



Metro Outer Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 13 September 2021; 1pm
Meeting Number: MOJDAP/123
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 Ian Birch (Presiding Member)
Ms Sheryl Chaffer (Deputy Presiding Member)
Mr Jason Hick (Third Specialist Member)
Cr Mark Jones (Local Government Member, City of Rockingham)
Cr Lorna Buchan (Local Government Member, City of Rockingham)

Officers in attendance

Mr David Banovic (City of Rockingham)
Mr Mike Ross (City of Rockingham)
Mr James Henson (City of Rockingham)
Mr Danny Sriono (City of Rockingham)
Mr Ryan Shaw (Department of Planning, Lands and Heritage)

Minute Secretary

Ms Adele McMahon (DAP Secretariat)
Ms Megan Ventriss (DAP Secretariat)

Applicants and Submitters

Mr Josh Watson (Planning Solutions)
Mr Julius Skinner (Thomson Greer)
Mr Behnam Bordbar (Transcore)
Dr James Fox (Land and Water Consulting)
Mr Hamish Brown (Leyton Property)
Mr Lucas Weeks (Leyton Property)
Mr David Wilkins (i3 Consultants)
Mr Regan Harray (7eleven)
Ms Nikki Bombak
Ms Mirella Goetzmann (Department of Health)
Dr Peter Franklin (Department Health)

Members of the Public / Media

There were 3 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 1:03pm on 13 September 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

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

Mr Ian Birch
Presiding Member, Metro Outer JDAP



1.1 Announcements by Presiding Member

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

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

2. Apologies

Cr Deb Hamblin (Local Government Member, City of Rockingham)

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 10.1, received on 8 September 2021.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Member, Cr Mark Jones and Cr Lorna Buchan, declared that they participated in a prior Council meeting in relation to the application at item 10.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Jones and Cr Buchan acknowledged that they are not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.

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

Mr Ian Birch
Presiding Member, Metro Outer JDAP



In accordance with section 2.4.10 of the DAP Code of Conduct 2017, DAP Member, Mr Ian Birch, declared that he participated in a State Administrative Tribunal process in relation to the application at item 10.1. However, under section 2.1.3 of the DAP Code of Conduct 2017, Mr Birch acknowledged that he is not bound by any confidential discussions that occurred as part of the mediation process and undertakes to exercise independent judgment in relation to any DAP applications before him, which will be considered on its planning merits.

7. Deputations and Presentations

- 7.1** Ms Nikki Bombak addressed the DAP in support of the recommendation but against the application at Item 10.1.
- 7.2** Mr Julius Skinner (Thomson Greer) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.3** Dr James Fox (Land and Water Consulting) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.4** Mr Behnam Bordbar (Transcore) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.5** Mr David Wilkins (i3 Consultants) responded to questions from the panel in relation to item 10.1.
- 7.6** Mr Josh Watson (Planning Solutions) addressed the DAP against the recommendation but in support of the application at Item 10.1.
- 7.7** Ms Mirella Goetzmann and Dr Peter Franklin (Department of Health) responded to questions from the panel in relation to item 10.1.
- 7.8** City of Rockingham officers addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

8. Form 1 – Responsible Authority Reports – DAP Applications

Nil

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

Nil



10. State Administrative Tribunal Applications and Supreme Court Appeals

10.1 Lot 265 (No.40) Talisker Bend, Golden Bay

Development Description:	Mixed Commercial Development
Summary of Modifications:	<ul style="list-style-type: none">• Submission of Amended plans• Emissions Impact Assessment prepared• Verbal confirmation of incorporation of Stage 1 (VR1) and Stage 2 (VR2) fuel vapour recovery system; and A Road Safety Audit (RSA) has been submitted in relation to the proposed Left-in/Left-out access via Aurea Boulevard
Applicant:	Planning Solutions
Owner:	Peet Golden Bay Housing Authority
Responsible Authority:	City of Rockingham
DAP File No:	DAP/21/01952 (DR96/2021)

REPORT RECOMMENDATION

Moved by: Cr Mark Jones

Seconded by: Cr Lorna Buchan

That the Metro Outer Joint Development Assessment Panel, pursuant to section 31 of the State Administrative Tribunal Act 2004 in respect of SAT application DR 96 of 2021, resolves to:

1. **Reconsider** its decision dated 7 May 2021; and
2. Vary its decision to **Refuse** DAP Application reference DAP/21/01952 and accompanying plans:
 - Site Plan, Revision N, dated 20.07.2021;
 - Gym Floor Plan and Elevations, Revision L, dated 25.03.2021;
 - Commercial Floor Plan and Elevations, Revision L, dated 25.03.2021;
 - Service Station Floor Plan and Elevations, Revision L, dated 25.03.2021;
 - Pylon Signage, Revision K, dated 29.01.2021;
 - Staging Plan, Revision K, dated 29.01.2021; and
 - Landscaping Sketch, Revision N, dated 20.07.2021

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of 68(2)(c) of the deemed provisions of the City of Rockingham Town Planning Scheme No.2, subject to the following reasons as follows:

Mr Ian Birch
Presiding Member, Metro Outer JDAP



Reasons for Responsible Authority Recommendation

1. The proposed development is not compatible with development on other land in this locality due to its unacceptable health risk impacts on sensitive receptors, specifically to children, from benzene exposure.
2. The potential traffic volume and movements resultant from the proposed development, based on the Left-in/Left-out access via Aurea Boulevard and Left-in/Left-out access via Thundelarra Drive, is likely to have an adverse impact on traffic flow associated with vehicles queuing during peak hours of operation within the development site and is likely to overflow into the adjacent road network including the traffic light intersection of Warnbro Sound Avenue and Aurea Boulevard and Thundelarra Drive and Aurea Boulevard intersection.

The Report Recommendation was put and LOST (2/3).

For: Cr Mark Jones
Cr Lorna Buchan

Against: Mr Ian Birch
Ms Sheryl Chaffer
Mr Jason Hick

ALTERNATE MOTION

Moved by: Ms Sheryl Chaffer

Seconded by: Mr Jason Hick

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

To amend condition 24 to read as follows;

*The Service Station development shall incorporate Stage 1 vapour recovery and Stage 2 vapour recovery systems **which are to be installed and operated at all times under a regular program of inspection and maintenance for the life of the development.***

REASON: To ensure that these systems continuously perform their function of controlling vapour emissions.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



That the Metro Outer Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 96 of 2021, resolves to:

Reconsider its decision dated 7 May 2021 and **VARY its** decision for DAP Application reference DAP/21/01952 and accompanying plans

- Site Plan, Revision N, dated 20.07.2021;
- Gym Floor Plan and Elevations, Revision L, dated 25.03.2021;
- Commercial Floor Plan and Elevations, Revision L, dated 25.03.2021;
- Service Station Floor Plan and Elevations, Revision L, dated 25.03.2021;
- Pylon Signage, Revision K, dated 29.01.2021;
- Staging Plan, Revision K, dated 29.01.2021; and
- Landscaping Sketch, Revision N, dated 20.07.2021 SK34

in accordance with the Metropolitan Region Scheme and Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of clause 68(2)(b) of the deemed provisions of the City of Rockingham Town Planning Scheme No. 2, subject to the following conditions:

Conditions

1. This decision constitutes development approval only and is valid for a period of four years from the date of approval (**this is inclusive of the additional two years available under 'Clause 78H Notice of Exemption from planning requirements during State of Emergency' issued by the Minister for Planning on 8 April 2020**). If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. All development must be carried out in accordance with the approved plans, save that, in the event of an inconsistency between the approved plans and a requirement of the conditions set out below, the requirement of the conditions shall prevail.
3. Prior to applying for a Building Permit, the applicant must demonstrate to the satisfaction of the City of Rockingham that any glazing fronting Aurea Boulevard, Thundelarra Drive and Warnbro Sound Avenue has a minimum visible light transmission rate of at least 79% and a maximum visible reflectivity rate of 9% in order ensure that a commercial, interactive frontage is available to the development from all streets. The glazing must thereafter be installed and maintained to the satisfaction of the City of Rockingham for the duration of the development.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



4. Prior to applying for a Building Permit, a Waste Management Plan must be prepared and include the following detail to the satisfaction of the City of Rockingham:
 - (i) the location of bin storage areas and bin location areas;
 - (ii) the number, volume and type of bins, and the type of waste to be placed in the bins;
 - (iii) management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas;
 - (iv) demonstrate there would be no conflict with vehicles accessing the Golden Bay Primary School site during school's peak drop-off/pick-up periods;
 - (v) frequency of bin collections; and
 - (vi) the collection of the bins from an approved position.

All works must be carried out in accordance with the approved Waste Management Plan, for the duration of development and maintained at all times.

5. Prior to the commencement of development, a Construction Management Plan must be prepared and approved by the City of Rockingham to ensure appropriate management of construction related impacts. The approved plan must be implemented for the duration of construction works, to the satisfaction of the City of Rockingham.
6. Stormwater from all roofed and paved areas shall be collected and contained on site. Stormwater must not affect or be allowed to flow onto or into any property or road reserve. All stormwater generated by the development must be managed in accordance with Planning Policy 3.4.3 - Urban Water Management to the satisfaction of the City of Rockingham. The approved plans must be implemented and all works must be maintained for the duration of the development.
7. Prior to applying for a Building Permit, an external lighting plan is to be submitted and approved by the City of Rockingham, demonstrating compliance with AS/NZS 4282 – Control of Obtrusive Effects of Outdoor Lighting and AS/NZS 1158.3.1:2005 – Lighting for Roads and Public Spaces. External lighting is to be implemented in accordance with the City of Rockingham approved lighting plan for the duration of the development, to the satisfaction of the City of Rockingham.
8. Prior to occupation of the development, any damage to existing City infrastructure within the road reservation including, kerb, road pavement, street lighting, irrigation and footpaths is to be repaired and/or replaced to the satisfaction of the City of Rockingham at the cost of the applicant.
9. Prior to occupation of the development, the applicant/landowner shall implement the recommendations detailed in the Environmental Noise Assessment report prepared by Reverberate Consulting, dated 2 February 2021.
10. Prior to occupation of development, a 3.0m high masonry wall shall be erected for the entire length along the southern boundary of the development site. The internal facing side of the wall shall be articulated with decorative panels and is to include artwork so that it does not present as a blank wall to the street, to the satisfaction of the City of Rockingham.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



11. Earthworks over the site associated with the development must be stabilised to prevent sand or dust blowing off the site, and appropriate measures shall be implemented within the time and in the manner directed by the City of Rockingham in the event that sand or dust is blown from the site.
12. Materials, sea containers, goods or bins must not be stored within the carpark at any time.
13. Street awnings must be provided to Aurea Boulevard and Thundelarra Drive as illustrated on the approved plans, with lighting provided under the street awnings.
14. All service area and service related hardware, including antennae, satellite dishes and air-conditioning units, being suitably located away from public views and/or screened, the details of which are to be provided to the City of Rockingham's satisfaction prior to applying for a Building Permit.
15. The proposed Warnbro Sound Avenue Pylon Sign must be a multi tenancy sign serving the whole development.
16. All commercial vehicle movements associated with service delivery and refuelling shall occur outside the AM and PM peak hour periods to minimise traffic safety risk.
17. Entries and window frontages facing the street of tenancies must not be covered, closed or screened off (including by means of dark tinting, shutters, curtains, blinds, roller doors or similar), to ensure that a commercial, interactive frontage is available to the development from Aurea Boulevard, Thundelarra Drive and Warnbro Sound Avenue, for the duration of the development.

The gymnasium building door fronting Aurea Boulevard must be kept unlocked at all times during staffed hours.

18. In accordance with City of Rockingham Planning Policy 3.3.14 - Bicycle parking and End of Trip Facilities, 5 short-term bicycle parking spaces and 3 long-term bicycle parking spaces must be provided for the development. The bicycle parking spaces must be designed in accordance with AS2890.3— 1993, Parking facilities, Part 3: Bicycle parking facilities and must be approved by the City of Rockingham prior to applying for a Building Permit and constructed prior to occupancy of the development. The bicycle parking spaces must be retained and maintained in good and safe condition for the duration of the development.



19. The carpark must:
- (i) provide a minimum of 48 car parking spaces;
 - (ii) be designed constructed, sealed, kerbed, drained and marked in accordance with User Class 3 in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off- street car parking unless otherwise specified by this approval, prior to applying for a Building Permit;
 - (iii) provide 3 car parking space dedicated to people with disabilities, which are designed, constructed, sealed, kerbed, drained and marked in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities and which are linked to the main entrance of the development by a continuous accessible path of travel designed and constructed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
 - (iv) be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter; and
 - (v) comply with the above requirements for the duration of the development.
20. Prior to applying for a Building Permit, revised plans shall be provided, illustrating:
- The Service Station Floor Plan layout reflects the Overall Site Plan;
 - Relocated Service Station ice box to permit universal access; and
 - A kerb ramp adjacent to the universal bays to facilitate universal access for the proposed Gymnasium and Commercial tenancy.
21. A Landscaping Plan must be prepared and include the following detail, to the satisfaction of the City, prior to the issue of a Building Permit:
- i. The Location, number and type of existing and proposes trees (including shade trees) and shrubs, indicating calculations for the landscaping area;
 - ii. Any lawns to be established;
 - iii. Those areas to be reticulated or irrigated;
 - iv. Garden edge treatment to all sections where garden areas adjoin turf to provide separation and maintenance;
 - v. All verge areas to be irrigated;
 - vi. Shade trees with triangular nibs where possible for car parking bays at a rate of one tree per four car parking bays;
 - vii. A minimum of eight (8) slender growth type trees planted adjoining the 3m high masonry wall;
 - viii. Retention of two (2) on-site perimeter trees and relocation of two (2) on-site perimeter trees as illustrated on the Landscape Plan;
 - ix. All other existing trees approved to be removed are to be relocated within the development site or the verge, otherwise replacement trees are to be planted with a minimum 100Lt size and of the same species;
 - x. A minimum of two trees with a minimum 100Lt size are to be planted within the landscape area adjacent to the eastern side of the gymnasium building;

The landscaping must be completed prior to the occupation of the development, and must be maintained at all times to the satisfaction of the City of Rockingham.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



22. Prior to the issue of a Building Permit, the applicant/landowner shall provide a maintenance agreement (between Peet Golden Bay Pty Ltd and the proponent) for the existing Golden Bay entry statement. The agreement must outline maintenance responsibilities of the entry statement in perpetuity, to the satisfaction of the City of Rockingham.
23. The supply, storage or sale of liquefied petroleum gas for refuelling purposes is not permitted.
24. The Service Station development shall incorporate Stage 1 vapour recovery and Stage 2 vapour recovery systems which are to be installed and operated at all times under a regular program of inspection and maintenance for the life of the development.

Advice

1. Applicant/landowner is reminded of their obligations under the Dangerous Goods Safety Act 2004 and Regulations.
2. The development must comply with the Environmental Protection (Noise) Regulations 1997; contact the City of Rockingham's Health Services for information on confirming requirements.
3. A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the applicant should liaise with the City of Rockingham's Building Services in this regard.
4. With respect to the Landscaping Plan, the applicant and owner should liaise with the City of Rockingham's Land Development and Infrastructure Services to confirm requirements for the landscaping plan, including the requirements for developing and maintaining of the street verges abutting the development site. Further:
 - All existing irrigation assets within the verge areas of Warnbro Sound Avenue, Aurea Boulevard and Thundelarra Drive will require disconnection from the current source and reconnected to the proposed Developments private water supply. Irrigation plans will be required to be submitted to the City of Rockingham for approval, prior to the building permit. The applicant is advised to contact the City of Rockingham's Irrigation Supervisor, prior to commencing any works.
 - The landowner/applicant must be cognizant to the existing street trees when designing the building awnings, no unnecessary pruning is supported to the existing street trees.
5. Existing retained street trees adjacent to the development site must be protected throughout the course of the project in accordance with Australian Standard AS 4970-2009 protection of trees on Development Sites.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



6. In relation to Condition 5, the Construction Management Plan should also address the following matters raised by the Department of Education:
 - Management of car parking, delivery vehicles and traffic associated with the construction of the development. Construction and delivery vehicles should not utilise the bays surrounding the Golden Bay Primary School site during peak drop-off/pick-up times; and
 - How dust, odour and noise will be mitigated so that it does not materially affect the students and staff of Golden Bay Primary School.
7. In relation to Condition 6, the approved Golden Bay Stage 3 Urban Water Management Plan specifies that all lot types, including commercial, must manage the 1% AEP (100yr) onsite with no overflow to the adjacent road reserve.
8. In relation to Condition 8, it is recommended that a photographic dilapidation report is undertaken by the applicant/landowner, to record the current condition of these assets.
9. In relation to Condition 16, the swept path analysis suggests that the movement for the commercial vehicles within the site would be encroaching into the opposing traffic lane as well as incorporating reversing movements which increases traffic safety risks and would impact upon traffic flow within the car parking areas.

AMENDING MOTION

Moved by: Cr Mark Jones

Seconded by: Cr Lorna Buchan

That a new Condition No. 25 be added to read as follows;

Following commencement of the use, the applicant must validate modelling in consultation with Department of Health criteria, through a period of 12 months monitoring to demonstrate compliance with NEMP at or below criteria for benzene. This report must be submitted to the satisfaction of the City of Rockingham.

The Amending motion was put and LOST (2/3).

For: Cr Mark Jones
Cr Lorna Buchan

Against: Mr Ian Birch
Ms Sheryl Chaffer
Mr Jason Hick

Mr Ian Birch
Presiding Member, Metro Outer JDAP



The Alternate Motion was put and CARRIED (3/2).

For: Mr Ian Birch
Ms Sheryl Chaffer
Mr Jason Hick

Against: Cr Mark Jones
Cr Lorna Buchan

REASON: Further to considering the assessment in the Responsible Authority Report, members raised a number of exploratory questions of presenters and City officers. In conclusion, by majority, the panel considered that the application satisfied the planning requirements for the site and accordingly adopted the alternative recommendation for approval, provided by the city on request, with addition to one condition. It was considered the additional information provided by the applicants clearly demonstrated compliance with current health and traffic standards and regulation.

The submitted site and industry specific environmental impact assessment on fuel vapour emissions from the proposed service station, which was independently peer reviewed, concluded that predicted concentrations of benzene at sensitive land uses in proximity to the service station (future housing and child care premises) does not present unacceptable risk (being significantly below the prescribed acceptable national air quality level) with VR1 and VR2 fuel vapour recovery systems installed. Relevant conditions of approval have been applied.

The Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/19/01708 DR 138/2020	City of Kwinana	Lot 108 Kwinana Beach Road, Kwinana	Proposed Bulk Liquid Storage for GrainCorp Liquid Terminals	01/07/2020
DAP/01729 DR 176/2020	City of Kalamunda	Lot 130 (74) Warlingham Drive, Lesmurdie	Aged Residential Care Facility	28/8/2020
DAP/20/01764 DR 204/2020	City of Swan	Lot 780 (46) Gaston Road, Bullsbrook	Proposed Stock Feed Grain Mill	8/09/2020
DAP/20/01829 DR 001/2021	City of Swan	Lot 1 (42) Dale Road & Lot 4 (43) Yukich Close, Middle Swan	Aged care and community purpose	08/01/2021

Mr Ian Birch
Presiding Member, Metro Outer 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 3:51pm.

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

Mr Ian Birch
Presiding Member, Metro Outer JDAP