



# Metro Outer Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Thursday, 7 September 2023; 9:30am  
**Meeting Number:** MOJDAP/271  
**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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**Eugene Koltasz**  
Presiding Member, Metro Outer JDAP



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## Attendance

### DAP Members

Eugene Koltasz (Presiding Member)  
Gabriela Poezyn (A/Deputy Presiding Member)  
Jason Hick (Third Specialist Member)  
Cr Tom McLean (Local Government Member, City of Joondalup)  
Cr Nige Jones (Local Government Member, City of Joondalup)

### Officers in attendance

Cathrine Temple (City of Joondalup)  
Ciara Slim (City of Joondalup)

### Minute Secretary

Stephen Haimes (DAP Secretariat)

### Applicants and Submitters

James McCallum (Taylor Burrell Barnett)  
Karen Hyde (Taylor Burrell Barnett)  
Lou Di Virgilio (LDV Projects)  
Andrew Baranowski (Plan E)

### Members of the Public / Media

Nil.

## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:31am on 7 September 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*.

### 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.

**Eugene Koltasz**  
Presiding Member, Metro Outer JDAP



## 2. Apologies

Karen Hyde (Deputy Presiding Member)

## 3. Members on Leave of Absence

Nil.

## 4. Noting of Minutes

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

## 5. Declaration of Due Consideration

All members declared that they had duly considered the documents.

## 6. Disclosure of Interests

DAP Member, Karen Hyde (Deputy Presiding Member), declared an indirect pecuniary interest in item 8.1. Ms Hyde works for Taylor Burrell Barnett, the application for this item.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member determined that the member listed above, who had disclosed an indirect pecuniary interest, was not permitted to participate in the discussion and voting on the item.

In accordance with section 2.4.10 of the DAP Code of Conduct 2017, DAP Member, Eugene Koltasz, declared that they had 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, Eugene Koltasz acknowledged that they are 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 them, which will be considered on its planning merits.

## 7. Deputations and Presentations

- 7.1 James McCallum (Taylor Burrell Barnett) addressed the DAP in support of the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.2 Lou Di Virgilio (LDV Projects) addressed the DAP in support of the recommendation for the application at Item 10.1.
- 7.3 Andrew Baranowski (Plan E) addressed the DAP in support of the recommendation for the application at Item 10.1.

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

Nil.

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Presiding Member, Metro Outer JDAP



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

Nil.

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

### 10.1 45 (8) Elcar Lane, Joondalup

Development Description: Three Storey Mixed Use Development  
Summary of Modifications: Modification to plans refused 20 February 2023, to be reconsidered as part of the SAT Appeal process. Modifications consist of:

- Increased building height to three storey; and

Modifications to layout of building.

Applicant: Taylor Burrell Barnett  
Owner: A Botros  
Responsible Authority: City of Joondalup  
DAP File No: DAP/22/02346

### REPORT RECOMMENDATION

**Moved by:** Cr Nige Jones

**Seconded by:** Cr Tom McLean

*With the approval of the Presiding Member, the preamble was changed to reflect reference to the correct attachments.*

That the Metro Outer Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR47 of 2023, resolves to:

**Reconsider** its decision dated 20 February 2023 and **SET ASIDE the decision and substitute a new** decision to **APPROVE** DAP Application reference DAP/22/02346 and accompanying plans (Revision 3 dated 25 July 2023 as per Attachment 2) 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*, subject to the following 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 (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.
3. This approval relates to the Mixed Use Development (15 multiple dwellings - specialist disability accommodation) and two commercial tenancies and associated works only and development shall be in accordance with the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.

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Presiding Member, Metro Outer JDAP



4. At least one permanent occupant of each dwelling shall be a dependent person (as defined by State Planning Policy 7.3 Residential Design Codes) or the surviving spouse of that person. A notification, pursuant to section 70A of the *Transfer of Land Act 1893* to this effect shall be placed on the certificate of title for the subject lot. The notification shall be at the owner/applicant's expense and lodged with the City of Joondalup for execution prior to commencement of development and placed on the certificate of title prior to occupation of the development. The notification is to state as follows:

*At least one permanent occupant of the dwelling(s) shall be a dependent person or the surviving spouse of that person in accordance with State Planning Policy 7.3: Residential Design Codes.*

5. All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.
6. All development shall be contained within the property boundaries.
7. The applicant shall remove the existing crossover, including any concrete apron, and reinstate any kerbing, landscaping, footpath and/or other infrastructure to the satisfaction of the City. These works shall be completed within 28 days of the completion of construction of the new crossover.
8. A Construction Management Plan shall be submitted to and approved by the City prior to the commencement of development. The management plan shall include details regarding mitigation measures to address impacts associated with construction works and shall be prepared to the specification and satisfaction of the City. The construction works shall be undertaken in accordance with the approved Construction Management Plan.
9. An updated Waste Management Plan indicating the method of rubbish collection is to be submitted prior to the commencement of development, and approved by the City prior to the development first being occupied and thereafter implemented to the satisfaction of the City.
10. An updated Parking Management Plan shall be submitted and approved by the City prior to the commencement of development. The updated Parking Management Plan shall include details about the management of commercial uses, residents and carers. The development is to be undertaken in accordance with the approved Parking Management Plan and is to be thereafter implemented to the satisfaction of the City.
11. An Operations Management Plan shall be submitted to and approved by the City prior to the commencement of development. The site shall be managed in accordance with the approved plan.

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Presiding Member, Metro Outer JDAP



12. A detailed landscaping plan shall be submitted to, and approved by, the City prior to the commencement of development. The plan is to indicate the proposed landscaping treatment(s) in the subject site and the adjoining road verge(s), and shall:
  - Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500;
  - Provide all details relating to paving, treatment of verges and tree planting in the car park. Planting/landscaping within the verge is to be suitably landscaped to discourage the verge from being used as verge parking;
  - Show spot levels and/or contours of the site;
  - Indicate any natural vegetation to be retained and the proposed manner in which this will be managed;
  - Be based on water sensitive urban design principles to the satisfaction of the City;
  - Include relevant details about landscaping associated with the screening wall to the western boundary, including species and management to ensure adequate screening of the existing development.
  - Be based on Designing out Crime principles to the satisfaction of the City; and
  - Show all irrigation design details.
13. Landscaping and reticulation shall be established in accordance with the approved landscaping plan and relevant Australian Standards prior to the development first being occupied and thereafter maintained to the satisfaction of the City.
14. A full schedule of colours and materials for all exterior parts to the development is to be submitted to and approved by the City prior to the commencement of development. The schedule is also to include detail on the proposed 'Mural to future detail' located on the eastern and western facades. The external surface of the development, including roofing, shall be finished in materials and colours that have low reflective characteristics. Development shall be in accordance with the approved schedule and all external materials and finishes shall be maintained to a high standard, including being free of vandalism, to the satisfaction of the City.
15. Any proposed building plant and equipment, including air conditioning units, piping, ducting and water tanks shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with these approved details.
16. The car parking bays, driveways and access points shown on the approved plans are to be designed, constructed, drained and marked in accordance with the Australian Standard for Off-street Car Parking (AS/NZS2890.1 2004), Off-street Parking for People with Disabilities (AS/NZS2890.6 2009) and Off-street Commercial Vehicle Facilities (AS2890.2:2002), prior to the occupation of the development. These bays are to be thereafter maintained to the satisfaction of the City.

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Presiding Member, Metro Outer JDAP



17. Sustainability initiative(s) details in accordance with element 4.15 (Energy Efficiency) of Volume 2 State Planning Policy 3.7 Residential Design Codes are to be submitted to and approved by the City prior to commencement of development. The initiative(s) shall be incorporated into the development and implemented prior to occupation.
18. Prior to the commencement of development, an acoustic report, undertaken by a qualified person, shall be lodged and approved by the City and include details of any measures required to protect against surrounding noise impacts. All recommended measures included in the Acoustic Report shall be implemented prior to the occupation or use of the development and thereafter maintained to the satisfaction of the City at the expense of the applicant/owner.

### Advice Notes

1. Further to condition 3, the State Planning Policy 7.3 Residential Design Codes defines the following:

“Mixed use development” as:

*‘buildings that contain commercial and other non residential uses in conjunction with residential dwellings in multiple dwelling configuration’.*

"Multiple dwellings" as:

*‘a dwelling in a group of more than one dwelling on a lot where any part of the plot ratio area of a dwelling is vertically above any part of the plot ratio of any other but:*

- *does not include a grouped dwelling; and*
- *includes any dwellings above the ground floor in a mixed use development’.*

“Dependent person” as:

*‘a person with a recognised form of disability requiring special accommodation for independent living or special care’.*

2. The City encourages the applicant/owner to incorporate materials and colours to the external surface of the development, including roofing, that have low reflective characteristics to minimise potential glare from the development impacting the amenity of the adjoining or nearby neighbours.
3. Any existing infrastructure/assets within the road reserve (e.g. footpath, kerbing and street trees) are to be retained and protected during construction of the development and are not to be removed or altered. Should any infrastructure or assets be damaged during the construction of the development, it is required to be reinstated to the satisfaction of the City.
4. The Construction Management Plan shall be prepared using the City’s Construction Management Plan template which can be provided upon request.

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Presiding Member, Metro Outer JDAP





5. Any signage may be the subject of a separate development application.
6. In regard to condition 12, the existing tree/s proposed to be retained onsite is to be protected during construction to avoid damaging or removal of the tree(s). Should the tree not survive, a replacement tree of a similar size at maturity will need to be planted onsite (and thereafter maintained) by the landowners to ensure compliance with this condition of development approval.
7. The *Health Act (Laundries and Bathrooms) Regulations* do not permit a laundry to be positioned in the same area as a kitchen (even where it is provided with a cupboard door). The City's Health Local Law also contains provisions restricting the washing of clothing or bedding in a kitchen.
8. As the location provides a mixed-use nature that includes nearby light industrial activities, consideration should be given to the acoustic design of the building and minimising internal noise levels from external influences.
9. The bin store areas are required to be provided with a concrete floor that grades evenly to an industrial floor waste gully that is connected to sewer. Bin store areas are to be provided with a hose cock.
10. Where the café is selling food – the café is required to register with the City as a food business. The café is required to meet the requirements of the *Food Act 2008* and the Food Safety Standards.
11. Where the 'common room' is used by members of the public or for organised activities – The common room will need to meet the requirements of the *Health (Public Building) Regulations 1992*. To this regard, a Form 2 'Application for a Certificate of Approval' is required prior to occupancy.
12. In regard to condition 18, the owner is encouraged to undertake the acoustic report and finalise the design prior to the lodgement of a building permit to ensure that any modifications and recommendations can be reflected in the working drawings.

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

**REASON:** The Panel considered that the proponents have undertaken significant amendments to the original plans and as a result the proposed development now addresses the concerns originally raised by Council and the Panel.

The amendments made to the plans in regard to the original reasons for refusal for building height, setbacks, visual privacy, solar and daylight access, natural ventilation, private open space and the landscape design have resulted in a far better development proposal and have also resulted in a better use and adaptation of the existing building and new structural elements.

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The Presiding Member noted the following SAT Applications -

<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/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
DAP/22/02379 DR98/2023	City of Swan	Lot 31 (No.1487) Neaves Road, Bullsbrook	Proposed roadhouse	16/06/2023
DAP/18/01543 DR 75/2022	City of Joondalup	Lot 649 (98) O'Mara Boulevard, Iluka	Commercial development	02/05/2022

## 11. General Business

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

## 12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 10:00am.

**Eugene Koltasz**  
Presiding Member, Metro Outer JDAP