



## Metro Outer Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Monday, 22 May 2023; 10:30am  
**Meeting Number:** MOJDAP/249  
**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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**Ms Karen Hyde**  
**A/Presiding Member, Metro Outer JDAP**

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## Attendance

### DAP Members

Ms Karen Hyde (A/Presiding Member)  
Ms Lindsay Baxter (A/Deputy Presiding Member)

#### *Item 9.1*

Mayor Carol Adams (Local Government Member, City of Kwinana)  
Cr Matthew Rowse (Local Government Member, City of Kwinana)

#### *Item 10.1*

Cr Nige Jones (Local Government Member, City of Joondalup)  
Cr Tom McLean (Local Government Member, City of Joondalup)

### Officers in attendance

#### *Item 9.1*

Mr Paul Neilson (City of Kwinana)

#### *Item 10.1*

Ms Cathrine Temple (City of Joondalup)  
Mr Jeremy Thomson (City of Joondalup)

### Minute Secretary

Mr Stephen Haimes (DAP Secretariat)

### Applicants and Submitters

#### *Item 9.1*

Mr Nathan Stewart (Rowe Group)

#### *Item 10.1*

Mr Chris Harman (Agem PG33 Pty Ltd)  
Mr Ben Graham (Agem PG33 Pty Ltd)  
Mr Neil Teo (Dynamic Planning and Developments)  
Mr Julius Skinner (Thomson Geer)  
Ms Nannette Brammer  
Ms Shailee Desai

### Members of the Public / Media

There was 1 member of the public in attendance.

## 1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 10:30am on 22 May 2023 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

**Ms Karen Hyde**  
**A/Presiding Member, Metro Outer JDAP**



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

### **1.1 Announcements by Presiding Member**

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

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

## **2. Apologies**

Mr Eugene Koltasz (Presiding Member)  
Mr Jason Hick (Third Specialist Member)  
Mr John Taylor (Third Specialist Member)  
Ms Diana Goldswain (Third Specialist Member)  
Ms Shelley Shephard (Third Specialist Member)

## **3. Members on Leave of Absence**

DAP Member, Mr Eugene Koltasz has been granted leave of absence by the Director General for the period of 16 May 2023 to 24 May 2023 inclusive.

DAP Member, Mr Jason Hick has been granted leave of absence by the Director General for the period of 12 May 2023 to 24 May 2023 inclusive.

## **4. Noting of Minutes**

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

## **5. Declaration of Due Consideration**

All members declared that they had duly considered the documents.

## **6. Disclosure of Interests**

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Member, Cr Carol Adams and Cr Matthew Rowse, declared that they participated in a prior Council meeting in relation to the application at item 9.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Adams and Cr Rowse 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.

**Ms Karen Hyde**

**A/Presiding Member, Metro Outer JDAP**

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In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the A/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.

## 7. Deputations and Presentations

7.1 Nathan Stewart (Rowe Group) addressed the DAP in support of the recommendation for the application at Item 9.1 and responded to questions from the panel.

7.2 The City of Kwinana addressed the DAP in relation to the application at Item 9.1 and responded to questions from the panel.

***The presentation at Items 7.1 – 7.2 were heard prior to the application at Item 9.1.***

7.3 The Panel noted a written submission from Ms Shailee Desai against the recommendation for the application at Item 10.1.

7.4 Mr Chris Harman (Agem PG33 Pty Ltd), Mr Neil Teo (Dynamic Planning) and Mr Julius Skinner (Thomson Geer) addressed the DAP in support of the recommendation for the application at Item 10.1 and responded to questions from the panel.

7.5 The City of Joondalup addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

7.6 Ms Nannette Brammer addressed the DAP against the recommendation for the application at Item 10.1 and responded to questions from the panel.

***The presentations at Items 7.4 - 7.6 were heard prior to the application at Item 10.1.***

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

Nil.

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

### 9.1 Lot 3 (No.46) Meares Ave, Kwinana

Development Description: Proposed Commercial Development  
Proposed Amendments: Change of use to 'Shop' and additions and alterations (bin store, service yard and carpark)

Applicant: Rowe Group  
Owner: Santavae (Kwinana) Pty Ltd  
Responsible Authority: City of Kwinana  
DAP File No: DP/13/00855

Ms Karen Hyde

A/Presiding Member, Metro Outer JDAP

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## REPORT RECOMMENDATION

**Moved by:** Cr Carol Adams

**Seconded by:** Cr Matthew Rowse

That the Metro-Outer JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/13/00855 as detailed on the DAP Form 2 dated 17 February 2023 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP/13/00855 and accompanying plans (Attachment 1 - 4: Location Plan, Site Plan & Proposed Works, Elevation Plans – Building A, Floor Plan) 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 Kwinana Local Planning Scheme No.3 (LPS3), for the proposed change of use to Shop and additions and alterations to the approved commercial development at Lot 3 (46) Meares Avenue, Kwinana Town Centre, subject to the following conditions:

### New Condition

39. Prior to the occupation or use of the subject 'Shop' Tenancy 2 in Building A, the owner/operator must submit a Waste Management Plan showing the detailed design and operation of the bin storage and parking area in accordance with the specifications and requirements of the City of Kwinana, including but not limited to:
  - a. design of bin enclosure size, screening, openings and access to adequately contain waste and odour;
  - b. specify operating hours for waste collection not to conflict with shopping/business hours;
  - c. swept path and internal circulation of the waste vehicle expected to service the development, including where the vehicle will be parked during waste collection; and,
  - d. demonstrate clear driver/ vehicle sightlines for parking bays on either side of the enclosure;to the satisfaction of the City of Kwinana

### New Advice Note

19. With respect to Condition 39, the owner/operator is advised to contact the City's Health Services for specifications for the bin store area, including any local laws and requirements under any other legislation and associated regulations. The owner/operator is advised to liaise with the City's Engineering Services to demonstrate sightlines and, in the event safe access cannot be achieved, necessary vehicle exclusion area(s) (eg. deletion of vehicle parking bays, addition of traffic bollards).

All other conditions and requirements detailed on the previous approval dated 11 February 2014 shall remain unless altered by this application.

Ms Karen Hyde

A/Presiding Member, Metro Outer JDAP

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

**REASON:** The panel resolved that the application was appropriate for the zoning and planning framework and was a suitable design for the location. Therefore, the application and amended conditions was supported unanimously.

*Cr Carol Adams and Cr Matthew Rowse (Local Government Member, City of Kwinana) left the panel at 10:41am.*

*Cr Nige Jones and Cr Tom McLean (Local Government Member, City of Joondalup) joined the panel at 10:41am.*

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

**10.1 Lot 649 (98) O'Mara Boulevard, Iluka**

Development Description:	Commercial Development
Summary of Modifications:	Amendment of development approval including: <ul style="list-style-type: none"><li>• Modification to condition relating to hours of operation of the tavern use.</li><li>• Modification to condition relating to the use of the first-floor car park between 10.00pm and 5.30am.</li><li>• Modifications to the approved barrier above the car parking access from Calis Avenue.</li></ul> Modification of advice note regarding the playing of live music at the tavern use.
Applicant:	Dynamic Planning and Developments
Owner:	AGEM PG33 PTY LTD
Responsible Authority:	City of Joondalup
DAP File No:	DAP/18/01543

**REPORT RECOMMENDATION**

**Moved by:** Cr Nige Jones

**Seconded by:** Ms Karen Hyde

*An administrative change was made to Operations Management Plan to Operational Management Plan in Condition 23.*

*With the agreement of the mover and seconder, the following change was made:*

*That Condition No. 25 be amended to read as follows:*

*The works required to modify the bulkhead facing Calis Avenue shall be undertaken within ~~90~~ 60 days from the date of approval and thereafter maintained to the satisfaction of the City.*

Ms Karen Hyde

A/Presiding Member, Metro Outer JDAP

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**REASON:** It was considered appropriate to align the timeframe for these works with other conditions of the amended approval, which also require a 60 day compliance period, to ensure consistency throughout the approval and to ensure that the modification of the bulkhead is undertaken in timely manner.

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 DR75 of 2022, resolves to:

**Reconsider** its decision dated 14 April 2022 and **APPROVE** DAP Application reference DAP/18/01543 and accompanying plans (Attachment 1) in accordance with the Metropolitan Region Scheme, 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*, subject to the following conditions:

### **Additional Conditions**

24. An updated Noise Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Noise Management Plan shall include, but not be limited to, specific requirements in relation to the site including layout, staff training requirements, ongoing maintenance and physical levels to be set on each piece of equipment. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.
25. The works required to modify the bulkhead facing Calis Avenue shall be undertaken within 60 days from the date of approval and thereafter maintained to the satisfaction of the City.

### **Amended Conditions**

Condition 22 shall read:

*“The hours of operation shall be no more than:*

- a) T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.  
T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.

Replacement condition 23 shall read:

*“The hours of operation shall be no more than:*

- b) T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday.  
T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.

*An updated Operational Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Operational Management Plan shall include, but not be limited to, an internal floor plan indicating the specific function of each area within the Tavern use. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.*

**Ms Karen Hyde**  
**A/Presiding Member, Metro Outer JDAP**



### Additional Advice Note

13. The Operational Management Plan and Noise Management Plan as submitted are considered acceptable subject to the following modifications:
- Operational Management Plan – Include appropriate noise mitigation measures related with the movement of kegs relating to the Tavern with specific attention to any movements required outside of 10.00am and 7.00pm.
  - Noise Management Plan - Section 6 shall include any speakers within the function room. Any speaker's setting shall be required to be documented in the same manner as the main bar.
  - Noise Management Plan – Include commentary regarding the management of the collection of glasses, cans and bottles including times this will occur. The Noise Management Plan can replicate similar statements within the Operational Management Plan.

### Amended Advice Notes

Advice Note 9 shall read:

*Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on outdoor areas (including time restrictions and any openings to the indoor area).*

All other conditions and advice notes remain as per the previous decisions of JDAP issued 13 May 2019, 28 June 2019 and 31 August 2020.

### AMENDING MOTION 1

**Moved by:** Ms Lindsay Baxter

**Seconded by:** Ms Karen Hyde

That Condition No. 22 be amended to read as follows:

*"The hours of operation shall be no more than:*

- T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday).*
- T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.*
- T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday, unless an extended trading permit is granted for special occasions under the Liquor Control Act 1988.***

**The Amending Motion was put and CARRIED (3/1).**

For: Ms Karen Hyde  
Ms Lindsay Baxter  
Cr Tom McLean

Against: Cr Nige Jones

Ms Karen Hyde

A/Presiding Member, Metro Outer JDAP

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**REASON:** The retention of the 6am to 11pm operating time within Condition 22 is considered to be a valid planning requirement for a use of this nature. It is consistent with the approval condition originally granted by the Metro Outer Joint Development Assessment Panel for the tavern use on 31 August 2020 which took into account the expectations and possible impacts on surrounding residents. The additional wording; - "unless an extended trading permit is granted for special occasions under the Liquor Control Act 1988", is to allow flexibility for those occasions when a longer operating period may be appropriate.

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

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 DR75 of 2022, resolves to:

**Reconsider** its decision dated 14 April 2022 and **APPROVE** DAP Application reference DAP/18/01543 and accompanying plans (Attachment 1) in accordance with the Metropolitan Region Scheme, 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*, subject to the following conditions:

### **Additional Conditions**

24. An updated Noise Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Noise Management Plan shall include, but not be limited to, specific requirements in relation to the site including layout, staff training requirements, ongoing maintenance and physical levels to be set on each piece of equipment. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.
25. The works required to modify the bulkhead facing Calis Avenue shall be undertaken within 60 days from the date of approval and thereafter maintained to the satisfaction of the City.

### **Amended Conditions**

Condition 22 shall read:

*"The hours of operation shall be no more than:*

- a) *T9 (Child Care Centre) 6am to 6pm Monday to Friday and 8am to 1pm on Saturday).*
- b) *T5 (IGA Supermarket and Liquor Store) 6am to 11pm Monday to Sunday.*
- c) *T1/T2/T3 (Tavern) 6am to 11pm Monday to Sunday, unless an extended trading permit is granted for special occasions under the Liquor Control Act 1988.*

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Replacement condition 23 shall read:

*An updated Operational Management Plan shall be submitted to and approved by the City within 60 days from the date of approval. The Operational Management Plan shall include, but not be limited to, an internal floor plan indicating the specific function of each area within the Tavern use. The operations of the Tavern are to be conducted in accordance with this plan to the satisfaction of the City.*

#### **Additional Advice Note**

13. The Operational Management Plan and Noise Management Plan as submitted are considered acceptable subject to the following modifications:
- a) Operational Management Plan – Include appropriate noise mitigation measures related with the movement of kegs relating to the Tavern with specific attention to any movements required outside of 10.00am and 7.00pm.
  - b) Noise Management Plan - Section 6 shall include any speakers within the function room. Any speaker's setting shall be required to be documented in the same manner as the main bar.
  - c) Noise Management Plan – Include commentary regarding the management of the collection of glasses, cans and bottles including times this will occur. The Noise Management Plan can replicate similar statements within the Operational Management Plan.

#### **Amended Advice Notes**

Advice Note 9 shall read:

*Revised condition 14 is required to address the change of use of Tenancy 1, 2 and 3. This is to be demonstrated through an amendment to the implementation section of the report which shall identify appropriate management of the tavern, including, but not limited to, restrictions on outdoor areas (including time restrictions and any openings to the indoor area).*

All other conditions and advice notes remain as per the previous decisions of JDAP issued 13 May 2019, 28 June 2019 and 31 August 2020.

**The Report Recommendation (as amended) was put and CARRIED (3/1).**

For: Ms Karen Hyde  
Ms Lindsay Baxter  
Cr Tom McLean

Against: Cr Nige Jones

**REASON:** The amendment to Condition 22, imposition of additional conditions 24 and 25, replacement of Condition 23 and amendments and additional advice notes is in response to the amended application submitted. The amended approval is a genuine attempt to ensure that the tavern use can operate in a socially responsible manner and that the use of the building, including access to the upper floor car parking is not used in a manner detrimental to its immediate environment.

Ms Karen Hyde

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The A/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/21/02036 DR236/2022	City of Swan	Lot 97 (31) & 817 (47) Lakes Road, Hazelmere	Proposed Construction of a Logistics Depot with Ancillary Office Area	23/12/2022
DAP/22/02346 DR47/2023	City of Joondalup	8 Elcar Lane, Joondalup	Two Storey Mixed Used Development	17/03/2022
DAP/22/02394 DR69/2023	City of Mandurah	Lot 9124 Cobaki Brace, Lakelands	Proposed Bulky Goods Showroom	28/04/2023

## 11. General Business

The A/Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the A/Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

## 12. Meeting Closure

There being no further business, the A/Presiding Member declared the meeting closed at 11:46am.

**Ms Karen Hyde**  
**A/Presiding Member, Metro Outer JDAP**