



## Regional Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Tuesday, 6 December 2022; 9.30am  
**Meeting Number:** RJDAP/77  
**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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## **Attendance**

### **DAP Members**

Mr Tony Arias (Presiding Member)  
Ms Kanella Hope (Deputy Presiding Member)  
Mr Justin Page (Third Specialist Member)

#### *Item 8.1*

Cr Ian Miffling (Local Government Member, Shire of Collie)  
Cr Joe Italiano (Local Government Member, Shire of Collie)

#### *Item 9.1*

Cr Michael White (Local Government Member, Shire of Broomehill-Tambellup)  
Cr Douglas Barritt (Local Government Member, Shire of Broomehill-Tambellup)

### **Officers in attendance**

#### *Item 8.1*

Ms Isabel Fry (Shire of Collie)  
Mr Matt Young (Shire of Collie)

#### *Item 9.1*

Ms Liz Busby (TPI Planning – consultant for Shire of Broomehill-Tambellup)  
Mr Anthony Middleton (Shire of Broomehill-Tambellup)

### **Minute Secretary**

Ms Ashlee Kelly (DAP Secretariat)

### **Applicants and Submitters**

#### *Item 8.1*

Mr Aniruddha Deshpande (Neoen Australia Pty Ltd)  
Mr Nathan Ling (Neoen Australia Pty Ltd)  
Mr Rob Karelse (Umwelt Australia Pty Ltd)

#### *Item 9.1*

Dr Sarah Rankin (Moonies Hill Energy Pty Ltd)  
Ms Belinda Moharich (Moharich and More)  
Ms Helen Bignell  
Ms Annie Atkins  
Ms Carolyn Tonkin  
Mr Adrian Bilney  
Mr Ian Palmer

### **Members of the Public / Media**

There were 11 members of the public in attendance.

Ms Georgia Loney from ABC News and Ms Nadia Budihardjo from PerthNow were in attendance.



## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.37am on 6 December 2022 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

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

### 1.1 Announcements by Presiding Member

The Presiding Member advised that 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

Nil

## 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, Ms Kanella Hope, declared an Impartiality Interest in Item 8.1. Ms Kanella Hope works locally in the South West as a Planning Consultant and is familiar with the Shire of Collie planners involved in this proposal through other unassociated projects and professional/industry associations. Ms Hope acknowledges that since the last time item 9.1 was before the RJDAP and she was involved as a Panel member, Ms Hope has worked with Belinda Moharich on other unassociated projects including an RJDAP matter in Vasse. They are not presently involved in any matter. Ms Hope declared she will act with impartiality in both matters.



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

## **7. Deputations and Presentations**

**7.1** Mr Nathan Ling (Neoen Australia Pty Ltd) & Mr Rob Karelse (Umwelt Australia Pty Ltd) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.

**7.2** The Shire of Collie Officers addressed the DAP in relation the application at Item 8.1 and responded to questions from the panel.

***The presentations at Item 7.1 – 7.2 were heard prior to the application at Item 8.1.***

**7.3** Ms Helen Bignell addressed the DAP against the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.4** Mr Adrian Bilney addressed the DAP against the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.5** Ms Carolyn Tonkin addressed the DAP against the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.5** Ms Annie Atkins addressed the DAP against the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.7** Mr Ian Palmer addressed the DAP against the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.8** Ms Belinda Moharich (Moharich and More) addressed the DAP in support of the recommendation for the application at Item 9.1 and responded to questions from the panel.

**7.9** Ms Liz Busby (TPI Planning – consultant for Shire of Broomehill-Tambellup) addressed the DAP in relation to the application at Item 9.1 and responded to questions from the panel.

***The presentations at Items 7.3 - 7.9 were heard prior to the application at Item 9.1.***



## 8. Form 1 – Responsible Authority Reports – DAP Applications

### 8.1 Lots 784, 785 and 775 (No.4997) Collie-Williams Road, Palmer

Development Description: Use Not Listed – Battery Energy Storage System  
Applicant: Neoen Australia Pty Ltd  
Owner: Electricity Networks Corporation (trading as Western Power), Thomas Popp, Semlot Nominees Pty Ltd  
Responsible Authority: Shire of Collie  
DAP File No: DAP/22/02318

#### REPORT RECOMMENDATION

**Moved by:** Cr Ian Miffing

**Seconded by:** Ms Kanella Hope

*With the agreement of the mover and seconder, the following administrative change was made to the preamble as follows:*

***Accept** that the DAP Application reference DAP/22/02318 is appropriate for consideration as a “Use Not Listed- Battery Energy Storage System” land use that is deemed to be compatible with the objectives of the Zoning Table in accordance with Clause ~~19~~ **18** (4) (a) of the Shire of Collie Local Planning Scheme No. 6 and Clause 64 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015;*

**REASON:** to reference the correct Clause under the Shire of Collie Local Planning Scheme.

That the Regional Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/22/02318 is appropriate for consideration as a “Use Not Listed- Battery Energy Storage System” land use that is deemed to be compatible with the objectives of the Zoning Table in accordance with Clause 18 (4) (a) of the Shire of Collie Local Planning Scheme No. 6 and Clause 64 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015;
2. **Approve** DAP Application reference DAP/22/02318 and accompanying plans (CLBS-DOW-CV GNA-00-001, 002, CLBS-DOW-EL GNA-00-001,002,003,004, CLBS-DOW-EL-SLD-00-001,002) 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 18(4)(a) of the Shire of Collie Local Planning Scheme No. 6, subject to the following conditions:
  - a) This decision constitutes development approval only and is valid for a period of 3 years from the date of approval. If the development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.



- b) Prior to commencement, detailed design to demonstrate stormwater and drainage management is to be submitted, to the satisfaction and specification of the Shire of Collie. The stormwater and drainage management design is to be implemented at construction and for the duration of the development.
- c) Prior to commencement, a detailed Landscaping Plan must be submitted to the satisfaction of and approval by the Shire of Collie. The Landscaping Plan must address the following:
  - a) A site plan of the existing and proposed development with natural and finished ground levels.
  - b) Proposed landscaping to provide visual screening of the development from Collie-Williams Road and nearby established dwellings, if required.
  - c) The location, species and size of existing vegetation and vegetation to be removed.
  - d) Exact species, maturity, location and number of proposed plants.
  - e) A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and groundcover.
  - f) Fence material, height and treatment
  - g) Lighting
- d) Prior to commencement, the proponent shall prepare a Construction Management Plan (CMP) for the construction period, to the satisfaction and specification of the Shire of Collie, that includes but is not limited to;
  - a) Hours of construction;
  - b) Locations of temporary construction areas
  - c) Construction waste management;
  - d) Occupational health and safety;
  - e) Noise, vibration and dust management;
  - f) Drainage management;
  - g) Site traffic management.
- e) Prior to commencement, an environmental management plan (EMP) is to be prepared to ensure the protection and management of the sites environmental assets, to the satisfaction of the Shire of Collie. The EMP is to be implemented from commencement and for the duration of the development.
- f) Prior to commencement, detailed design for the proposed effluent disposal system is to be submitted, to the specifications and satisfaction of the Shire of Collie. The effluent system design is to be implemented at construction and for the duration of the development.
- g) Prior to commencement, detailed design for the access/driveway crossover upgrade is to be prepared to the satisfaction of Main Roads WA. The access/driveway crossover upgrade design is to be implemented during construction.



- h) Prior to commencement, the proponent is to prepare and implement a traffic management plan, to be implemented during the construction period, to the specifications and satisfaction of the Shire of Collie, in consultation with Main Roads WA.
- i) Prior to the development operating, the landscaped area(s) must be planted, established and reticulated in accordance with the Landscaping Plan. These areas must be maintained at all times by the applicant in accordance with the Landscaping Plan and to the satisfaction of the Shire of Collie.
- j) The Bushfire Management Plan is to be amended, to the satisfaction of the Shire of Collie, in consultation with the Department of Fire and Emergency Services, to include matters contained in Attachment 4, Appendix B.
- k) The applicant must perform all of the required Bushfire Protection Measures contained in the Bushfire Management Plan approved by the Local Government for the duration of the development.
- l) A Section 70A Notification pursuant to the Transfer of Land Act 1893 must be placed on the titles of all lots, at the full cost of the applicant, alerting landowners to the existence of the approved Bushfire Fire Management Plan and advising landowners of their obligations in respect to the use and ongoing management of the land.
- m) The applicant is required to undertake a noise monitoring program within the first 6 months of the project operating to demonstrate compliance with acceptable criteria of the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*. An acoustics report shall be prepared by a qualified acoustic engineer, detailing appropriate actions and mitigation measures to be undertaken to ensure that noise emissions do not contravene the provisions of the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*. The acoustic report will be at the full cost of the owner/applicant and must be submitted for the endorsement of the Shire of Collie.

### Advice Notes

1. The clearing of native vegetation in Western Australia requires a Clearing Permit under the *Environmental Protection Act 1986* unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Environment Regulation on (08) 9725 4300 for further advice in this regard. It should also be noted that the clearing of native vegetation within the Shire of Collie may result in impacts upon the *Country Areas Water Supply Act 1947* and an additional permit from the Department of Water may be required. The Department of Water can be contacted on (08) 6364 7600 for further advice in this regard.
2. This development approval does not remove or affect any statutory responsibility the owner may have in notifying the relevant Federal Government public authority(s) of the proposal under the *Commonwealth of Australia Environment Protection and Biodiversity Conservation Act 1999*.



3. It is the applicant's responsibility to ensure all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.
4. The Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions can be consulted for advice on the preparation of the environmental management plan as required.
5. The development must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the Shire of Collie's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
6. Main Roads WA has advised that the proponent will need to provide a bond to Main Roads WA to cover the cost of the required access/ driveway crossover upgrading. The proponent will also need to submit an application for minor works in the road reserve to be approved by Main Roads WA prior to any works being undertaken. It is noted that the existing access/driveway crossover crosses an existing water pipeline, hence, the proponent will need to obtain approval of the pipeline owner prior to the required driveway upgrading.
7. Main Roads WA has advised, following the construction phase of the development the access/ driveway crossover will need to be modified/ downgraded to a general rural standard for ongoing access to the site.  
Designs for the modified/ downgraded crossover will need to be approved by Main Roads WA and the proponent will need to provide a bond to Main Roads WA to cover the cost of the future modification/ down grade of the crossover as required by Main Roads WA.

### **AMENDING MOTION 1**

**Moved by:** Ms Kanella Hope

**Seconded by:** Mr Justin Page

That Condition a be amended to read as follows:

*This decision constitutes development approval only and is valid for a period of 4 ½ years from the date of approval. If the development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.*

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

**REASON:** To be consistent with Regulation 16(2)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the approval period for DAP applications is four years.





## AMENDING MOTION 2

**Moved by:** Ms Kanella Hope

**Seconded by:** Mr Justin Page

That a new Condition d (h) be added to read as follows:

### ***Bushfire Risk and Emergency Management Measures***

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

**REASON:** To effectively manage bush fire safety during the construction period of the development.

## AMENDING MOTION 3

**Moved by:** Ms Kanella Hope

**Seconded by:** Mr Justin Page

The following amendments were made en bloc:

- (i) That Condition j be deleted, and all condition numbers be renumbered accordingly.
- (ii) That Condition k (now Condition j) be amended to read as follows:

*The applicant must perform all of the required Bushfire Protection Measures contained in the Bushfire Management Plan **dated 8 November 2022** approved by ~~the Local Government~~ for the duration of the development.*

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

**REASON:** To recognise that the Bushfire Management Plan has been revised and is the subject of agreement between the Shire and the applicant.

## AMENDING MOTION 4

**Moved by:** Mr Justin Page

**Seconded by:** Ms Kanella Hope

That Condition g be amended to read as follows:

*Prior to commencement, detailed design for the access/driveway crossover upgrade is to be prepared to the satisfaction of **the Shire of Collie on advice from Main Roads WA**. The access/driveway crossover upgrade design is to be implemented during construction.*

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

**REASON:** To clarify that the Shire of Collie is the responsible authority for compliance of development conditions, with Advice Note 7 referencing the requirement for approval by Main Roads WA.



## REPORT RECOMMENDATION (AS AMENDED)

That the Regional Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/22/02318 is appropriate for consideration as a "Use Not Listed- Battery Energy Storage System" land use that is deemed to be compatible with the objectives of the Zoning Table in accordance with Clause 18 (4) (a) of the Shire of Collie Local Planning Scheme No. 6 and Clause 64 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015;
2. **Approve** DAP Application reference DAP/22/02318 and accompanying plans (CLBS-DOW-CV GNA-00-001, 002, CLBS-DOW-EL GNA-00-001,002,003,004, CLBS-DOW-EL-SLD-00-001,002) 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 18(4)(a) of the Shire of Collie Local Planning Scheme No. 6, subject to the following conditions:
  - a) This decision constitutes development approval only and is valid for a period of 4 years from the date of approval. If the development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
  - b) Prior to commencement, detailed design to demonstrate stormwater and drainage management is to be submitted, to the satisfaction and specification of the Shire of Collie. The stormwater and drainage management design is to be implemented at construction and for the duration of the development.
  - c) Prior to commencement, a detailed Landscaping Plan must be submitted to the satisfaction of and approval by the Shire of Collie. The Landscaping Plan must address the following:
    - a) A site plan of the existing and proposed development with natural and finished ground levels.
    - b) Proposed landscaping to provide visual screening of the development from Collie-Williams Road and nearby established dwellings, if required.
    - c) The location, species and size of existing vegetation and vegetation to be removed.
    - d) Exact species, maturity, location and number of proposed plants.
    - e) A key or legend detailing proposed species type grouped under the subheadings of tree, shrub and groundcover.
    - f) Fence material, height and treatment
    - g) Lighting
  - d) Prior to commencement, the proponent shall prepare a Construction Management Plan (CMP) for the construction period, to the satisfaction and specification of the Shire of Collie, that includes but is not limited to;
    - a) Hours of construction;
    - b) Locations of temporary construction areas
    - c) Construction waste management;



- d) Occupational health and safety;
  - e) Noise, vibration and dust management;
  - f) Drainage management;
  - g) Site traffic management.
  - h) Bushfire Risk and Emergency Management Measures
- e) Prior to commencement, an environmental management plan (EMP) is to be prepared to ensure the protection and management of the sites environmental assets, to the satisfaction of the Shire of Collie. The EMP is to be implemented from commencement and for the duration of the development.
- f) Prior to commencement, detailed design for the proposed effluent disposal system is to be submitted, to the specifications and satisfaction of the Shire of Collie. The effluent system design is to be implemented at construction and for the duration of the development.
- g) Prior to commencement, detailed design for the access/driveway crossover upgrade is to be prepared to the satisfaction of the Shire of Collie on advice from Main Roads WA. The access/driveway crossover upgrade design is to be implemented during construction.
- h) Prior to commencement, the proponent is to prepare and implement a traffic management plan, to be implemented during the construction period, to the specifications and satisfaction of the Shire of Collie, in consultation with Main Roads WA.
- i) Prior to the development operating, the landscaped area(s) must be planted, established and reticulated in accordance with the Landscaping Plan. These areas must be maintained at all times by the applicant in accordance with the Landscaping Plan and to the satisfaction of the Shire of Collie.
- j) The applicant must perform all of the required Bushfire Protection Measures contained in the Bushfire Management Plan dated 8 November 2022 for the duration of the development.
- k) A Section 70A Notification pursuant to the Transfer of Land Act 1893 must be placed on the titles of all lots, at the full cost of the applicant, alerting landowners to the existence of the approved Bushfire Fire Management Plan and advising landowners of their obligations in respect to the use and ongoing management of the land.
- l) The applicant is required to undertake a noise monitoring program within the first 6 months of the project operating to demonstrate compliance with acceptable criteria of the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*. An acoustics report shall be prepared by a qualified acoustic engineer, detailing appropriate actions and mitigation measures to be undertaken to ensure that noise emissions do not contravene the provisions of the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*. The acoustic report will be at the full cost of the owner/applicant and must be submitted for the endorsement of the Shire of Collie.



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## Advice Notes

1. The clearing of native vegetation in Western Australia requires a Clearing Permit under the Environmental Protection Act 1986 unless the clearing is for an exempt purpose. Proponents are advised to contact the Department of Environment Regulation on (08) 9725 4300 for further advice in this regard. It should also be noted that the clearing of native vegetation within the Shire of Collie may result in impacts upon the Country Areas Water Supply Act 1947 and an additional permit from the Department of Water may be required. The Department of Water can be contacted on (08) 6364 7600 for further advice in this regard.
2. This development approval does not remove or affect any statutory responsibility the owner may have in notifying the relevant Federal Government public authority(s) of the proposal under the Commonwealth of Australia Environment Protection and Biodiversity Conservation Act 1999.
3. It is the applicant's responsibility to ensure all required approvals are obtained prior to the works commencing. Works such as de-watering, native vegetation clearing or working near existing infrastructure may require separate approvals from relevant private or government agencies.
4. The Department of Water and Environmental Regulation and the Department of Biodiversity, Conservation and Attractions can be consulted for advice on the preparation of the environmental management plan as required.
5. The development must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions. Further information can be obtained from the Shire of Collie's Environmental Health Services on (08) 9792 7100 or (08) 9792 7000.
6. Main Roads WA has advised that the proponent will need to provide a bond to Main Roads WA to cover the cost of the required access/ driveway crossover upgrading. The proponent will also need to submit an application for minor works in the road reserve to be approved by Main Roads WA prior to any works being undertaken. It is noted that the existing access/driveway crossover crosses an existing water pipeline, hence, the proponent will need to obtain approval of the pipeline owner prior to the required driveway upgrading.
7. Main Roads WA has advised, following the construction phase of the development the access/ driveway crossover will need to be modified/ downgraded to a general rural standard for ongoing access to the site.

Designs for the modified/ downgraded crossover will need to be approved by Main Roads WA and the proponent will need to provide a bond to Main Roads WA to cover the cost of the future modification/ down grade of the crossover as required by Main Roads WA.

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



**REASON:** The Panel having considered the Responsible Authority Report (RAR) and all materials and information presented, was satisfied with the RAR recommendation but with the amended conditions. The Panel was satisfied that all relevant planning considerations had been appropriately addressed, including determination of the proposal as a 'Use not Listed – Battery Energy Storage System' as being compatible with the objectives of the Rural zone. The Applicant provided comprehensive information and justification, including mitigation measures that adequately manage environmental and bushfire impacts.

*Cr Ian Miffing and Cr Joe Italiano (Local Government Members, Shire of Collie) left the panel at 10.15am.*

*Cr Michael White and Cr Douglas Barritt (Local Government Members, Shire of Broomehill-Tambellup) joined the panel at 10.15am.*

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

### **9.1 Various Lots in Intaba, Kinghurst and The Meadows Sites, Broomehill and Euvista and Yantecup Sites, Kojonup**

Development Description:	Proposed Wind Farm and Ancillary Development
Proposed Amendments:	Amend Conditions 4, 21, 29 & advice note 9
Applicant:	Sarah Rankin & Tomas Gibbs Flat Rocks Wind Farm Pty Ltd & Moonies Hill Energy Pty Ltd
Owner:	Various – Refer Attachment 1.
Responsible Authority:	Shire of Broomehill-Tambellup
DAP File No:	DP/12/01359

## **REPORT RECOMMENDATION**

**Moved by:** Mr Justin Page

**Seconded by:** Ms Kanella Hope

With the agreement of the mover and seconder, the following administrative change was made Condition 21(a) to read as follows:

*Prior to commencing any works, the Applicant is to lodge a Noise Impact Mitigation Management Plan for approval by the local government. The Noise Impact Mitigation Management Plan is to outline the process by which the Applicant will –*

- (a) *Undertake post-commissioning testing to ensure compliance with condition 29 32, including testing at existing dwellings, based upon the testing procedures and analysis contained in the South Australian EPA Wind Farms Environmental Noise Guidelines (2021) noise sensitive premises;*

**REASON:** to reflect the correct condition number.



That the Regional Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DP/12/01359 as detailed on the DAP Form 2 dated 27 October 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DP/12/01359 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and with the provisions of the Shire of Broomehill Town Planning Scheme No 1 and the Shire of Tambellup Town Planning Scheme No 2, for the proposed minor amendment to the approved wind farm on land known as 'Euvista', 'Intaba', 'Kinghust', and 'the Meadows' subject to the following modified conditions:
  4. The wind turbines are to be micro-sited in accordance with the following restrictions –
    - (a) All wind turbines shall be located a minimum distance of 1 kilometre from any ~~residential dwelling / sensitive premises~~ existing at the time of the issue of this planning approval. unless approval in writing is first granted from the owner of that ~~residential dwelling / sensitive premises~~ to a closer location;
    - (b) The wind turbines shall be located in accordance with the 'Flat Rocks Wind Farm Landscape and Visual Assessment'. This report requires, in order to satisfy visual amenity considerations, either relocation of specified wind turbines or in the alternative, the implementation of vegetation screening.
21. Prior to commencing any works, the Applicant is to lodge a Noise Impact Mitigation Management Plan for approval by the local government. The Noise Impact Mitigation Management Plan is to outline the process by which the Applicant will –
  - (a) Undertake post-commissioning testing to ensure compliance with condition 29, including testing at existing dwellings, based upon the testing procedures and analysis contained in the South Australian EPA Wind Farms Environmental Noise Guidelines (2021) ~~noise sensitive premises~~;
  - (b) Make arrangements with adjoining landowners regarding the construction of dwellings ~~noise sensitive premises~~ on land;
  - (c) Modify micro-siting to ensure compliance with condition 29;
  - (d) Modify the operation of the wind turbines to ensure compliance with condition 29;
  - (e) Manage complaints regarding noise impact during the operational phase of the development.



29. The Applicant shall ensure at all times that the operation of ~~each~~ the wind turbine farm complies with the following noise levels at dwellings ~~noise sensitive premises~~—
- (a) Will not exceed 35dB(A) (LA90, 10 minutes) ; or
  - (b) Will not exceed the background noise (LA90, 10 minutes) by more than 5dB(A);

whichever is the greater. Assessment of noise impact is to be performed in accordance with South Australian EPA wind farms environmental noise guidelines (2021).

### Amended Advice Notes

- g. The applicant is advised that:
- (i) There is potential for vacant lots adjacent to the proposed wind farm to be further developed with ~~sensitive buildings and residential~~ dwellings.
  - (ii) Legislation in Western Australia requires that the wind farm comply with the Environmental Protection (Noise) Regulations 1997.
  - (iii) The applicant takes the commercial risk that future wind farm operations may need to be altered or modified to continue to comply with noise limitations.
  - (iv) It is recommended that the applicant prepare and submit acoustic compliance reports by a suitably qualified and independent acoustic engineer to demonstrate compliance with Condition 29 at key stages of development. This would provide compliance assurances to both the local government and surrounding landowners.

### New Advice Notes (applicant)

- m. The term 'dwelling' in this approval has the same meaning as the Residential Design Codes Volume 1.

### New Advice Notes (TPI)

- n. All other conditions and requirements detailed on the previous approval dated 22 May 2017 shall remain unless altered by this application. The conditions and advice notes detailed on the original approval dated 26 July 2013 have all been replaced by revised re-numbered conditions and advice notes on the 2017 approval.

The advice note on the previous approval dated 22 May 2017 that refers to conditions and advice notes on the original approval dated 26 July 2013 is to be disregarded, and is replaced with advice note n.

### The Report Recommendation was put and **CARRIED (3/2)**.

For: Mr Tony Arias  
Ms Kanella Hope  
Mr Justin Page

Against: Cr Michael White  
Cr Douglas Barritt

  
Mr Tony Arias  
Presiding Member, Regional JDAP



**REASON:** In general, the Panel was satisfied that all relevant planning considerations had been appropriately addressed. A key issue that was discussed was whether the application to modify conditions would lead to any substantial departure(s) from the current development approval. The Panel was satisfied, based on the information contained in the RAR, presentations and the meeting discussions, that the proposed modifications to conditions would not be a substantial departure from the current development approval. The Form 2 application was therefore considered acceptable by the Panel.

The Panel acknowledged that the need for the amendments to the wording of conditions had arisen due to the ambiguity of the term ‘noise sensitive premises’, which has a different meaning under the *Environmental Protection (Noise) Regulations 1997* (EPA noise regulations). The wording for the proposed modifications to the development conditions had been drafted by the Applicant, in consultation (and at the request of) both Shire of Kojonup officers and Shire of Broomhill Tambellup officers to remove the ambiguity. The Panel noted that the Department of Water, Environment and Regulation did not object to the proposed changes to the conditions and reiterated that the wind farm would need to comply with the EPA noise regulations.

The Panel was satisfied that the proposed amendments to the conditions did not create any inconsistencies with the requirements under the EPA noise regulations. Furthermore, the Panel noted that under Advice Note (g), the Applicant is reminded of its obligations to comply with the EPA noise regulations as a separate compliance, notwithstanding the modifications to the development conditions. Overall, the Panel was satisfied that the proposed amendments to conditions would provide greater clarity for the Applicant and the local authorities administering the development conditions.

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

The Presiding Member noted the following SAT Applications –

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DP/14/00039 DR 65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021
DAP/21/02120 DR49/2022	City of Busselton	Lot 400 (No.24) Dunn Bay Road, Dunsborough	Proposed six storey mixed use (Restaurant/Cafe and Multiple Dwellings) Development	23 March 2022





## **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 11.56am.