



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Wednesday, 2 December 2020; 9:30am
Meeting Number: RJDAP/16
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

Ms Kanella Hope (A/Presiding Member)
Mr Jarrod Ross (A/Deputy Presiding Member)
Mr Justin Page (Third Specialist Member)
Cr Steve McMullen (Local Government Member, Shire of Esperance)
Cr Ron Chambers (Local Government Member, Shire of Esperance)

Officers in attendance

Mr Richard Hindley (Shire of Esperance)

Minute Secretary

Ms Adele McMahon (DAP Secretariat)
Ms Zoe Hendry (DAP Secretariat)

Applicants and Submitters

Mr Lee Illingworth (Contract Power)
Mr Marc Grosser (Contract Power)

Members of the Public / Media

There was 1 member of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 9:32am on 2 December 2020 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. Members were reminded to announce their name and title prior to speaking.



2. Apologies

Mr Paul Kotsoglo (Presiding Member)
Cr Basil Parker (Shire of Esperance)

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

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP Member, Mr Paul Kotsoglo, declared an Indirect Pecuniary Interest in item 8.1. A proposal for planning services was sought from Planning Solutions, the company of which Mr Kotsoglo is the Managing Director, for the application. A proposal was provided, but was not progressed.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the A/Presiding Member determined that the member listed above, who had disclosed an Indirect Pecuniary Interest interest, was not permitted to participate in the discussion and voting on the item.

7. Deputations and Presentations

7.1 Mr Lee Illingworth (Contract Power) responded to questions from the panel in relation to the application at Item 8.1.

7.2 Mr Richard Hindley (Shire of Esperance) responded to questions from the panel in relation to the application at Item 8.1.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 8 Shark Lake Road Monjingup

Development Description:	Proposed Renewable Energy Facility
Applicant:	Mr Leon Hodges (Contract Power Australia Pty Ltd)
Owner:	Southern Ports Authority
Responsible Authority:	Shire of Esperance
DAP File No:	DAP/20/01851



REPORT RECOMMENDATION

Moved by: Mr Jarrod Ross

Seconded by: Cr Steve McMullen

That the Regional Joint Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/20/01851 and accompanying plans (Attachments 1 - 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 the Shire of Esperance Local Planning Scheme No. 24, subject to the following conditions:

Conditions

1. Development/land use shall be in accordance with the attached approved plan(s) and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. The wind turbines may be sited within a 100m radius of the approved siting and the maximum overall height be raised 3.0m to an overall maximum height of 281 m AHD.
3. 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.
4. A minimum of three car parking bays are to be provided on-site in accordance with the requirements of Australian Standard AS2890.1:2004 Parking Facilities – Off-street Car Parking, Australian Standard 2890.6 and the Building Code of Australia.
5. Where acoustic levels at a noise sensitive receiver exceeds 5 dB above background noise with a fixed lower limit of 35 dB the proponent is to enter into an agreement with the noise sensitive receiver or otherwise modify the Wind turbines so as to comply with the 5 dB above background noise with a fixed lower limit of 35 dB.
6. A register of Noise Complaints as per the Noise Management Plan must be maintained by the Occupier of the land and is to include the name of the complainant, the date, nature of the complaint and any actions undertaken as a response to the complaint. A copy of this register is to be provided to Shire of Esperance (Planning Services and Environmental Health Services) on the first business day of December and on an annual basis thereafter or at the request of Shire Officers.
7. Both wind turbine generators be lit with a medium intensity steady red light at night in accordance with the requirements in *Part 139 (Aerodromes) Manual of Standards*. If LED obstacle lighting is used, the LED light emitted is to fall within the wavelength range of 655 to 930 nanometres so as to be visible to pilots using night visions devices.



8. The coordinates and estimated survey heights of each turbine must be reported to the Airservices Australia for inclusion in the En Route Supplement Australia (ERSA) publication via the following email vod@airservicesaustralia.com prior to works commencing to ensure that the location of the wind farm is mapped for the information of pilots.
9. The Proponent shall ensure the installation of any traffic warning/safety signage in relation to the approved development during the transportation, construction and decommissioning phases is to the satisfaction of Main Roads WA and the Local Government.
10. Repairing of any damage to the road network including the surface is required by reason of use of State and local roads in connection with the development to the satisfaction of Main Roads WA and the Local Government, with all costs required to be met by the Proponent.
11. No signs or hoardings are to be erected on the lot without the prior written approval of the local government.
12. A landscape plan be prepared, addressing screening vegetation and fencing, and implemented prior to occupancy to the satisfaction of the Shire of Esperance.
13. A decommissioning program should be separately developed in relation to removal of the facility and any rehabilitation requirements to the satisfaction of the local government.

Advice Notes

1. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Esperance will take no responsibility for incorrectly located buildings or structures.
2. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.
3. The Proponent is advised that this is a development approval only which does not negate the requirement for any additional approvals that may be required under separate legislation including but not limited to the National Construction Code, *Building Act 2011*, *Public Health Act 2016*, *Environmental Protection (Noise) Regulation 1997*, *Traffic Act 2000*, *Main Roads Act 1930*, *Aboriginal Heritage Act 1972*, *Civil Aviation Act 1988*, *Civil Aviation Safety Regulations 1998* and the obtaining of works licences as required. It is the Proponent's responsibility to obtain any additional approvals required before the development / use lawfully commences.
4. The proponent is advised that that concrete batching may be categorised as Prescribed Premises as per Schedule 1 of the *Environmental Protection Regulations 1987*.



5. The proponent is advised that compliance is required with the *Environmental Protection (Concrete batching and cement product manufacturing) Regulations 1998*.
6. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
7. If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.
8. Any additions to or change of use of any part of the building or land (not the subject of this approval) requires further application and development approval.

AMENDING MOTION 1

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That condition no. 1 be amended to read as follows:

*Development/land use shall be in accordance with the attached approved plan(s) **and relevant Management Plans** subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.*

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To ensure all relevant application material is endorsed as part of the approval in hand with the Development Plans.

AMENDING MOTION 2

Moved by: Ms Kanella Hope

Seconded by: Mr Justin Page

That condition no. 2 be amended to read as follows:

*The wind turbines may be sited within a 100m radius of the approved siting and ~~the maximum overall height be raised 3.0m to an overall~~ **with a maximum height of 281 m AHD.***

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide clarity in the wording.



AMENDING MOTION 3

Moved by: Mr Justin Page

Seconded by: Mr Jarrod Ross

The following amendments were made en bloc:

- (i) That a new condition no. 14 be added to read as follows:

An Environmental Management Plan shall be prepared, adopted and implemented to the satisfaction of the Shire of Esperance, of which is to address for both the Construction Phase and Post Construction (Operational) Phase of the development:

- a) waste management***
- b) bushfire management***
- c) dust suppression***
- d) noise impacts***
- e) weed management***
- f) stormwater management***
- g) temporary construction concrete batching plant siting and management;***
- h) hydrocarbon storage and spill control.***

REASON: To cohesively address environmental management issues for construction and operational phases within the one Management Plan.

- (ii) That a new advice note no. 9 be added to read as follows:

The Environmental Management Plan should address the matters as outlined in Section 8.8 'Environmental Management' of the 'Renewable Energy Farm Project Report' (Contract Power Group) of the development application.

REASON: To ensure proper consideration of environmental matters during construction of the development and during its operational phase.

The Amending Motion was put and CARRIED UNANIMOUSLY.

AMENDING MOTION 4

Moved by: Mr Justin Page

Seconded by: Cr Steve McMullen

That a new condition no.15 be added to read as follows:

The Aviation Impact Assessment (Aviation Projects, October 2020) recommendations shall be implemented by the developer to the satisfaction of the Shire of Esperance.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To ensure the multiple recommendations outlined in the Aviation Impact Assessment are implemented to the satisfaction of the Shire of Esperance.



AMENDING MOTION 5

Moved by: Mr Justin Page

Seconded by: Mr Jarrod Ross

The following amendments were made en bloc:

- (i) That a new condition no. 16 be added to read as follows:

A Traffic Management Plan shall be prepared, adopted and implemented to the satisfaction of the Shire of Esperance.

REASON: To ensure any road upgrades and public safety is adequately addressed during construction of the development.

- (ii) That a new advice note no. 10 be added to read as follows:

The Traffic Management Plan should address the matters as outlined in Section 8.5 'Transport Requirements' of the 'Renewable Energy Farm Project Report' (Contract Power Group) of the development application.

REASON: To ensure any road upgrades and public safety is adequately addressed during construction of the development.

The Amending Motion was put and CARRIED UNANIMOUSLY.

AMENDING MOTION 6

Moved by: Mr Jarrod Ross

Seconded by: Cr Ron Chambers

That condition no.13 be amended to read as follows:

No less than 2 years prior to decommissioning of the facility a decommissioning program should be separately developed in relation to must be prepared and submitted by the proponent to address removal of the facility and any rehabilitation requirements to the satisfaction of the local government.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To provide certainty and a timeframe

REPORT RECOMMENDATION (AS AMENDED)

That the Regional Joint Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/20/01851 and accompanying plans (Attachments 1 - 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 the Shire of Esperance Local Planning Scheme No. 24, subject to the following conditions:



Conditions

1. Development/land use shall be in accordance with the attached approved plan(s) and relevant Management Plans, subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
2. The wind turbines may be sited within a 100m radius of the approved siting and with a maximum height of 281 m AHD.
3. 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.
4. A minimum of three car parking bays are to be provided on-site in accordance with the requirements of Australian Standard AS2890.1:2004 Parking Facilities – Off-street Car Parking, Australian Standard 2890.6 and the Building Code of Australia.
5. Where acoustic levels at a noise sensitive receiver exceeds 5 dB above background noise with a fixed lower limit of 35 dB the proponent is to enter into an agreement with the noise sensitive receiver or otherwise modify the Wind turbines so as to comply with the 5 dB above background noise with a fixed lower limit of 35 dB.
6. A register of Noise Complaints as per the Noise Management Plan must be maintained by the Occupier of the land and is to include the name of the complainant, the date, nature of the complaint and any actions undertaken as a response to the complaint. A copy of this register is to be provided to Shire of Esperance (Planning Services and Environmental Health Services) on the first business day of December and on an annual basis thereafter or at the request of Shire Officers.
7. Both wind turbine generators be lit with a medium intensity steady red light at night in accordance with the requirements in *Part 139 (Aerodromes) Manual of Standards*. If LED obstacle lighting is used, the LED light emitted is to fall within the wavelength range of 655 to 930 nanometres so as to be visible to pilots using night visions devices.
8. The coordinates and estimated survey heights of each turbine must be reported to the Airservices Australia for inclusion in the En Route Supplement Australia (ERSA) publication via the following email vod@airservicesaustralia.com prior to works commencing to ensure that the location of the wind farm is mapped for the information of pilots.
9. The Proponent shall ensure the installation of any traffic warning/safety signage in relation to the approved development during the transportation, construction and decommissioning phases is to the satisfaction of Main Roads WA and the Local Government.



10. Repairing of any damage to the road network including the surface is required by reason of use of State and local roads in connection with the development to the satisfaction of Main Roads WA and the Local Government, with all costs required to be met by the Proponent.
11. No signs or hoardings are to be erected on the lot without the prior written approval of the local government.
12. A landscape plan be prepared, addressing screening vegetation and fencing, and implemented prior to occupancy to the satisfaction of the Shire of Esperance.
13. No less than 2 years prior to decommissioning of the facility a decommissioning program must be prepared and submitted by the proponent to address removal of the facility and any rehabilitation requirements to the satisfaction of the local government.
14. An Environmental Management Plan shall be prepared, adopted and implemented to the satisfaction of the Shire of Esperance, of which is to address for both the Construction Phase and Post Construction (Operational) Phase of the development:
 - a) waste management
 - b) bushfire management
 - c) dust suppression
 - d) noise impacts
 - e) weed management
 - f) stormwater management
 - g) temporary construction concrete batching plant siting and management;
 - h) hydrocarbon storage and spill control.
15. The Aviation Impact Assessment (Aviation Projects, October 2020) recommendations shall be implemented by the developer to the satisfaction of the Shire of Esperance.
16. A Traffic Management Plan shall be prepared, adopted and implemented to the satisfaction of the Shire of Esperance.

Advice Notes

1. It is the responsibility of the applicant to ensure that building setbacks correspond with the legal description of the land. This may necessitate re-surveying and re-pegging the site. The Shire of Esperance will take no responsibility for incorrectly located buildings or structures.
2. It is the responsibility of the developer to search the title of the property to ascertain the presence of any easements and/or restrictive covenants that may apply.



3. The Proponent is advised that this is a development approval only which does not negate the requirement for any additional approvals that may be required under separate legislation including but not limited to the National Construction Code, *Building Act 2011*, *Public Health Act 2016*, *Environmental Protection (Noise) Regulation 1997*, *Traffic Act 2000*, *Main Roads Act 1930*, *Aboriginal Heritage Act 1972*, *Civil Aviation Act 1988*, *Civil Aviation Safety Regulations 1998* and the obtaining of works licences as required. It is the Proponent's responsibility to obtain any additional approvals required before the development / use lawfully commences.
4. The proponent is advised that that concrete batching may be categorised as Prescribed Premises as per Schedule 1 of the *Environmental Protection Regulations 1987*.
5. The proponent is advised that compliance is required with the *Environmental Protection (Concrete batching and cement product manufacturing) Regulations 1998*.
6. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.
7. If an applicant is aggrieved by this determination there is a right (pursuant to the *Planning and Development Act 2005*) to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.
8. Any additions to or change of use of any part of the building or land (not the subject of this approval) requires further application and development approval.
9. The Environmental Management Plan should address the matters as outlined in Section 8.8 'Environmental Management' of the 'Renewable Energy Farm Project Report' (Contract Power Group) of the development application.
10. The Traffic Management Plan should address the matters as outlined in Section 8.5 'Transport Requirements' of the 'Renewable Energy Farm Project Report' (Contract Power Group) of the development application.

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

REASON: The JDAP adopted the Officer Recommendation contained in the Responsible Authority Report, with the appropriate amendments to conditions of development approval, as it was considered to reflect the necessary requirements applicable to the proposed development under the provisions of the planning framework.

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 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 10:46am.