



Regional Joint Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 6 April 2023; 9.30am
Meeting Number: RJDAP/90
Meeting Venue: Electronic Means

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

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Ms Kanella Hope
A/Presiding Member, Regional JDAP



Attendance

DAP Members

Ms Kanella Hope (A/Presiding Member)
Ms Lee O'Donohue (A/Deputy Presiding Member)
Mr John Syme (A/Third Specialist Member)
Mayor Grant Henley (Local Government Member, City of Busselton)
Cr Paul Carter (Local Government Member, City of Busselton)

Officers in attendance

Mr Andrew Watts (City of Busselton)
Mr Dion Spurgeon (City of Busselton)
Ms Joanna Wilson (City of Busselton)

Minute Secretary

Ms Tenielle Brownfield (DAP Secretariat)

Applicants and Submitters

Ms Andra Biondi (Urbanista Town Planning)
Ms Bianca Sandri (Urbanista Town Planning)
Mr Gianni Da-Rui (Meyer Shircore Architects)
Mr Trent Fleskens (Strategic Property Group)

Members of the Public / Media

There were 2 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The A/Presiding Member declared the meeting open at 9.31am on 6 April 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 A/Presiding Member advised that panel members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

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


Ms Kanella Hope
A/Presiding Member, Regional JDAP



2. Apologies

Mr Tony Arias (Presiding Member)
Mr Justin Page (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

DAP Member, Ms Kanella Hope, declared an Impartiality Interest in item 8.1. Ms Kanella Hope provided advice to a neighbour who opposed a previous childcare application in the City of Bunbury by the same applicant.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, a separate Presiding Member considered the declaration and determined that the member listed above, who had disclosed a Impartiality Interest, was permitted to participate in the discussion and voting on the item.

7. Deputations and Presentations

7.1 Ms Bianca Sandri (Urbanista Town Planning), Gianni Da-Rui (Meyer Shircore) and Trent Fleskens (Strategic Property Group) 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 Busselton officers addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

The presentation at Item 7.1 – 7.2 were heard prior to the application at Item 8.1.

8. Form 1 – Responsible Authority Reports – DAP Applications


Ms Kanella Hope
A/Presiding Member, Regional JDAP



8.1 No.77 Peel Terrace, Busselton

Development Description: Child Care Premises
Applicant: Urbanista Town Planning
Owner: SPG Capital Fund 9 Pty Ltd
Responsible Authority: City of Busselton
DAP File No: DAP/22/02397

REPORT RECOMMENDATION

Moved by: Mayor Grant Henley

Seconded by: Cr Paul Carter

That the Regional JDAP resolves to:

Approve DAP Application reference DAP/22/02397 and accompanying plans (A-1001 Rev SK0007, 2000 Rev SK0007, 2001 Rev SK0007, 3000 Rev SK0007, 3001 Rev SK0007) 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 Busselton Local Planning Scheme No. 21*, subject to the following conditions:

GENERAL CONDITIONS:

1. This decision constitutes development approval only and is valid for a period of four 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.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.

PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
 - 3.1. Amended plans which shall detail the following:
 - a. The relocation of the bin store from adjacent the property boundary with Lot 2 (No.79A) Peel Terrace, to a location central within the carpark area to sufficiently reduce the impact of noise and odours on the neighbouring residential premises; and
 - b. Acoustic fencing to all adjoining properties to be constructed of materials other than colorbond, with sufficient surface mass to mitigate low frequency noise from vehicles and car door closing, and with sufficient ability to reduce impulsive noise caused by the impact of ball play.


Ms Kanella Hope
A/Presiding Member, Regional JDAP



- 3.2. Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area.
- 3.3. Details of the proposed bin storage areas including, but not limited to, the design and the materials to be used in their construction;
- 3.4. Final details of the advertising signage, including but not limited to the design, materials and levels of illumination.
- 3.5. A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture.
- 3.6. Details of the proposed bicycle parking which are to be designed in accordance with the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3-2015). The details shall include, as a minimum, the location, design and materials to be used in their construction.
- 3.7. A Noise Management Plan is to be prepared by a suitably qualified acoustic consultant and submitted to the City for approval. The Noise Management Plan shall outline how all noise related recommendations detailed by the Environmental Acoustic Assessment (Reference: 30259-2-22351) prepared by Herring Storer Acoustics, dated 23 November 2022, and any other noise mitigation measures will be implemented in order to reduce noise disturbance to neighbours and comply with the *Environmental Protection (Noise) Regulations 1997*. The Noise Management Plan is to also detail complaint response procedures.
- 3.8. An updated Waste Management Plan to include the following details –
 - a. Updated references to recognise repositioning of the bin store to a central location within the carpark;
 - b. Waste collection by private arrangement with a suitable waste service contractor;
 - c. Waste collection vehicles only permitted on site between 7 am and 7 pm, Monday to Friday.
- 3.9. A Car Parking Management Plan, detailing the ongoing management of the Staff and Tandem parking bays.



-
- 3.10. A Landscaping Plan (LP) for the subject site and adjoining road verges, prepared by a landscaping professional. The LP shall include the following:
- a. Details of planting areas for shade trees to be provided within the site, as well as the provision of suitable root barriers and irrigation;
 - b. the location, number, size and species of proposed trees and shrubs, including calculations for the landscaping area;
 - c. any lawns to be established;
 - d. those areas to be reticulated or irrigated;
 - e. be based on water sensitive urban design principles;
 - f. be based on Designing Out Crime principles; and
 - g. verge treatments, including hard and soft landscaping treatments.
- 3.11. A Construction Management Plan (CMP). The CMP shall address the following:
- a. all forward works for the site;
 - b. public safety and amenity;
 - c. site security;
 - d. contact details of essential site personnel, construction period and operating hours;
 - e. community information, consultation and complaints management plan;
 - f. traffic, access and parking management;
 - g. delivery of materials and equipment to the site;
 - h. storage of materials and equipment on the site;
 - i. waste management;
 - j. sanitary facilities;
 - k. dust management during the construction process;
 - l. stormwater and sediment control; and
 - m. any other matter deemed relevant by the City.
- 3.13 Arrangements to provide public art works within the development site. This entails compliance with the Percent for Art provisions of the City's Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD").



PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 2 and 3 have been implemented; and the following conditions have been complied with to the satisfaction of the City –
 - 4.1. Crossovers located and constructed to the City's specifications.
 - 4.2. All vehicle parking, access ways, footpaths and external lighting shall be constructed to a minimum standard in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking (AS 2890.1) and shall be developed in the form and layout depicted on the approved plans to the satisfaction of the City.
 - 4.3. Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).
 - 4.4. An Acoustic Report which demonstrates that all mechanical services associated with the proposed development, and any other noise source, including noise emanating from waste collection or child care premises operations will comply with the *Environmental Protection (Noise) Regulations 1997*.

ONGOING CONDITIONS

5. The works and other measures undertaken to satisfy Conditions 2, 3 and 4 shall be subsequently maintained for the life of the development, and the following conditions must be complied with to the satisfaction of the City –
 - 5.1 The operating hours of the approved development are restricted to 6:30am to 6:30pm Monday to Friday only.
 - 5.2 The maximum number of children to be accommodated at any one time is 86 and the maximum number of staff is 15.
 - 5.3 There shall be no outdoor play before 7.00am.
 - 5.4 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City;
 - 5.5 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.


Ms Kanella Hope
A/Presiding Member, Regional JDAP



Advice Notes

1. If the applicant and/or owner are aggrieved by this decision there is a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision.
2. This Decision Notice grants Development Approval to the development the subject of this application. It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
3. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard. The term "substantially commenced" has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.
4. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
5. Applicants/developers are encouraged to review the *Percent for Art Policy Step by Step Guide for Developers* which can be viewed on the City's website at www.busselton.wa.gov.au and liaise with the City's Cultural Planning Officer at the earliest possible opportunity.
6. The Estimated Cost of Development shall be based on demonstrated contract values or estimates provided by a quantity surveyor, with such contract or estimates being no more than 3 months old at the time of calculation of the payment amount, and if such information is more than 3 months old, the Estimated Cost of Development shall be indexed to the general construction industry index for Western Australia.
7. No signage should be installed that is inconsistent with the approved development plans without the further written approval of the JDAP or City.
8. In accordance with the requirements of the *Local Government (Uniform Local Provisions) Regulations 1996*, you are hereby notified that any vehicle access from the land to a road or other public thoroughfare must be in accordance with the City's adopted Crossover Policy and Vehicle Crossovers Technical Specification.
9. Food handling, preparation and storage areas are to be designed and constructed in accordance with the *Food Act 2008*, *Food Regulations 2009* and the *Australian and New Zealand Food Authority (ANZFA) Food Safety Standards*.


Ms Kanella Hope
A/Presiding Member, Regional JDAP



AMENDING MOTION 1

Moved by: Mayor Grant Henley

Seconded by: Cr Paul Carter

That Condition No. 3.5 be amended to read as follows:

A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture **and shall include details of revised material to all street frontage fences to provide for a suitable streetscape presentation.**

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: The application plans were unclear concerning proposed front fence material and the Panel determined it was necessary to ensure details of front fencing was provided for approval. It is noted colourbond as a front fence material was discussed and expressed by the Panel and the City as unsuitable. The applicant outlined their intention was not for colourbond however final material selection is not yet determined and may also be relevant to satisfying other conditions, such as landscaping and acoustics.

AMENDING MOTION 2

Moved by: Ms Kanella Hope

Seconded by: Mayor Grant Henley

That Condition No. 3.10 be amended to read as follows:

3.10 A Landscaping Plan (LP) for the subject site and adjoining road verges, prepared by a landscaping professional. The LP shall include the following:

- a. Details of planting areas for shade trees **including in the carpark** to be provided within the site, as well as the provision of suitable root barriers and irrigation;
- b. the location, number, size and species of proposed trees and shrubs, including calculations for the landscaping area;
- c. any lawns to be established;
- d. those areas to be reticulated or irrigated;
- e. be based on water sensitive urban design principles;
- f. be based on Designing Out Crime principles; and
- g. verge treatments, including hard and soft landscaping treatments.

REASON: The Panel determined further landscaping is required in the car park. The amended location of the waste storage presented informally to the Panel in the hearing will assist with more space for landscaping in the car park. The Panel was of the view the addition of shade trees in particular along boundaries in the car park may provide heat sink, visual and acoustic benefits.


Ms Kanella Hope
A/Presiding Member, Regional JDAP



The Amending Motion was put and CARRIED UNANIMOUSLY.

AMENDING MOTION 3

Moved by: Mayor Grant Henley

Seconded by: Cr Paul Carter

That a new Condition no. 3.12 be added to read as follows:

3.12 An operational management plan that includes details of measures to mitigate amenity impacts to adjoining residential properties.

REASON: The applicant made various commitments to the Panel during the hearing about day to day operation of the facility and how this might be managed to limit impacts on abutting residential neighbours.

This included matters such as: avoiding future problems from impact play near to and upon the shared fence; how staff parking is managed to minimise outside noise before 7am; that children will only arrive from 7am; the duration and management of different types of play and where and how this might occur indoors and outdoors etc. This condition is intended to combine commitments about operation into the one Management Plan.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REPORT RECOMMENDATION (AS AMENDED)

That the Regional JDAP resolves to:

Approve DAP Application reference DAP/22/02397 and accompanying plans (A-1001 Rev SK0007, 2000 Rev SK0007, 2001 Rev SK0007, 3000 Rev SK0007, 3001 Rev SK0007) 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 Busselton Local Planning Scheme No. 21*, subject to the following conditions:

GENERAL CONDITIONS:

1. This decision constitutes development approval only and is valid for a period of four 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.
2. The development hereby approved shall be undertaken in accordance with the signed and stamped, Approved Development Plans, and except as may be modified by the following conditions.


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PRIOR TO COMMENCEMENT OF ANY WORKS CONDITIONS

3. The development hereby approved, or any works required to implement the development, shall not commence until the following plans or details have been submitted to the City and have been approved in writing –
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 - b. Acoustic fencing to all adjoining properties to be constructed of materials other than colorbond, with sufficient surface mass to mitigate low frequency noise from vehicles and car door closing, and with sufficient ability to reduce impulsive noise caused by the impact of ball play.
 - 3.2. Details of stormwater and surface water drainage. Stormwater to be retained for use and/or infiltration within the lot at a rate of 1m³ per 40m² of impervious area.
 - 3.3. Details of the proposed bin storage areas including, but not limited to, the design and the materials to be used in their construction;
 - 3.4. Final details of the advertising signage, including but not limited to the design, materials and levels of illumination.
 - 3.5. A schedule of the final materials, finishes and colours, which shall be generally consistent with the approved plans. The schedule shall include details of the type of materials proposed to be used, including their colour and texture and shall include details of revised material to all street frontage fences to provide for a suitable streetscape presentation.
 - 3.6. Details of the proposed bicycle parking which are to be designed in accordance with the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3-2015). The details shall include, as a minimum, the location, design and materials to be used in their construction.
 - 3.7. A Noise Management Plan is to be prepared by a suitably qualified acoustic consultant and submitted to the City for approval. The Noise Management Plan shall outline how all noise related recommendations detailed by the Environmental Acoustic Assessment (Reference: 30259-2-22351) prepared by Herring Storer Acoustics, dated 23 November 2022, and any other noise mitigation measures will be implemented in order to reduce noise disturbance to neighbours and comply with the *Environmental Protection (Noise) Regulations 1997*. The Noise Management Plan is to also detail complaint response procedures.



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- 3.8. An updated Waste Management Plan to include the following details –
- a. Updated references to recognise repositioning of the bin store to a central location within the carpark;
 - b. Waste collection by private arrangement with a suitable waste service contractor;
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 - c. any lawns to be established;
 - d. those areas to be reticulated or irrigated;
 - e. be based on water sensitive urban design principles;
 - f. be based on Designing Out Crime principles; and
 - g. verge treatments, including hard and soft landscaping treatments.



- 3.11. A Construction Management Plan (CMP). The CMP shall address the following:
- a. all forward works for the site;
 - b. public safety and amenity;
 - c. site security;
 - d. contact details of essential site personnel, construction period and operating hours;
 - e. community information, consultation and complaints management plan;
 - f. traffic, access and parking management;
 - g. delivery of materials and equipment to the site;
 - h. storage of materials and equipment on the site;
 - i. waste management;
 - j. sanitary facilities;
 - k. dust management during the construction process;
 - l. stormwater and sediment control; and
 - m. any other matter deemed relevant by the City.
- 3.12 An Operational Management Plan that includes details of measures to mitigate amenity impacts to adjoining residential properties
- 3.13 Arrangements to provide public art works within the development site. This entails compliance with the Percent for Art provisions of the City's Development Contribution Policy via appropriate works up to a minimum value of 1% of the Estimated Cost of Development ("ECD").

PRIOR TO OCCUPATION/USE OF THE DEVELOPMENT CONDITIONS

4. The development hereby approved shall not be occupied, or used, until all plans, details or works required by Conditions 2 and 3 have been implemented; and the following conditions have been complied with to the satisfaction of the City –
- 4.1. Crossovers located and constructed to the City's specifications.
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 - 4.3. Accessible car parking and access shall be provided and designed in accordance with the Australian Standard for Parking Facilities - Off-Street Car Parking for people with disabilities (AS 2890.6).


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- 4.4. An Acoustic Report which demonstrates that all mechanical services associated with the proposed development, and any other noise source, including noise emanating from waste collection or child care premises operations will comply with the *Environmental Protection (Noise) Regulations 1997*.

ONGOING CONDITIONS

5. The works and other measures undertaken to satisfy Conditions 2, 3 and 4 shall be subsequently maintained for the life of the development, and the following conditions must be complied with to the satisfaction of the City –
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 - 5.2 The maximum number of children to be accommodated at any one time is 86 and the maximum number of staff is 15.
 - 5.3 There shall be no outdoor play before 7.00am.
 - 5.4 All services and service related hardware, including antennae, satellite dishes and air conditioning units, being suitably located away from public view and/or screened to the satisfaction of the City;
 - 5.5 Landscaping and reticulation shall be maintained in accordance with the approved Landscaping Plan to the satisfaction of the City. Unless otherwise first agreed in writing, any trees or plants which, within a period of five years from first planting, are removed, die or, are assessed by the City as being seriously damaged, shall be replaced within the next available planting season with others of the same species, size and number as originally approved.

Advice Notes

1. If the applicant and/or owner are aggrieved by this decision there is a right of review under the provisions of Part 14 of the *Planning and Development Act 2005*. A review must be lodged with the State Administrative Tribunal, and must be lodged within 28 days of the decision.
2. This Decision Notice grants Development Approval to the development the subject of this application. It cannot be construed as granting Development Approval for any other structure shown on the approved plans which was not specifically included in this application.
3. Please note it is the responsibility of the applicant / owner to ensure that, in relation to Condition 1, this Development Approval remains current and does not lapse. The City of Busselton does not send reminder notices in this regard. The term “substantially commenced” has the meaning given to it in the *Planning and Development (Local Planning Schemes) Regulations 2015* as amended from time to time.


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A/Presiding Member, Regional JDAP



4. In accordance with the provisions of the *Building Act 2011*, and *Building Regulations 2012*, an application for a building permit must be submitted to, and approval granted by the City, prior to the commencement of the development hereby permitted.
5. Applicants/developers are encouraged to review the *Percent for Art Policy Step by Step Guide for Developers* which can be viewed on the City's website at www.busselton.wa.gov.au and liaise with the City's Cultural Planning Officer at the earliest possible opportunity.
6. The Estimated Cost of Development shall be based on demonstrated contract values or estimates provided by a quantity surveyor, with such contract or estimates being no more than 3 months old at the time of calculation of the payment amount, and if such information is more than 3 months old, the Estimated Cost of Development shall be indexed to the general construction industry index for Western Australia.
7. No signage should be installed that is inconsistent with the approved development plans without the further written approval of the JDAP or City.
8. In accordance with the requirements of the *Local Government (Uniform Local Provisions) Regulations 1996*, you are hereby notified that any vehicle access from the land to a road or other public thoroughfare must be in accordance with the City's adopted Crossover Policy and Vehicle Crossovers Technical Specification.
9. Food handling, preparation and storage areas are to be designed and constructed in accordance with the *Food Act 2008*, *Food Regulations 2009* and the *Australian and New Zealand Food Authority (ANZFA) Food Safety Standards*.

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

REASON: The Panel was satisfied the proposal, subject to the amending motions set out, should be approved. Extensive consideration was given to the context of this site, including proximity to residential neighbours, being located on relatively busy thoroughfare roads, and being opposite the Regional Activity Centre zone. The level of change the development generates is considered acceptable on this site and aligned with the applicable planning framework.

Amenity and in particular noise impacts upon adjoining neighbours was considered in detail and fencing selection and avoiding future complaints through design, siting and operational management were discussed at length and determined to be sufficiently dealt with via the conditions.


Ms Kanella Hope
A/Presiding Member, Regional JDAP



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
DP/14/00039 DR65/2020	Shire of York	Lots 4869 (2256), 5931, 9926 (2948) and 26934 Great Southern Highway, St Ronans	Construction and Use of Allawuna Farm for the purposes of a Class II Landfill	28 July 2020
DAP/21/02063 DR241/2021	Shire of Dardanup	Lot 2 Banksia Road, Crooked Brook	Cleanaway Dardanup Landfill Facility	5 November 2021
DAP/22/02265 DR204/2022	Shire of Harvey	Lot 101 (No. 96) Binningup Road, Binningup	Workers Accommodation Village	28 November 2022
DAP/22/02360 DR30/2023	City of Kalgoorlie Boulder	Lot 302 (No.1) Porter Street Kalgoorlie	Demolition of Existing Lodging House and Proposed Construction of Lodging House	17 February 2023

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 11.04am.


Ms Kanella Hope
A/Presiding Member, Regional JDAP