



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 14 December 2021; 9:30am
Meeting Number: RJDAP/38
Meeting Venue: Electronic Means

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

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DAP Members

Ms Kanella Hope (A/Presiding Member)
Mr Justin Page (Third Specialist Member)

Item 8.1

Cr Steve Gilbert (Local Government Member, Shire of Moora)

Item 8.2

Cr Mike Walmsley (Local Government Member, Shire of Waroona)
Cr Naomi Purcell (Local Government Member, Shire of Waroona)

Officers in attendance

Item 8.1

Mr Joe Douglas (Shire of Moora C/O Exurban Rural & Regional Planning)
Mr Alan Leeson (Shire of Moora)

Item 8.2

Mr Greg Delahunty (Shire of Waroona)

Minute Secretary

Ms Ashlee Kelly (DAP Secretariat)
Ms Megan Ventris (DAP Secretariat)

Applicants and Submitters

Item 8.1

Mr Ross Underwood (Planning Solutions)
Mr Hasan Ehdeyhed (CBH)
Ms Giselle Allix (CBH)

Item 8.2

Mr Paul Kotsoglo (Planning Solutions)
Mr Nic Watson (Planning Solutions)
Mr Sam Gillham (Sectorone)
Mr Grant Davey (Matador Capital)
Mr Chris Bath (Matador Capital)

Members of the Public / Media

Nil

1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 9.34am on 14 December 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

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



1.1 Announcements by Presiding Member

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

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

2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Cr Tracy Lefroy (Local Government Member, Shire of Moora)
Mr Jarrod Ross (A/Deputy Presiding Member)

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 A/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 13 December 2021.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP Member, Mr Paul Kotsoglo, declared a Pecuniary Interest in items 8.1 & 8.2. Mr Kotsoglo is Managing Director of Planning Solutions. Planning Solutions are the applicant for both applications

DAP Member, Cr Tracy Lefroy, declared an Indirect Pecuniary Interest in item 8.2. We are farmers and, due to the Cooperative structure of the CBH Group, have a shareholding in CBH Group.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the A/Presiding Member determined that the members listed above, who had disclosed a Direct and Indirect Pecuniary Interest, are not permitted to participate in the discussion and voting on the items.

DAP Member, Mr Justin Page, declared an Impartiality Interest in items 8.1 & 8.2. In Mr Page's role as Specialist Member of the Regional Joint Development Assessment Panel, Mr Page routinely participate in Regional JDAP's with Mr Paul Kotsoglo of Planning Solutions, who is usually the Presiding Member of this panel.



In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Members, Cr Naomi Purcell and Cr Mike Walmsley, declared that they participated in a prior presentation from the proponent in relation to the application at item 8.2. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Purcell and Cr Walmsley acknowledged that they are not bound by any previous decision or resolution of the local government and they undertook to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the A/Presiding Member determined that the members listed above, who had disclosed an Impartiality Interest are permitted to participate in the discussion and voting on the items.

DAP Member, Ms Kanella Hope, declared an Impartiality Interest in items 8.1 & 8.2. In Ms Hope's role as Deputy Presiding Member of the Regional Joint Development Assessment Panel, Ms Hope routinely participates in Regional JDAP's with Mr Paul Kotsoglo of Planning Solutions, who is usually the Presiding Member of this panel.

Also, as a member of the Planning Institute of Australia, Ms Hope has recently engaged in general discussion about broad strategic planning directions in the South West of WA with Ross Underwood of Planning Solutions, who is also on the PIA Board.

Ms Hope declared that this would not affect her ability to make sound judgement in these matters.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member, Mr Ray Haeren determined that Ms Hope, was permitted to participate in the discussion and voting on the items.

7. Deputations and Presentations

- 7.1** Mr Ross Underwood (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.2** Mr Alan Leeson (Shire of Moora) addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.
- 7.3** Mr Joe Douglas (Shire of Moora C/O Exurban Rural & Regional Planning) addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

The presentations at Item 7.1 – 7.3 were heard prior to the application at Item 8.1.



7.4 Mr Paul Kotsoglo (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.

7.5 Shire of Waroona officers addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

The presentations at Items 7.4 - 7.5 were heard prior to the application at Item 8.2.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 252 on Deposited Plan 420317, Moora

Development Description: Proposed additions to existing approved rural industry (i.e. New rail siding, fixed rail loading facility & various associated improvements)

Applicant: Planning Solutions

Owner: Cooperative Bulk Handling Limited and the State of Western Australia

Responsible Authority: Shire of Moora

DAP File No: DAP/21/02092

REPORT RECOMMENDATION

Moved by: Mr Steve Gilbert

Seconded by: Mr Justin Page

With the agreement of the mover and seconder the following amendments were made:

(i) To amend the address of the location of the development to read as follows:

***Lot 8 on Deposited Plan 419100 & Portion of Findlater Street Road Reserve,
Moora-Lot 252 on Deposited Plan 420317, Moora***

REASON: In December 2021, CBH obtained a new certificate of title for the subject site, following the closure of portion of Findlater Street and its amalgamation into Lot 8.

(ii) That Condition No. 5 & Condition No. 7 be deleted, and the remaining conditions be renumbered accordingly.

REASON: There is agreement between the Shire and the applicant to delete both conditions. In addition, the Panel agreed it was reasonable to delete these conditions.



That the Regional Joint Development Assessment Panel resolve to:

1. **Approve** DAP Application reference DAP/21/02092 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 provisions of the Shire of Moora Local Planning Scheme No.4, subject to the following conditions:

Conditions

1. This decision constitutes development approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The approved development shall be undertaken generally in accordance with the plans and undertakings provided by the applicant and forming the Application for Development Approval stamp dated 16 September 2021 (i.e. Document Reference: 210909 7650 DA Report [Rev1] including Appendices 1 to 8) subject to any modifications required as a consequence of any condition/s of this approval.
3. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of the Regional Joint Development Assessment Panel.
4. Prior to commencement of development a final updated Drainage Assessment Report and associated civil engineering design drawings shall be submitted to the local government for consideration of endorsement in consultation with Department of Water and Environmental Regulation.
5. Prior to commencement of development a Construction Management Plan must be submitted to, and approved by, the local government. The management plan shall detail how the following matters are proposed to be managed:
 - All forward works for the site;
 - Access to and from the site by construction vehicles including directional signage;
 - Access approvals and/or agreements as may be required;
 - Protection of infrastructure within relevant roads and the railway reserve;
 - Security fencing around construction sites;
 - Site office/s and ablution facilities including effluent disposal arrangements;
 - Sand drift and dust management;
 - The delivery of materials and equipment to the site;
 - The storage of materials and equipment on the site;
 - Parking arrangements for the contractors and subcontractors;
 - Waste management and disposal;
 - Traffic management; and
 - Other matters likely to impact on the surrounding properties.

The approved Construction Management Plan shall be adhered to throughout construction of the development.



6. Prior to commencement of development the proponent shall demonstrate to the satisfaction of the local government that a suitable means of access to/from Lot 251 on Deposited Plan 419100 will be provided and maintained both legally and physically.
7. Within six (6) months of occupancy of the development, an Environmental Acoustic Assessment shall be submitted to the local government's satisfaction advising whether noise levels received at the most noise sensitive locations identified in the Noise Impact Assessment Report submitted in support of the application (i.e. Document Ref: SLR Ref: 675.30030-R03 Version No:-v1.0 dated May 2021) comply with the Environmental Protection (Noise) Regulations 1997. If the Environmental Acoustic Assessment submitted identifies non-compliance with the noise regulations, additional noise mitigation measures are to be implemented within 60 days to the satisfaction of the local government to achieve compliance.
8. All external lighting is to be designed, baffled and located to prevent any light spill onto the adjoining properties and to motorists on Bindoon-Moora Road in accordance with Australian Standard AS4282-1997 entitled 'Control of the Obtrusive Effects of Outdoor Lighting' to the satisfaction of the local government in consultation with Main Roads WA.
9. The proponent shall ensure suitable potable water supply and effluent disposal facilities / infrastructure are designed, installed and maintained for the life of the development in accordance with the local government's requirements in consultation with the Department of Health as may be required.

Advice Notes

1. The proponent is responsible for securing all necessary approvals and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this determination notice alleviates the need for the proponent to comply with all relevant local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the proponent is involved. Without this obligation, the proponent is responsible for:
 - a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called required by law before the development the subject of this development approval can be lawfully commenced and to carry out the activity for its duration;
 - b) Providing any notifications;
 - c) Securing tenure/permission from the relevant owner to use private or public land not owned by the proponent (including for access required by conditions of approval); and
 - d) Ensuring the correct siting of all structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the proponent to ensure compliance with this determination notice and all applicable provisions.



2. Should any works be required within the Bindoon-Moora Road road reserve, including changes to existing crossovers and/or additional or upgraded culverts, the proponent must submit an application to Main Roads WA for approval to proceed. Applications must conform to the Main Roads WA document entitled 'Procedure for Seeking Approval to Undertake Works within the Main Roads Reserve' which is available from Main Roads' website <http://www.mainroads.wa.gov.au>. No works are to commence within the road reserve until Main Roads WA has approved the required application.
3. The proponent is advised Main Roads WA requires permits to be obtained for overweight and oversized vehicles associated with the proposed development. It is recommended the proponent liaise with Main Roads WA Heavy Vehicle Services Division to confirm and address the requirements for Over Sized Over Mass (OSOM) loads on all roads proposed to be used by oversized vehicles during the construction phase of the development and any maintenance or repair works required thereafter.
4. If an applicant or owner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The proposal is a major investment that will significantly upgrade the Moora facilities. The proposal is consistent with the planning framework and the panel is satisfied that approval is warranted. Although the applicant requested Condition 9 be deleted, the panel agreed it should remain. Reasons to keep Condition 9 were that this is not an unreasonable obligation, and it is an action that is pre-empted in the applicants Acoustic Report. This report was advertised so community members may be anticipating this. This is a precautionary approach, and although the upgrade is an improvement on the existing circumstances, this action may assist the Shire and CBH in the future should any noise complaints arise.

Cr Steve Gilbert (Shire of Moora) left the panel at 10.06am.

Cr Mike Walmsley and Cr Naomi Purcell (Shire of Waroona) joined the panel at 10.06am.

8.2 Lot 3 Johnston Road, Waroona

Development Description:	Proposed Solar Farm
Applicant:	Planning Solutions
Owner:	Rangers Loaders Pty Ltd
Responsible Authority:	Shire of Waroona
DAP File No:	DAP/21/02088



REPORT RECOMMENDATION

Moved by: Cr Mike Walmsley

Seconded by: Cr Naomi Purcell

That the Regional Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/21/02088 is appropriate for consideration as a “solar farm” land use and compatible with the objectives of the zoning table in accordance with Clause 3.3 of the Shire of Waroona Local Planning Scheme No. 7;
2. **Approve** DAP Application reference DAP/21/02088 and accompanying plans (Site Layout Plan, J000096D0004 Rev 2 26/11/21) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 68 of the Shire of Waroona Local Planning Scheme No. 7, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. Prior to applying for a Building Permit a landscape and visual amenity assessment and management plan is to be submitted to and approved by the Shire of Waroona. The plan must include the following detail:
 - a. Appropriate development setbacks to accommodate screening measures including retention of existing vegetation within the development setback areas and details of proposed vegetation screening including species, location and pot size;
 - b. Verge areas; and
 - c. Fencing detail.

The approved plan is to be implemented prior to the commissioning of the solar farm and maintained for the duration of the development.

3. Prior to applying for a Building Permit the applicant shall provide an amended site plan for endorsement by the Shire of Waroona reflecting the outcomes of the landscape and visual amenity assessment and management plan referred to in condition No.2. Development is to be undertaken in accordance with the endorsed amended site plan.
4. Prior to applying for a Building Permit a stormwater management plan is to be submitted to and approved by the Shire of Waroona. The approved plan must be implemented for the duration of the development.
5. Prior to applying for a Building Permit a Construction Transport Management Plan is to be submitted to and approved by the Shire of Waroona to consider and identify the cumulative traffic impacts from construction traffic that use local roads. The recommendations of the approved Construction Transport Management Plan are to be implemented to the satisfaction of the Shire of Waroona.



6. Prior to commencing construction, the applicant shall enter into an agreement with the Shire of Waroona, prepared at the applicants cost, having regard to the approved Construction Transport Management Plan referred to in condition 5, by which the operator agrees to financially contribute to the following:
 - a. repair and maintenance of local roads (during the construction phase) as required for the purpose of the solar farm construction and to the satisfaction of the Shire of Waroona.
7. Prior to applying for a Building Permit the applicant shall submit and have approved by the Shire of Waroona, and thereafter implement to the satisfaction of the Shire of Waroona, a 'Construction Management Plan' addressing matters including:
 - a. Signage;
 - b. dust management;
 - c. noise management;
 - d. construction operating hours;
 - e. complaints management;
 - f. temporary worker's ablution facilities; and
 - g. environmental management.
8. Prior to the commencement of works the applicant is to construct and seal the crossover to Johnston Road upgrade the adjacent section of Johnston Road in accordance with the Shire of Waroona Heavy Vehicle Driveway Crossover Details Specification to the satisfaction of the Shire of Waroona.
9. Prior to the commissioning of the solar farm an Asset Protection Zone (APZ) is to be implemented around the solar infrastructure to maintain a minimum Bushfire Attack Level of BAL-29.

The APZ must be maintained for the life of the development.

Advice Notes

1. Before development can take place, the proposed crossing of Meredith Drain needs to be approved by the Water Corporation. It should be noted that a crossing may not be approved.
2. Connections to the Water Corporation drain shall be submitted and approved as an Application to Connect to a Main Drain. Please contact the Water Corporation via emailing land.servicing@watercorporation.com.au
3. The developer is required to fund the full cost of protecting or modifying any existing Water Corporation drainage infrastructure which may be affected by the development.



4. The stormwater management plan (SMP) is to be prepared for the site in accordance with the Stormwater Management Manual for Western Australia (DWER, 2004-2007) and Decision process for the stormwater management in Western Australia (DWER, 2017). that demonstrates the appropriate management of small, minor, and major (1% AEP) rainfall events. The SMP should demonstrate how the pre-development and post-development outflow of stormwater from the site will be managed and demonstrate no effects to the natural surface water hydrology of the wetlands and drainage lines within the development area.
5. Developments within the Harvey Drainage District are required to contain the flows from a one in one-hundred-year storm event on site. Discharge to Water Corporation drains must be compensated to pre-development levels. The developer of this land should liaise with Water Corporation to determine detailed planning requirements as this area could be prone to future flooding. Before development takes place, the developer is required to provide calculations from a consulting engineer to demonstrate, to our satisfaction that the runoff from the development has been restricted to pre-development levels. To determine the flood level the developer should contact the Department of Water regarding the Drainage and Water Management Plan.
6. Acid sulfate soils (ASS) risk mapping indicates that the site is located within an area identified as representing a low to moderate risk of ASS occurring within three metres of the natural soil surface. Please refer to the 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: <https://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.
7. Under section 51C of the *Environmental Protection Act 1986* (EP Act), clearing of native vegetation is an offence unless undertaken under the authority of a clearing permit, through the referral process, the relevant department decides that a clearing permit is not required, or the clearing is subject to an exemption. Exemptions for clearing that are a requirement of written law, or authorised under certain statutory processes, are contained in Schedule 6 of the EP Act. Exemptions for low impact routine land management practices outside of environmentally sensitive areas (ESAs) are contained in the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* (the Clearing Regulations).

Based on the information provided, the proposed clearing is unlikely to be exempt and a clearing permit is likely to be required.

8. Wastewater considerations for temporary worker's ablution facilities will need to comply with the *Health (Miscellaneous Provisions) Act 1911* and related regulations and guidelines.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The panel was satisfied that the proposal is consistent with the planning framework and that approval is warranted. The land is not priority agriculture and has already been cleared, and a merits-based assessment of the installation of the solar panels was considered acceptable. The conditions proposed were considered appropriate, including in relation to further visual amenity management, noting the applicant was agreeable to implementing these measures.



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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The A/Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 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

11. General Business

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

12. Meeting Closure

There being no further business, the A/Presiding Member declared the meeting closed at 10.33am.