



## Metro Outer Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Monday, 30 May 2022; 9:00am  
**Meeting Number:** MOJDAP/175  
**Meeting Venue:** Electronic Means

*This DAP meeting was conducted by electronic means (Zoom) open to the public rather than requiring attendance in person*

### 1 Table of Contents

<b>1. Opening of Meeting, Welcome and Acknowledgement.....</b>	<b>3</b>
<b>2. Apologies.....</b>	<b>3</b>
<b>3. Members on Leave of Absence .....</b>	<b>3</b>
<b>4. Noting of Minutes.....</b>	<b>3</b>
<b>5. Declaration of Due Consideration.....</b>	<b>3</b>
<b>6. Disclosure of Interests.....</b>	<b>3</b>
<b>7. Deputations and Presentations.....</b>	<b>4</b>
<b>8. Form 1 – Responsible Authority Reports – DAP Applications.....</b>	<b>4</b>
8.1 P Road – Beeliar Drive Road Reserve.....	4
8.2a Lot 201 (226) Great Eastern Highway, Midland and Lot 11 (316) Lloyd Street, Midland .....	9
8.2b Lot 201 (226) Great Eastern Highway, Midland and Lot 11 (316) Lloyd Street, Midland .....	12
<b>9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval .....</b>	<b>13</b>
Nil.....	13
<b>10. State Administrative Tribunal Applications and Supreme Court Appeals ...</b>	<b>13</b>
<b>11. General Business.....</b>	<b>14</b>
<b>12. Meeting Closure .....</b>	<b>14</b>



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## Attendance

### DAP Members

Mr Ian Birch (Presiding Member)  
Ms Sheryl Chaffer (Deputy Presiding Member)  
Mr Jason Hick (Third Specialist Member)

#### *Item 8.1*

Cr Chontelle Stone (Local Government Member, City of Cockburn)  
Cr Phoebe Corke (Local Government Member, City of Cockburn)

#### *Item 8.2*

Cr Charlie Zannino (Local Government Member, City of Swan)  
Cr Rod Henderson (Local Government Member, City of Swan)

### Officers in attendance

#### *Item 8.1*

Mr Lorenzo Santoriello (City of Cockburn)  
Mr David King (City of Cockburn)  
Mr Andre Pinto (City of Cockburn)

#### *Item 8.2*

Mr Philip Russell (City of Swan)  
Ms Charlotte Lavictoire (Western Australian Planning Commission)

### Minute Secretary

Ms Samantha Hansen (DAP Secretariat)  
Ms Megan Ventris (DAP Secretariat)  
Mr Stephen Haines (DAP Secretariat)

### Applicants and Submitters

#### *Item 8.1*

Mr James Lewisson (element)  
Mr Alessandro Paladin (Buchan)

#### *Item 8.2*

Mr Alessandro Stagno (Apex Planning)  
Mr Ross Ravi (Globeart)  
Mr Ben Bordbar (Transcore)

### Members of the Public / Media

Nil



## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:08am on 30 May 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

Nil

## 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 8.2a, received on 23 May 2022.

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 Rod Henderson and Cr Charlie Zannino, declared that they participated in a prior Council meeting in relation to the application at item 8.2a and 8.2b. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Henderson and Cr Zannino 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 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 James Lewisson (element) addressed the DAP in support of the recommendation for the application at Item 8.1.

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

- 7.2 Mr Alessandro Stagno (Apex Planning) addressed the DAP in support of the recommendation for the application at Item 8.2 and responded to questions from the panel.

- 7.3 Mr Philip Russell (City of Swan) responded to questions from the panel.

***The presentations at Items 7.2 – 7.3 were heard prior to the application at Item 8.2a and 8.2b.***

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

### 8.1 P Road – Beelihar Drive Road Reserve

Development Description: Pedestrian Bridge over Beelihar Drive  
Applicant: element  
Owner: City of Cockburn  
Responsible Authority: City of Cockburn  
DAP File No: DAP/21/02106

## REPORT RECOMMENDATION

**Moved by:** Cr Chontelle Stone

**Seconded by:** Cr Phoebe Corke

That the Metro Outer Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/21/02106 is appropriate for consideration as a “Road Infrastructure” land use and compatible with the objectives of the zoning table in accordance with the City of Cockburn Town Planning Scheme No. 3;
2. **Approve** DAP Application reference DAP/21/02126 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 Cockburn Town Planning Scheme No. 3, subject to the following conditions:

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



## Conditions

1. Pursuant to clause 16 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 16 of the Metropolitan Region Scheme.
2. Development shall be carried out in accordance with the terms of the application as approved herein and any approved plan.
3. 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.
4. **Prior to the lodgement of an application for building permit**, the applicant shall provide engineered drawings and the structural design, including all stages of construction and erection, to the City for review by an independent and qualified engineer. The drawings and design shall including the following;
  - a. The architectural cladding for the soffit (or elsewhere) shall enable safe, easy access for the purposes of routine visual inspection of all faces of the primary structure;
  - b. Details of the bridge piling;
  - c. Details of the balustrading heights and strengths;
  - d. Confirmation of the primary elements of the bridge being designed to AS5100 standard (100 year lifespan);
  - e. Confirmation that the bridge structure can sustain the loading of shelter screens up to and including full enclosure.
5. **Prior to the lodgement of an application for building permit**, a schedule of the materials, finishes and colours shall be submitted to and approved by the City. The schedule shall include details of the type of materials proposed to be used, including their colour and texture. The development shall thereafter be maintained in accordance with the approved materials schedule.
6. **Prior to the lodgement of an application for Building Permit**, the owner/applicant shall:
  - a. submit to the City for approval a preliminary proposal for an art work designed be a professional artist at a cost of 1% of the total project cost (to a maximum of \$250,000), to be to be located within the subject site as an integral part of the development;
  - b. submit to the City for approval an 'Application for Artwork Design';
  - c. enter into a contract with a professional artist/s to design and install (if appropriate) the artwork approved by the City.

The artwork shall then be installed prior to the development being handed over to the City.



7. **Prior to the lodgement of an application for building permit** for the proposed Beeliar pedestrian bridge the subject of this application (Beeliar Pedestrian Bridge) the owner of Lot 203 (816) Beeliar Drive, Success (land) shall enter into a deed of agreement with the City of Cockburn (City) whereby the owner:
- a. Indemnifies the City against all actions, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the City or brought, maintained or made against the City in respect of:
    - i. Injury or damage, or to, any kind of property of thing;
    - ii. The death of, or injury suffered by any person;
    - iii. Any loss, damage or injury caused to the Beeliar Drive Road Reserve (other than as necessarily caused by the construction works); andCaused by, contributed to, or arising out of the undertaking of construction works for the Beeliar Pedestrian Bridge during the period of those works;
  - b. Agrees to remedy any construction defects and undertake any warranty works to the Beeliar Pedestrian Bridge for a period of twelve (12) months following practical completion of the Beeliar Pedestrian Bridge (**Defects Liability Period**) in accordance with the specifications (which shall not exceed the originally approved specifications) of and to the satisfaction of the City, and for the avoidance of doubt, which does not include matters not relating to construction defects or warranties such as accidental or malicious damage;
  - c. Agrees to provide to the City a bond in an amount of 2.5% of the construction cost as indicated on the builders contract, to be held for the duration of the Defects Liability Period (Bond) to enable the City to draw against the bond for all costs incurred by the City in carrying out any defects/rectification works arising during the Defects Liability Period which are required to be undertaken under Condition 7b but not undertaken by the owner or owners builder within a reasonable time of demand by the City, but excluding any costs which are incurred and which do not relate to construction faults of the Beeliar Drive Bridge (including but not limited to routine (non-warranty) maintenance and cleaning damage from malicious acts of graffiti or vandalism and/or car accidents which might cause damage to the Beeliar Pedestrian Bridge); and
  - d. Agrees to take out and maintain (or ensures its builder takes out and maintains) a policy of public liability insurance with a reputable insurer in an amount of \$50,000,000 (\$50 Million) to insure the City and the owner against all claims for loss or damage or injury occurring to the Beeliar Drive Road Reserve or property of the City or any person or property of any person as a result of or arising out of the construction of the Beeliar Pedestrian Bridge (Policy); which Policy shall be maintained until practical completion of the bridge and handover to the City.

The agreement shall be prepared by the City's solicitors to the satisfaction of the City and the owner of the land. The City shall be responsible to pay all costs associated with the City's solicitor's costs of and incidental to the preparation of the agreement (including all drafts). The owner shall be responsible for the costs of its own solicitors in negotiating the agreement.



8. **Prior to the lodgement of an application for building permit**, a Construction Management Plan shall be submitted to and approved by the City in consultation with Main Roads WA. The CMP shall be implemented to the satisfaction of the City.
9. **Prior to the lodgement of an application for building permit**, stormwater and drainage management plan shall be provided and approved to the City's satisfaction.
10. **Prior to the lodgement of an application for building permit**, the specifications of a suitable lift model shall be provided to the City for approval.
11. **Prior to the lodgement of an application for building permit**, a lighting plan shall be submitted to and approved by the City.
12. Above ground utility services that are located near paths should be placed so that they do not constitute a hazard for pedestrians.
13. Utility pits are to be located to allow for continuous access to the footpath, lift and stairs during maintenance.
14. The applicant shall repair (or at the election of the City, pay the reasonable cost of repairing) any damages to the public thoroughfare during the construction (up to practical completion) caused by the construction of Beeliar Pedestrian Bridge.
15. The applicant contributing to a bond in the value of \$20,000 to cover the costs of repairing damage to the public thoroughfare and/or public places resulting from construction of the development, to be released within 1 month of practical completion (unless there is unrepaired damage at that time).
16. The applicant shall take out (or ensure its builder takes out) and provide the City with a copy of the insurance policy referred to in condition 7(d) prior to commencing works.

#### **Advice Notes**

- a. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or with any requirements of the City of Cockburn Town Planning Scheme No. 3 or with the requirements of any external agency.
- b. With regard to Condition 7, the agreement shall be in the form of a legal agreement and shall address the following:
  - a. A twelve (12) month maintenance/defects liability period;
  - b. City representatives attending key milestones of the construction;
  - c. In regards to point 'C', Cost of construction shall be determined at the time of Building Permit Application to the satisfaction of the City of Cockburn. It is understood that the value of the development is estimated to be \$5.5 Million on the JDAP application. It is noted that cost of construction in recent times are fluctuating due to supply chain issues and other related issues. In order for the bond to be truly reflective of the 'cost of construction' this needs to reflect the costs as stipulated on the bridge building contract.

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



- c. With regard to Condition 8, the Construction Management Plan (CMP) shall be in accordance with the City's CMP guidelines accessed on the City's Website and shall address the following items:
- a. Traffic management;
  - b. Utilities;
  - c. Access to and from the site;
  - d. Delivery of materials and equipment to the site;
  - e. Storage of materials and equipment on the site;
  - f. Parking arrangements for contractors and subcontractors;
  - g. Management of construction waste; and
- d. With regard to Condition 9, the drainage and stormwater management plan shall address the following items:
- a. Drainage shall be designed to ensure no adverse impact upon the capacity or performance of the exiting precinct drainage in any way;
- e. With regard to Condition 10, the lift model is required to address the following:
- a. Controls to ensure comfortable temperatures are maintained during extreme temperatures;
  - b. Alternate power solutions to enable lift doors to open during electrical issues;
  - c. Provision of, or ability to provide, CCTV within the lift;
  - d. Exclusive service controls for fire services and landing call isolation.
  - e. Car call buttons and landing buttons are to be dual illuminating Dewhurst US 95 or approved alternative;
  - f. Ensure condensers are installed to enable ample air flow (not in a recess) and is shielded from direct sun and weather.
- f. With regard to Condition 11, the Lighting plan shall detail:
- a. Integrated balustrade lighting;
  - b. Durable and vandal resistant lighting;
  - c. Lighting control gear to be easily accessible for maintenance.
- g. The pedestrian bridge shall comply with the relevant Australian Standard AS:5100 for Bridge Design.

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

**REASON:** As outlined in the Responsible Authority Report, the provision of a pedestrian bridge in this location by the Gateways Shopping Centre proprietors is a requirement of the Gateways Precinct Local Structure Plan. The design of the bridge has been undertaken in consultation with relevant government agencies and the City's assessment has included review by its Design Review Panel. The proposal now put forward with the development application has the support of these agencies and the City. Outstanding matters from the previous deferral of the application by the MOJDAP concerning indemnity matters between the proponent and the City have now been agreed between the parties and quantified in the conditions of approval.



*Cr Chontelle Stone and Cr Phoebe Corke (Local Government Members, City of Cockburn) left the panel at 9:17am.*

*Cr Rod Henderson and Cr Charlie Zannino (Local Government Members, City of Swan) joined the panel at 9:17am.*

## **8.2a Lot 201 (226) Great Eastern Highway, Midland and Lot 11 (316) Lloyd Street, Midland**

Development Description: Proposed change of use to tavern and private recreation including external building works and minor car park changes.

Applicant: Apex Planning  
Owner: Linnpark Pty Ltd  
Responsible Authority: City of Swan  
DAP File No: DAP/21/02150

### **REPORT RECOMMENDATION**

**Moved by:** Cr Rod Henderson

**Seconded by:** Cr Charlie Zannino

It is recommended that the Metro Outer Joint Development Assessment Panel resolves to:

- 1) **Approve** DAP Application reference DAP/21/02150 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 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, 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 a Gym (Recreation – Private) and Tavern 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. All building works to be carried out under this development approval (including signage and footings) are required to be contained within the boundaries of the subject lot.
4. Prior to occupation of the approved development an amendment to the existing reciprocal access easement for Lot 201 (No.226) Great Eastern Highway, Midland and Lot 11 (No.16A) Lloyd Street, Midland and to reflect the change to the access aisle alignment shall be undertaken at the full expense of the owner/applicant.

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



5. All stormwater produced from this property including subsoil drainage must be collected and disposed into the City's drainage system in accordance with the City's requirements.
6. The maximum occupancy of the approved Tavern is restricted to 408 persons at any one time.
7. The maximum occupancy of the approved Gym is restricted to 100 persons at any one time.
8. A maximum of 40 persons are permitted in the unenclosed alfresco area located on the western side of the building at any one time.
9. Prior to the occupation of the approved development the Tavern building elements and Gym building elements listed in Part 6 'Recommendations' of the Environmental Noise Assessment Revision B dated 30 March 2022 authored by Lloyd George Acoustics are to be implemented to the satisfaction of the City.
10. A Noise Management Plan is to be prepared by a suitably qualified acoustic consultant and submitted to the City for approval prior to a building permit being lodged. The Noise Management Plan shall outline how the following noise related matters will be addressed:
  - An acoustic assessment of all mechanical plant equipment should additional plant be installed during the fit out of the Gym and Tavern. The acoustic assessment shall demonstrate to the satisfaction of the City that all noise associated with mechanical plant equipment (existing and proposed) associated with the proposed Gym and Tavern will comply with the assigned levels under the *Environmental Protection (Noise) Regulations 1997*;
  - General noise complaint processes and procedures in relation to the nearest residential land at No.20 Hyde Street, Midland. This may include, but is not limited to, procedures relating to shutting roller doors associated with the Tavern should complaints be received from the approved Child Care Premises or should the Child Care Premises revert back to a residential dwelling;
  - End of night procedures that may result in increased levels of noise such as bottle collection and disposal;
  - Waste collection times;
  - Noise management in relation to music for the Gym and Tavern, (either live or pre-recorded) arcade games in the mezzanine section of the Tavern, special events, and noise associated with Gym equipment; and
  - Noise management procedures in relation to complaints received regarding patrons vacating the premises or patrons' noise levels in the car park. This may include but not be limited to the use of security to ensure minimal disturbance of adjoining landowners during evening and night time hours.
11. External lighting shall comply with the requirements of AS 4282 – Control of Obtrusive Effects of Outdoor Lighting.
12. The development must be connected to the Water Corporation's sewer where available.



13. No fluid other than uncontaminated stormwater is to enter any stormwater drain without prior approval from the City of Swan and the Environmental Protection Authority.
14. Prior to a building permit being issued, a Waste Management Plan must be submitted to and approved by the City of Swan. The plan must include the following details to the satisfaction and specification of the City of Swan:
  - (a) The location of bin storage areas and bin collection areas;
  - (b) The number, volume and type of bins, and the type of waste to be placed in the bins;
  - (c) Details on the future ongoing management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas. The Management Plan shall also include details on securing the area at all times from public access. This may include but not be limited to the use of security gates, security patrols and security cameras to ensure minimal disturbance of adjoining landowners during evening and night time hours; and
  - (d) Frequency of bin collections and nominated times of rubbish collection.

The Waste Management Plan must be implemented at all times to the satisfaction of the City of Swan.

15. Prior to a building permit being issued, 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 POL-LP-1.10 Provision of Public Art, by either:
  - (a) Payment to the City of a cash-in-lieu amount equal to the sum of the 1% contribution amount (\$30,000). 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 (\$30,000). The following is required for the Provision of Public Art on-site:
    - i. the landowner or the 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 of Swan in accordance with Local Planning Policy 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 of Swan; and,
    - iii. the approved Public Art must be maintained in compliance with the approval granted by the City of Swan and any conditions thereof, to the satisfaction of the City of Swan.
16. External illumination shall not flash or pulsate to the satisfaction of the City of Swan.



17. The proposed 1.5m high x 0.5m wide entry totem sign for the Tavern tenancy is to be set back a minimum distance of 3m from the existing crossover abutting Great Eastern Highway.
  18. No bunting is to be erected on the site (including streamers, streamer strips, banner strips or decorations of similar kind).
  19. Prior to occupation of the Tavern or Gym, the applicant/owner is to install within the subject lot to the satisfaction of the City of Swan two (2) trees to replace the two (2) existing trees removed for the creation of the ACROD parking bay
- 2) Instruct the Chief Executive Officer to:
- (a) Write to Main Roads WA (MRWA) to express concerns for safety at the intersection of Loton Road and Great Eastern Highway.
  - (b) Request traffic safety measures be put in following MRWA's study into the configuration of Great Eastern Highway.
  - (c) Continue to advocate for MRWA to address the issue as part of their ongoing traffic study, and for staff to update council accordingly.

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

**REASON:** The proposed tavern and gymnasium are permissible uses under the Highway Service zoning of the land and as outlined in the Responsible Authority Report, the development has been assessed as satisfying relevant planning requirements and performance measures where discretion is sought. Supporting technical reports concerning traffic impact, provision for onsite parking and noise management have been reviewed and accepted by City officers as satisfying related regulatory standards and scheme requirements. Operational management and building design measures to mitigate against amenity impacts on surrounding residents are suitably covered in the proposal as submitted, together with appropriate conditions, and are considered to adequately respond to amenity concerns raised through public consultation. Having regard for the above, it was considered that the proposal would be a valued addition to the community.

**8.2b Lot 201 (226) Great Eastern Highway, Midland and Lot 11 (316) Lloyd Street, Midland**

Development Description:	Proposed change of use to tavern and private recreation including external building works and minor car park changes.
Applicant:	Apex Planning
Owner:	Linnpark Pty Ltd
Responsible Authority:	WAPC
DAP File No:	DAP/21/02150



**REPORT RECOMMENDATION**

**Moved by:** Ms Sheryl Chaffer

**Seconded by:** Cr Rod Henderson

That the Metro Outer JDAP resolves to:

**Approve** DAP Application reference DAP/21/02150 and accompanying plans in accordance with the provisions of the Metropolitan Region Scheme, for the proposal of a change of use from Showroom to Tavern and Recreation Private - Gym at Lot 201 (No.226) Great Eastern Highway, Midland & Lot 11 (No.16A) Lloyd Street, Midland, subject to:

**Conditions**

1. All signs must be placed on private property and must not over hang or encroach the Great Eastern Highway Primary Regional Road reservation.
2. Any proposed illumination of the sign must not exceed 300cd/m<sup>2</sup> (candela per square metre) between sunset and sunrise.
3. The sign must not flash, pulsate or chase.
4. The device must not contain fluorescent, reflective or retro reflective colours or materials.

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

**REASON:** The proposal raises no issues concerning traffic and access on the abutting regional roads and is recommended for approval in the RAR provided by the WAPC.

**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/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

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



## **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 9:44am.

A handwritten signature in black ink, appearing to read 'Ian Birch', enclosed in a rectangular box.