



Metro Inner-South Joint Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 2 May 2023; 9.30am
Meeting Number: MISJDAP/139
Meeting Venue: Town of Victoria Park
99 Shepperton Road, Victoria Park

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Mr Clayton Higham
Presiding Member, Metro Inner-South JDAP



Attendance

DAP Members

Mr Clayton Higham (Presiding Member)
Mr Paul Kotsoglo (A/Deputy Presiding Member)
Mr Jason Hick (A/Third Specialist Member)
Cr Luana Lisandro (Local Government Member, Town of Victoria Park)
Cr Vicki Potter (Local Government Member, Town of Victoria Park)

Officers in attendance

Mr Robert Cruikshank (Town of Victoria Park)
Mr Jonathan van Butzelaar (Town of Victoria Park)

Minute Secretary

Ms Janine Martin (Town of Victoria Park)

Applicants and Submitters

Ms Belle Smithies (Rowe Group)

Members of the Public / Media

There was 1 member of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:36am on 2 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.

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 the meeting is being audio recorded 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 Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

2. Apologies

Mr Peter Lee (Specialist Member)
Ms Rachel Chapman (Deputy Presiding Member)
Cr Claire Anderson (Local Government Member, Town of Victoria Park)


Mr Clayton Higham
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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 the agenda face sheet and Responsible Authority Report (RAR) was updated on 28 April 2023 to reflect the correct address of the development.

All members declared that they had duly considered the documents.

6. **Disclosure of Interests**

DAP Member, Ms Rachel Chapman, declared an Impartiality Interest in item 10.1. Ms Chapman is the director and shareholder of Taylor Burrell Barnett. The architectural plans accompanying the application refer to Hamlen. Hamlen is a current client of Taylor Burrell Barnett.

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

7. **Deputations and Presentations**

7.1 Ms Belle Smithies (Rowe Group) addressed the DAP in support of the recommendation for the application at Item 10.1.

7.2 The Town of Victoria Park Officers addressed the DAP in relation to the application at Item 10.1.

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

Nil


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

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

10.1 Lot 100 (No.384) Berwick Street, East Victoria Park

Development Description: Proposed 13 Grouped Dwellings
Summary of Modifications: Grouped Dwellings on Lots 44 to 53 have been rearranged to relocate and orientate the outdoor living areas from the south east to the north west of the proposed lots.
Applicant: Rowe Group
Owner: Berwick EVP Pty Ltd
Responsible Authority: Town of Victoria Park
DAP File No: DAP/22/02290

REPORT RECOMMENDATION

Moved by: Mr Paul Kotsoglo

Seconded by: Cr Vicki Potter

That the Metro Inner South Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 234 of 2022, resolves to:

Reconsider its decision dated 16 December 2022 and set aside the decision and substitute a new decision to **approve** DAP Application reference DAP/22/02290 and accompanying plans dated 23 March 2023 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 Town of Victoria Park Town Planning Scheme No. 1, 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. If the development, the subject of this approval, is not substantially commenced within a period of four (4) years from the date of the approval, the approval will lapse and be of no further effect.
3. The development, once commenced, is to be carried out in accordance with the approved plans at all times, unless otherwise authorised by the Town.
4. Unless approved by the Town, access to Carson Street and Baillie Avenue being restricted to pedestrian access only, with vehicle access not being permitted.


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5. To address the conditions of this approval, a covering letter (detailing compliance with each condition), copy of the final working drawings and relevant associated reports and information, are to be submitted by the applicant and be cleared by the Town.
6. Prior to lodging an application for a building permit, all plant equipment, air conditioning units, hot water systems, water storage tanks, service metres, bin storage areas and clothes drying facilities must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the Town.
7. Prior to the submission of an application for a building permit, complete details of the proposed external colours, finishes and materials to be used in the construction of the buildings are to be provided to the satisfaction of the Town. The development shall be constructed in accordance with the approved details and shall be thereafter maintained.
8. Existing trees on the site must be retained and protected in accordance with AS 4970-2009 and to the satisfaction of the Town.
9. Prior to the issuing of a building permit for any of the proposed 13 Grouped Dwellings, the applicant is to demonstrate to the satisfaction of the Town that 13 new medium trees are to be planted on-site (this is in addition to the tree planting required for the other 39 Grouped Dwellings on the site under DA 5.2020.587.1) which meet the specifications outlined at Clause 2.4 of the Town's Local Planning Policy 39 'Tree Planting and Retention'. The 13 new trees are to be planted prior to the occupation or strata titling of the dwellings, and be thereafter maintained to the satisfaction of the Town.
10. New tree planting shall be maintained via an automated irrigation system or other similar method by the landowner or developer for the first two summers after the occupation of the dwellings. If the proposed tree is of poor health and is removed, it is to be replaced with a suitable replacement tree by the owner or developer.
11. Prior to the occupation of the development, all car parking spaces together with their access aisles, are to be clearly paved, sealed, marked and drained and thereafter maintained to the satisfaction of the Town.
12. Prior to the issuing of a building permit for any of the proposed 13 Grouped Dwellings, the applicant is to demonstrate to the satisfaction of the Town that a minimum of four on-site visitors car bays are provided for the approved dwellings (this is in addition to the visitors parking required for the other 39 Grouped Dwellings on the site under DA 5.2020.587.1). The visitors parking bays are to be constructed prior to the occupation or strata titling of the dwellings, and be marked for the exclusive use of visitors to the satisfaction of the Town.


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13. In order to comply with Clause 5.4.1 of the Residential Design Codes – Volume 1, the south-eastern facing first floor windows of Units 4-13 as shown in red on the approved plans being either:
 - (i) fixed obscure glazing to a minimum height of 1.6 metres above the finished floor level; or
 - (ii) a minimum sill height of 1.6 metres above the finished floor level; or
 - (iii) an obscure awning type window; or
 - (iv) reduced in size to not exceed 1.0m² in aggregate.
14. All driveways and car parking bays to be constructed of brick paving, liquid limestone, exposed aggregate or any alternative material approved by the Town.
15. Prior to lodging an application for a building permit, a detailed landscaping and reticulation plan for the subject site and the adjacent road verge(s) must be submitted to and approved by the Town, and must include the following:
 - (i) The location, number and type of the proposed trees and shrubs including planter and/or tree pit sizes and planting density;
 - (ii) Any lawn to be established.
16. Prior to the occupation or strata-titling of the building(s), whichever occurs first, the approved landscaping and reticulation plan must be fully implemented and maintained thereafter, to the satisfaction of the Town.
17. Existing trees located within the verge are a Town asset and as such must be retained except where otherwise approved for removal by the Town.
18. Prior to lodging an application for a building permit, a Stormwater and Drainage Management Plan including details of the on-site stormwater disposal including soakwell sizes and locations to be submitted to and approved in writing by the Town. The development shall be constructed in accordance with the approved details and thereafter maintained.
19. Prior to lodging an application for a building permit, a Construction Management Plan must be submitted for approval by the Town, and thereafter implemented to the satisfaction of the Town. (Refer to related advice note)
20. Prior to the occupation or use of the development, any alterations, relocation, or damage to existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the Town.
21. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
22. Prior to lodging an application for a building permit, a Waste Management Plan must be submitted and implemented at all times to the satisfaction of the Town.


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23. Clothes drying areas to be screened from view from all streets and public places to the satisfaction of the Town.

Advice Notes

1. This development approval does not remove the need to obtain licences, permits or other forms of approval that may be required under other legislation or requirements of Council.
2. Any amendments or modifications to the approved drawings forming part of this development approval may require the submission of an application for amendment to development approval and reassessment of the proposal.
3. In relation to condition 5, a building permit cannot be issued until the conditions of the development approval have been given a planning clearance by the Town. It is recommended that the relevant information be submitted prior to the submission of an application for a building permit in order to avoid delays in the processing of the building permit application. Should a building permit application be submitted without a planning clearance, then the building permit application will be put hold until a planning clearance is obtained, or the application may be refused.
4. With respect to a Construction Management Plan, it is to address the following matters:
 - a. How materials and equipment will be delivered and removed from the site;
 - b. How materials and equipment will be stored on the site;
 - c. Parking arrangements for contractors;
 - d. Construction waste disposal strategy and location of waste disposal bins;
 - e. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - f. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - g. Construction traffic and pedestrian management; and
 - h. Other matters likely to impact on the surrounding properties.
5. Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
6. The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.
7. All stormwater drainage shall be designed and signed by a certified Hydraulic Engineer. An overland flow path is to be included in the design to ensure diversion of stormwater from the developments during storm events.


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8. A Work Zone Permit application is to be submitted to and approval issued the Town, prior to any works or temporary storage on a public thoroughfare (including roads, parking bays, footpaths or verges). To download an application form and for further information, please refer to the Town's website or contact the Town's Street Improvement business unit on (08) 9311 8111. It is noted that a Work Zone permit may not be permitted along some sections of Berwick Street.
9. Where works and/or building permits are to be staged, only those conditions relevant to the proposed stage of works need to be satisfied prior to the issuing of a building permit.
10. Existing trees located within the verge are a Town asset and as such must be retained except where otherwise approved for removal by the Town.

AMENDING MOTION

Moved by: Mr Clayton Higham

Seconded by: Cr Luana Lisandro

The following amendments were made en bloc

- (i) That Condition No. 13 be deleted, and the remaining conditions be renumbered accordingly.
- (ii) That Condition No. 9 be amended to read as follows:

Prior to the issuing of a building permit for any of the proposed 13 Grouped Dwellings, the applicant is to demonstrate to the satisfaction of the Town that 13 new medium trees are to be planted on-site (this is in addition to the tree planting required for the other 39 Grouped Dwellings on the site under DA 5.2020.587.1) which meet the specifications outlined at Clause 2.4 of the Town's Local Planning Policy 39 'Tree Planting and Retention'. The 13 new trees are to be planted prior to the occupation ~~or strata-titling~~ of the dwellings, and be thereafter maintained to the satisfaction of the Town.

- (iii) That Condition No. 16 (now Condition 15) be amended to read as follows:

Prior to the occupation ~~or strata-titling~~ of the building(s), ~~whichever occurs first~~, the approved landscaping and reticulation plan must be fully implemented and maintained thereafter, to the satisfaction of the Town.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: The amendments to conditions 9 & 16 were supported to ensure the practicalities of construction and development are addressed. The deletion of condition 13 allows for surveillance of the adjoining bushland from the subject windows while acknowledging that the windows do not overlook outdoor living areas of any dwellings.


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REPORT RECOMMENDATION (AS AMENDED)

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19. Prior to the occupation or use of the development, any alterations, relocation, or damage to existing infrastructure within the road reserve must be completed and reinstated to the specification and satisfaction of the Town.
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 - d. Construction waste disposal strategy and location of waste disposal bins;
 - e. Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction;
 - f. How risks of wind and/or water borne erosion and sedimentation will be minimised during and after the works;
 - g. Construction traffic and pedestrian management; and
 - h. Other matters likely to impact on the surrounding properties.


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5. Should the applicant be aggrieved by this decision a right of appeal may exist under the provisions of the Town Planning Scheme or the Metropolitan Region Scheme and the applicant may apply for a review of the determination of Council by the State Administrative Tribunal within 28 days of the date of this decision.
6. The owner or occupier is required to display the street number allocated to the property in a prominent location clearly visible from the street and/or right-of-way that the building faces.
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10. Existing trees located within the verge are a Town asset and as such must be retained except where otherwise approved for removal by the Town.

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

REASON: The amended design, with the relocation of the primary outdoor living areas to the north, resolves many of the previous reasons for refusal and results in an improved amenity outcome for the future residents.

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/22/02244 DR121/2022	City of Fremantle	Nos. 34-38 (Lots 1823, 1209, 1212 and 1217) Amherst Street and Nos. 2-4 (Lots 1223 and 1222) Stack Street, Fremantle	56 Grouped Dwellings	30/11/2022

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Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/18/01521 DR15/2023	City of Belmont	225 (Lot 500), Great Eastern Highway, Belmont	Use Not Listed: Third Party Signage	31/01/2023
DAP/22/02314 DR220/2022	City of Melville	No.532 (Lot No.101) Canning Highway, Attadale	Additions and alterations to motor vehicle sales & Motor vehicle repair premises	12/12/2022

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 9:46am.


Mr Clayton Higham
Presiding Member, Metro Inner-South JDAP