




## Regional Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Friday, 20 January 2023; 9.30am  
**Meeting Number:** RJDAP/81  
**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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**Mr Tony Arias**  
Presiding Member, Regional JDAP



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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 Dylan Hearty (Local Government Member, Shire of Wyndham – East Kimberley)

#### *Item 8.2*

Cr Alexander Fullarton (Local Government Member, Shire of Carnarvon)

### Officers in attendance

#### *Item 8.1*

Ms Katherine Gilpin (Shire of Wyndham – East Kimberley)  
Ms Jennifer Ninyette (Shire of Wyndham – East Kimberley)  
Mr Nick Kearns (Shire of Wyndham – East Kimberley)  
Mr Thomas Pucci (Shire of Wyndham – East Kimberley)

#### *Item 8.2*

Mr Stefan Louw (Shire of Carnarvon)  
Mr Anthony Dowling (Shire of Carnarvon)

### Minute Secretary

Ms Ashlee Kelly (DAP Secretariat)

### Applicants and Submitters

#### *Item 8.1*

Dr Gabriele Bloecker (Kimberley Cotton Company Ltd)  
Mr Greg Rowe (Rowe Group)  
Mr Jim Engelke (Kimberley Agricultural Investment)  
Mr Daniel Draheim (Namoi Cotton Limited)  
Mr Peter Taylor (SMK Consultant)

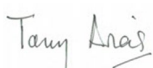
#### *Item 8.2*

Mr Matthew Cain (Planning Solutions)  
Mr Nick Di Latte (DG Corp)  
Mr Jean-mic Perrine (Architects Perrine)

### Members of the Public / Media

There were 3 members of the public in attendance.

Mr Peter de Kruiff from ABC and Ms Nadia Budihardjo (Business News) was in attendance.

  
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## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.34am on 20 January 2023 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*.

## 2. Apologies

Cr David Menzel (Local Government Member, Shire of Wyndham – East Kimberley)

Cr Tony Chafer (Local Government Member, Shire of Wyndham – East Kimberley)

## 3. Members on Leave of Absence

Nil

## 4. Noting of Minutes

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

## 5. Declaration of Due Consideration


The Presiding Member noted that an addendum to the agenda was published to include details of a DAP direction for further information and responsible authority response in relation to Item 8.1, received on 18 January 2023.

The Presiding Member noted that an addendum to the agenda was published to include details of a DAP direction for further information and responsible authority response in relation to Item 8.2, received on 18 January 2023 and 19 January 2023.

All members declared that they had duly considered the documents.

## 6. Disclosure of Interests

Nil

  
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## 7. Deputations and Presentations

- 7.1 Mr Greg Rowe (Rowe Group) 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 Jim Engelke (Kimberley Agricultural Investment) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from panel.
- 7.3 The Shire of Wyndham – East Kimberley addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

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

- 7.4 Mr Matthew Cain (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.
- 7.5 The Shire of Carnarvon addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

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

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

### 8.1 Lot 510 and Lot 501 Mulligans Lagoon Road and Lot 794 Weaber Plain Road, Kununurra

Development Description: Cotton Ginning Facilities and Cotton Modular Laydown Area  
Applicant: Kimberly Cotton Company Ltd  
Owner: Department of Primary Industries & Regional Development/Kimberley Agricultural Investment Pty Ltd  
Responsible Authority: Shire of Wyndham – East Kimberley  
DAP File No: DAP/22/02349

#### REPORT RECOMMENDATION

**Moved by:** Mr Justin Page

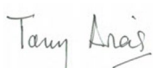
**Seconded by:** Cr Dylan Hearty

That the Regional JDAP resolves to:

1. **Approve** DAP Application reference DAP/22/02349 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 Wyndham East Kimberley Local Planning Scheme No. 9, subject to the following conditions:

#### Conditions


1. This decision constitutes planning approval only and is valid for a period of 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 Applicant is required to provide a finalised civil design and specifications for the Cotton Gin Processing Facility (Processing Facility) on Lot 510 Mulligans Lagoon Road (Lot 510) to the Shire for its approval and that such design include:
  - (a) a plan illustrating the area of the Processing Facility site to be cleared;
  - (b) a drainage network plan and a survey and hydrological design outlining the process and direction of detention pond overflows;
  - (c) a plan illustrating the siting, the specifications for construction of stormwater settlement pond/s, the actual capacity of the pond/s assessed in accordance with Department of Water and Environmental Regulation (DWER) Guidelines, the volume and type of fill to be used for construction and a geotechnical investigation report;
  - (d) a plan illustrating the siting and the specifications for construction of bunds/retaining walls;
  - (e) the cyclone system design and specifications;
  - (f) the internal air conditioning design; and
  - (g) an electrical design.

  
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3. The Applicant is required to construct and operate the Processing Facility in accordance with a Waste Management Plan, Stormwater Management Plan, Dust and Air Quality Management Plan, Noise Management Plan, Construction Traffic Management Plan and Operations Traffic Management Plan approved by the local government.
4. The Applicant is required to obtain Works Approval(s) and other relevant approval(s) under the *Environmental Protection Act 1986* for the Facility for:
  - (a) discharge of waste water;
  - (b) discharge of other wastes;
  - (c) noise and dust emissions; and
  - (d) clearing

based on the updated civil design of the Processing Facility set out in condition 2.
5. The Applicant is to obtain a section 18 *Aboriginal Heritage Act 1972* consent prior to commencing development.
6. The Applicant is to comply with water quality parameters for the Ord River Irrigation Area drainage network as required under licences issued to the Ord Irrigation Cooperative.
7. Prior to commencement of construction the Applicant is to undertake a road safety audit and submit a Construction Traffic Management Plan to the local government for approval.
8. Prior to commencement of operations at the Processing Facility the Applicant is to submit an Operations Traffic Management Plan to the local government for approval for the regulation of staff and contractor vehicle movements within the site so as to avoid internal traffic conflict to include but not limited to:
  - (a) site communications by two-way radio to manage vehicle movements and maintain communication between drivers;
  - (b) machinery moving round bales to have right of way at all times due to lack of potential visibility by other road users;
  - (c) restricted entry area including working areas between the gin and bale shed and module feeder bay and internal haul roads;
  - (d) drivers to follow sign posts for one-way use of internal roads for unloading and despatch sites;
  - (e) internal set down, unloading and loading areas to be included in the internal road network to provide a safe stopping area for trucks to unload or prepare for departure designated for stopped vehicles; and
  - (f) a Drivers Code of Conduct to set out policies and procedures to ensure safe truck driver behaviour onsite and offsite to be endorsed in writing by all truck drivers.

  
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9. Waste management will be conducted in accordance with a Waste Management Plan approved by the local government to include but not limited to:
- (a) waste types during construction and operation of the Processing Facility;
  - (b) contracts with independent licensed waste contractors and/or the local government for waste collection and disposal;
  - (c) waste minimisation;
  - (d) waste monitoring;
  - (e) odour monitoring;
  - (f) mitigation measures including odour;
  - (g) cotton trash transport off site including but not limited to limits to storage period onsite and storage volumes onsite;
  - (h) surface runoff;
  - (i) impact assessments of potential pollution and specifically, biosecurity;
  - (j) transport of sealed contaminated materials to a suitable waste facility monthly;
  - (k) remediation and end of life monitoring after remediation;
  - (l) record keeping procedures to identify any type of contamination of whatsoever nature arising from the Facility operation including detention pond discharge and transport of product to and from the Processing Facility;
  - (m) compliance with the requirement to notify the Department of Water and Environmental Regulation (DWER) of any contamination pursuant to the obligations set out in the *Contaminated Sites Act 2003*;
  - (n) a biosecurity plan outlining risks and risk management procedures; and
  - (o) a monitoring plan for the controlled release of surface runoff.
10. Prior to commencement of operations the Applicant will submit a Stormwater Management Plan to the local government for approval to include but not limited to:
- (a) anticipated levels of stormwater runoff;
  - (b) identification and management of potential contaminants affecting stormwater runoff;
  - (c) water quality management procedures;
  - (d) stormwater maintenance, monitoring and mitigation measures;
  - (e) construction specifications and proposed locations for drainage channels and discharge points both within the gin area and the property generally, together with ongoing monitoring and mitigation measures to avoid erosion of the drainage bed once constructed;
  - (f) construction specifications and proposed locations for stormwater detention ponds, together with details of:
    - (i) storage capacity;
    - (ii) inlet controls;
    - (iii) by-wash control, capacity and conditions for water release;
    - (iv) discharge release point/s;
    - (v) disposal of collected sediment; and
    - (vi) integration with the Ord River Irrigation Area drainage network;
  - (g) environmental compliance indicators relating to the tie in with the ORIA;
  - (h) management of upgrades to access points to the Ord River Irrigation Area drainage network and any effects on the land and water and water release;

  
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- (i) diversion and management of clean water flow from upslope and non-gin areas together with details of any detention pond system to manage rate of discharge;
  - (j) diversion and management of water flow from within the gin area, including management of contaminants including hydrocarbon contaminants which are not to be diverted into the stormwater detention ponds;
  - (k) a monitoring plan for the controlled release of excess stormwater runoff.
11. Prior to commencement of operations the Applicant will submit a Dust and Air Management Quality Plan to the local government for approval to include but not limited to:
- (a) the locations for the placement of dust and air quality receptors;
  - (b) dust management criteria with respect to wind and other weather conditions;
  - (c) the criteria by which dust emissions are to be monitored and assessed;
  - (d) anticipated dust emissions with respect to utilisation of the traffic and module areas and cotton ginning emissions;
  - (e) dust mitigation measures to be adopted;
  - (f) detailed analysis of the design of the cyclone system and the procedure for monitoring the rate of discharge from each cyclone so as to determine whether potential dust emissions are significant, in accordance with DWER 2019 Draft Guidelines – Air Emissions cyclone generated dust and if so, mitigation measures to be put in place; and
  - (g) dust management procedures to include but not limited to daily watering of all access roads to the site, internal circuit roads to minimise traffic generated dust and ensure internal haul roads are in a smooth condition to minimise dust generated by truck movements.
12. An Acoustic Report prepared by a suitably qualified acoustic consultant be provided to the Shire, showing noise measurements of the various proposed site activities, including sound power levels, weather information, noise modelling and contour mapping both before and after any mitigation measures implemented, and demonstrating that the proposed site activities can and will comply with the Environmental Protection (Noise) regulations 1997.
13. Prior to commencement of operations the Applicant will develop a Noise Management Plan for the approval of the local government to include but not limited to:
- (a) the locations for the placement of noise receptors;
  - (b) noise management criteria with respect to wind and other weather conditions;
  - (c) the criteria by which noise emissions are to be monitored and assessed;
  - (d) anticipated noise emissions with respect to utilisation of the traffic and module areas and cotton gin;
  - (e) noise mitigation measures to be adopted;





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- (f) managing traffic to:
- (vii) ensure frontend loader noise during the hours of 10pm and 7am is managed so as to not exceed predicted levels;
  - (viii) limit all vehicle speed to less than 40km/h and 20km/h after 7pm and before 5am daily;
  - (ix) prohibit truck revving and the use of engine exhaust brakes;
  - (x) prohibit more than 34 truck movements in and out of the Facility site with no truck movements after 7pm and before 5am except for the month of June in each year;
  - (xi) fit reversing alarms (white sound or broadband) to all forklifts;
  - (xii) position idling trucks in appropriate areas to minimise noise emissions travelling to Receptor 3 and Receptor 4;
  - (xiii) designate internal set down, unloading and loading areas for stopped vehicles
- (g) managing cotton gin emission and cyclone system noise by:
- (i) keeping doors to the gin building closed;
  - (ii) stacking bales to create a barrier wall to noise from forklifts and loading the trucks, positioned on the eastern side of the building;
  - (iii) constructing a cyclone noise buffer from onsite spoil materials, such to be positioned approximately 100m from Receptor 3 and Receptor 4 so as to ensure that noise does not exceed assigned levels;
  - (iv) install shielding at the fan bay and cyclone stand to direct noise away from Receptor 2, Receptor 3 and Receptor 4.
14. The Applicant is to enter into appropriate contracts with an independent licenced waste contractor and/or the local government for the disposal of all waste generated onsite to ensure such waste is appropriately stored, managed and disposed of.
15. Internal road surfaces on Lot 510 are to be constructed with coarse road base gravel to minimise development of fine soil particles.
16. Prior to the use of Mulligans Lagoon Road for the purposes of heavy haulage travelling to and from the Processing Facility, the Applicant will upgrade the road from the intersection with Weaber Plain Road to the Facility access point to a standard to be approved by the local government.
17. Prior to the use of Mulligans Lagoon Road to access Lot 510 by standard vehicle the Applicant will construct a rural crossover to a standard to be approved by the local government.
18. Prior to any use Weaber Plain Road for construction of the Processing Facility the Applicant will provide evidence the local government that the crossover is capable of servicing the turning radius of the anticipated RAV configuration outlined in the traffic assessment by SMK Consultants.

  
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**Presiding Member, Regional JDAP**



19. Works to construct the Processing Facility will only be undertaken from 5am to 7pm Monday to Saturday.
20. Works to construct internal and access roads will only be undertaken between 7am and 7pm Monday to Saturday.
21. The Applicant will publish a complaints log for all activities associated with the Processing Facility and ensure online availability.

### AMENDING MOTION 1

**Moved by:** Mr Justin Page

**Seconded by:** Cr Dylan Hearty

That the preamble be amended to read as follows:

1. *Accept that the DAP Application reference DAP/22/02349 is appropriate for consideration as a use not listed - “**Industry - Rural**” and is considered compatible with the objectives of the zoning table in accordance with Clause 18 (4)(b) of the Shire of Wyndham East Kimberley Local Planning Scheme No. 9;*
2. *Approve DAP Application reference DAP/22/02349 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 Wyndham East Kimberley Local Planning Scheme No. 9, subject to the following conditions:*


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

**REASON:** The Panel having considered the RAR and following detailed discussions with the responsible authority and applicant during the meeting, determined that the most appropriate land use is ‘Industry – Rural’, as defined in the Shire of Wyndham East Kimberley Local Planning Scheme No. 9.

The Panel did not agree Industry – Primary Production was accurate. Although this is industrial processing, the more specific, defined use of Industry – Rural most accurately describes the operations, which has close nexus to surrounding agriculture in the Ord River area.

This is a development of regional significance to the agricultural sector and the continued growth of the local cotton industry. This site was selected given it does not comprise the same high-quality soil evident across much of the Agriculture – State or Regional significance zone used for growing food and other products, and because it is not a use suited to other zones in the Shire, including the industrial zones that are located within the town boundaries of Kununurra.

The Panel was ultimately satisfied Clause 18 provided sufficient discretion and the development could be considered consistent with the objectives of the Agriculture – State or Regional significance zone.

  
**Mr Tony Arias**  
**Presiding Member, Regional JDAP**



## AMENDING MOTION 2

**Moved by:** Mr Justin Page

**Seconded by:** Ms Kanella Hope

That Condition No.1 be amended to read as follows:

*This decision constitutes planning approval only and is valid for a period of 2 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.*

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

**REASON:** To be consistent with the DAP regulations which stipulates a four year approval period.

## AMENDING MOTION 3

**Moved by:** Mr Justin Page

**Seconded by:** Ms Kanella Hope

The following amendments were made en bloc:

- (i) That Condition No.4, Condition No.5 and Condition No.6 be deleted.
- (ii) That a New Advice Note 1 be added to read as follows:

***The Applicant must obtain Works Approval(s) and other relevant approval(s) under the Environmental Protection Act 1986 for the facility for:***

- (a) discharge of waste water;***
- (b) discharge of other wastes;***
- (c) noise and dust emissions; and***
- (d) clearing of native vegetation.***


***based on the updated civil design of the Processing Facility set out in Condition 2***

- (iii) That a New Advice Note 2 be added to read as follows:

***The Applicant must obtain a section 18 Aboriginal Heritage Act 1972 consent prior to commencing development ~~to the satisfaction of the local government.~~***

- (iv) That a New Advice Note 3 be added to read as follows:

***The Applicant must comply with water quality parameters for the Ord River Irrigation Area drainage network, as required, under licences issued to the Ord Irrigation Cooperative. ~~to the satisfaction of the local government.~~***

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

**REASON:** The content of these conditions require compliance with other various legislation outside the scope of the Panel and therefore are more appropriate as Advice Notes in the approval.

**AMENDING MOTION 3**

**Moved by:** Ms Kanella Hope

**Seconded by:** NIL

That a new Condition No.2(h) be added to read as follows:

**Separation to and minimising impacts on sensitive receptors**

**The Amending Motion lapsed for a want of a seconder.**

**AMENDING MOTION 4**

**Moved by:** Ms Kanella Hope

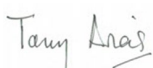
**Seconded by:** Mr Justin Page

That Condition No.3 be amended to read as follows:

The Applicant is required to construct and operate the Processing Facility in accordance with a Waste Management Plan, Stormwater Management Plan, Dust and Air Quality Management Plan, Noise Management Plan, Construction Traffic Management Plan and Operations Traffic Management Plan approved by the local government. **Each Management Plan is to include complaints handling and contingency mechanisms.**

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

**REASON:** This is not clearly articulated. Additional wording added for clarity and certainty.

  
**Mr Tony Arias**  
**Presiding Member, Regional JDAP**



## AMENDING MOTION 5

**Moved by:** Mr Tony Arias


**Seconded by:** Ms Kanella Hope

The following amendments were made en bloc:

- (i) That Condition No.10 (Now Condition No.7) be amended to read as follows:

*Prior to commencement of operations the Applicant will submit a **revised Stormwater Management Plan, based on final civil design and specifications for the development**, to the local government for approval to include but not limited to:*

- (a) anticipated levels of stormwater runoff;*
- (b) identification and management of potential contaminants affecting stormwater runoff;*
- (c) water quality management procedures;*
- (d) stormwater maintenance, monitoring and mitigation measures;*
- (e) construction specifications and proposed locations for drainage channels and discharge points both within the gin area and the property generally, together with ongoing monitoring and mitigation measures to avoid erosion of the drainage bed once constructed;*
- (f) construction specifications and proposed locations for stormwater detention ponds, together with details of:*
  - (xiv) storage capacity;*
  - (xv) inlet controls;*
  - (xvi) by-wash control, capacity and conditions for water release;*
  - (xvii) discharge release point/s;*
  - (xviii) disposal of collected sediment; and*
  - (xix) integration with the Ord River Irrigation Area drainage network;*
- (g) environmental compliance indicators relating to the tie in with the ORIA;*
- (h) management of upgrades to access points to the Ord River Irrigation Area drainage network and any effects on the land and water and water release;*
- (i) diversion and management of clean water flow from upslope and non-gin areas together with details of any detention pond system to manage rate of discharge;*
- (j) diversion and management of water flow from within the gin area, including management of contaminates including hydrocarbon contaminates which are not to be diverted into the stormwater detention ponds;*
- (k) a monitoring plan for the controlled release of excess stormwater runoff.*

  
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- (ii) That Condition No.11 (Now Condition No.8) be amended to read as follows:

*Prior to commencement of operations the Applicant will submit a **revised Dust and Air Management Quality Plan, based on final civil design and specifications for the development**, to the local government for approval to include but not limited to:*

- (a) *the locations for the placement of dust and air quality receptors;*
- (b) *dust management criteria with respect to wind and other weather conditions;*
- (c) *the criteria by which dust emissions are to be monitored and assessed;*
- (d) *anticipated dust emissions with respect to utilisation of the traffic and module areas and cotton ginning emissions;*
- (e) *dust mitigation measures to be adopted;*
- (f) *detailed analysis of the design of the cyclone system and the procedure for monitoring the rate of discharge from each cyclone so as to determine whether potential dust emissions are significant, in accordance with DWER 2019 Draft Guidelines – Air Emissions cyclone generated dust and if so, mitigation measures to be put in place; and*
- (g) *dust management procedures to include but not limited to daily watering of all access roads to the site, internal circuit roads to minimise traffic generated dust and ensure internal haul roads are in a smooth condition to minimise dust generated by truck movements.*


- (iii) That Condition No.12 (Now Condition No.9) be amended to read as follows:

*An **revised Acoustic Report prepared by a suitably qualified acoustic consultant be provided to the Shire, based on final civil design and specifications for the development**, showing noise measurements of the various proposed site activities, including sound power levels, weather information, noise modelling and contour mapping both before and after any mitigation measures implemented, and demonstrating that the proposed site activities can and will comply with the Environmental Protection (Noise) regulations 1997.*

- (iv) That Condition No.13 (Now Condition No.10) be amended to read as follows:

*Prior to commencement of operations the Applicant will develop a **revised Noise Management Plan, based on final civil design and specifications for the development**, for the approval of the local government to include but not limited to:*

- (a) *the locations for the placement of noise receptors;*
- (b) *noise management criteria with respect to wind and other weather conditions;*
- (c) *the criteria by which noise emissions are to be monitored and assessed;*
- (d) *anticipated noise emissions with respect to utilisation of the traffic and module areas and cotton gin;*
- (e) *noise mitigation measures to be adopted;*
- (f) *managing traffic to:*
  - (i) *ensure frontend loader noise during the hours of 10pm and 7am is managed so as to not exceed predicted levels;*

  
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- (ii) *limit all vehicle speed to less than 40km/h and 20km/h after 7pm and before 5am daily;*
  - (iii) *prohibit truck revving and the use of engine exhaust brakes;*
  - (iv) *prohibit more than 34 truck movements in and out of the Facility site with no truck movements after 7pm and before 5am except for the month of June in each year;*
  - (v) *fit reversing alarms (white sound or broadband) to all forklifts;*
  - (vi) *position idling trucks in appropriate areas to minimise noise emissions travelling to Receptor 3 and Receptor 4;*
  - (vii) *designate internal set down, unloading and loading areas for stopped vehicles*
- (g) *managing cotton gin emission and cyclone system noise by:*
- (i) *keeping doors to the gin building closed;*
  - (ii) *stacking bales to create a barrier wall to noise from forklifts and loading the trucks, positioned on the eastern side of the building;*
  - (iii) *constructing a cyclone noise buffer from onsite spoil materials, such to be positioned approximately 100m from Receptor 3 and Receptor 4 so as to ensure that noise does not exceed assigned levels;*
  - (iv) *install shielding at the fan bay and cyclone stand to direct noise away from Receptor 2, Receptor 3 and Receptor 4.*

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

**REASON:** The Panel noted that the Plans required by Conditions 10- 13 have already been prepared and form part of the RAR. The additional wording was added to clarify the intent of the Conditions, which was supported by the Shire officers.

**REPORT RECOMMENDATION (AS AMENDED)**

That the Regional JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/22/02349 is appropriate for consideration as a use not listed - "Industry - Rural" and is considered compatible with the objectives of the zoning table in accordance with Clause 18 (4)(b) of the Shire of Wyndham East Kimberley Local Planning Scheme No. 9;
2. **Approve** DAP Application reference DAP/22/02349 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 Wyndham East Kimberley Local Planning Scheme No. 9, subject to the following conditions:


  
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## Conditions


1. This decision constitutes planning approval only and is valid for a period of 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 Applicant is required to provide a finalised civil design and specifications for the Cotton Gin Processing Facility (Processing Facility) on Lot 510 Mulligans Lagoon Road (Lot 510) to the Shire for its approval and that such design include:
  - (a) a plan illustrating the area of the Processing Facility site to be cleared;
  - (b) a drainage network plan and a survey and hydrological design outlining the process and direction of detention pond overflows;
  - (c) a plan illustrating the siting, the specifications for construction of stormwater settlement pond/s, the actual capacity of the pond/s assessed in accordance with Department of Water and Environmental Regulation (DWER) Guidelines, the volume and type of fill to be used for construction and a geotechnical investigation report;
  - (d) a plan illustrating the siting and the specifications for construction of bunds/retaining walls;
  - (e) the cyclone system design and specifications;
  - (f) the internal air conditioning design; and
  - (g) an electrical design.
3. The Applicant is required to construct and operate the Processing Facility in accordance with a Waste Management Plan, Stormwater Management Plan, Dust and Air Quality Management Plan, Noise Management Plan, Construction Traffic Management Plan and Operations Traffic Management Plan approved by the local government. Each Management Plan is to include complaints handling and contingency mechanisms.
4. Prior to commencement of construction the Applicant is to undertake a road safety audit and submit a Construction Traffic Management Plan to the local government for approval.
5. Prior to commencement of operations at the Processing Facility the Applicant is to submit an Operations Traffic Management Plan to the local government for approval for the regulation of staff and contractor vehicle movements within the site so as to avoid internal traffic conflict to include but not limited to:
  - (a) site communications by two-way radio to manage vehicle movements and maintain communication between drivers;
  - (b) machinery moving round bales to have right of way at all times due to lack of potential visibility by other road users;
  - (c) restricted entry area including working areas between the gin and bale shed and module feeder bay and internal haul roads;
  - (d) drivers to follow sign posts for one-way use of internal roads for unloading and despatch sites;

  
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- (e) internal set down, unloading and loading areas to be included in the internal road network to provide a safe stopping area for trucks to unload or prepare for departure designated for stopped vehicles; and
- (f) a Drivers Code of Conduct to set out policies and procedures to ensure safe truck driver behaviour onsite and offsite to be endorsed in writing by all truck drivers.
6. Waste management will be conducted in accordance with a Waste Management Plan approved by the local government to include but not limited to:
- (a) waste types during construction and operation of the Processing Facility;
  - (b) contracts with independent licensed waste contractors and/or the local government for waste collection and disposal;
  - (c) waste minimisation;
  - (d) waste monitoring;
  - (e) odour monitoring;
  - (f) mitigation measures including odour;
  - (g) cotton trash transport off site including but not limited to limits to storage period onsite and storage volumes onsite;
  - (h) surface runoff;
  - (i) impact assessments of potential pollution and specifically, biosecurity;
  - (j) transport of sealed contaminated materials to a suitable waste facility monthly;
  - (k) remediation and end of life monitoring after remediation;
  - (l) record keeping procedures to identify any type of contamination of whatsoever nature arising from the Facility operation including detention pond discharge and transport of product to and from the Processing Facility;
  - (m) compliance with the requirement to notify the Department of Water and Environmental Regulation (DWER) of any contamination pursuant to the obligations set out in the *Contaminated Sites Act 2003*;
  - (n) a biosecurity plan outlining risks and risk management procedures; and
  - (o) a monitoring plan for the controlled release of surface runoff.

  
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7. Prior to commencement of operations the Applicant will submit a revised Stormwater Management Plan based on submitted final designs to the local government for approval to include but not limited to:
  - (a) anticipated levels of stormwater runoff;
  - (b) identification and management of potential contaminants affecting stormwater runoff;
  - (c) water quality management procedures;
  - (d) stormwater maintenance, monitoring and mitigation measures;
  - (e) construction specifications and proposed locations for drainage channels and discharge points both within the gin area and the property generally, together with ongoing monitoring and mitigation measures to avoid erosion of the drainage bed once constructed;
  - (f) construction specifications and proposed locations for stormwater detention ponds, together with details of:
    - (xx) storage capacity;
    - (xxi) inlet controls;
    - (xxii) by-wash control, capacity and conditions for water release;
    - (xxiii) discharge release point/s;
    - (xxiv) disposal of collected sediment; and
    - (xxv) integration with the Ord River Irrigation Area drainage network;
  - (g) environmental compliance indicators relating to the tie in with the ORIA;
  - (h) management of upgrades to access points to the Ord River Irrigation Area drainage network and any effects on the land and water and water release;
  - (i) diversion and management of clean water flow from upslope and non-gin areas together with details of any detention pond system to manage rate of discharge;
  - (j) diversion and management of water flow from within the gin area, including management of contaminates including hydrocarbon contaminates which are not to be diverted into the stormwater detention ponds;
  - (k) a monitoring plan for the controlled release of excess stormwater runoff.
  
8. Prior to commencement of operations the Applicant will submit a revised Dust and Air Management Quality Plan, based on final civil design and specifications for the development, to the local government for approval to include but not limited to:
  - (a) the locations for the placement of dust and air quality receptors;
  - (b) dust management criteria with respect to wind and other weather conditions;
  - (c) the criteria by which dust emissions are to be monitored and assessed;
  - (d) anticipated dust emissions with respect to utilisation of the traffic and module areas and cotton ginning emissions;
  - (e) dust mitigation measures to be adopted;
  - (f) detailed analysis of the design of the cyclone system and the procedure for monitoring the rate of discharge from each cyclone so as to determine whether potential dust emissions are significant, in accordance with DWER 2019 Draft Guidelines – Air Emissions cyclone generated dust and if so, mitigation measures to be put in place; and
  - (g) dust management procedures to include but not limited to daily watering of all access roads to the site, internal circuit roads to minimise traffic generated dust and ensure internal haul roads are in a smooth condition to minimise dust generated by truck movements.

  
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9. A revised Acoustic Report prepared by a suitably qualified acoustic consultant be provided to the Shire, based on final civil design and specifications for the development, showing noise measurements of the various proposed site activities, including sound power levels, weather information, noise modelling and contour mapping both before and after any mitigation measures implemented, and demonstrating that the proposed site activities can and will comply with the Environmental Protection (Noise) regulations 1997.
10. Prior to commencement of operations the Applicant will develop a revised Noise Management Plan, based on final civil design and specifications for the development, for the approval of the local government to include but not limited to:
- (a) the locations for the placement of noise receptors;
  - (b) noise management criteria with respect to wind and other weather conditions;
  - (c) the criteria by which noise emissions are to be monitored and assessed;
  - (d) anticipated noise emissions with respect to utilisation of the traffic and module areas and cotton gin;
  - (e) noise mitigation measures to be adopted;
  - (f) managing traffic to:
    - (i) ensure frontend loader noise during the hours of 10pm and 7am is managed so as to not exceed predicted levels;
    - (ii) limit all vehicle speed to less than 40km/h and 20km/h after 7pm and before 5am daily;
    - (iii) prohibit truck revving and the use of engine exhaust brakes;
    - (iv) prohibit more than 34 truck movements in and out of the Facility site with no truck movements after 7pm and before 5am except for the month of June in each year;
    - (v) fit reversing alarms (white sound or broadband) to all forklifts;
    - (vi) position idling trucks in appropriate areas to minimise noise emissions travelling to Receptor 3 and Receptor 4;
    - (vii) designate internal set down, unloading and loading areas for stopped vehicles
  - (g) managing cotton gin emission and cyclone system noise by:
    - (i) keeping doors to the gin building closed;
    - (ii) stacking bales to create a barrier wall to noise from forklifts and loading the trucks, positioned on the eastern side of the building;
    - (iii) constructing a cyclone noise buffer from onsite spoil materials, such to be positioned approximately 100m from Receptor 3 and Receptor 4 so as to ensure that noise does not exceed assigned levels;
    - (iv) install shielding at the fan bay and cyclone stand to direct noise away from Receptor 2, Receptor 3 and Receptor 4.
11. The Applicant is to enter into appropriate contracts with an independent licenced waste contractor and/or the local government for the disposal of all waste generated onsite to ensure such waste is appropriately stored, managed and disposed of.

  
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12. Internal road surfaces on Lot 510 are to be constructed with coarse road base gravel to minimise development of fine soil particles.
13. Prior to the use of Mulligans Lagoon Road for the purposes of heavy haulage travelling to and from the Processing Facility, the Applicant will upgrade the road from the intersection with Weaber Plain Road to the Facility access point to a standard to be approved by the local government.
14. Prior to the use of Mulligans Lagoon Road to access Lot 510 by standard vehicle the Applicant will construct a rural crossover to a standard to be approved by the local government.
15. Prior to any use of Weaber Plain Road for construction of the Processing Facility the Applicant will provide evidence to the local government that the crossover is capable of servicing the turning radius of the anticipated RAV configuration outlined in the traffic assessment by SMK Consultants.
16. Works to construct the Processing Facility will only be undertaken from 5am to 7pm Monday to Saturday.
17. Works to construct internal and access roads will only be undertaken between 7am and 7pm Monday to Saturday.
18. The Applicant will publish a complaints log for all activities associated with the Processing Facility and ensure online availability.

#### **Advice Notes**

1. The Applicant must obtain Works Approval(s) and other relevant approval(s) under the Environmental Protection Act 1986 for the facility for:
  - (a) discharge of waste water;
  - (b) discharge of other wastes;
  - (c) noise and dust emissions; and
  - (d) clearing of native vegetation.

based on the updated civil design of the Processing Facility set out in Condition 2.

2. The Applicant must obtain a section 18 Aboriginal Heritage Act 1972 consent prior to commencing development.
3. The Applicant must comply with water quality parameters for the Ord River Irrigation Area drainage network, as required, under licences issued to the Ord Irrigation Cooperative.

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

**REASON:** The Panel having considered the Responsible Authority Report and all materials and information presented, was satisfied with the RAR recommendation but with the amended conditions and approval of the use as 'Industry – Rural' (Use not Listed) under Clause 18 (4)(a) of the Shire of Wyndham East Kimberley Local Planning Scheme No. 9. The Panel considered that the location and nature of the proposal is compatible within the overall strategic agricultural zoning and surrounding use of land. In general, the Panel was satisfied that all relevant planning considerations had been appropriately addressed, including matters relating to transport, protection of neighbouring amenity for sensitive receptors and the environment.

*Cr Dylan Hearty (Local Government Member, Shire of Wyndham-East Kimberley) left the panel at 11.02am.*

*Cr Alexander Fullarton (Local Government Member, Shire of Carnarvon) joined the panel at 11.02am.*

**8.2 85 Olivia Terrace, Carnarvon**

Development Description:	Proposed Mixed-use Development (Hotel, Retail/Commercial, Offices, Short-stay Apartments and Multiple Dwellings)
Applicant:	Planning Solutions
Owner:	Angovenp Pty Ltd
Responsible Authority:	Shire of Carnarvon
DAP File No:	DAP/22/02363

**REPORT RECOMMENDATION**

**Moved by:** Cr Alexander Fullarton

**Seconded by:** Mr Justin Page

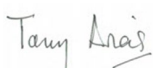
**PART 1**

That Council, by Simple Majority, pursuant to Section 3.18 of the Local Government Act 1995 accepts the attached Responsible Authority Report (RAR), including attachments.

**PART 2**

That Council, by Simple Majority, pursuant to Regulation 12 of the Planning and Development (Development Assessment Panels) Regulations 2011 recommends that the Regional Joint Development Assessment Panel resolves to:

1. Accept that the DAP Application reference DAP/22/02363 is appropriate for consideration as a "Mixed Use development" land use and compatible with the objectives of the zoning table in accordance with Clause no.16 of the Shire of Carnarvon Local Planning Scheme No. 13.

  
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2. Approve DAP Application reference DAP/22/02363 and accompanying revised set of development plans dated 9 December 2022 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 Carnarvon Local Planning Scheme No. 13, subject to the following conditions:

### Conditions

- i. This decision constitutes planning approval only and is valid for a period of 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;
- ii. The number of onsite car bays, bicycle bays and motorcycle/scooter bays determined to be provided within each stage of the proposed development, including access to them, shall be designed, constructed, sealed, drained, and marked to the specifications and satisfaction of the Shire of Carnarvon prior to occupancy of the respective stage of the development;
- iii. The applicant shall prepare a legal agreement to facilitate reciprocal rights of vehicular access over adjoining lot 182 on P222239 to lot 300 on DP 412840 in which Shire of Carnarvon's interests are protected.  
This agreement shall be prepared at no cost whatsoever to the Shire of Carnarvon. Occupancy of the approved development shall not occur until the agreement is executed by the applicant and the Shire of Carnarvon;
- iv. The porte cochere structure shall be a cantilevered type with no supports located within the Robinson Street Road reserve. The porte cochere shall be designed constructed, sealed, drained, and marked to the specifications and satisfaction of the Shire of Carnarvon prior to occupancy of the approved hotel in Stage 2;
- v. The applicant shall submit to the Shire of Carnarvon a legal agreement for the registered proprietor (RP) of lot 300 on DP 412840 to:
  - (a) maintain the porte cochere within the Robinson Street reserve at its expense and to the satisfaction of the Shire of Carnarvon for the duration of the hotel use; and
  - (b) should the hotel use permanently cease, remove the porte cochere and make good at its expense to the satisfaction of the Shire of Carnarvon the land occupied by the porte cochere within 6 months of the hotel use permanently ceasing.

This agreement shall be prepared at no cost whatsoever to the Shire of Carnarvon.

Occupancy of the approved development shall not occur until the agreement is executed by the applicant and the Shire of Carnarvon;


  
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- vi. Prior to issue of a building permit for any stage of the development, a stormwater and drainage management plan shall be submitted to the specifications and satisfaction of the Shire of Carnarvon.

This plan shall specifically address the collection, storage and/or disposal of stormwater falling within the development site including roof run-off;

- vii. Prior to occupancy of the development the approved stormwater management plan must be implemented to the satisfaction of the Shire of Carnarvon;
- viii. Prior to occupancy of the approved development a waste management plan must be submitted to the specifications and satisfaction of the Shire of Carnarvon.  
This plan is to specifically address the collection, storage and disposal of waste generated from within the approved development;
- ix. Prior to issue of a building permit for any stage of the development a landscape plan must be submitted to the satisfaction of the Shire of Carnarvon;
- x. Prior to occupancy of the approved development, the approved landscaping must be completed in accordance with the approved landscape plan;
- xi. That there is to be no light spill emanating from corridors and common spaces within the approved development into the habitable rooms of adjoining lots;
- xii. Utilities servicing the approved development are to be designed to integrate with the overall architecture of the approved development;
- xiii. Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to a reticulated water supply to the requirements of the Water Corporation;
- xiv. Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to the reticulated sewerage scheme, to the requirements of the Water Corporation;
- xv. Prior to occupancy of each stage of the approved development, each stage of the development shall be connected to the reticulated electricity network to the requirements of Horizon Power;
- xvi. Filling of lot 300 on DP 412840 is prohibited, other than that directly necessary for the development as approved under a building permit;

  
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- xvii. A construction management plan to the specifications and satisfaction of the Shire of Carnarvon shall be submitted with a building permit application for the development.

This plan shall address:


- site accessibility;
- parking for contractors and 'tradies';
- ongoing dust control;
- provision and maintenance of construction site fencing and signage;
- location, unloading and storage of construction materials;
- storage and removal of construction waste;
- contingency arrangements for any construction works and securing materials during cyclone season; and
- contact details and availability of the project manager and site supervisor;

The approved construction management plan is to be implemented and adhered to at all times, up to the completion of the approved development and the issue of an occupancy permit by the Shire of Carnarvon;

- xviii. The proposed jetty and boat pens shall be designed to withstand/accommodate at least a 1 in 100-year cyclone event, and 1 in 500-year inundation levels;
- xix. Occupancy within each stage of the approved development is not permitted until the respective occupancy permit has been issued by the Shire of Carnarvon pursuant to section 58 of the Building Act 2011;
- xx. No hotel suite (Stage 2) and no short-stay suites and studio suites in Stage 3 are to be occupied by any person for more than 3 months within any 12 month period. To this end, the proprietor/manager of these suites is to maintain a register of guests, which is to be made available for inspection by authorised officers of the Shire of Carnarvon upon request.

### **Advice Notes**

- (a) The design and construction of the proposed jetty and boat pens is to accord with applicable provisions of the State Planning Policy (SPP) 2.6 – Coastal Planning;
- (b) A licence is required to be obtained from the Department of Transport, Maritime Property Services to provide and maintain the proposed jetty and boat pens;
- (c) The proponent is advised that the Carnarvon Fascine waterway is managed and maintained by the Shire of Carnarvon. The Fascine waterway is a dynamic environment and maintaining navigable depths in and out of the waterway on an on-going basis cannot be guaranteed at this time. Accordingly, prospective registered proprietors of the multiple dwellings and/or the hotel, short-stay and studio suites seeking a boat pen licence/lease should be formally notified of the vessel navigability situation by way of a Notification on the Certificate of Title or by some other appropriate means;

  
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- (d) Access and facilities for people with disabilities must be provided at all times to all approved buildings, and internally throughout any building in accordance with AS1428.1 2009;
- (e) All building development is to comply with the National Construction Code Series;
- (f) A copy of the building plans and specifications must be deposited with the Department of Fire and Emergency Services (DFES) pursuant to regulation 18B of the Building Regulations 2012.

**The Report Recommendation was put and LOST (2/2).**

For: Mr Justin Page  
Cr Alexander Fullarton

Against: Mr Tony Arias  
Ms Kanella Hope

**PROCEDURAL MOTION**


**Moved by:** Cr Alexander Fullarton

**Seconded by:** Ms Kanella Hope

That the consideration of DAP Application DAP/22/02363 be deferred for no more than 90 days, being 20 April 2023, in accordance with section 5.10.1a of the DAP Standing Orders 2020, for the following reasons:

For the applicant to provide the panel with further justification and a complete proposal package. This is to address:

- Ideally Independent Design Review. The Office of the Government Architect or the South West Design Review Local Government agreement, managed by the City of Busselton, may be able to assist.
- Detailed evaluation against SPP7.0
- Complete R-code assessment
- Justification of design and built form, including height, bulk, materials and setbacks proposed, in context of the existing character and the anticipated future character
- Scheme evaluation, including Schedule 5 – Additional site and development requirements for the Regional Centre zone as well as zone considerations for the jetty
- Functionality of internal parking and access arrangements, including aisle widths, practical use, and access through the adjoining car park
- Pedestrian connectivity, including the changes proposed with the introduction of the Porte Cochere on Robinson Street over the footpath
- Management of the shortfall in parking (for each stage, existing and proposed future character of the town centre)
- Noise impacts from and within the development
- Staging plan and practicalities of this such as for parking, access, and landscaping

  
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- Treatment and stepping of blank walls, including for each stage
- Landscaping details

**The Procedural Motion was put and CARRIED.**

**REASON:** In principle the Panel supported the concept however there are gaps in fundamental information not provided to the Panel. The Panel did not agree these matters could be addressed by condition, particularly in terms of design and built form. The significance of the development and the considerable lead time to reach this point was acknowledged however it was agreed the most productive way forward was to put the matter on hold so these information gaps and issues could be addressed. In the absence of a Local Development Plan, local design guidelines or Activity Centre Plan, the considered application of SPP7.0 and the R-codes is heightened. This development is significant for Carnarvon, it is substantial in scale and substantially larger and more complex than existing development, introducing a new character and precedent, which compels careful evaluation.

**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
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
DAP/22/02265 DR204/2022	Shire of Harvey	Lot 101 (No. 96) Binningup Road, Binningup	Workers Accommodation Village	28 November 2022

*Tony Arias*  
**Mr Tony Arias**  
Presiding Member, Regional JDAP




## **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 Time.

  
**Mr Tony Arias**  
**Presiding Member, Regional JDAP**