



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 5 July 2021; 10:00am
Meeting Number: RJDAP/28
Meeting Venue: Via electronic means

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

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Attendance

DAP Members

Mr Clayton Higham (Presiding Member)
Mr Tony Arias (A/Deputy Presiding Member)
Mr Jason Hick (A/Third Specialist Member)
Cr Paul Gillett (Local Government Member, Shire of Harvey)
Cr Tania Jackson (Local Government Member, Shire of Harvey)

Officers in attendance

Ms Ashlee Rose (Shire of Harvey)
Ms Kelly Beauglehole (Shire of Harvey)
Mr Rick Lotznicker (Shire of Harvey)
Mr Simon Hall (Shire of Harvey)
Mr Ernest Samec (Department of Planning, Lands and Heritage)

Minute Secretary

Ms Adele McMahon (DAP Secretariat)
Ms Ashlee Kelly (DAP Secretariat)

Applicants and Submitters

Mr Josh Watson (Planning Solutions)
Mr Benham Bordbar (Transcore)
Mr Regan Harray (7-Eleven)
Mr Lukas Weeks (Leyton Property)

Members of the Public / Media

There were 2 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 10:02am on 5 July 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

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

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

Mr Clayton Higham
A/Presiding Member, Regional JDAP



1.1 Announcements by Presiding Member

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

In response to the COVID-19 situation, this meeting was convened via electronic means. Members were reminded to announce their name and title prior to speaking.

2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Ms Kanella Hope (Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)

3. Members on Leave of Absence

DAP Members, Ms Kanella Hope and Mr Justin Page has been granted leave of absence by the Director General for the period of 5 July 2021 to 16 July 2021 inclusive.

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 notes an addendum to the agenda was published to include details of a DAP request for further information and responsible authority response in relation to Item 8.1, received on 30 June & 1 July 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 item 8.1. Mr Kotsoglo is the Managing Director of Planning Solutions, the applicant for this proposal

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2017, the A/Presiding Member determined that the member listed above, who had disclosed a Pecuniary Interest, was not permitted to participate in the discussion and voting on the item.



7. Deputations and Presentations

- 7.1 Mr Benham Bordbar (Transcore) 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 Josh Watson (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.3 The Shire of Harvey addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

Cr Tania Jackson left the panel at 10:50am.

PROCEDURAL MOTION

Moved by: Mr Tony Arias

Seconded by: Mr Jason Hick

That the Regional JDAP receive legal advice from representatives of the Department of Planning, Lands and Heritage and that such advice is received behind closed doors, in accordance with section 5.10.2g of the DAP Standing Orders 2020.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To receive legal advice

The meeting was closed to the public at 10:50am.

PROCEDURAL MOTION

Moved by: Mr Tony Arias

Seconded by: Mr Jason Hick

That the meeting be reconvened and reopened to the public

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To reconvene the meeting

The meeting was reopened to the public at 11:20am.



8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lots 66 & 67 (147 & 149) Grand Entrance, Australind

Development Description: Proposed Service Station
Applicant: Mr Josh Watson, Planning Solutions
Owner: Treendale Nominees
Responsible Authority: Shire of Harvey
DAP File No: DAP/21/01963

REPORT RECOMMENDATION

Moved by: Cr Paul Gillett

Seconded by: NIL

That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/21/01963 and accompanying plans Cover Sheet (Drawing No. G001-B and G002-B), Site Plan (A101-B), Proposed Site Plan (A102-H) Architectural (Drawing No. A104-C, A103-D, A201-C, A202-E, A203-B, A204-B), Signage (S101-H and S201-C) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4.2.1 of the Shire of Harvey District Planning Scheme No. 1, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of two (2) 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 and use shall remain compliant with the 'Service Station' use as defined by the Shire of Harvey's District Planning Scheme No.1.
3. The development shall be in accordance with the attached approved development plans and documentation which form part of this development approval, subject to modifications required as a consequence of any condition(s) of this approval. The approved plans shall not be modified or altered without first obtaining approval from the Shire.

Prior to issue of Building Permit

4. Prior to the issuing of a Building Permit, the proponent shall submit a revised development plans to:
 - a. remove the right-turn in pocket across Grand Entrance, so that access is only provided by the existing right of carriageway easements;
 - b. provide updated signage plans and details to reflect modified site layoutto the satisfaction of the Shire of Harvey.

Mr Clayton Higham
A/Presiding Member, Regional JDAP



5. Prior to the issuing of a Building Permit, a Groundwater Management Plan is required to be approved by the Shire in consultation with Department of Water and Environmental Regulation, including details on mitigating risk, consistent with the Department's Water Quality Protection Note. 56 'Tanks for fuel and chemical storage near sensitive water resources, 2018'.
6. Prior to a Building Permit being issued, a Landscaping and Reticulation Plan must be submitted for approval by the Shire. The Landscaping Plan shall address the following:
 - a. Proposed development with natural and finished ground levels;
 - b. Exact species (endemic to the area), location, number and size of proposed plants and ground treatments;
 - c. Density of landscaping along Grand Entrance to include medium to high plant species to assist with buffering to minimise adverse impacts on the residences;
 - d. Reticulation of landscaped areas, including the source of water supply and proposed responsibility of maintenance;
 - e. Treatment of paved/sealed areas (parking and pedestrian); and
 - f. Fence material, height and treatment (as applicable).
7. Prior to the issuing of a Building Permit, a Bank Guarantee or Bond of \$5,000.00 shall be submitted for the purpose of Landscaping and Reticulation. Such Bank Guarantee or Bond shall be held by the Shire of Harvey for a minimum period of 2 years for the installation, establishment and management of the required landscaping for a minimum of 2 years or as required by the Shire.
8. Prior to the issuing of a Building Permit, a detailed Stormwater Management Plan and specifications shall be submitted for approval by the Shire. The Stormwater Management Plan needs to demonstrate that all stormwater will be managed in accordance with the 'Decision process for stormwater management in WA (DWER 2009)' and the 'Stormwater Management Manual for Western Australia (DWER 2004-2007)'.
9. Prior to the issuing of a Building Permit, an Outdoor Lighting Plan shall be prepared and submitted for approval by the Shire, identifying the proposed lighting design in accordance with *AS 428-1997 Control of the Obtrusive Effects of Outdoor Lighting*.
10. Prior to the issuing of a Building Permit, Lots 66 and 67 being amalgamated and relevant Right of Carriageway easements updated accordingly.



Prior to commencement of site works

11. Prior to the commencement of any works on site, a Construction Management Plan shall be prepared and submitted for approval by the Shire and thereafter implemented to the satisfaction of the Shire. The Construction Management Plan shall detail how the following matters will be managed during the construction phase:
 - a. Minimises the impact of the approved development on the amenity of the locality due to the transportation of materials to and from the site;
 - b. Ensures the use of buildings, works and materials on the site do not generate unreasonable levels of noise, vibration, dust, drainage, wastewater, waste products and reflected light;
 - c. Details the management applicable to construction traffic movement, occupational health and safety, signage, dust management and environmental management in relation to the approved development;
 - d. Manages weed and pest nuisances on the site and in the locality; and
 - e. Incorporates any suggested management measures from accompanying technical assessment reports.

Prior to occupation and/or use of the development

12. The acoustic wall on the southern boundary shall be constructed prior to occupation and/or use of the approved development.
13. All landscaping and reticulation shown on the approved Landscaping and Reticulation Plan approved under Condition No.6, shall be installed to the satisfaction of the Shire, prior to occupation and/or use of the approved development and thereafter maintained.
14. Prior to the occupation and/or use of the approved development, all verge areas shall be suitably grassed or planted and maintained at all times to the satisfaction of the Shire. The verge shall not be used for the purpose of parking nor for overflow parking in the case of a common driveway being shared.
15. All stormwater management measures shall be implemented in accordance with the Stormwater Management Plan approved under Condition No. 8, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
16. Prior to the occupation and/or use of the approved development vehicle crossovers shall be constructed, and thereafter maintained in accordance with *Policy 17.5 Crossovers – Subsidy* to the satisfaction of the Shire.
17. Prior to occupation and/or use of the development a minimum of 12 parking bays must be provided as per the approved plans the subject of this Development Application and to the satisfaction of the Shire.



18. The car parking areas and access ways within the approved development shall be suitably constructed, sealed, drained, kerbed, marked and thereafter maintained, to the specification of the Shire prior to occupation and/or use of the approved development.
19. All line marking of car parking areas and access ways shall be undertaken as shown on the approved plan to the satisfaction of the Shire prior to occupation and/or use of the approved development.
20. Pedestrian access ways shall be designed and constructed within the site, and thereafter maintained, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
21. The approved development shall be connected to the reticulated water and sewer system to the satisfaction of the Shire prior to occupation and/or use of the approved development.

In perpetuity

22. Parking areas, loading bays and access lanes must be kept available for their intended purposes at all times and should not be used for general storage or any purpose other than the use proposed, parking, loading/unloading and/or access.
23. Goods shall not be stored, or left exposed, outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Shire.

Advice Notes

1. The development the subject of this approval may also be regulated by the Building Code of Australia and a separate building permit must be granted before the development commences.
2. The development is required to comply with the *Disability Access to Premises Building Standards 2010* and *AS 1428.1 Design for Access and Mobility*.
3. The approved development is to comply with the *Food Act 2008*, *Food Standards Code*, *Food Regulations* and *Health Act 1911* (as applicable). Contact with the Shire's Environmental Health Department is encouraged prior to occupation and/or use to ensure compliance.
4. The illuminated signage proposed as part of the development shall not be illuminated with an intensity that could, in the opinion of Council, create a traffic hazard or cause nuisance to the public.
5. With regard to Condition 16, where a new crossover is proposed, and before construction of the new crossover can commence, a Crossover Application form must be submitted and approved by the Shire.



6. The owner/applicant is reminded of their obligation to liaise with the Department of Mines and Petroleum and the Department of Water and Environmental regulation to obtain the necessary approvals in relation to the approved development of the Service Station.
7. To mitigate against water contamination risks the developer should follow the Department of Water and Environmental Regulation's advice contained in the following Water Quality Protection Notes (WQPN):
 - WQPN 10 'Contamination spills – emergency response'
 - WQPN 49 'Service Stations'
 - WQPN 56 'Tanks for fuel and chemical storage near sensitive water resources'
 - WQPN 62 'Tanks for underground chemical storage'
 - WQPN 65 'Toxic and hazardous substances – storage and use'
8. The proposed development is located within the Bunbury Groundwater Area, proclaimed under the 'Rights in Water and Irrigation 1914 (RIWI Act)'. The owner/applicant is advised to contact DWER for a licence to dewater under the RIWI Act, if the proposed development activity is to exceed the threshold specified at <http://www.water.wa.gov.au/licensing/water-licensing/exemptions>.
9. The owner/applicant should refer to the Department's acid sulfate soil guidelines for information to assist with the management of ground disturbing works. Link <http://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.
10. The Shire of Harvey advises that the development the subject of this development approval must comply with Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment.
11. Any external speakers, PA systems, or the like shall be localised in all bowlers and other points of address for customers and staff and set at a volume that is consistent with the Environmental Protection (Noise) Regulations 1997.

The Report Recommendation LAPSED for want of a seconder.

Mr Clayton Higham
A/Presiding Member, Regional JDAP



ALTERNATE MOTION

Moved by: Mr Tony Arias

Seconded by: Mr Jason Hick

With the agreement of the mover and seconder the following amendment was made;

- (i) That Condition No. 6 be deleted and the remaining Conditions be renumbered accordingly;

~~Prior to the issuing of a Building Permit, a Bank Guarantee or Bond of \$5,000.00 shall be submitted for the purpose of Landscaping and Reticulation. Such Bank Guarantee or Bond shall be held by the Shire of Harvey for a minimum period of 2 years for the installation, establishment and management of the required landscaping for a minimum of 2 years or as required by the Shire.~~

REASON: Condition 6 was considered unnecessary as Condition 8 provided powers to the Shire to enforce the landscaping works.

That the Regional JDAP regarding DAP Application reference DAP/21/01963 for the development and use on Lots 66 and 67, Australind (**the land**) for retail sales beyond normal trading hours of motor vehicle fuels and convenience goods in a building with a gross leasable floor area greater than 200 sq m (**the use**) as indicated on the development plans Cover Sheet (Drawing No. G001-B and G002-B), Site Plan (A101-B), Proposed Site Plan (A102-H) Architectural (Drawing No. A104-C, A103-D, A201-C, A202-E, A203-B, A204-B), Signage (S101-H and S201-C) (**the development plans**) resolves as follows to:

1. **Determine** under clause 4.2.5 of the Shire of Harvey District Planning Scheme No 1 that the use applied for is a not listed use on the basis the use is not specifically mentioned in Zoning Table 14 and does not fall within the land use interpretation of a 'Service Station' because the proposed use will not involve any mechanical repairs and does not fall with the land use interpretation a 'Convenience Store' because the retail convenience building proposes a gross leasable area greater than 200 sq m.
2. **Determine** on the planning merits under clause 4.2.5(b) of the Scheme that the use is consistent with the objectives and purpose of the land zoned 'Other Commercial – Showroom' and was advertised in accordance with clause 64 of the deemed provisions from 23 March 2021 to 12 April 2021 as indicated on page 9 of the Shire's RAR.
3. **Approve** DAP Application reference DAP/21/01963 for the development and use of the land for retail sales beyond normal trading hours of motor vehicle fuels and convenience goods in a building with a gross leasable floor area greater than 200 sq m as indicated on the development plans in accordance with clause 68 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and in accordance with clauses 4.2.5 and 4.2.5(b) of the Shire of Harvey District Planning Scheme No 1, subject to the following conditions:



Conditions

1. This decision constitutes planning approval only and is valid for a period of 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 development shall be in accordance with the attached approved development plans and documentation which form part of this development approval, subject to modifications required as a consequence of any condition(s) of this approval. The approved plans shall not be modified or altered without first obtaining approval from the Shire.

Prior to issue of Building Permit

3. Prior to the issuing of a Building Permit, the proponent shall submit a revised development plans to:
 - a. remove the right-turn in pocket across Grand Entrance, so that access is only provided by the existing right of carriageway easements;
 - b. provide updated signage plans and details to reflect modified site layoutto the satisfaction of the Shire of Harvey.
4. Prior to the issuing of a Building Permit, a Groundwater Management Plan is required to be approved by the Shire in consultation with Department of Water and Environmental Regulation, including details on mitigating risk, consistent with the Department's Water Quality Protection Note. 56 'Tanks for fuel and chemical storage near sensitive water resources, 2018'.
5. Prior to a Building Permit being issued, a Landscaping and Reticulation Plan must be submitted for approval by the Shire. The Landscaping Plan shall address the following:
 - a. Proposed development with natural and finished ground levels;
 - b. Exact species (endemic to the area), location, number and size of proposed plants and ground treatments;
 - c. Density of landscaping along Grand Entrance to include medium to high plant species to assist with buffering to minimise adverse impacts on the residences;
 - d. Reticulation of landscaped areas, including the source of water supply and proposed responsibility of maintenance;
 - e. Treatment of paved/sealed areas (parking and pedestrian); and
 - f. Fence material, height and treatment (as applicable).
6. Prior to the issuing of a Building Permit, a detailed Stormwater Management Plan and specifications shall be submitted for approval by the Shire. The Stormwater Management Plan needs to demonstrate that all stormwater will be managed in accordance with the 'Decision process for stormwater management in WA (DWER 2009)' and the 'Stormwater Management Manual for Western Australia (DWER 2004-2007)'.



7. Prior to the issuing of a Building Permit, an Outdoor Lighting Plan shall be prepared and submitted for approval by the Shire, identifying the proposed lighting design in accordance with *AS 428-1997 Control of the Obtrusive Effects of Outdoor Lighting*.
8. Prior to the issuing of a Building Permit, Lots 66 and 67 being amalgamated and relevant Right of Carriageway easements updated accordingly.

Prior to commencement of site works

9. Prior to the commencement of any works on site, a Construction Management Plan shall be prepared and submitted for approval by the Shire and thereafter implemented to the satisfaction of the Shire. The Construction Management Plan shall detail how the following matters will be managed during the construction phase:
 - a. Minimises the impact of the approved development on the amenity of the locality due to the transportation of materials to and from the site;
 - b. Ensures the use of buildings, works and materials on the site do not generate unreasonable levels of noise, vibration, dust, drainage, wastewater, waste products and reflected light;
 - c. Details the management applicable to construction traffic movement, occupational health and safety, signage, dust management and environmental management in relation to the approved development;
 - d. Manages weed and pest nuisances on the site and in the locality; and
 - e. Incorporates any suggested management measures from accompanying technical assessment reports.

Prior to occupation and/or use of the development

10. The acoustic wall on the southern boundary shall be constructed prior to occupation and/or use of the approved development.
11. All landscaping and reticulation shown on the approved Landscaping and Reticulation Plan approved under Condition No.6, shall be installed to the satisfaction of the Shire, prior to occupation and/or use of the approved development and thereafter maintained.
12. Prior to the occupation and/or use of the approved development, all verge areas shall be suitably grassed or planted and maintained at all times to the satisfaction of the Shire. The verge shall not be used for the purpose of parking nor for overflow parking in the case of a common driveway being shared.
13. All stormwater management measures shall be implemented in accordance with the Stormwater Management Plan approved under Condition No. 8, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
14. Prior to the occupation and/or use of the approved development vehicle crossovers shall be constructed, and thereafter maintained in accordance with *Policy 17.5 Crossovers – Subsidy* to the satisfaction of the Shire.



15. Prior to occupation and/or use of the development a minimum of 12 parking bays must be provided as per the approved plans the subject of this Development Application and to the satisfaction of the Shire.
16. The car parking areas and access ways within the approved development shall be suitably constructed, sealed, drained, kerbed, marked and thereafter maintained, to the specification of the Shire prior to occupation and/or use of the approved development.
17. All line marking of car parking areas and access ways shall be undertaken as shown on the approved plan to the satisfaction of the Shire prior to occupation and/or use of the approved development.
18. Pedestrian access ways shall be designed and constructed within the site, and thereafter maintained, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
19. The approved development shall be connected to the reticulated water and sewer system to the satisfaction of the Shire prior to occupation and/or use of the approved development.

In perpetuity

20. Parking areas, loading bays and access lanes must be kept available for their intended purposes at all times and should not be used for general storage or any purpose other than the use proposed, parking, loading/unloading and/or access.
21. Goods shall not be stored, or left exposed, outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Shire.

Advice Notes

1. The development the subject of this approval may also be regulated by the Building Code of Australia and a separate building permit must be granted before the development commences.
2. The development is required to comply with the *Disability Access to Premises Building Standards 2010* and *AS 1428.1 Design for Access and Mobility*.
3. The approved development is to comply with the *Food Act 2008*, *Food Standards Code*, *Food Regulations* and *Health Act 1911* (as applicable). Contact with the Shire's Environmental Health Department is encouraged prior to occupation and/or use to ensure compliance.
4. The illuminated signage proposed as part of the development shall not be illuminated with an intensity that could, in the opinion of Council, create a traffic hazard or cause nuisance to the public.
5. With regard to Condition 16, where a new crossover is proposed, and before construction of the new crossover can commence, a Crossover Application form must be submitted and approved by the Shire.



6. The owner/applicant is reminded of their obligation to liaise with the Department of Mines and Petroleum and the Department of Water and Environmental regulation to obtain the necessary approvals in relation to the approved development of the Service Station.
7. To mitigate against water contamination risks the developer should follow the Department of Water and Environmental Regulation's advice contained in the following Water Quality Protection Notes (WQPN):
 - WQPN 10 'Contamination spills – emergency response'
 - WQPN 49 'Service Stations'
 - WQPN 56 'Tanks for fuel and chemical storage near sensitive water resources'
 - WQPN 62 'Tanks for underground chemical storage'
 - WQPN 65 'Toxic and hazardous substances – storage and use'
8. The proposed development is located within the Bunbury Groundwater Area, proclaimed under the 'Rights in Water and Irrigation 1914 (RIWI Act). The owner/applicant is advised to contact DWER for a licence to dewater under the RIWI Act, if the proposed development activity is to exceed the threshold specified at <http://www.water.wa.gov.au/licensing/water-licensing/exemptions>.
9. The owner/applicant should refer to the Department's acid sulfate soil guidelines for information to assist with the management of ground disturbing works. Link <http://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.
10. The Shire of Harvey advises that the development the subject of this development approval must comply with Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment.
11. Any external speakers, PA systems, or the like shall be localised in all bowers and other points of address for customers and staff and set at a volume that is consistent with the Environmental Protection (Noise) Regulations 1997.

AMENDING MOTION 1

Moved by: Mr Jason Hick

Seconded by: Mr Tony Arias

That condition no. 8 be amended to read as follows:

*Prior to the ~~issuing of a Building Permit~~ **occupation of the development**, Lots 66 and 67 being amalgamated and relevant Right of Carriageway easements updated accordingly.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide additional time for the amalgamation process to be completed and consistent with timeframes applied in other jurisdictions.

Mr Clayton Higham
A/Presiding Member, Regional JDAP



AMENDING MOTION 2

Moved by: Mr Tony Arias

Seconded by: Mr Clayton Higham

The following amendments were made en bloc;

- (i) That condition no. 3(a) be deleted and the remaining conditions be renumbered accordingly.

REASON: The right turn pocket as proposed was considered to have merit given that there were minimal safety concerns and it would provide a more direct access to the development. It is well located opposite an easement through the street block and therefore was not considered that this would establish a precedent for further access points through the median.

- (ii) That a new condition no. 3 be added to read as follows and the remaining conditions be renumbered accordingly:

The right turn pocket on Grand Entrance as shown on Plan A102-1 to be designed, constructed, and landscaped, at the applicant's cost, to the satisfaction of the Shire, prior to occupation.

REASON: No evidence was provided that the right turn pocket on Grand Entrance would result in an unacceptable level of safety and the proposed deletion would result in additional and unnecessary traffic movements in the area. The right turn pocket was considered to be ideally located given the easements through the streetblock.

The Amending Motion was put and CARRIED (3/1).

For: Mr Clayton Higham
Mr Tony Arias
Mr Jason Hick

Against: Cr Paul Gillett

AMENDING MOTION 3

Moved by: Mr Clayton Higham

Seconded by: Mr Tony Arias

The following amendments were made en bloc;

- (i) That condition no. 9(b) (now condition 10(b)) be amended to read as follows:

Ensures the use of buildings, works and materials on the site do not generate unreasonable levels of noise, vibration, dust, drainage, wastewater, waste products and reflected light beyond the established standards and regulations;

REASON: To provide clarity and guidance on the intent of the condition.

Mr Clayton Higham
A/Presiding Member, Regional JDAP



- (ii) That advice note no.4 be amended to read as follows;

*The illuminated signage proposed as part of the development shall not be illuminated with an intensity that could, ~~in the opinion of Council,~~ create a traffic hazard or cause nuisance to the public **in accordance with AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.***

REASON: To provide clarity and guidance on the Advice Note.

- (iii) That advice note no. 11 be deleted and be included as a new condition no.23.

Any external speakers, PA systems, or the like shall be localised in all bowers and other points of address for customers and staff and set at a volume that is consistent with the Environmental Protection (Noise) Regulations 1997 and only be used for emergency purposes between the hours of 7.00pm and 7.00am.

REASON: This reflects the recommendation in the report of the acoustic expert, and as a condition would provide greater statutory leverage.

The Amending Motion was put and CARRIED UNANIMOUSLY.

ALTERNATE MOTION (AS AMENDED)

That the Regional JDAP regarding DAP Application reference DAP/21/01963 for the development and use on Lots 66 and 67, Australind (**the land**) for retail sales beyond normal trading hours of motor vehicle fuels and convenience goods in a building with a gross leasable floor area greater than 200 sq m (**the use**) as indicated on the development plans Cover Sheet (Drawing No. G001-B and G002-B), Site Plan (A101-B), Proposed Site Plan (A102-H) Architectural (Drawing No. A104-C, A103-D, A201-C, A202-E, A203-B, A204-B), Signage (S101-H and S201-C) (**the development plans**) resolves as follows to:

1. **Determine** under clause 4.2.5 of the Shire of Harvey District Planning Scheme No 1 that the use applied for is a not listed use on the basis the use is not specifically mentioned in Zoning Table 14 and does not fall within the land use interpretation of a 'Service Station' because the proposed use will not involve any mechanical repairs and does not fall with the land use interpretation a 'Convenience Store' because the retail convenience building proposes a gross leasable area greater than 200 sq m.
2. **Determine** on the planning merits under clause 4.2.5(b) of the Scheme that the use is consistent with the objectives and purpose of the land zoned 'Other Commercial – Showroom' and was advertised in accordance with clause 64 of the deemed provisions from 23 March 2021 to 12 April 2021 as indicated on page 9 of the Shire's RAR.



3. **Approve** DAP Application reference DAP/21/01963 for the development and use of the land for retail sales beyond normal trading hours of motor vehicle fuels and convenience goods in a building with a gross leasable floor area greater than 200 sq m as indicated on the development plans in accordance with clause 68 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and in accordance with clauses 4.2.5 and 4.2.5(b) of the Shire of Harvey District Planning Scheme No 1, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 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 development shall be in accordance with the attached approved development plans and documentation which form part of this development approval, subject to modifications required as a consequence of any condition(s) of this approval. The approved plans shall not be modified or altered without first obtaining approval from the Shire.

Prior to issue of Building Permit

3. The right turn pocket on Grand Entrance as shown on Plan A102-1 to be designed, constructed, and landscaped, at the applicant's cost, to the satisfaction of the Shire, prior to occupation.
4. Prior to the issuing of a Building Permit, the proponent shall submit a revised development plans to:
 - a. provide updated signage plans and details to reflect modified site layoutto the satisfaction of the Shire of Harvey.
5. Prior to the issuing of a Building Permit, a Groundwater Management Plan is required to be approved by the Shire in consultation with Department of Water and Environmental Regulation, including details on mitigating risk, consistent with the Department's Water Quality Protection Note. 56 'Tanks for fuel and chemical storage near sensitive water resources, 2018'.



6. Prior to a Building Permit being issued, a Landscaping and Reticulation Plan must be submitted for approval by the Shire. The Landscaping Plan shall address the following:
 - a. Proposed development with natural and finished ground levels;
 - b. Exact species (endemic to the area), location, number and size of proposed plants and ground treatments;
 - c. Density of landscaping along Grand Entrance to include medium to high plant species to assist with buffering to minimise adverse impacts on the residences;
 - d. Reticulation of landscaped areas, including the source of water supply and proposed responsibility of maintenance;
 - e. Treatment of paved/sealed areas (parking and pedestrian); and
 - f. Fence material, height and treatment (as applicable).
7. Prior to the issuing of a Building Permit, a detailed Stormwater Management Plan and specifications shall be submitted for approval by the Shire. The Stormwater Management Plan needs to demonstrate that all stormwater will be managed in accordance with the 'Decision process for stormwater management in WA (DWER 2009)' and the 'Stormwater Management Manual for Western Australia (DWER 2004-2007)'.
8. Prior to the issuing of a Building Permit, an Outdoor Lighting Plan shall be prepared and submitted for approval by the Shire, identifying the proposed lighting design in accordance with *AS 428-1997 Control of the Obtrusive Effects of Outdoor Lighting*.
9. Prior to the occupation of the development, Lots 66 and 67 being amalgamated and relevant Right of Carriageway easements updated accordingly.

Prior to commencement of site works

10. Prior to the commencement of any works on site, a Construction Management Plan shall be prepared and submitted for approval by the Shire and thereafter implemented to the satisfaction of the Shire. The Construction Management Plan shall detail how the following matters will be managed during the construction phase:
 - a. Minimises the impact of the approved development on the amenity of the locality due to the transportation of materials to and from the site;
 - b. Ensures the use of buildings, works and materials on the site do not generate unreasonable levels of noise, vibration, dust, drainage, wastewater, waste products and reflected light beyond the established standards and regulations;
 - c. Details the management applicable to construction traffic movement, occupational health and safety, signage, dust management and environmental management in relation to the approved development;
 - d. Manages weed and pest nuisances on the site and in the locality; and
 - e. Incorporates any suggested management measures from accompanying technical assessment reports.



Prior to occupation and/or use of the development

11. The acoustic wall on the southern boundary shall be constructed prior to occupation and/or use of the approved development.
12. All landscaping and reticulation shown on the approved Landscaping and Reticulation Plan approved under Condition No.6, shall be installed to the satisfaction of the Shire, prior to occupation and/or use of the approved development and thereafter maintained.
13. Prior to the occupation and/or use of the approved development, all verge areas shall be suitably grassed or planted and maintained at all times to the satisfaction of the Shire. The verge shall not be used for the purpose of parking nor for overflow parking in the case of a common driveway being shared.
14. All stormwater management measures shall be implemented in accordance with the Stormwater Management Plan approved under Condition No. 8, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
15. Prior to the occupation and/or use of the approved development vehicle crossovers shall be constructed, and thereafter maintained in accordance with *Policy 17.5 Crossovers – Subsidy* to the satisfaction of the Shire.
16. Prior to occupation and/or use of the development a minimum of 12 parking bays must be provided as per the approved plans the subject of this Development Application and to the satisfaction of the Shire.
17. The car parking areas and access ways within the approved development shall be suitably constructed, sealed, drained, kerbed, marked and thereafter maintained, to the specification of the Shire prior to occupation and/or use of the approved development.
18. All line marking of car parking areas and access ways shall be undertaken as shown on the approved plan to the satisfaction of the Shire prior to occupation and/or use of the approved development.
19. Pedestrian access ways shall be designed and constructed within the site, and thereafter maintained, to the satisfaction of the Shire prior to occupation and/or use of the approved development.
20. The approved development shall be connected to the reticulated water and sewer system to the satisfaction of the Shire prior to occupation and/or use of the approved development.

In perpetuity

21. Parking areas, loading bays and access lanes must be kept available for their intended purposes at all times and should not be used for general storage or any purpose other than the use proposed, parking, loading/unloading and/or access.



22. Goods shall not be stored, or left exposed, outside the building so as to be visible from any public road or thoroughfare to the satisfaction of the Shire.
23. Any external speakers, PA systems, or the like shall be localised in all bowsters and other points of address for customers and staff and set at a volume that is consistent with the Environmental Protection (Noise) Regulations 1997 *and only be used for emergency purposes between the hours of 7.00pm and 7.00am.*

Advice Notes

1. The development the subject of this approval may also be regulated by the Building Code of Australia and a separate building permit must be granted before the development commences.
2. The development is required to comply with the *Disability Access to Premises Building Standards 2010* and *AS 1428.1 Design for Access and Mobility*.
3. The approved development is to comply with the *Food Act 2008*, *Food Standards Code*, *Food Regulations* and *Health Act 1911* (as applicable). Contact with the Shire's Environmental Health Department is encouraged prior to occupation and/or use to ensure compliance.
4. The illuminated signage proposed as part of the development shall not be illuminated with an intensity that could create a traffic hazard or cause nuisance to the public in accordance with AS 4282-1997 Control of the Obtrusive Effects of Outdoor Lighting.
5. With regard to Condition 16, where a new crossover is proposed, and before construction of the new crossover can commence, a Crossover Application form must be submitted and approved by the Shire.
6. The owner/applicant is reminded of their obligation to liaise with the Department of Mines and Petroleum and the Department of Water and Environmental regulation to obtain the necessary approvals in relation to the approved development of the Service Station.
7. To mitigate against water contamination risks the developer should follow the Department of Water and Environmental Regulation's advice contained in the following Water Quality Protection Notes (WQPN):
 - WQPN 10 'Contamination spills – emergency response'
 - WQPN 49 'Service Stations'
 - WQPN 56 'Tanks for fuel and chemical storage near sensitive water resources'
 - WQPN 62 'Tanks for underground chemical storage'
 - WQPN 65 'Toxic and hazardous substances – storage and use'
8. The proposed development is located within the Bunbury Groundwater Area, proclaimed under the 'Rights in Water and Irrigation 1914 (RIWI Act)'. The owner/applicant is advised to contact DWER for a licence to dewater under the RIWI Act, if the proposed development activity is to exceed the threshold specified at <http://www.water.wa.gov.au/licensing/water-licensing/exemptions>.



9. The owner/applicant should refer to the Department's acid sulfate soil guidelines for information to assist with the management of ground disturbing works. Link <http://www.der.wa.gov.au/your-environment/acid-sulfate-soils/69-acidsulfatesoils-guidelines>.
10. The Shire of Harvey advises that the development the subject of this development approval must comply with Environmental Protection Act 1986 and the Environmental Protection (Unauthorised Discharge) Regulations 2004 in relation to discharges into the environment.

The Alternate Motion (AS AMENDED) was put and CARRIED UNANIMOUSLY.

REASON: The Alternate Motion is consistent with legal advice provided to the Panel that the use applied for is a not listed use on the basis the use is not specifically mentioned in Zoning Table 14 and does not fall within the land use interpretation of a 'Service Station' because the proposed use will not involve any mechanical repairs and does not fall with the land use interpretation a 'Convenience Store' because the retail convenience building proposes a gross leasable area greater than 200 sq m.

The proposed use is consistent with the objectives and purpose of the land zoned 'Other Commercial – Showroom' in the Shire of Harvey District Planning Scheme No 1 and considered appropriately located within the Treendale Commercial Precinct Structure Plan area.

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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications –

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020



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 11:50am.

A handwritten signature in black ink, appearing to read 'Clayton'.