member, Regional JDAP



(ii) That Condition No. 29 be amended to read as follows:

Prior to the submission of a building permit, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development.

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all ~~subdivisional~~ works have been carried out in accordance with the pre-works geotechnical report.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To correct administrative errors in the conditions.

REPORT RECOMMENDATION (AS AMENDED)

That the JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02498 is appropriate for consideration as a 'Shop', 'Restaurant/café' and 'Multiple Dwelling' 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/23/02498 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and 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 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 development approval must comply with the definition of 'Multiple Dwelling', 'Shop' and 'Restaurant/Café' as contained in Part 6 of the City of Bunbury Local Planning Scheme 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.

Tony Arias
Presiding Member, Regional JDAP



5. Before the development is occupied, the subject land parcels must be amalgamated into the one certificate of title and the new title issued, and a copy of the new title provided, to the satisfaction of the City of Bunbury.
6. All deliveries and waste collection vehicles shall be restricted to Monday to Saturday 7am to 7pm and Sunday (including public holidays) 9am to 7pm.

Construction Management

7. Prior to issuing a building permit, a Construction Management Plan (CMP) shall be submitted for approval to the specifications and satisfaction of by the City of Bunbury. The management plan shall include details regarding mitigation measures to address impacts associated with construction works and must address the following issues:
 - public safety and amenity;
 - site plan and security;
 - contact details of essential site personnel, construction period and operating hours;
 - community information, consultation and complaints management plan;
 - construction staging plan;
 - noise, vibration and dust management;
 - pre-work dilapidation reports of surrounding properties and City of Bunbury assets;
 - traffic, access and parking management;
 - waste management and materials re-use and/or recycling;
 - earthworks, excavation, land retention / piling and associated matters;
 - contamination risks;
 - storm water and sediment control;
 - street tree management and protection;
 - any other matters deemed appropriate by the local government

The construction works shall be undertaken in accordance with the approved Construction Management Plan at all times.

8. Prior to issuing a building permit, damage bond to the value of \$25,000 shall be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
9. Before the development is occupied, any alterations, relocation and/or damage of existing infrastructure within the road reserve shall be completed and/or reinstated to the specification and satisfaction of the City of Bunbury.

Design and Landscaping

10. Prior to the submission of a building permit, a detailed art concept for the proposed car park screen along Hough Road shall be submitted to the City of Bunbury for approval.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



11. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a minimum of 11 residential apartments satisfy the Silver Level requirements outlined in the *Liveable Housing Design Guidelines*.
12. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a continuous awning/canopy is provided along the frontage of Austral Parade and extends to the residential entrances on Hough Road and King Road to the satisfaction of the City of Bunbury.
13. External fixtures shall be integrated into the design of the building or screened so as not to be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties to the satisfaction of the City of Bunbury.
14. Proposed fencing along the southern lot boundary, within 1.5m of the front setback, shall be truncated or reduced to a maximum height of 0.75m above natural ground level to ensure adequate sightlines for neighbouring properties driveways are maintained.
15. Prior to the submission of a building permit, a detailed landscaping plan must be submitted for the approval of the City of Bunbury. The landscape plan is to include water sensitive urban design planting and water management methods; and must address the following:
 - A site plan showing the location, species, garden bed depths, size, separation distances and number of the proposed vegetation.
 - A key or schedule detailing proposed species type grouped under the subheadings of tree, shrub and ground cover.
 - Mulching or similar treatments of garden beds including edges.
 - Details of reticulation of landscaped areas including the source of the water supply and proposed responsibility for maintenance.
 - Treatment of paved areas (parking and pedestrian areas).

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

Sustainability

16. Prior to the submission of a building permit, a Sustainability Report shall be prepared by a suitably qualified sustainability consultant and submitted to the City of Bunbury for approval. The Sustainability Report shall outline the delivery of identified sustainability measures for the development to the satisfaction of the City of Bunbury.

Tony Arias
Presiding Member, Regional JDAP



17. Before the development is occupied, the outcomes and recommendations outlined in the approved Sustainability Report must be implemented onsite. Written certification is required to be submitted by a suitably qualified consultant to confirm the outcomes and recommendations outlined in the Sustainability Report have been implemented to the satisfaction of the City of Bunbury.

Lighting

18. Prior to the submission of a building permit, a Lighting Plan detailing the proposed lighting to pathways, communal areas and car parking areas shall be submitted and approved by, the City of Bunbury. All illumination must be confined to the land in accordance with the requirements of Australian Standard AS4282-1997 – Control of the obstructive effects of outdoor lighting, at all times.
19. Before the development is occupied, the approved Lighting Plan shall be installed and maintained thereafter, to the satisfaction of the City of Bunbury.

Acoustic

20. Prior to submission of a building permit, an addendum to the report titled Leschenault Quays Acoustics Report Development Application (Ref: 301270080 dated 10 May 2023) is required to be submitted by a suitably qualified acoustic engineer (a member of the Australian Acoustical Society,) to City of Bunbury confirming all final design specifications relating to noise mitigation and / or noise reduction measures for the development, including, mechanical plant and refrigeration, have been modelled to achieve compliance with the *Environmental Protection (Noise) Regulations 1997*.
21. Before the development is occupied, the outcomes and recommendations of the submitted acoustic report Leschenault Quays Acoustics Report Development Application (Ref: 301270080 dated 10 May 2023) and any subsequent addendum, must be implemented on site. Written certification by a suitably qualified person (e.g., mechanical engineer, acoustic engineer etc.) for those aspects of the development the report & subsequent addendum refers to, will be required to be provided to the City of Bunbury confirming that all design specifications relating to noise mitigation and / or noise reduction measures have been implemented to achieve compliance with the *Environmental Protection (Noise) Regulations 1997*.
22. Prior to occupation of the development of the ground floor commercial tenancies, a Noise Management Plan (NMP) shall be submitted to the City of Bunbury for approval which states the controls to be put in place to address noise emissions of the proposed operation and any operating restrictions outlined in the endorsed acoustic report and subsequent addendum.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



Access and Parking

23. Before the development is occupied, a minimum of 101 car parking bays, being 41 bays for the commercial component, 60 bays for the residential component and 9 bays for visitors, must be provided on the land the subject of this development approval and to the satisfaction of the City of Bunbury. A minimum of 1 car parking bays for the commercial component must be provided for the exclusive use of disabled persons in accordance with AS/NZS 2890.6:2009.
24. Prior to the submission of a building permit, 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, line marking and signage is to be in accordance with the approved plans and be completed before the development is occupied.
25. Before the development is occupied, all disused or redundant vehicular crossover(s) must be removed and the area reinstated to the satisfaction of the City of Bunbury.
26. Before the development is occupied, linemarking (including visitor bay marking) and parking signage must be installed in accordance with the approved plans and to the satisfaction of the City of Bunbury.
27. Footpaths are to be provided on King Road, Austral Parade and Hough Road generally in accordance with the proposed routes on DWG No. SK2-01. Detailed design plans are to be submitted to the City of Bunbury for approval prior to the submission of a building permit, with the footpaths being connected to the existing path network and be constructed to a minimum width of 2 metres.

Waste and Stormwater Management

28. Prior to occupation, an updated Waste Management Plan shall be submitted to the City of Bunbury for approval addressing the revised bin store location. The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.
29. Prior to the submission of a building permit, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development or advising how the land is to be remediated and compacted to ensure it is capable of development.

In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all works have been carried out in accordance with the pre-works geotechnical report.

30. Prior to the submission of a building permit, 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.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



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;
 - A minimum of 2 m³ of storm water storage for each 65m² of impervious area;
 - 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;
 - water quality;
 - protection of adjacent / nearby waterways and wetlands; and
 - conclusions / recommendations.
31. 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.
32. This property is situated within the 1% Annual Exceedance Probability (AEP) and is susceptible to flooding. The building must have a minimum finished floor level of 1.9 metres AHD in accordance with the City of Bunbury's Local Planning Policy: Development in Flood Affected Areas.
33. Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

Contamination

34. Prior to commencement of development works, investigation for soil and groundwater contamination is to be carried out at Lot 51 and Lot 59 to determine if remediation is required.

If required, remediation (including validation of remediation), of any contamination identified shall be completed prior to completion of construction works at Lot 51 and Lot 59 to the satisfaction of the City of Bunbury on advice from the Department of Water and Environmental Regulation, to ensure that the site is suitable for the proposed use.

Investigations and remediation are to be carried out in compliance with the *Contaminated Sites Act 2003* and current Department of Water and Environmental Regulation contaminated sites guidelines.

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.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP



2. The applicant is advised that 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.
3. The applicant is advised that a works and thoroughfare permit is required 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
4. With regards to the condition relating to contamination, in accordance with regulation 31(1)(c) of the *Contaminated Sites Regulations 2006*, a mandatory auditor's report, prepared by an accredited contaminated sites auditor, will need to be submitted to the Department of Water and Environmental Regulation as evidence of compliance with the condition. A current list of accredited auditors is available from <https://www.wa.gov.au/service/environment/environment-information-services/contaminated-sites-auditors>.
5. With regards to condition requiring an addendum to the acoustic report, the applicant is advised that noise attenuation engineered design for the exhaust fan(s) and alfresco areas are to be considered to enable the restaurant/café to open on Sundays and Public Holidays prior to 9am.
6. The applicant is advised that the development must comply with the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997* in relation to noise emissions at all times including demolition and construction phases of the development. Should works be required to occur outside of the hours of 7am to 7pm Monday to Saturday, an application for approval to undertake Out-of-hours work must be made under regulation 13 of the *Environmental Protection (Noise) Regulations 1997*.
7. The applicant is advised that any demolition work involving asbestos must be in accordance with the Health (Asbestos) Regulations 1992.
8. The applicant is advised that 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. An application shall be made to the City of Bunbury for assessment and approval prior to commencing development.
9. The applicant is advised that the development is defined as a "Food Business" under the *Food Act 2008*. The development is required to comply with the *Food Act 2008* and *Food Regulations 2009*.
10. Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a high to moderate risk of ASS occurring within 3 metres of the natural soil surface. Please refer to Department of Water and Environmental Regulation's acid sulfate soil guidelines for information to assist with the management of ground and/or groundwater disturbing works.

Tony Arias
Presiding Member, Regional JDAP



11. In the event dewatering is proposed, the proponent is advised to contact the Department of Water and Environmental Regulation (DWER) on 9726 4111 for a licence to dewater under the RIWI Act if the proposed activity is to exceed the threshold specified at <https://www.water.wa.gov.au/licensing/water-licensing/exemptions>
12. The applicant is advised that a public open space contribution may be applicable should the lot be subdivided in the future.

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

REASON: The Panel having considered the Responsible Authority Report (RAR), all materials and information presented and following detailed discussions with the responsible authority and applicant during the meeting determined it was satisfied with the RAR recommendation to approve the proposed development.

The Panel was satisfied that all relevant planning considerations had been appropriately addressed. The proposed Shop', 'Restaurant/café' and 'Multiple Dwelling redevelopment of the site was considered consistent with planning framework in the City of Bunbury Planning Scheme No. 8. which designates the site as Local Centre zone with a residential density code of R100. The proposed land use of 'Multiple Dwelling', 'Shop' and 'Restaurant/Cafe' under LPS8 are discretionary uses within the Local Centre zone and capable of being approved. The development as proposed meets the stated objectives for the Local Centre zone in LPS8. The proposed development adjoins two sites zoned 'Local Centre' fronting Austral Parade, with Mixed Use Residential' R40/80 zoned lots to the west, south and east and the Leschenault Inlet which provides an appropriate local context for the proposed development

Concerns were raised with the scale and bulk of the proposed development, however, the Panel considered it was generally consistent with the R100 coding applied to the site. It is also noted that the independent design review undertaken of the design generally was generally supportive. The applicant has now incorporated design changes that address the majority of design improvements sought /suggested through design review.

The submitters raised traffic circulation and access arrangements as matter of concern, however, the TIA prepared for the development did not highlight any significant traffic or safety issues. The RAR and the City's officers were satisfied that any traffic in the area could be accommodated and managed within the existing road system.

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

Nil.

Tony Arias
Presiding Member, Regional JDAP



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/23/02479 DR 146/2023	Shire of Capel	Lot 148 (No.168) Skippings Road, Boyanup	Extractive Industry Development Proposal	30 August 2023

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 10.50am.

Tony Arias

Tony Arias
Presiding Member, Regional JDAP