



## **Metro Outer Joint Development Assessment Panel Minutes**

**Meeting Date and Time:** Tuesday, 14 September 2021; 9:30am  
**Meeting Number:** MOJDAP/124  
**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)  
Mr Tony Arias (A/Deputy Presiding Member)  
Mr Justin Page (A/Third Specialist Member)

#### *Item 8.1*

Cr Mel Congerton (Local Government Member, City of Swan)  
Cr Rod Henderson (Local Government Member, City of Swan)

#### *Item 8.2*

Cr Julie Brown (Local Government Member, City of Gosnells)  
Mayor David Goode (Local Government Member, City of Gosnells)

#### *Item 8.3*

Cr Suzanne Thompson (Local Government Member, City of Joondalup)  
Cr Nige Jones (Local Government Member, City of Joondalup)

### **Officers in attendance**

#### *Item 8.1*

Mr Philip Russell (City of Swan)

#### *Item 8.2*

Ms Ashleigh Maple (City of Gosnells)  
Mr Brenton Scambler (City of Gosnells)

#### *Item 8.3*

Mr Tim Thornton (City of Joondalup)  
Mr Chris Leigh (City of Joondalup)

### **Minute Secretary**

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

### **Applicants and Submitters**

#### *Item 8.1*

Mr Ben Carter (Pinnacle Planning)

#### *Item 8.2*

Mr Jarrod Ross (Taylor Burrell Barnett Planning)

#### *Item 8.3*

Mr Michael Wilcock (Taylor Burrell Barnett Planning)  
Ms Anna Holloway (Insite Architects)  
Mr Tim Reynolds (Herring Storer Acoustics)  
Mr David Wilkins (i3 Consultants)

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



Mr Gabriel Wright (Insight Project Services)  
Mr Trent Will (Taylor Burrell Barnett)  
Mr Michael Clare (Taylor Burrell Barnett)  
Mr Brett Dorney  
Ms Michelle Sullivan-Davis  
Ms Melaine Legg  
Ms Suzanne Apps  
Ms Sonia Makoare  
Mr John Chester  
Ms Jenny Templar

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

There were 12 members of the public in attendance.

Ms Tyler Brown from Perth Now was in attendance.

### **1. Opening of Meeting, Welcome and Acknowledgement**

The Presiding Member declared the meeting open at 9:32am on 14 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*.

#### **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**

Ms Sheryl Chaffer (Deputy Presiding Member)  
Mr Jason Hick (Third Specialist Member)  
Mayor Kevin Bailey (Local Government Member, City of Swan)  
Cr Philippa Taylor (Local Government Member, City of Joondalup)

### **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 8.3, received on 7 September 2021.

All members declared that they had duly considered the documents.

#### 6. Disclosure of Interests

DAP Member, Mr Jason Hick, declared a Direct Pecuniary Interest in item 8.2. Mr Hick is a shareholder, Director and employee of Emerge Environmental Services Pty Ltd (trading as Emerge Associates).

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 a Direct Pecuniary Interest, was not permitted to participate in the discussion and voting on the items.

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Members, Cr Rod Henderson and Cr Mel Congerton, declared that they participated in a prior Council meeting in relation to the application at item 8.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Henderson and Cr Congerton acknowledged that they are not bound by any previous decision or resolution of the local government and undertake 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 have disclosed an Impartiality Interest, were permitted to participate in the discussion and voting on the item.

#### 7. Deputations and Presentations

- 7.1 The City of Swan officers addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

***The presentation at Item 7.1 was heard prior to the application at Item 8.1.***

- 7.2 The City of Gosnells officers addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

***The presentation at Item 7.2 was heard prior to the application at Item 8.2.***



- 7.3** Mr Brett Dorney addressed the DAP in support of the recommendation for the application at Item 8.3.
- 7.4** Ms Michelle Sullivan-Davis addressed the DAP in support of the recommendation for the application at Item 8.3 and responded to questions from the panel.
- 7.5** Ms Melaine Legg addressed the DAP in support of the recommendation for the application at Item 8.3.
- 7.6** Ms Suzanne Apps addressed the DAP in support of the recommendation for the application at Item 8.3 and responded to questions from the panel.
- 7.7** Mr Michael Willcock and Mr Trent Will (Taylor Burrell Barnett), Ms Anna Holloway (Insite Architects), Mr David Wilkins (i3 Consultants), Mr Tim Reynolds (Herring Storer Acoustics) addressed the DAP against the recommendation for the application at Item 8.3 and responded to questions from the panel.
- 7.8** The City of Joondalup officers addressed the DAP in relation to the application at Item 8.3 and responded to questions from the panel.

***The presentations at Items 7.3 - 7.8 were heard prior to the application at Item 8.3.***

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

### **8.1 Lot 7 (23) Masonry Way, Malaga**

Development Description:	Warehouse Development
Applicant:	Pinnacle Planning
Owner:	Marshall Safro Pty Ltd
Responsible Authority:	City of Swan
DAP File No:	DAP/21/02019

### **REPORT RECOMMENDATION**

**Moved by:** Cr Mel Congerton

**Seconded by:** Cr Rod Henderson

It is recommended that the Metro Outer DAP resolves to:

**Approve** DAP Application reference DAP/21/02019 and Accompanying Plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and pursuant to Clause 26(1) the Metropolitan Region Scheme and the provisions of Clause 10.3 of the City of Swan Local Planning Scheme No.17, subject to the following conditions:

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



## Conditions

1. The approved development must comply in all respects with the attached approved plans, as dated, marked and stamped, together with any requirements and annotations detailed thereon by the City of Swan. The plans approved as part of this application form part of the development approval issued.
2. This approval is for 'Warehouse' as defined in the City of Swan Local Planning Scheme No.17 and the subject land may not be used for any other use without the prior approval of the City.
3. Prior to occupation or use of the development, 37 vehicle parking bays must be provided on the lot in accordance with the approved plans. The design of vehicle parking and access must comply with AS/NZ 2890.1 (as amended). Accessible parking bays must comply with AS/NZ 2890.6 (as amended).
4. Vehicle parking, access and circulation areas must be sealed, kerbed, drained and maintained to the satisfaction of the City of Swan, in accordance with the approved plans.
5. Prior to a building permit being issued, stormwater disposal plans, details and calculations must be submitted for approval by the City of Swan and thereafter implemented, constructed and maintained on-site to the satisfaction of the City of Swan.
6. The development must be connected to the Water Corporation's sewer where available.
7. No fluid other than uncontaminated stormwater is to enter any stormwater drain without prior approval from the City of Swan on advice from the Environmental Protection Authority.
8. Refuse bin areas adequate to service the development must be provided to the satisfaction of the City of Swan prior to occupation or use of development.
9. External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.
10. The approved landscaping and reticulation plan must be implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the City of Swan. Any species that fails to establish within the first two (2) planting seasons following implementation must be replaced in consultation with, and to the satisfaction of, the City of Swan.
11. All crossovers must be built and maintained in accordance with the City's specifications.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



12. Prior to the commencement of operation, the landowner must contribute a sum of 1% of the total development construction value toward Public Art in accordance with the City of Swan Local Planning Policy for the Provision of Public Art (POL-LP-1.10), by either:
  - a. Payment to the City of a cash-in-lieu amount equal to the sum of the 1% contribution amount (\$21,000). This must be paid to the City prior to the date specified in an invoice issued by the City, or prior to the issuance of a building permit for the approved development, whichever occurs first; or
  - b. Provision of Public Art on-site to a minimum value of the 1% contribution amount (\$21,000). The following is required for the provision of Public Art on-site:
    - i. the landowner or applicant on behalf of the landowner must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work to the satisfaction of the City in accordance with POL-LP-1.10 and the Developers' Handbook for Public Art (as amended). The City may apply further conditions in regard to the proposed Public Art;
    - ii. no part of the approved development may be occupied or used until the Public Art has been installed in accordance with the approval granted by the City; and,
    - iii. The approved Public Art must be maintained in compliance with the approval granted by the City and any conditions thereof, to the satisfaction of the City.
13. External illumination shall not flash or pulsate to the satisfaction of the City of Swan.
14. No bunting is to be erected on the site (including streamers, streamer strips, banner strips or decorations of similar kind).
15. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.

#### **AMENDING MOTION 1**

**Moved by:** Mr Tony Arias

**Seconded by:** Cr Rod Henderson

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

*The approved development must comply in all respects with the attached approved plans, as dated, marked and stamped, ~~together with any requirements and annotations detailed thereon~~ by the City of Swan. The plans approved as part of this application form part of the development approval issued.*

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

**REASON:** As there are no annotations detailed on the plans, this line is not required.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



## **AMENDING MOTION 2**

**Moved by:** Mr Tony Arias

**Seconded by:** Nil.

That Condition No. 2 be deleted and the remaining conditions be renumbered accordingly.

**The Amending Motion LAPSED for want of a Secunder.**

## **REPORT RECOMMENDATION (AS AMENDED)**

It is recommended that the Metro Outer DAP resolves to:

**Approve** DAP Application reference DAP/21/02019 and Accompanying Plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and pursuant to Clause 26(1) the Metropolitan Region Scheme and the provisions of Clause 10.3 of the City of Swan Local Planning Scheme No.17, subject to the following conditions:

### **Conditions**

1. The approved development must comply in all respects with the attached approved plans, as dated, marked and stamped by the City of Swan. The plans approved as part of this application form part of the development approval issued.
2. This approval is for 'Warehouse' as defined in the City of Swan Local Planning Scheme No.17 and the subject land may not be used for any other use without the prior approval of the City.
3. Prior to occupation or use of the development, 37 vehicle parking bays must be provided on the lot in accordance with the approved plans. The design of vehicle parking and access must comply with AS/NZ 2890.1 (as amended). Accessible parking bays must comply with AS/NZ 2890.6 (as amended).
4. Vehicle parking, access and circulation areas must be sealed, kerbed, drained and maintained to the satisfaction of the City of Swan, in accordance with the approved plans.
5. Prior to a building permit being issued, stormwater disposal plans, details and calculations must be submitted for approval by the City of Swan and thereafter implemented, constructed and maintained on-site to the satisfaction of the City of Swan.
6. The development must be connected to the Water Corporation's sewer where available.
7. No fluid other than uncontaminated stormwater is to enter any stormwater drain without prior approval from the City of Swan on advice from the Environmental Protection Authority.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP





8. Refuse bin areas adequate to service the development must be provided to the satisfaction of the City of Swan prior to occupation or use of development.
9. External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.
10. The approved landscaping and reticulation plan must be implemented within the first available planting season after the initial occupation of the development, and maintained thereafter, to the satisfaction of the City of Swan. Any species that fails to establish within the first two (2) planting seasons following implementation must be replaced in consultation with, and to the satisfaction of, the City of Swan.
11. All crossovers must be built and maintained in accordance with the City's specifications.
12. Prior to the commencement of operation, the landowner must contribute a sum of 1% of the total development construction value toward Public Art in accordance with the City of Swan Local Planning Policy for the Provision of Public Art (POL-LP-1.10), by either:
  - a. Payment to the City of a cash-in-lieu amount equal to the sum of the 1% contribution amount (\$21,000). This must be paid to the City prior to the date specified in an invoice issued by the City, or prior to the issuance of a building permit for the approved development, whichever occurs first; or
  - b. Provision of Public Art on-site to a minimum value of the 1% contribution amount (\$21,000). The following is required for the provision of Public Art on-site:
    - i. the landowner or applicant on behalf of the landowner must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work to the satisfaction of the City in accordance with POL-LP-1.10 and the Developers' Handbook for Public Art (as amended). The City may apply further conditions in regard to the proposed Public Art;
    - ii. no part of the approved development may be occupied or used until the Public Art has been installed in accordance with the approval granted by the City; and,
    - iii. The approved Public Art must be maintained in compliance with the approval granted by the City and any conditions thereof, to the satisfaction of the City.
13. External illumination shall not flash or pulsate to the satisfaction of the City of Swan.
14. No bunting is to be erected on the site (including streamers, streamer strips, banner strips or decorations of similar kind).
15. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.

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

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



**REASON:** The Panel having considered the Responsible Authority Report and all materials and information presented, was satisfied with the RAR recommendation but with the minor text amendment to Condition No. 1. The Panel was satisfied that all relevant planning considerations had been appropriately addressed.

*Cr Mel Congerton & Cr Rod Henderson left the panel at 9:52am.  
Cr Julie Brown & Mayor David Goode joined the panel at 9:52am.*

## **8.2 Lot 9027 Logistics Boulevard, Kenwick**

Development Description: Industry - Noxious  
Applicant: Taylor Burrell Barnett  
Owner: MKSEA Pty Ltd  
Responsible Authority: City of Gosnells  
DAP File No: DAP/21/02015

### **REPORT RECOMMENDATION**

**Moved by:** Cr Julie Brown

**Seconded by:** Mayor David Goode

With the approval of the mover and seconder, the following amendments were made:

(i) That Condition No. 4 be amended to read as follows:

*Prior to applying for a Building Permit, a Landscape Plan for the development site and the adjoining road verge(s) is to be submitted to and approved by the City of Gosnells. The following details are to be included:*

- (i) Existing street trees and vegetation to be retained on the site and adjacent verge.*
- (ii) Landscape treatments such as lawn, mulch areas, paving and bin collection areas.*
- (iii) The location, species, quantity and pot size of proposed trees and shrubs.*
- (iv) Areas to be irrigated.*
- ~~*(v) A 3m wide landscaping strip provided along the Coldwell Street boundary.*~~

**REASON:** The Applicant proposes to provide additional landscaping within the Coldwell Street adjacent verge to offset the provision of a 3m wide landscaping strip along the Coldwell Street boundary. This was considered acceptable to the City of Gosnells and the Panel agreed this would be a satisfactory outcome.



- (ii) That Condition No. 12 be amended to read as follows:

*Prior to the commencement of development, ~~the~~ **an updated Bushfire Management Plan and Risk Management Plan is to be endorsed prepared and submitted for approval to the satisfaction of the City of Gosnells upon receiving advice from** ~~by~~ the Department of Fire and Emergency Services.*

**REASON:** Conditions cannot be cleared by a third party authority and must be cleared by the responsible authority.

That the Metro Outer Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/21/02015 is appropriate for consideration as a "Industry - Noxious" land use and compatible with the objectives of the zoning table in accordance with Clause 3.2 of the City of Gosnells Town Planning Scheme No. 6;
2. **Approve** DAP Application reference DAP/21/02015 and accompanying plans (DA02 Rev 0 dated 25.5.2021, DA03 Rev 0 dated 25.5.2021, DA04 Rev 0 dated 25.5.2021, DA05 Rev 0 dated 25.5.2021, DA5b Rev 1 dated 25.5.2021, DA6 Rev 1 dated 25.5.2021) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Town Planning Scheme No. 6, subject to the following conditions:

### Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. Prior to applying for a Building Permit, the applicant shall submit, have approved, and thereafter implement, a drainage design, prescribing a functional drainage system, including detailed engineering drawings, and necessary technical information to demonstrate functionality of the design in accordance with the relevant Urban Water Management Plan, to the satisfaction of the City of Gosnells.
4. Prior to applying for a Building Permit, a Landscape Plan for the development site and the adjoining road verge(s) is to be submitted to and approved by the City of Gosnells. The following details are to be included:
  - (i) Existing street trees and vegetation to be retained on the site and adjacent verge.
  - (ii) Landscape treatments such as lawn, mulch areas, paving and bin collection areas.
  - (iii) The location, species, quantity and pot size of proposed trees and shrubs.
  - (iv) Areas to be irrigated.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



5. Prior to applying for a Building Permit, a schedule of materials, finishes and colours shall be submitted to and approved by the City of Gosnells. Prior to the occupation of the development, the approved external finishes and colour schemes are to be implemented to the satisfaction of the City of Gosnells and maintained thereafter.
6. Following the approval of the drainage design, prior to the occupation of the development, the proponent is to submit a D-Spec survey of the drainage modifications to the swale in the road verge required as a result of the crossovers associated with the approved development.
7. Prior to the occupation of the development, all crossovers are to be located and constructed to the City of Gosnells specifications.
8. Prior to the occupation of the development, the proposed hardstand area is to be paved, sealed and drained to the satisfaction of the City of Gosnells.
9. Prior to the occupation of the development, any road widening and truncations, etc., required around the existing street lights that are currently within the development site are to be given up free of cost to the Crown to the satisfaction of the City of Gosnells.
10. Prior to the occupation of the development, the landscaping and irrigation of the development site and the adjoining verges is to be installed in accordance with the approved landscape plan and thereafter maintained to the satisfaction of the City of Gosnells.
11. Prior to the occupation of the development, the street light located along Coldwell Road, conflicting with the crossover, is to be relocated to the satisfaction of the City.
12. Prior to the commencement of development, an updated Bushfire Management Plan and Risk Management Plan is to be prepared and submitted for approval to the satisfaction of the City of Gosnells upon receiving advice from the Department of Fire and Emergency Services.

#### **Advice Notes**

1. You are advised of the need to obtain a Building Permit prior to the commencement of work.
2. The submitted Building Permit application plans are to be consistent with the plans that form part of the relevant Development Approval, to the satisfaction of the City of Gosnells.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



3. Your attention is drawn to the following to minimise the impact of development works:
  - (i) All development works must be carried out in accordance with Control of Noise Practices set out in section 6 of AS2436-1981. For further details please contact the Department of Water and Environment Regulation.
  - (ii) Development work shall only be permitted between 0700 hours and 1900 hours on any day which is not a Sunday or public holiday, without the written approval of the City.
  - (iii) Development work shall comply in all respects with the *Environmental Protection (Noise) Regulations 1997*.
4. The operation/development is to comply with the *Environmental Protection (Noise) Regulations 1997*.

**The Report Recommendation was put and CARRIED UNANIMOUSLY.**

**REASON:** The Panel was satisfied that all relevant planning considerations had been appropriately addressed and agreed with the Responsible Authority Report/Recommendation, except for the minor changes required in the setting of development conditions.

*Cr Julie Brown & Mayor David Goode left the panel at 10:05am.*

*Cr Suzanne Thompson & Cr Nige Jones joined the panel at 10:05am.*

**PROCEDURAL MOTION**

**Moved by:** Cr Suzanne Thompson

**Seconded by:** Mr Justin Page

That the meeting be adjourned for a period of 5 minutes.

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

**REASON:** To allow for a comfort break

*The meeting was adjourned at 12:18pm.*

*The meeting was reconvened at 12:23pm.*



### **8.3 Lot 667 (73) Kingsley Drive & Lot 666 (22) Woodford Wells Way, Kingsley**

Development Description: Child Care Premises  
Applicant: Taylor Burrell Barnett  
Owner: Ms Regina Fisher & Ms Sharon Reid  
Responsible Authority: City of Joondalup  
DAP File No: DAP/21/02016

#### **REPORT RECOMMENDATION**

**Moved by:** Cr Suzanne Thompson

**Seconded by:** Cr Nige Jones

That the Metro Outer JDAP resolves to:

1. **Refuse** DAP Application reference DAP/21/02016 and accompanying plans (dated 13 July 2021 and 17 August 2021) 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 City of Joondalup *Local Planning Scheme No. 3*, for the following reasons:

#### **Reasons**

1. In accordance with Schedule 2, Clause 67(g) of the *Planning and Development (Local Planning Scheme) Regulations 2015* the proposed development does not comply with the provisions of the City's *Child Care Premises Local Planning Policy* as:
  - a. the proposed development is not wholly located adjacent to non-residential uses;
  - b. the car parking for the development is located such that it is likely to have a noise impact on surrounding residential properties;
  - c. the bulk and scale of the development is incompatible with the surrounding residential context of the locality; and
  - d. the proposed hours of operation are likely to result in a noise impact on the amenity of adjoining residential properties.
2. The proposed development does not satisfy the matters to be considered under clause 67(g), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, the development does not comply with the City's *Child Care Premises Local Planning Policy* as the proposed development is located adjacent to residential uses and will have an undue impact on residential amenity.
3. The proposed development does not satisfy the matters to be considered under clause 67(m), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the scale of the development is not compatible with the adjoining residential land.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



### AMENDING MOTION 1

**Moved by:** Mr Justin Page

**Seconded by:** Cr Suzanne Thompson

That a new reason No. 4 be added to read as follows:

***In giving due regard to the matters to be considered under clause 67 (y), schedule 2, part 9 of the Planning and Development (Local Planning Schemes) Regulations the proposed development will have an undue impact on residential amenity.***

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

**REASON:** The Panel considered the content and matters raised in submissions received as part of public consultation. The Panel determined that the issues raised in submissions, as discussed in the Responsible Authority Report, were relevant planning considerations, except for matters in relation to 'similar business in the area' and 'financial impact'.

### AMENDING MOTION 2

**Moved by:** Mr Tony Arias

**Seconded by:** Nil.

That reason No. 3 be deleted and the remaining conditions be renumbered accordingly.

**The Amending Motion LAPSED for want of a Seconder.**

### AMENDING MOTION 3

**Moved by:** Mr Ian Birch

**Seconded by:** Cr Nige Jones

That the reason No. 1a be included in the preamble and the dot points be re-alphabetised to read as follows:

***In accordance with Schedule 2, Clause 67(g) of the Planning and Development (Local Planning Scheme) Regulations 2015 the proposed development does not comply with the provisions of the City's Child Care Premises Local Planning Policy as **the proposed development is not wholly located adjacent to non-residential uses; and has an adverse amenity impact on the surrounding residential area including:*****

- ~~a. the proposed development is not wholly located adjacent to non-residential uses;~~
- b. the car parking for the development is located such that it is likely to have a noise impact on surrounding residential properties;
- c. the bulk and scale of the development is incompatible with the surrounding residential context of the locality; and
- d. the proposed hours of operation are likely to result in a noise impact on the amenity of adjoining residential properties.

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

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



**REASON:** For clarity as to the consideration of the relevant local planning policy. On its own, 1a does not stand as a reason for refusal as child care is a discretionary use capable of approval under the Residential zoning of the land and the policy cannot prohibit the use in such circumstances.

### **REPORT RECOMMENDATION (AS AMENDED)**

That the Metro Outer JDAP resolves to:

1. **Refuse** DAP Application reference DAP/21/02016 and accompanying plans (dated 13 July 2021) 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 City of Joondalup *Local Planning Scheme No. 3*, for the following reasons:

#### **Reasons**

1. In accordance with Schedule 2, Clause 67(g) of the *Planning and Development (Local Planning Scheme) Regulations 2015* the proposed development does not comply with the provisions of the City's *Child Care Premises Local Planning Policy* as the proposed development is not wholly located adjacent to non-residential uses; and has an adverse amenity impact on the surrounding residential area including:
  - a. the car parking for the development is located such that it is likely to have a noise impact on surrounding residential properties;
  - b. the bulk and scale of the development is incompatible with the surrounding residential context of the locality; and
  - c. the proposed hours of operation are likely to result in a noise impact on the amenity of adjoining residential properties.
2. The proposed development does not satisfy the matters to be considered under clause 67(g), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, the development does not comply with the City's *Child Care Premises Local Planning Policy* as the proposed development is located adjacent to residential uses and will have an undue impact on residential amenity.
3. The proposed development does not satisfy the matters to be considered under clause 67(m), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the scale of the development is not compatible with the adjoining residential land.
4. In giving due regard to the matters to be considered under clause 67(y), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* the proposed development will have an undue impact on residential amenity.

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

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP





**REASON:** The Panel extensively considered the Responsible Authority Report and the key issues in this matter. This included consideration of submitter issues supporting the Responsible Authority Report recommendation and with the applicant and their consultant team, in support of the proposal. This consideration included a range of matters, particularly examination of site suitability and compatibility within the Residential zone, traffic, noise impacts, parking and bulk and scale of the development. The Panel concluded that on balance, the proposed land use and development is not suitable or compatible with adjacent and nearby residential use and that the potential cumulative impacts arising from the development will likely have an adverse impact on residential amenity.

**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 -

<b>Current SAT Applications</b>				
<b>File No. &amp; SAT DR No.</b>	<b>LG Name</b>	<b>Property Location</b>	<b>Application Description</b>	<b>Date Lodged</b>
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
DAP/21/01952 DR 096/2021	City of Rockingham	Lot 265 (40) Talisker Bend, Golden Bay	Mixed commercial development	14/05/2021

**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 12:46am.

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

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP