



Metro Outer Joint Development Assessment Panel Minutes

Meeting Date and Time: Friday, 3 June 2022; 9:30am
Meeting Number: MOJDAP/178
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 Brian Curtis (A/Deputy Presiding Member)
Ms Leigh Penney (A/Third Specialist Member)

Item 8.1

Cr Mark Jones (Local Government Member, City of Rockingham)
Cr Lorna Buchan (Local Government Member, City of Rockingham)

Item 8.2

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

Officers in attendance

Item 8.1

Mr David Banovic (City of Rockingham)
Ms Casey Gillespie (City of Rockingham)
Mr Michael Ross (City of Rockingham)

Item 8.2

Ms Asha Logan (City of Kwinana)
Mr Paul Neilson (City of Kwinana)

Minute Secretary

Ms Megan Ventris (DAP Secretariat)
Ms Samantha Hansen (DAP Secretariat)

Applicants and Submitters

Item 8.1

Mr Paul Kotsoglo (Planning Solutions)
Mr Vince Carcione (Carcione Group of Companies)
Mr Ray Pardo (Carcione Group of Companies)
Ms Leisha Aberle (DMG Architecture)
Mr Kahwai Leong (DMG Architecture)
Mr Jozef Ewing (Planning Solutions)

Item 8.2

Mr Russell MacKenzie (Coogee Chemicals)

Members of the Public / Media

There were 2 members of the public in attendance.

Ms Nadia Budihardjo from Business News was in attendance.



1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:33am on 3 June 2022 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)

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

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 8.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Mark Jones and Cr Lorna 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 2.4.9 of the DAP Code of Conduct 2017, DAP Member, Mayor Carol Adams and Cr Matthew Rowse, declared that they participated in a prior Council meeting in relation to the application at item 8.2. However, under section 2.1.2 of the DAP Code of Conduct 2017, Mayor Carol Adams and Cr Matthew 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.

DAP Member, Mayor Carol Adams, declared an Impartiality Interest in item 8.2. The applicant in this matter, Coogee Chemicals Pty Ltd, is an industry member of my husband's employer, Kwinana Industries Council.

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, are permitted to participate in the discussion and voting on the items.

7. Deputations and Presentations

7.1 Mr Paul Kotsoglo (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.

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

The presentations at Items 7.1 - 7.2 were heard prior to the application at Item 8.1.

7.3 Mr Paul Neilson (City of Kwinana) addressed the DAP in relation to the application at Item 8.2 and responded to questions from the panel.

7.4 ***The presentations at Items 7.3 - 7.4 were heard prior to the application at Item 8.2.***



8 Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 9005 Fifty Road, Baldvis

Development Description: Proposed Tavern
Applicant: Planning Solutions
Owner: Piperpoint Pty Ltd
Responsible Authority: City of Rockingham
DAP File No: DAP/21/02140

REPORT RECOMMENDATION

Moved by: Cr Mark Jones

Seconded by: Ms Leigh Penney

With the approval of the Mover and Seconder, the following amendments were made:

- (i) That Condition No. 3 be amended to read as follows:

Prior to applying for a Building Permit, a Stormwater Management Plan must be prepared by a suitably qualified engineering showing how stormwater will be contained on-site and those plans must be submitted to the City of Rockingham for its approval. 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.

REASON: To correct the typo.

- (ii) That Advice Note 7 be deleted and the remaining Advice Notes be renumbered accordingly.

REASON: Duplication of Advice Note 1.

That the Metro Outer Joint Development Assessment Panel resolves to:

Approve DAP Application reference DAP/21/02140 and accompanying plans 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 Rockingham Local Planning Scheme No. 2, 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 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. Prior to applying for a Building Permit, a Stormwater Management Plan must be prepared by a suitably qualified engineer showing how stormwater will be contained on-site and those plans must be submitted to the City of Rockingham for its approval. 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.
4. A Dust, Noise and Vibration Construction Management Plan is to be submitted and approved by the City of Rockingham prior to the commencement of works. Dust management is to be in accordance with the Department of Environment and Conservation Guideline: A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities.
5. The carpark must:
 - (i) provide a minimum of 134 car parking spaces;
 - (ii) be designed, constructed, sealed, kerbed, drained and marked in accordance with User Class 3 of Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking prior to applying for a Building Permit;
 - (iii) provide 4 universal car parking space(s) 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) have lighting installed, prior to the occupation of the development, to the satisfaction of the City of Rockingham; and
 - (v) confine all illumination to the land in accordance with the requirements of Australian Standard AS 4282-1997, Control of the obtrusive effects of outdoor lighting, at all times.
6. A total of 18 short-term bicycle parking spaces must be designed in accordance with AS2890.3-1993, Parking facilities, Part 3: Bicycle parking facilities, and located within the development to the satisfaction of the City of Rockingham, prior to commencement of development.



7. Prior to a Building Permit application, written confirmation from a suitably qualified HVAC mechanical engineer that the proposed mechanical ventilation systems will comply with relevant indoor air quality standards (AS 1668.2) and the ventilation capacity and flow has been designed to accommodate the patron loading and activities within the building with doors and windows closed. Detailed requirements for the system are to be provided to the Acoustic Consultant to ensure suitable acoustic treatments for the system are considered and indicated on the Building Permit application or clearance of the condition, whichever occurs first.
8. Prior to applying for a Building Permit, a revised Acoustic Report prepared by a suitably qualified Acoustic Consultant and demonstrating compliance with the Environmental Protection (Noise) Regulations 1997, must be submitted to and approved by the City of Rockingham. The Acoustic Report shall, at a minimum but not limited to, address the following:
 - (i) Clearly outline the final specification and construction methods, including any materials and treatments, for all building components of the development;
 - (ii) Include details of any proposed acoustic wall requirements, including heights from finished ground levels, locations and materiality;
 - (iii) Detail mechanical plant elements and any attenuation measures required;
 - (iv) Detail any mitigations or management controls for car parking areas, loading, servicing and delivery; and
 - (v) Detail the parameters used for the modelling which considers the likely adjoining future housing typologies to achieve compliance, noting that land use and development on adjoining lots cannot be limited by virtue of the Tavern use.
9. The Building Permit application must be accompanied by written confirmation from a suitably qualified Acoustic Consultant that the plans have been reviewed and confirmed they incorporate the requirements of the relevant acoustic report as required by Condition 8 specified above.
10. Prior to the occupation of the development, written confirmation to the satisfaction of the City of Rockingham shall be provided confirming that all requirements of the approved Acoustic Report have been incorporated into the development.
11. An operational Noise Management Plan (NMP) shall be prepared to the satisfaction of the City of Rockingham prior to occupation, demonstrating how noise will be managed at the entire premises, including the operation of the bi-fold doors, alfresco and car park areas, and considering patron numbers, operational times and seating configurations as referred to in Sections 5 and 6 of the Acoustic Report (Reference 21096644-01B). The approved NMP shall thereafter be implemented for the duration of the development.



12. Prior to applying for a Building Permit, all service areas and service related hardware, including antennae, satellite dishes and air-conditioning units, must be designed to be located away from public view and/or screened, and this design must be provided to, and approved by, the City of Rockingham.
13. Prior to the occupation of the development, a final illumination report must be prepared which demonstrates to the satisfaction of the City of Rockingham, that the completed development complies with the requirements of Australian Standard AS4282-1997, control of the obtrusive effects of outdoor lighting.
14. A Landscaping Plan must be prepared and include the following detail, to the satisfaction of the City, prior to applying for a Building Permit:
 - (i) The location, number and type of existing and proposed trees and shrubs, indicating calculations for the landscaping area and the provision of shade trees at a minimum rate of one tree per four proposed on-site car parking bays;
 - (ii) Any lawns to be established and areas to be mulched;
 - (iii) Those areas to be reticulated or irrigated;
 - (iv) The paving material used for footpaths must be carried across driveways to the car parking areas in order to maintain visual continuity of the pedestrian network and aid pedestrian legibility throughout the site;
 - (v) The location, number and type of hardstand landscape features such as lighting, fencing (including any acoustic fencing), bicycle parking, bollards, seating and the like; and
 - (vi) Verge areas.

The landscaping (including all verge 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.

15. Prior to applying for a Building Permit, the Bushfire Management Plan prepared by Ecological Australia, dated 1 October 2021 must be updated to the satisfaction of the City of Rockingham to be consistent with the approved architectural plans, and to include the approved landscaping plan required in Condition 14 above.
16. 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 collection 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; and
- (iv) frequency and timing of bin collections outside of peak period operations of the development.

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

17. Prior to applying for a Building Permit, a schedule of the colours and textures of the building materials, must be provided to the satisfaction of the City of Rockingham. The development must be finished in accordance with the schedule provided and approved by the City of Rockingham, prior to occupation of the development and maintained for the duration of the use.
18. The ramp connecting the Tavern alfresco area with the adjacent Public Open Space reserve does not form a part of this approval.
19. Prior to applying for a Building Permit, the Applicant must demonstrate to the satisfaction of the City of Rockingham that ground floor glazing fronting Yellowstone Road has a minimum visible light transmission rate of at least 79% and a maximum visible reflectivity rate of 9% in order to ensure that a commercial, interactive frontage is available to the development.
20. Entries and window frontages facing Yellowstone Road must not be covered, closed or screened off (including by means of dark tint, shutters, curtains, blinds, roller doors or similar), to ensure that a commercial, interactive frontage is available to the development.

Advice Notes

1. The development must comply with the Food Act 2008, the Food Safety Standards and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only); the applicant and owner should liaise with the City's Health Services in this regard.
2. A Building Permit must be obtained for the proposed works prior to commencement of site works. The applicant and owner should liaise with the City's Building Services in this regard.
3. The development must comply with the Environmental Protection (Noise) Regulations 1997; contact the City's Health Services for information on confirming requirements.
4. All works in the road reserve, including construction of a crossover, planting of street trees, and other streetscape works and works to the road carriageway must be to the specifications of the City of Rockingham; the applicant should liaise with the City of Rockingham's Engineering Services in this regard.



5. The applicant is advised that in respect of Condition 3, a Stormwater Management Plan will require compliance with Planning Policy 3.4.3 - Urban Water Management. The applicant is encouraged to discuss the specific policy requirements with the City prior to the submission of the Building Permit application.
6. The development must comply with the Health (Public Building) Regulations 1992; the applicant and owner should liaise with the City's Health Services in this regard.
7. A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the applicant and owner should liaise with the City's Building Services in this regard.
8. Regarding Condition 11, the applicant is advised to develop the Noise Management Plan in consultation with a suitably qualified acoustic consultant.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The subject site is identified as a community focus, designated for tavern use, through the preparation of development plans for the Spires residential estate. As outlined in Responsible Authority Report, through the assessment process, including review by the City's Design Review Panel, the proposal has undergone certain recommended revisions whereby it now generally satisfies development requirements for the area. Operational management and building design measures to mitigate against amenity impacts on surrounding residents are covered in the revised proposal and together with appropriate conditions, are considered to adequately respond to amenity concerns raised through public consultation.

Cr Mark Jones and Cr Lorna Buchan (Local Government Member, City of Rockingham) left the panel at 10:15am.

Mayor Carol Adams and Cr Matthew Rowse (Local Government Member, City of Kwinana) joined the panel at 10:15am.

8.2 Lots 2 & 3 Kwinana Beach Road, Kwinana Beach

Development Description:	Fuel Tanks Terminal
Applicant:	Coogee Chemicals
Owner:	Coogee Chemicals Terminals West Pty Ltd
Responsible Authority:	City of Kwinana
DAP File No:	DAP/22/02189

REPORT RECOMMENDATION

An administrative amendment was made to Condition No. 2 to reflect the correct substantial commencement period of four (4) years as per regulation 16A(2) of the Planning and Development (Development Assessment Panels) Regulations 2011.

Moved by: Mayor Carol Adams

Seconded by: Cr Matthew Rowse



With the approval of the Mover and Seconder, the following amendment was made:

- (i) That Condition No. 3.a be amended to read as follows:

Prior to the ~~lodgement of a building permit application~~ commencement of works, the owner/applicant must submit a Public Art Report in accordance with LPP5 to the City of Kwinana for approval, which must detail the provision of Public Art on site to a minimum value as specified in LPP5. Prior to the use or occupation of the development, the approved Public Art must be installed on site to the satisfaction of the City of Kwinana; or

REASON: There was concern that the resolution of required artworks could unnecessarily delay the project.

That the Metro Outer JDAP resolves to:

1. **Approve** DAP Application reference DAP/22/02189 and accompanying plans (Attachments 1 - 6) 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.2, 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 two (2) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. The requirements of Local Planning Policy No.5 - Development Contribution towards Public Art (LPP5) must be met through one of the following options:
 - a. Prior to the commencement of works, the owner/applicant must submit a Public Art Report in accordance with LPP5 to the City of Kwinana for approval, which must detail the provision of Public Art on site to a minimum value as specified in LPP5. Prior to the use or occupation of the development, the approved Public Art must be installed on site to the satisfaction of the City of Kwinana; or
 - b. Prior to the commencement of works, the owner/applicant shall provide a financial contribution of a minimum value as specified in LPP5 to the City of Kwinana in lieu of installing Public Art on site to the satisfaction of the City of Kwinana.
4. Prior to the commencement of works, the applicant shall submit and implement an amended Landscaping Plan that addresses the bush fire mitigation measures as stated in the Bushfire Management Plan to the satisfaction of the City of Kwinana.



5. Prior to the commencement of works, the development plans and the submitted Hazard Identification and Risk Assessment must be amended to delete reference to proposed temporary access from Patterson Road (including ramp and existing gate), to the satisfaction of the City of Kwinana in consultation with Main Roads WA.
6. Prior to the commencement of works, the submitted Stormwater Management Plan must be updated to include detailed design drawings to demonstrate the onsite retention of stormwater drainage, including:
 - a. Infiltration Areas will have the capacity to cater for the additional impervious area of the concrete bund;
 - b. terminal concrete will have the capacity as required by Australian Standard AS1940, and will therefore be adequate for a major rainfall event (1 in 100 years);
 - c. details of how water will be discharged from Infiltration Area 1 to Infiltration Areas 2 and 3; and
 - d. confirmation that the wastewater management system will have capacity to cater for the additional tanks;to the specifications and satisfaction of the City of Kwinana.
7. All vehicle access is to be via the existing crossovers to Kwinana Beach Road, no direct vehicle access is permitted to Patterson Road during either construction or operation of the development.
8. All stormwater must be contained and disposed of on the site at all times in accordance with the approved updated Stormwater Management Plan and detailed design drawings, to the satisfaction of the City of Kwinana.
9. No stormwater drainage is to be discharged onto the Patterson Road reserve.
10. All building works, including earthworks and footings, must be contained within the boundaries of the subject site to the satisfaction of the City of Kwinana. No earth works shall encroach onto the Patterson Road reserve.
11. Ground levels on the Patterson Road boundary are to be maintained as existing, to the satisfaction of the City of Kwinana in consultation with Main Roads WA.
12. The parking of vehicles in association with the approved development must be contained within the subject site at all times, including during the construction of the development.
13. Vehicle barriers must be installed between the storage vessels and trafficable areas to prevent damage to the storage vessels, to the satisfaction of the City of Kwinana.



14. The development shall at all times comply with the requirements and recommendations of the Bushfire Management Plan prepared by Nathan Peart (dated 7 April 2022) and the Bushfire Risk Management Plan prepared by Bushfire Smart (dated 25 January 2022) to the satisfaction of the City of Kwinana, including that land within the 13 metre Asset Protection Zone (APZ) is to be managed and maintained in perpetuity.
15. The approved fuel storage tanks must be enclosed within concrete bunds sufficient in capacity to contain 110% of the capacity of the largest tank or 25% of the total capacity of all tanks within the bund, whichever is the greater, in accordance with *AS1940: The storage and handling of flammable and combustible liquids*, to the satisfaction of the City of Kwinana.
16. Chemical and liquid storage areas and the bund and gantry loading areas must be constructed with an impervious hardstand that is graded to contain spills and connected to an appropriate treatment and disposal system, to the satisfaction of the City of Kwinana.
17. Liquid waste arising from loading or unloading activities must be collected and contained for treatment or disposal at a Department of Water and Environmental Regulation (DWER) licenced wastewater disposal facility.
18. The development must not cause a dust nuisance to neighbours. The owner/operator must take effective measures to stabilise dust on the land and ensure dust is not released from the land as a result of the development. Appropriate measures must be implemented by the owner/ operator within the time and in the manner directed by the City of Kwinana in the event that dust is blown or drifts from the site.

Advice Notes

1. In regard to the conditions restricting vehicle access onto Patterson Road, the owner/applicant is advised that Patterson Road is a proclaimed Control of Access road pursuant to s.28A of the *Main Roads Act 1930*, and vehicle access between adjacent properties and Patterson Road is not permitted.
2. The owner/applicant is advised to submit an application form to undertake works within the road reserve prior to undertaking any works within the Patterson Road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads. Contact Main Roads WA for further information.
3. The owner/applicant is advised that this approval is not a building permit, which constitutes a separate legislative requirement. Prior to any building work commencing on site a building permit or building permit exemption must be obtained from the City of Kwinana. Significant penalties apply under the *Building Act 2011* for any failure to comply with this requirement.



4. The owner/applicant should ensure that the proposed development complies with all other relevant legislation, including but not limited to, the *Environmental Protection Act 1986*; *Health (Miscellaneous Provisions) Act 1911*; *Contaminated Sites Act 2003*; the *Dangerous Goods Safety Act 2004* and any associated regulations.
5. In regard to Condition 3, the owner/applicant is advised that the City is currently reviewing LPP5 and the contribution amount will be determined at the time that the approval is sought for the public art or that cash in lieu is to be paid as per Condition 3.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The proposal adds to the existing industrial use on the site and is consistent with the intended ongoing expansion of industrial activity in the Kwinana Industrial Area. Relevant planning and environmental requirements for the area have been appropriately addressed in the plans and by way of appropriate conditions.

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

Nil.

10 State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/21/2047 DR257/2021	City of Swan	Lots 136 (26) & 3235 (34) Asturian Drive and Lots 137 (238) & 138 (230) Henley Street, Henley Brook	Proposed education facility	03/12/2021
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 10:28am.

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