



## Regional Development Assessment Panel Minutes

**Meeting Date and Time:** Thursday, 17 October 2024; 2:00pm  
**Meeting Number:** RDAP/24  
**Meeting Venue:** 140 William Street, Perth

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

[RDAP/24 - 17 October 2024 - City of Busselton - City of Bunbury](#)

### **PART A – INTRODUCTION**

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

### **PART B – CITY OF BUSSELTON**

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
4. Form 2 DAP Applications
  - 4.1 Lot 108 (No.21), 109 (No.19), and 110 (No.17) Dunn Bay Road, Dunsborough - Relocation of Multi Purpose Room and associated changes, deletion of balconies, minor room reconfiguration – DAP/23/02560
5. Section 31 SAT Reconsiderations

### **PART C – CITY OF BUNBURY**

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
  - 3.1 Lot 76 & 66 Ocean Drive, Bunbury - Proposed ten (10) Townhouses Holiday Accommodation – DAP/24/02734
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

### **PART D – OTHER BUSINESS**

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

**Tony Arias**  
Presiding Member, Regional DAP



<b>Attendance</b>	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Tony Arias (Presiding Member)	Kristen Parker
Dale Page (Deputy Presiding Member)	Ashlee Kelly
Neema Premji	
<i>Part B – City of Busselton</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Anne Ryan	Andrew Watts
Cr Kate Cox	Emma Craddock
<i>Part C – City of Bunbury</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Cheryl Kozisek	Teshome Tadesse
	Annalise Miller
	Brandon Goodwin
	Barbara Macaulay

**Tony Arias**  
Presiding Member, Regional DAP



<b>Applicant and Submitters</b>
<i>Part B – City of Busselton</i>
Nick Derickz (Studio Derickx) Matthew Rawlinson (Belingbak) Dane Gaunt (Urbis)
<i>Part C – City of Bunbury</i>
Callum Thatcher (Element Advisory)

**Members of the Public / Media**

Nil

**Observers via livestream**

There were 9 persons observing the meeting via the livestream.

**Tony Arias**  
Presiding Member, Regional DAP



## PART A – INTRODUCTION

### 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 2:05pm on 17 October 2024 and acknowledged the traditional owners and custodians of the land on which the meeting is taking place and welcomed members.

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

Cr Todd Brown (Local Government DAP Member, City of Bunbury)  
Cr Ben Andrew (Local Government DAP 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](#).

**Tony Arias**  
Presiding Member, Regional DAP



## PART B – CITY OF BUSSELTON

### 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 Related Information.

### 2. Disclosure of Interests

DAP Member, Dale Page, declared an impartiality interest in item 4.1. Ms Page worked with Craig Smith, who was involved with the design review for this item, in her previous professional role at the City of Perth.

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

### 3. Form 1 DAP Applications

Nil.

### 4. Form 2 DAP Applications

**4.1 Lot 108 (No.21), 109 (No.19), and 110 (No.17) Dunn Bay Road, Dunsborough - Relocation of Multi Purpose Room and associated changes, deletion of balconies, minor room reconfiguration – DAP/23/02560**

#### Deputations and Presentations

Matthew Rawlinson (Belingbak) addressed the DAP in support of the recommendation for the application at Item 4.1 and responded to questions from the panel.

Dane Gaunt (Urbis) addressed the DAP in support of the recommendation for the application at Item 4.1 and responded to questions from the panel.

Nick Derickx (Studio Derickx) addressed the DAP in support of the recommendation for the application at Item 4.1 and responded to questions from the panel.

The City of Busselton addressed the DAP in relation to the application at Item 4.1 and responded to questions from the panel.

**Tony Arias**  
Presiding Member, Regional DAP



## REPORT RECOMMENDATION

**Moved by:** Cr Anne Ryan

**Seconded by:** Neema Premji

That the Regional Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/23/02560 as detailed on the DAP Form 2 dated 30 July 2024 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/23/02560 and accompanying plans -
  - Site Plan, A1.03, issue D, dated 24/06/2024
  - Ground Floor GA Plan, A2.01, issue N, dated 04/06/2024
  - First Floor Plan, A2.02, issue N, dated 04/06/2024
  - Second Floor Plan, A2.03, issue N, dated 04/06/2024
  - Roof Plan, A2.04, issue K, dated 17/05/2024
  - West and South Boundary Elevations, A3.01, issue L, dated 19/06/2024
  - North and East Boundary Elevations, A3.02, issue L, dated 19/06/2024
  - East and West Building Elevations (Int.), A3.03, issue J, dated 19/06/2024

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* for the proposed minor amendment to the approved 'Hotel', 'Restaurant/Café' and 'Recreation – Private' at Lot 108 (No.21), Lot 109 (No.19) and Lot 110 (No.17) Dunn Bay Road, Dunsborough subject to the following conditions:

### Amended Conditions

- 3.8 A final Landscaping Plan (LP). The LP shall include the following:
  - a. The location, number, size and species of existing and proposed trees and shrubs, including calculations for the landscaping area;
  - b. Details of all trees that have been removed, including their location, number, size and species, along with the proposed replacement trees, detailing their location, number, size and species;
  - c. Any lawns to be established;
  - d. Any existing trees to be retained;
  - e. Those areas to be reticulated or irrigated;
  - f. Visually permeable fencing to the northern site boundary of Lot 108 Dunn Bay Road to provide definition to Lot 171, Djiljit Mia Recreation Reserve (R42672); and
  - g. Verge treatments, including hard and soft landscaping treatments.
- 6.3 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City in accordance with approved screening details.

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### **New Conditions**

3.15 Details of the proposed method of screening to all services and service related hardware, *including antennae, satellite dishes and air conditioning units*, shall be submitted to, and approved by the City.

### **New Advice Notes**

All other conditions and requirements detailed on the previous approval dated 22 December 2023 shall remain unless altered by this application.

**The Report Recommendation was put and CARRIED UNANIMOUSLY.**

**REASON:** Having considered the Responsible Authority Report (RAR) and all materials and information presented, the Panel considered the proposed minor modifications to the development as proposed do not result in any substantial changes to the development as approved. It is considered that the current conditions of approval are generally sufficient to ensure the built form outcome aligns with that approved, without detriment on the streetscape and to adjoining properties. It supported the Form 2 changes and the recommended conditions.

### **5. Section 31 SAT Reconsiderations**

Nil.

*Cr Anne Ryan and Cr Kate Cox (Local Government DAP Members, City of Busselton) left the panel at 2:44pm.*

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Presiding Member, Regional DAP



## **PART C – CITY OF BUNBURY**

*Cr Cheryl Kozisek (Local Government DAP Member, City of Bunbury) joined the panel at 2:45pm.*

### **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 Related Information.

### **2. Disclosure of Interests**

DAP Member, Dale Page, declared an impartiality interest in item 3.1. Ms Page worked with Craig Smith, who was involved with the design review for this item, in her previous professional role at the City of Perth.

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

### **3. Form 1 DAP Applications**

#### **3.1 Lot 76 & 66 Ocean Drive, Bunbury - Proposed ten (10) Townhouses Holiday Accommodation – DAP/24/02734**

##### **Deputations and Presentations**

Callum Thatcher (Element Advisory) 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 Bunbury 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:** Cr Cheryl Kozisek

**Seconded by:** Neema Premji

*An administrative change to the report recommendation was made to Condition No. 27 to correct a typographical error.*

*The development is to comply with the approved Waste Management Plan (Dated 8 ~~May~~ **May** 2024). The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.*

That the Regional DAP resolves to:

1. **Accept** that the DAP Application reference DAP/24/02734 is appropriate for consideration as a 'Holiday Accommodation' use in accordance with Clause 27 (2) Unrestricted Length of Stay and Clause 2.1 of Restricted Use (R.U.7) of the City of Bunbury Local Planning Scheme No. 8;
2. **Approve** DAP Application reference DAP/24/02734 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 'Holiday Accommodation', as contained in Part 6 of the City of Bunbury Local Planning Scheme 8 (LPS8).
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. Prior to the submission of a building permit, a schedule of exterior materials, colours and finishes must be submitted for the approval of the City of Bunbury. The subject development must be finished and maintained in accordance with any approved schedule of materials that ensures the use of corrosion resistant materials and robust construction.

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Presiding Member, Regional DAP



6. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a minimum of two (2) units satisfy the Silver Level universal design requirements outlined in the Part C of the Residential Design Codes Volume 1 (2024).
7. Before the development is occupied, 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.
8. Before the development is occupied, an updated Operational Management Plan detailing the management of the Holiday Accommodation is to be provided to the satisfaction of the City of Bunbury.
9. A notification, pursuant to Section 165A of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lots. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

*"This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years from the date this notification is registered."*

#### Construction Management

10. Prior to issuing a building permit, a Construction Management Plan (CMP) shall be submitted for approval to the specifications and satisfaction of 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 for City of Bunbury assets;
  - traffic, access and parking management;
  - waste management;
  - earthworks, excavation, land retention / piling and associated matters;
  - contamination risks;
  - storm water and sediment control; and
  - 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.

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11. Prior to issuing a building permit, damage bond to the value of \$50,160 shall be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
12. 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.

#### Landscaping and Lighting

13. Prior to the submission of a building permit, a landscaping plan, inclusive of the public open space area, must be submitted for the approval of the City of Bunbury and must address the following:
  - A site plan showing the location, species, garden bed depths, size, separation distances and number of the proposed vegetation, inclusive of a minimum of 2 small trees per dwelling, a minimum of 2 small trees in the visitor parking area and a minimum of 5 trees within the verge area on Upper Esplanade;
  - A planting schedule;
  - 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;
  - Set out/furniture plan indicating placement and specification of any furniture proposed; and
  - Surfaces and finishes plan indicating specification and treatment of paved areas (parking and pedestrian areas) and typical construction details.
14. Before the development is occupied, the landscaped areas must be planted, established, and reticulated in accordance with the endorsed landscape plan to the satisfaction of the City of Bunbury.
15. Prior to the issuing of a building permit, the landowner to enter into a legal agreement with the City of Bunbury to ensure that the developer is responsible for provision, cost of the construction and maintenance of the internal laneway and public open space in perpetuity.
16. Upon completion of construction of the public open space and prior to occupation of the associated development, an easement over the public open space in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Bunbury are to be placed on the relevant certificate(s) of title of any relevant lots specifying access rights.

Notice of this easement is to be included on a lodged diagram or plan of survey (deposited plan). The easements are to state as follows:

*'The purpose of the easement is to provide pedestrian connectivity'*

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Presiding Member, Regional DAP



17. 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.
18. Before the development is occupied, the approved Lighting Plan shall be installed and maintained thereafter, to the satisfaction of the City of Bunbury.
19. Prior to removal of any vegetation, a licensed fauna spotter and handler must complete a pre-clearance inspection and be present during the clearing activity.

#### Access and Parking

20. Prior to the issuing 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 on Lot 66 and 76, to the satisfaction of the City of Bunbury. At a minimum, the detailed designs shall address:
  - on-street parking bay civil engineering details to be as per Australian Standards.
  - details regarding the proposed on-street bays located on top of existing City stormwater infrastructure;
  - crossovers from Upper Esplanade to have footpath priority.
  - the laneway speed is to be nominated to ensure stopping sight distances are appropriate; and
  - laneway reserve to be designed according to IPWEA Subdivision Guidelines Section 3 and with details on the landscaping, 1.5 m internal footpath and lighting within the reserve.
21. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
22. 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.
23. Prior to the issuing of a building permit and to enable shared access between the subject lot (Lot 76) and adjoining lot (Lot 66), an easement in gross must be registered on the certificate of title of both lots to secure rights of carriageway over the vehicle access way(s) the subject of this development approval. The easements must be at the full cost of the landowner(s) and to the satisfaction of the City of Bunbury.

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Presiding Member, Regional DAP



24. After completion of the laneway and prior to occupation an easement over the laneway network proposed in Lot 76 for the benefit of the City are to be placed on the relevant certificates of title of any relevant lots specifying access rights. Notice of this easement(s) is to be included on a lodged diagram or plan of survey (deposited plan). The easement is to state as follows:

*'The purpose of the easement is to provide pedestrian, vehicular and servicing connectivity'.*

25. Prior to the issuing of a building permit, detailed design plans for footpaths along the internal new access lane and Upper Esplanade are to be submitted to the City of Bunbury for approval. Footpaths are to be connected to the existing path network and be constructed to a minimum width of 2.5m metres along Upper Esplanade.
26. Before the development is occupied, the access way and crossover proposed on Lot 66 shall be constructed and drained at the full cost of the landowner of Lot 76 to the satisfaction of the City of Bunbury.

#### Waste and Stormwater Management

27. The development is to comply with the approved Waste Management Plan (Dated 8 May 2024). The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.
28. Prior to the issuing 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.

29. Prior to the issuing of a building permit, a revised 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 and be implemented in accordance with the approved plan prior to the development being occupied.

The civil engineering detail of the revised Stormwater and Drainage Management Plan shall be provided earlier in the process, as it will determine the drainage infrastructure required to support the development. The revised Stormwater and Drainage Management Plan to be and as a minimum it must address:

- proposed stormwater management for stage 1 and stage 2 development;
- amended proposed use of infiltration tanks as an adequate solution to stormwater drainage within POS areas.
- detention area(s) are to be adopted utilising the natural land topography with a sufficient overflow pit-pipe connection to the local road;
- storm events to be managed;

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- 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.
30. Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

### 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 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.
3. 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](http://www.bunbury.wa.gov.au)
4. With regard to condition 15, 16, 23 and 24, obligations to satisfy the requirements of these conditions may change as a consequence of the final ownership arrangements for the internal laneway and public open space. This includes the potential for them to be placed into public ownership under the care and control of the City of Bunbury, rendering aspects or requirements of the conditions redundant
5. The developer / landowner is advised that the subject land is located within a registered Aboriginal heritage site under the Aboriginal Heritage Act 1972 as amended.

This development approval does not remove or affect any statutory responsibility or obligation the developer / landowner may have under the Aboriginal Heritage Act 1972 as amended. The developer / landowner is advised to contact the relevant State Government public authority(s) before commencing any site works to ensure that your statutory responsibilities or obligations are met.

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Please note that damaging or altering an Aboriginal heritage site constitutes an offence under the Aboriginal Heritage Act 1972 as amended and is punishable by law. Further information can be obtained from the Department of Planning, Lands and Heritage.

6. The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Water and Environmental Regulation for further advice in this regard.

The applicant is obliged to submit a native vegetation clearing permit for landscaped areas, under Part V Division 2 of the Environmental Protection Act 1986, as the relevant clearing exemption (Regulation 5, Item 1 of the Clearing Regulations) does not allow clearing for any purpose other than to construct a building or structure within a development approval. It is recommended that an investigation into current environmental sensitivities and constraints is undertaken to inform the permit application.

7. It is recommended that the application undertake a self-assessment to ensure that a referral is not required under the Environment Protection and Biodiversity Conservation Act 1999. Instructions to undertake a self-assessment are provided on the Department of Climate Change, Energy, the Environment and Water website: <https://www.dcceew.gov.au/environment/epbc/advice/self-assessments>
8. It should also be noted that the clearing of native vegetation within the City of Bunbury may result in impacts upon threatened species that are protected under the Commonwealth Environment Protection & Biodiversity Conservation Act 1999. Proponents are advised to contact DWER Native Vegetation Regulation by email [admin.nvp@dwer.wa.gov.au](mailto:admin.nvp@dwer.wa.gov.au) or by telephone 63647098.
9. In relation to condition 19, the City of Bunbury advises that the site is identified as having native fauna; specifically, Quenda. The owner is advised to contact the Department of Biodiversity, Conservation and Attractions (DBCA) for advice regarding fauna management procedures and supervised clearing with reference to the need for a Quenda trapping and relocation program prior to development.

**Tony Arias**  
Presiding Member, Regional DAP



### AMENDING MOTION 1

**Moved by:** Neema Premji

**Seconded by:** Dale Page

That Condition No. 14 be amended to read as follows:

*Before the development is occupied, the landscaped areas must be planted, established, and reticulated in accordance with the endorsed landscape plan to the satisfaction of the City of Bunbury **and shall thereafter be maintained to the satisfaction of the City.***

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

**REASON:** Without the additional wording, if the landscaping dies or is not maintained to an appropriate standard, the City of Bunbury may have difficulty requiring the owner of the site(s) to reinstate or maintain the landscaping to the standard approved.

### AMENDING MOTION 2

**Moved by:** Neema Premji

**Seconded by:** Cr Cheryl Kozisek

That Condition No. 15 be amended to read as follows:

*Prior to the issuing of a building permit, the landowner to enter into a legal agreement with the City of Bunbury, **at the landowner's cost**, to ensure that the developer is responsible for provision, cost of the construction and maintenance of the internal laneway and public open space in perpetuity*

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

**REASON:** To provide clarity that the costs associated with the agreement are to be borne by the applicant.

**Tony Arias**  
Presiding Member, Regional DAP





### AMENDING MOTION 3

**Moved by:** Dale Page

**Seconded by:** Cr Cheryl Kozisek

*The following amendments were made en bloc:*

(i) That Condition No. 10 be amended to read as follows:

~~Prior to issuing~~ **Before submission of** a building permit, a Construction Management Plan (CMP) shall be submitted for approval to the specifications and satisfaction of 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 for City of Bunbury assets;
- traffic, access and parking management;
- waste management;
- earthworks, excavation, land retention / piling and associated matters; contamination risks;
- storm water and sediment control; and
- 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.*

(ii) That Condition No. 11 be amended to read as follows:

~~Prior to issuing~~ **Before submission of** a building permit, damage bond to the value of \$50,160 shall be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.

(iii) That Condition No. 15 be amended to read as follows:

~~Prior to issuing~~ **Before submission of** a building permit, the landowner to enter into a legal agreement with the City of Bunbury to ensure that the developer is responsible for provision, cost of the construction and maintenance of the internal laneway and public open space in perpetuity.

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Presiding Member, Regional DAP



- (iv) That Condition No. 20 be amended to read as follows:

~~Prior to issuing~~ **Before 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 on Lot 66 and 76, to the satisfaction of the City of Bunbury. At a minimum, the detailed designs shall address:

- on-street parking bay civil engineering details to be as per Australian Standards. details regarding the proposed on-street bays located on top of existing City stormwater infrastructure;
- crossovers from Upper Esplanade to have footpath priority.
- the laneway speed is to be nominated to ensure stopping sight distances are appropriate; and
- laneway reserve to be designed according to IPWEA Subdivision Guidelines Section 3 and with details on the landscaping, 1.5 m internal footpath and lighting within the reserve

- (v) That Condition No. 23 be amended to read as follows:

~~Prior to issuing~~ **Before submission of a building permit**, and to enable shared access between the subject lot (Lot 76) and adjoining lot (Lot 66), an easement in gross must be registered on the certificate of title of both lots to secure rights of carriageway over the vehicle access way(s) the subject of this development approval. The easements must be at the full cost of the landowner(s) and to the satisfaction of the City of Bunbury.

- (vi) That Condition No. 25 be amended to read as follows:

~~Prior to issuing~~ **Before submission of a building permit**, detailed design plans for footpaths along the internal new access lane and Upper Esplanade are to be submitted to the City of Bunbury for approval. Footpaths are to be connected to the existing path network and be constructed to a minimum width of 2.5m metres along Upper Esplanade.

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

~~Prior to issuing~~ **Before 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.*

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Presiding Member, Regional DAP



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

~~Prior to issuing~~ **Before submission of a building permit, a revised 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 and be implemented in accordance with the approved plan prior to the development being occupied.**

*The civil engineering detail of the revised Stormwater and Drainage Management Plan shall be provided earlier in the process, as it will determine the drainage infrastructure required to support the development. The revised Stormwater and Drainage Management Plan to be and as a minimum it must address:*

- *proposed stormwater management for stage 1 and stage 2 development; amended proposed use of infiltration tanks as an adequate solution to stormwater drainage within POS areas.*
- *detention area(s) are to be adopted utilising the natural land topography with a sufficient overflow pit-pipe connection to the local road;*
- *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.*

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

**REASON:** To ensure consistency between the wording of conditions. To ensure that the information required is submitted to the City before the submission/acceptance of an application for a building permit. Once an application for a building permit is submitted (under separate legislation), it would not be appropriate to hold up the issue of permit whilst trying to clear the planning conditions.

**Tony Arias**  
Presiding Member, Regional DAP



## REPORT RECOMMENDATION (AS AMENDED)

That the Regional DAP resolves to:

1. **Accept** that the DAP Application reference DAP/24/02734 is appropriate for consideration as a 'Holiday Accommodation' use in accordance with Clause 27 (2) Unrestricted Length of Stay and Clause 2.1 of Restricted Use (R.U.7) of the City of Bunbury Local Planning Scheme No. 8;
2. **Approve** DAP Application reference DAP/24/02734 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 'Holiday Accommodation', as contained in Part 6 of the City of Bunbury Local Planning Scheme 8 (LPS8).
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. Prior to the submission of a building permit, a schedule of exterior materials, colours and finishes must be submitted for the approval of the City of Bunbury. The subject development must be finished and maintained in accordance with any approved schedule of materials that ensures the use of corrosion resistant materials and robust construction.
6. Prior to the submission of a building permit, detailed plans are to be submitted demonstrating that a minimum of two (2) units satisfy the Silver Level universal design requirements outlined in the Part C of the Residential Design Codes Volume 1 (2024).
7. Before the development is occupied, 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.

**Tony Arias**  
Presiding Member, Regional DAP



8. Before the development is occupied, an updated Operational Management Plan detailing the management of the Holiday Accommodation is to be provided to the satisfaction of the City of Bunbury.
9. A notification, pursuant to Section 165A of the Planning and Development Act 2005 is to be placed on the certificates of title of the proposed lots. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

*"This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years from the date this notification is registered."*

#### Construction Management

10. Before submission of a building permit, a Construction Management Plan (CMP) shall be submitted for approval to the specifications and satisfaction of 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 for City of Bunbury assets;
  - traffic, access and parking management;
  - waste management;
  - earthworks, excavation, land retention / piling and associated matters;
  - contamination risks;
  - storm water and sediment control; and
  - 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.

11. Before submission of a building permit, damage bond to the value of \$50,160 shall be paid to the City of Bunbury in accordance with the City of Bunbury's Local Planning Policy: Bonds.
12. 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.

**Tony Arias**  
Presiding Member, Regional DAP



### Landscaping and Lighting

13. Prior to the submission of a building permit, a landscaping plan, inclusive of the public open space area, must be submitted for the approval of the City of Bunbury and must address the following:
  - A site plan showing the location, species, garden bed depths, size, separation distances and number of the proposed vegetation, inclusive of a minimum of 2 small trees per dwelling, a minimum of 2 small trees in the visitor parking area and a minimum of 5 trees within the verge area on Upper Esplanade;
  - A planting schedule;
  - 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;
  - Set out/furniture plan indicating placement and specification of any furniture proposed; and
  - Surfaces and finishes plan indicating specification and treatment of paved areas (parking and pedestrian areas) and typical construction details.
14. Before the development is occupied, the landscaped areas must be planted, established, and reticulated in accordance with the endorsed landscape plan to the satisfaction of the City of Bunbury and shall thereafter be maintained to the satisfaction of the City.
15. Before submission of a building permit, the landowner to enter into a legal agreement with the City of Bunbury, at the landowner's cost, to ensure that the developer is responsible for provision, cost of the construction and maintenance of the internal laneway and public open space in perpetuity.
16. Upon completion of construction of the public open space and prior to occupation of the associated development, an easement over the public open space in accordance with Sections 195 and 196 of the Land Administration Act 1997 for the benefit of the City of Bunbury are to be placed on the relevant certificate(s) of title of any relevant lots specifying access rights.

Notice of this easement is to be included on a lodged diagram or plan of survey (deposited plan). The easements are to state as follows:

*'The purpose of the easement is to provide pedestrian connectivity'*

17. 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.
18. Before the development is occupied, the approved Lighting Plan shall be installed and maintained thereafter, to the satisfaction of the City of Bunbury.

**Tony Arias**  
Presiding Member, Regional DAP



19. Prior to removal of any vegetation, a licensed fauna spotter and handler must complete a pre-clearance inspection and be present during the clearing activity.

Access and Parking

20. Before 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 on Lot 66 and 76, to the satisfaction of the City of Bunbury. At a minimum, the detailed designs shall address:
- on-street parking bay civil engineering details to be as per Australian Standards.
  - details regarding the proposed on-street bays located on top of existing City stormwater infrastructure;
  - crossovers from Upper Esplanade to have footpath priority.
  - the laneway speed is to be nominated to ensure stopping sight distances are appropriate; and
  - laneway reserve to be designed according to IPWEA Subdivision Guidelines Section 3 and with details on the landscaping, 1.5 m internal footpath and lighting within the reserve.
21. Once plans are approved construction is to be in accordance with the approved plans and be completed before the development is occupied.
22. 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.
23. Before submission of a building permit and to enable shared access between the subject lot (Lot 76) and adjoining lot (Lot 66), an easement in gross must be registered on the certificate of title of both lots to secure rights of carriageway over the vehicle access way(s) the subject of this development approval. The easements must be at the full cost of the landowner(s) and to the satisfaction of the City of Bunbury.
24. After completion of the laneway and prior to occupation an easement over the laneway network proposed in Lot 76 for the benefit of the City are to be placed on the relevant certificates of title of any relevant lots specifying access rights. Notice of this easement(s) is to be included on a lodged diagram or plan of survey (deposited plan). The easement is to state as follows:

*'The purpose of the easement is to provide pedestrian, vehicular and servicing connectivity'.*

**Tony Arias**  
Presiding Member, Regional DAP



25. Before submission of a building permit, detailed design plans for footpaths along the internal new access lane and Upper Esplanade are to be submitted to the City of Bunbury for approval. Footpaths are to be connected to the existing path network and be constructed to a minimum width of 2.5m metres along Upper Esplanade.
26. Before the development is occupied, the access way and crossover proposed on Lot 66 shall be constructed and drained at the full cost of the landowner of Lot 76 to the satisfaction of the City of Bunbury.

#### Waste and Stormwater Management

27. The development is to comply with the approved Waste Management Plan (Dated 8 May 2024). The approved plan shall be implemented and adhered to at all times, to the satisfaction of the City of Bunbury.
28. Before 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.

29. Before submission of a building permit, a revised 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 and be implemented in accordance with the approved plan prior to the development being occupied.

The civil engineering detail of the revised Stormwater and Drainage Management Plan shall be provided earlier in the process, as it will determine the drainage infrastructure required to support the development. The revised Stormwater and Drainage Management Plan to be and as a minimum it must address:

- proposed stormwater management for stage 1 and stage 2 development;
- amended proposed use of infiltration tanks as an adequate solution to stormwater drainage within POS areas.
- detention area(s) are to be adopted utilising the natural land topography with a sufficient overflow pit-pipe connection to the local road;
- 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.

**Tony Arias**  
Presiding Member, Regional DAP





30. Before the development is occupied, the property must be connected to the Water Corporation reticulated sewerage system.

#### 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 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.
3. 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](http://www.bunbury.wa.gov.au)
4. With regard to condition 15, 16, 23 and 24, obligations to satisfy the requirements of these conditions may change as a consequence of the final ownership arrangements for the internal laneway and public open space. This includes the potential for them to be placed into public ownership under the care and control of the City of Bunbury, rendering aspects or requirements of the conditions redundant
5. The developer / landowner is advised that the subject land is located within a registered Aboriginal heritage site under the Aboriginal Heritage Act 1972 as amended.

This development approval does not remove or affect any statutory responsibility or obligation the developer / landowner may have under the Aboriginal Heritage Act 1972 as amended. The developer / landowner is advised to contact the relevant State Government public authority(s) before commencing any site works to ensure that your statutory responsibilities or obligations are met.

Please note that damaging or altering an Aboriginal heritage site constitutes an offence under the Aboriginal Heritage Act 1972 as amended and is punishable by law. Further information can be obtained from the Department of Planning, Lands and Heritage.

**Tony Arias**  
Presiding Member, Regional DAP



6. The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Water and Environmental Regulation for further advice in this regard.

The applicant is obliged to submit a native vegetation clearing permit for landscaped areas, under Part V Division 2 of the Environmental Protection Act 1986, as the relevant clearing exemption (Regulation 5, Item 1 of the Clearing Regulations) does not allow clearing for any purpose other than to construct a building or structure within a development approval. It is recommended that an investigation into current environmental sensitivities and constraints is undertaken to inform the permit application.

7. It is recommended that the application undertake a self-assessment to ensure that a referral is not required under the Environment Protection and Biodiversity Conservation Act 1999. Instructions to undertake a self-assessment are provided on the Department of Climate Change, Energy, the Environment and Water website: <https://www.dcceew.gov.au/environment/epbc/advice/self-assessments>
8. It should also be noted that the clearing of native vegetation within the City of Bunbury may result in impacts upon threatened species that are protected under the Commonwealth Environment Protection & Biodiversity Conservation Act 1999. Proponents are advised to contact DWER Native Vegetation Regulation by email [admin.nvp@dwer.wa.gov.au](mailto:admin.nvp@dwer.wa.gov.au) or by telephone 63647098.
9. In relation to condition 19, the City of Bunbury advises that the site is identified as having native fauna; specifically, Quenda. The owner is advised to contact the Department of Biodiversity, Conservation and Attractions (DBCA) for advice regarding fauna management procedures and supervised clearing with reference to the need for a Quenda trapping and relocation program prior to development.

A handwritten signature in black ink that reads "Tony Arias".

**Tony Arias**  
Presiding Member, Regional DAP



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

**REASON:** The site is zoned Tourism Zone under the City's LPS8 where 'Holiday Accommodation' land use is a discretionary use and capable of approval. Clause 27 (2) and the Restricted Use 7 (R.U.7) provisions of LPS 8 allows for 'Holiday Accommodation' within the Tourism Zone be occupied as 'Unrestricted Length of Stay'. The proposed land uses were considered consistent with the objectives of the 'Tourism' zone.

The Panel considered that the proposed land uses were consistent with the planning framework, in particular the General Back Beach Structure Plan (2015), Back Beach Tourism Detailed Structure Plan Northern and Southern Precincts (2015). The Structure Plan development generally complies with the objectives of the Structure Plans.

The site is location in proximity to Bunbury back beach, frontage to Ocean Drive and Upper Esplanade, and similar Tourism site to the south provides an appropriate context for the proposed 'Holiday Accommodation' land use.

The Panel noted that submissions were received during the advertising period which had raised concerns including, traffic safety, building height and protection of remnant vegetation and fauna. It considered that these matters were comprehensively addressed in the RAR and where appropriate were the subject of management conditions to address potential impacts.

**4. Form 2 DAP Applications**

Nil.

**5. Section 31 SAT Reconsiderations**

Nil.

**Tony Arias**  
Presiding Member, Regional DAP



## PART D – OTHER BUSINESS

### 1. State Administrative Tribunal Applications and Supreme Court Appeals

The DAP noted the status of the following State Administrative Tribunal Applications and Supreme Court Appeals:

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 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/23/02506 DR199/2023	Shire of Augusta-Margaret River	Lot 11 & 12 Fearn Avenue, Margaret River	Proposed Hotel and Restaurant	22 December 2023
DAP/23/02510 DR84/2024	Shire of Harvey	Lot 28 (No.79) Tredrea Place, Myalup	Workforce Accommodation	13 June 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.

### 3. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 3:10pm.

**Tony Arias**  
Presiding Member, Regional DAP