



Metro Outer Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 10 April 2025; 9:30am
Meeting Number: MODAP/73
Meeting Venue: 140 William Street, Perth

A recording of the meeting is available via the following link:

[MODAP/73 – 10 April 2025 – City of Wanneroo – City of Rockingham](#)

PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement
2. Apologies
3. Members on Leave of Absence
4. Noting of Minutes

PART B – CITY OF WANNEROO

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 3801 (1001) Joondalup Drive, Banksia Grove – Banksia Grove Village Redevelopment – DAP/25/02846
 - 3.2 Lot 107 (59) Godel Road, Nowergup – Proposed Industry – Extractive – DAP/24/02821
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART C – CITY OF ROCKINGHAM

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 1181 (No.2) Daintree Street, Baldivis – Proposed Child Care Premises – DAP/24/02797
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART D – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals
2. Meeting Closure

Karen Hyde
Presiding Member, Metro Outer DAP



ATTENDANCE	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Karen Hyde (Presiding Member)	Claire Ortlepp
Clayton Higham (Deputy Presiding Member)	Ashlee Kelly
Tony Arias	
<i>Part B – City of Wanneroo</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Bronwyn Smith	Nick de Vecchis
Cr Jacqui Huntley	Ahmed Naser
	Dawie Jansen van Rensburg
<i>Part C – City of Rockingham</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Mark Jones	David Banovic
Cr Dawn Jecks	David Veenendaal
	Rebecca Kenworthy

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Applicant and Submitters
<i>Part B – City of Wanneroo</i>
<i>Item 3.1</i>
Lewis Shugar (Element Advisory) Christian Parker (Element Advisory) Rob Staniford (ISPT) Josh Scrutton (Wallace PM) Tim Reynolds (Herring Storer Acoustics) Darren Levey (Uloth & Associates)
<i>Item 3.2</i>
Daniel Lewis (Element Advisory) Christian Parker (Element Advisory) Stephen Elliott (Urban Resources) Paul McQueen (Lavan)
<i>Part C – City of Rockingham</i>
Tim Dawkins (Urbis) Cameron Sturges (Urbis) Eva Cronin (Eco Logical) Jackson Parker (DFES) Desmond Abel (DFES) Kelsie Petrelis (DFES)

Members of the Public / Media

Nil.

Observers via livestream

There were 3 persons observing the meeting via the livestream.

Karen Hyde
Presiding Member, Metro Outer DAP



PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:35am on 10 April 2025 and acknowledged the traditional owners and custodians of the land on which the meeting was held and welcomed members.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2024 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

1.1 Announcements by Presiding Member

The 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.

The meeting was recorded and livestreamed on the DAP website in accordance with regulation 40(2A) of the *Planning and Development (Development Assessment Panels) Regulations 2011*. Members were reminded to announce their name and title prior to speaking.

2. Apologies

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

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](#).

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PART B – CITY OF WANNEROO

1. Declaration of Due Consideration

The Presiding Member noted that details of DAP directions for further information and responsible authority responses in relation to Item 3.1 & 3.2, received on 4 April 2025, was published in Part B of the Related Information.

All members declared that they had duly considered the documents contained within Part B of the Agenda and Part B of the Related Information.

2. Disclosure of Interests

DAP Member, Clayton Higham, declared an indirect pecuniary interest in Item 3.1. Mr Higham holds Coles Group shares. Coles Group retain a supermarket on the subject site.

In accordance with section 3.3 of the DAP Code of Conduct 2024, the DAP Executive Director determined that the member listed above, who had disclosed an indirect pecuniary interest, was not permitted to participate in the discussion and voting on the item.

DAP Member, Cr Jacqui Huntley, declared an indirect pecuniary interest in Item 3.2. Cr Huntley is the president of Paws 4 Wildlife, a charity which relocates animals from urban development sites in Wanneroo. The subject site has been identified as such a site, which may result in a financial gain for the organisation in the future.

In accordance with section 3.3 of the DAP Code of Conduct 2024, the Presiding Member determined that the member listed above, who had disclosed an indirect pecuniary interest, was not permitted to participate in the discussion and voting on the item.

3. Form 1 DAP Applications

Clayton Higham (Deputy Presiding Member) left the panel at 9:38am.

3.1 Lot 3801 (1001) Joondalup Drive, Banksia Grove – Banksia Grove Village Redevelopment – DAP/25/02846

Deputations and Presentations

Lewis Shugar (Element Advisory) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

The City of Wanneroo addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.

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REPORT RECOMMENDATION

Moved by: Tony Arias

Seconded by: Cr Jacqui Huntley

With the agreement of the mover and seconder, Condition No. 1 was deleted, and the remaining conditions were renumbered accordingly. This condition is no longer required due to the recently implemented Planning and Development Amendment (Metropolitan Region Scheme) Act 2024.

That the Metro Outer DAP resolves to:

1. **Approve** DAP Application reference DAP/25/02846 and accompanying plans provided in **Attachment 1** 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 Wanneroo District Planning Scheme No. 2, subject to the following conditions:

Conditions

1. 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.
2. Tenancies within the proposed development shall accord with the following land uses and their corresponding definitions under the City of Wanneroo District Planning Scheme No.2:
 - Tenancies 17A - 17C & 19A - 19C: **'Shop' & 'Restaurant/Café'**
 - Tavern: **'Tavern'**
 - Liquor Store Small (Drive Through): **'Liquor Store – Small'**
 - Swim School: **'Recreation – Private'**
 - Food and Drink 01, 02 & 03: **'Fast Food Outlet'**

A change of use from that outlined above may require further development approval of the City.

3. A maximum of **50** patrons (including staff) are permitted within the **Recreation – Private (Swim School)** at any one time.
4. A maximum of **750** patrons (including staff) are permitted within the **Tavern** at any one time.
5. The hours of operation of the **Tavern** is restricted to between the hours of **10:00am – 12:00am (midnight) Monday to Sunday.**

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6. The applicant/owner must ensure that all illuminated signage must have any boxing or casing in which it is enclosed constructed of incombustible materials, must not comprise of flashing, pulsating, chasing or running lights and must not have such intensity as to cause annoyance to the public or illuminate beyond the extent of the lot boundaries.
7. All signage is to be contained entirely within the lot.
8. Parking areas, driveways and points of ingress and egress must be designed and constructed in accordance with the Australian Standard for Offstreet Carparking (AS 2890) and must be drained, sealed, marked and maintained to the satisfaction of the City prior to occupation of the development.
9. Detailed civil engineering drawings and specifications in relation to the following:
 - a) Installation of a pedestrian access point from the corner of Ghost Gum Boulevard and Joondalup Drive coming into the site.
 - b) For works within the verge, road reserve and modification to the median.

Engineering drawings must be lodged for approval to the City and approved in writing prior to commencement of construction works. Construction works are to be undertaken in accordance with the approved development application, engineering drawings and specifications to the satisfaction of the City. All works must be completed prior to occupation of the development.

10. The parking areas and associated access indicated on the approved plans must not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.
11. A revised landscaping plan for the subject site must be lodged for approval to the City prior to lodging a building permit.

The landscaping plan must include but not be limited to the following:

- a) Specifications for the planter boxes;
- b) Planting of the verges;
- c) A plant legend which includes botanical and common names and plant quantities;
- d) Confirmation of mulch details, and
- e) The provision of shrubs at a density of 3 plants per m² and ground cover at density of 2 plants per m².

Planting and installation must be in accordance with the approved landscaping and reticulation plans and completed prior to occupation of the development and maintained thereafter, to the satisfaction of the City.

12. An onsite stormwater drainage system, sufficient to contain a 1:100 year storm event (over 24 hours) must be provided. Plans illustrating the system proposed must be submitted and approved prior to a building permit being issued. The system must be installed during the construction of the development.

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13. A revised Acoustic Report from a suitability qualified acoustic (noise) consultant must be submitted for each tenancy and approved by the City prior to the submission of a building permit.

The revised report must include, but not be limited to the following:

- a) Refrigeration units associated with all developments;
- b) Pool pumps associated with the Swim School;
- c) Bin collections;
- d) Keg delivery associated with the Tavern; and
- e) Noise generated from all tenancies within the development.

The development is to comply with the recommendations and assumptions of the revised acoustic report and recommended works must be completed prior to the commencement of the use.

14. Lighting must be installed along all driveways, pedestrian pathways, car parking areas and in all common service areas prior to the development first being occupied.
15. All storage areas, external fixtures and building plant, including air conditioning units and water tanks must be located so as to minimise any visual and noise impact on surrounding landowners and screened from view from streets, public places and adjacent properties to the satisfaction of the City.
16. This development must operate in accordance with the Waste Management Plan (**Ref WMP24142**) prepared by **Talis Consultants** dated **December 2024**.
17. An operational management plan for the proposed **Tavern** must be submitted and approved by the City prior to the submission of a building permit to the satisfaction of the City.

The operational management plan must address, but is not limited to:

- a) Noise management;
 - b) Rubbish disposal and collection;
 - c) Deliveries;
 - d) Security;
 - e) Complaint management; and
 - f) Patron control.
18. The movement of trucks for delivery purposes must occur between 7am and 7pm, Monday to Saturday only.
19. Any graffiti applied to the external surfaces of the building must be removed within seven (7) days of it being applied, to the satisfaction of the City of Wanneroo.
20. A Construction Management Plan must be submitted for approval when an application is made for a building permit. This plan is to detail how construction will

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be managed to minimise disruption in the area and to adjoining landowners. The plan must address the following:

- a) The delivery of and delivery times for materials and equipment to the site;
- b) Storage of materials and the location and types of equipment on site;
- c) Parking arrangements for contractors and sub-contractors;
- d) The impact on traffic movement;
- e) Construction times;
- f) The relocation of public footpaths;
- g) Measures to minimise impacts of noise and sand drift and dust from the site;
- h) Tree protection zones to be established for trees identified to be retained in the approved landscaping plan (including any verge trees) where applicable;
- i) The relocation/disruption of any public transport infrastructure; and
- j) Any other matter required by the City.

The construction management plan is to be submitted to and approved by the City prior to the commencement of any development. Construction is to be implemented in accordance with the approved construction management plan.

Advice Notes

1. The owner/applicant is to submit the "Certification of Compliance with Development Approval Conditions" form certifying that all of the conditions specified in the approval by the Council for the development of the land have been completed in accordance with the approved plans, and the certification is to be lodged with the Council within 14 days from the date of practical completion, and applies to all of the conditions, except for those conditions relating to on-going compliance.
2. Where staging of the development occurs, a revised acoustic report is not required for the entire site. A revised acoustic report is only required to address the relevant tenancies within the stage.

AMENDING MOTION

Moved by: Karen Hyde

Seconded by: Tony Arias

The following amendments were moved en bloc:

- (i) That Condition No. 5 be amended to read as follows:

*The hours of operation of the Tavern is restricted to between the hours of 10:00am – 12:00am (midnight) Monday to Sunday, **unless otherwise agreed by the City of Wanneroo.***

REASON: The variation to the wording enables flexibility for operating hours once the operator has been secured, with the hours to be agreed by the City.

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- (ii) That Condition No. 9 be amended to read as follows:

Detailed civil engineering drawings and specifications in relation to the following:

- a) *Installation of a pedestrian access point ~~from~~ **generally around** the corner of Ghost Gum Boulevard and Joondalup Drive coming into the site.*
- b) *For works within the verge, road reserve and modification to the median **within Ghost Gum Boulevard.***

*Engineering drawings must be lodged for approval to the City and approved in writing prior to commencement of construction works **for the relevant area.** Construction works are to be undertaken in accordance with the approved development application, engineering drawings and specifications to the satisfaction of the City. All works must be completed prior to occupation of the development.*

REASON: To provide a greater degree of clarity and certainty to the condition as proposed by the applicant and agreed by the City, concerning the update of technical documentation.

- (iii) That Condition No. 11 be amended to read as follows:

*A revised landscaping plan for the subject site must be lodged for approval to the City prior to lodging a building permit **for the relevant area of works.***

The landscaping plan must include but not be limited to the following:

- a) *Specifications for the planter boxes;*
- b) ~~*Planting of the verges;*~~
- c) *A plant legend which includes botanical and common names and plant quantities;*
- d) *Confirmation of mulch details, and*
- e) *The provision of shrubs at a density of 3 plants per m² and ground cover at density of 2 plants per m².*

*Planting and installation must be in accordance with the approved landscaping and reticulation plans and completed prior to occupation of the **relevant** development area and maintained thereafter, to the satisfaction of the City.*

REASON: To provide clarity in relation to technical and ongoing maintenance matters of the development, in accordance with the wording provided by the City and as agreed by the applicant.

- (iv) That Condition No. 12 be amended to read as follows:

*An onsite stormwater drainage system, sufficient to contain a 1:100 year storm event (over 24 hours) must be provided. Plans illustrating the system proposed must be submitted and approved prior to a building permit being issued. The system must be installed during the construction of the **relevant** development area.*

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- (v) That Condition No. 13 be amended to read as follows:

A revised Acoustic Report from a suitability qualified acoustic (noise) consultant must be submitted for each tenancy and approved by the City prior to the submission of a building permit.

The revised report must include, but not be limited to the following:

- a) Refrigeration units associated with all developments;*
- b) Pool pumps associated with the Swim School;*
- c) Bin collections;*
- d) Keg delivery associated with the Tavern; ~~and~~*
- e) Noise generated from all tenancies within the development; and*
- f) **The movement of trucks for delivery purposes, including any movement restriction periods that may be required.***

*The development is to comply with the recommendations and assumptions of the revised acoustic report and recommended works must be completed prior to the commencement of the use, **to the satisfaction of the City of Wanneroo.***

- (vi) That Condition No. 14 be amended to read as follows:

*Lighting must be installed along all driveways, pedestrian pathways, car parking areas and in all common service areas prior to the **relevant area of** development first being occupied.*

- (vii) That Condition No. 16 be amended to read as follows:

*This development must operate in accordance with the Waste Management Plan (Ref WMP24142) prepared by Talis Consultants dated December 2024, **or as otherwise agreed to the satisfaction of the City of Wanneroo.***

- (viii) That Condition No. 17 be amended to read as follows:

*An operational management plan for the proposed Tavern must be submitted and approved by the City prior to the ~~submission of a building permit~~ **occupation of the use, to the satisfaction of the City.***

REASON: To provide a greater degree of clarity and certainty to the condition as proposed by the applicant and agreed by the City, concerning the update of technical documentation.

- (ix) That Condition No. 18 be deleted and the remaining conditions be renumbered accordingly.

REASON: To remove a condition that was unnecessary as it related to matters covered by other conditions of approval.

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- (x) That Condition No. 19 (now Condition No. 18) be amended to read as follows:

Any graffiti applied to the external surfaces of the building must be removed ~~within seven (7) days of it being applied~~, to the satisfaction of the City of Wanneroo.

REASON: To provide clarity in relation to technical and ongoing maintenance matters of the development, in accordance with the wording provided by the City and as agreed by the applicant.

- (xi) That Advice Note No. 2 be deleted.

REASON: To remove an advice note that was unnecessary as it related to matters covered by other conditions of approval.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REPORT RECOMMENDATION (AS AMENDED)

That the Metro Outer DAP resolves to:

1. **Approve** DAP Application reference DAP/25/02846 and accompanying plans provided in **Attachment 1** 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 Wanneroo District Planning Scheme No. 2, subject to the following conditions:

Conditions

1. 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.
2. Tenancies within the proposed development shall accord with the following land uses and their corresponding definitions under the City of Wanneroo District Planning Scheme No.2:
 - Tenancies 17A - 17C & 19A - 19C: **'Shop' & 'Restaurant/Café'**
 - Tavern: **'Tavern'**
 - Liquor Store Small (Drive Through): **'Liquor Store – Small'**
 - Swim School: **'Recreation – Private'**
 - Food and Drink 01, 02 & 03: **'Fast Food Outlet'**

A change of use from that outlined above may require further development approval of the City.

3. A maximum of **50** patrons (including staff) are permitted within the **Recreation – Private (Swim School)** at any one time.

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4. A maximum of **750** patrons (including staff) are permitted within the **Tavern** at any one time.
5. The hours of operation of the **Tavern** is restricted to between the hours of **10:00am – 12:00am (midnight) Monday to Sunday**, unless otherwise agreed by the City of Wanneroo.
6. The applicant/owner must ensure that all illuminated signage must have any boxing or casing in which it is enclosed constructed of incombustible materials, must not comprise of flashing, pulsating, chasing or running lights and must not have such intensity as to cause annoyance to the public or illuminate beyond the extent of the lot boundaries.
7. All signage is to be contained entirely within the lot.
8. Parking areas, driveways and points of ingress and egress must be designed and constructed in accordance with the Australian Standard for Offstreet Carparking (AS 2890) and must be drained, sealed, marked and maintained to the satisfaction of the City prior to occupation of the development.
9. Detailed civil engineering drawings and specifications in relation to the following:
 - a) Installation of a pedestrian access point generally around the corner of Ghost Gum Boulevard and Joondalup Drive coming into the site.
 - b) For works within the verge, road reserve and modification to the median within Ghost Gum Boulevard.

Engineering drawings must be lodged for approval to the City and approved in writing prior to commencement of construction works for the relevant area. Construction works are to be undertaken in accordance with the approved development application, engineering drawings and specifications to the satisfaction of the City. All works must be completed prior to occupation of the development.

10. The parking areas and associated access indicated on the approved plans must not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.
11. A revised landscaping plan for the subject site must be lodged for approval to the City prior to lodging a building permit for the relevant area of works.

The landscaping plan must include but not be limited to the following:

- a) Specifications for the planter boxes;
- b) A plant legend which includes botanical and common names and plant quantities;
- c) Confirmation of mulch details, and
- d) The provision of shrubs at a density of 3 plants per m² and ground cover at density of 2 plants per m².

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Planting and installation must be in accordance with the approved landscaping and reticulation plans and completed prior to occupation of the relevant development area and maintained thereafter, to the satisfaction of the City.

12. An onsite stormwater drainage system, sufficient to contain a 1:100 year storm event (over 24 hours) must be provided. Plans illustrating the system proposed must be submitted and approved prior to a building permit being issued. The system must be installed during the construction of the relevant development area.
13. A revised Acoustic Report from a suitability qualified acoustic (noise) consultant must be submitted for each tenancy and approved by the City prior to the submission of a building permit.

The revised report must include, but not be limited to the following:

- a) Refrigeration units associated with all developments;
- b) Pool pumps associated with the Swim School;
- c) Bin collections;
- d) Keg delivery associated with the Tavern;
- e) Noise generated from all tenancies within the development; and
- f) The movement of trucks for delivery purposes, including any movement restriction periods that may be required.

The development is to comply with the recommendations and assumptions of the revised acoustic report and recommended works must be completed prior to the commencement of the use, to the satisfaction of the City of Wanneroo.

14. Lighting must be installed along all driveways, pedestrian pathways, car parking areas and in all common service areas prior to the relevant area of development first being occupied.
15. All storage areas, external fixtures and building plant, including air conditioning units and water tanks must be located so as to minimise any visual and noise impact on surrounding landowners and screened from view from streets, public places and adjacent properties to the satisfaction of the City.
16. This development must operate in accordance with the Waste Management Plan (**Ref WMP24142**) prepared by **Talis Consultants** dated **December 2024**, or as otherwise agreed to the satisfaction of the City of Wanneroo.
17. An operational management plan for the proposed **Tavern** must be submitted and approved by the City prior to the occupation of the use, to the satisfaction of the City.

The operational management plan must address, but is not limited to:

- a) Noise management;
- b) Rubbish disposal and collection;
- c) Deliveries;
- d) Security;

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- e) Complaint management; and
 - f) Patron control.
18. Any graffiti applied to the external surfaces of the building must be removed to the satisfaction of the City of Wanneroo.
19. A Construction Management Plan must be submitted for approval when an application is made for a building permit. This plan is to detail how construction will be managed to minimise disruption in the area and to adjoining landowners. The plan must address the following:
- a) The delivery of and delivery times for materials and equipment to the site;
 - b) Storage of materials and the location and types of equipment on site;
 - c) Parking arrangements for contractors and sub-contractors;
 - d) The impact on traffic movement;
 - e) Construction times;
 - f) The relocation of public footpaths;
 - g) Measures to minimise impacts of noise and sand drift and dust from the site;
 - h) Tree protection zones to be established for trees identified to be retained in the approved landscaping plan (including any verge trees) where applicable;
 - i) The relocation/disruption of any public transport infrastructure; and
 - j) Any other matter required by the City.

The construction management plan is to be submitted to and approved by the City prior to the commencement of any development. Construction is to be implemented in accordance with the approved construction management plan.

Advice Notes

1. The owner/applicant is to submit the "Certification of Compliance with Development Approval Conditions" form certifying that all of the conditions specified in the approval by the Council for the development of the land have been completed in accordance with the approved plans, and the certification is to be lodged with the Council within 14 days from the date of practical completion, and applies to all of the conditions, except for those conditions relating to on-going compliance.

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

REASON: The panel unanimously supported the refurbishment of the centre as per the application details. The land uses and scale were appropriate to the planning framework, scheme zone, and structure plan. As the subject site is classified 'Centre' under the Banksia Grove Structure Plan No. 21a (ASP 21a), the proposed Shop and Restaurant/Café, Fast Food Outlets, Tavern and Liquor Store are considered appropriate uses within a 'Centre'. The proposed development is also consistent with the Banksia Grove District Centre Structure Plan No. 65 which was prepared to guide the detailed planning of the Banksia Grove District Centre. The Uses are generally 'D' classifications with only tavern as an 'A' classification.

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Through the public advertising, the proposal had received a considerable amount of support. Concerns regarding anti-social behaviour and traffic and parking had been considered through the planning assessment. The increased pedestrian and economic activity was seen as a positive contribution to the broader community and amenity of the neighbourhood, while the transport assessment demonstrated minimal impact on the network.

The applicant has modified the development plans to address the comments made by the DRP. Whilst it is noted a parking shortfall is proposed, it was accepted that there will be a significant level of reciprocity between uses on site which will reduce parking demand. The conditions as amended were clear and provided certainty for future implementation and operational requirements.

Cr Jacqui Huntley (Local Government DAP Member, City of Wanneroo) left the panel at 9:58am.

3.2 Lot 107 (59) Godel Road, Nowergup – Proposed Industry – Extractive – DAP/24/02821

Clayton Higham (Deputy Presiding Member) re-joined the panel at 9:59am.

Deputations and Presentations

Paul McQueen (Lavan) addressed the DAP against the recommendation for the application at Item 3.2 and responded to questions from the panel.

Daniel Lewis (Element Advisory) addressed the DAP in support of the recommendation for the application at Item 3.2 and responded to questions from the panel.

Stephen Elliott (Urban Resources) responded to questions from the panel in relation to the application at Item 3.2.

The City of Wanneroo addressed the DAP in relation to the application at Item 3.2 and responded to questions from the panel.

REPORT RECOMMENDATION

Moved by: Tony Arias

Seconded by: Cr Bronwyn Smith

That the Metro Outer DAP resolves to:

1. **Approve** DAP Application reference DAP/24/02821 and accompanying plans (**Attachment 2**) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Wanneroo's District Planning Scheme No. 2, as well as relevant provisions under the Metropolitan Region Scheme, subject to the following conditions:

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Conditions

1. This decision constitutes planning approval only and is valid for a period of 10 years from the date of this determination.
2. Unless further approval is granted by the City, the subject land shall only be used for the purposes of 'Industry – Extractive'. The land use of 'Industry – Extractive' is defined in the City of Wanneroo's District Planning Scheme No. 2 (**DPS 2**) as follows:

Industry – Extractive: means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any for any of the following purposes –

- (a) The processing of raw materials including crushing, screening, washing, blending or grading;
 - (b) Activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.
3. Conditions of this approval that require works or actions to be undertaken following the expiry of this approval, are enforceable notwithstanding the expiration of the approval.
 4. The Environmental Assessment and Management Report – Lot 107 Godel Road, Nowergup – Revision 1, dated October 2024 by Coterra Environment is to be updated in accordance with the City's Local Planning Policy (LPP) 3.3 Fauna Management to the satisfaction of the City in accordance with the City's EMP Guidelines and approved prior to commencement of works and thereafter implemented, and must include:
 - a. An implementation schedule pre, during and post work;
 - b. Section 2.6 Fauna and Habitat to be updated with information on macrofauna which would frequent the site;
 - c. Section 4 – Table 4-1 to address the City's Local Planning Policy 3.3 in more detail, including monitoring post development, preventing re-entering of fauna into the site;
 - d. Additional information on trapping being undertaken to demonstrate adequate management;
 - e. Section 5 Decommissioning to allow for adequate stabilization of site and revegetation where urbanization has not extended to this area;
 - f. Modification to remove remediation to grassland; and
 - g. Section 4 – Table 4-1 be updated with additional information following a desktop Karst Survey or in the absence of this a Geotech report as the area is identified as being Medium Cave Risk under the City's Local Planning Policy (LPP) 4.13.

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5. Development on the subject land must comply with the updated Environmental Assessment and Management Report, including but not limited to the Environmental Impact, Management and Mitigation Measures. In the event of any inconsistency between the conditions of this development approval and the above, the conditions of this development approval will prevail to the extent of any inconsistency.
6. The groundwater investigation report is to be updated to demonstrate that there will be no hydrological impact on Lake Nowergup as a result of the proposed development, in consultation with the Department of Biodiversity, Conservation and Attractions and to the satisfaction of the City.
7. The Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA must be updated to include Gibbs Road to Karoborup Road as an alternative haulage route together with the current proposed route along Gibbs and Nowergup Roads to facilitate a more even split to distribute haulage movements across the local road network, to the satisfaction of the City prior to the commencement of operations and all other relevant reports and plans updated accordingly.
8. Traffic generated from the approved development shall be limited to that prescribed in an updated Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA.
9. Prior to the commencement of works, a dilapidation report including photo and video images of the haulage route/s must be prepared in consultation with and to the satisfaction of the City and submitted to facilitate the repair of damage to the road surfaces caused by trucks associated with the operation of the proposed use.
10. Prior to the commencement of works, the proponent must enter into an agreement with the City to ensure any damages to road surfaces as a result of truck movements associated with the operation of the extractive industry, as identified through the dilapidation report, are repaired at the cost of the applicant.
11. The hours of operation for the approved development must be limited to the hours of 7:00am to 6:00pm, Monday to Friday and 7:00am to 12:00pm on Saturdays. No works are to occur on Sundays or Public Holidays.
12. Prior to the commencement of works, a long term, post extraction works, strategic land use concept must be prepared and submitted to the satisfaction of the City to outline how the overall extraction works disturbance footprint and quarry void will be configured and function post works. The concept must consider sequential land use and a staging plan for the rehabilitation of the site for its intended long-term use and needs to ensure a productive landform and spatial footprint to meet long term planned strategic land use options that integrate with the long term land use strategy of the surrounding land use intentions.

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13. Prior to the expiry of this approval or cessation of works and operations, whichever is sooner, a Site Remediation Plan must be submitted, outlining any works that are required to restore the subject land to a state ready for future use. Any such works (Site Remediation Works) are then to be undertaken in accordance with the Site Remediation Plan to the satisfaction of the City within a timeframe set by the City of Wanneroo as part of the approval of the Site Remediation Plan.
14. Within 90 days following the expiry of this approval; all structures, plant, machinery, equipment and amenities erected on the subject land shall be removed to the satisfaction of the City.
15. Within 90 days of the expiry of this approval, a satisfactory detailed feature and contour survey of the subject land shall be submitted to the City; as well as a geotechnical, compaction and stabilisation certification of the finished ground levels.
16. Access to the site must be via sealed crossovers which is designed, constructed and maintained to the City's satisfaction, including hardstands with wheel baths, in the locations as specified under Figure 3-1 of the Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA and/or as updated to include any additional crossovers that may be required during the term of this approval.
17. Unless an alternative is agreed to in writing by the City, internal access roads from the site facilities compound to crossovers shall be sealed to the satisfaction of the City. All internal access roads (sealed and unsealed) shall be maintained to the City's satisfaction.
18. The access road must be managed to ensure dust emissions from machinery and traffic as a result of material extraction and transport operations are minimised.
19. All approved activities are to be in accordance with the suppression and mitigation measures and assumptions contained in the Acoustic Assessment Version No.1, dated 7 August 2024 by Herring Storer Acoustics, and ensure that the requirements of the Environmental Protection (Noise) Regulations 1997 (Regulations) are complied with at all times.
20. If at any time compliance with the Environmental Protection (Noise) Regulations 1997 cannot be maintained; the operations on site shall immediately cease until such time that operations can comply with the aforementioned Regulations.
21. Only minor servicing and repair of vehicles may occur on site, provided that the vehicles are those used in conjunction with the activities the subject of this approval.
22. Ancillary facilities, including (but not limited to) ablution and lunchroom facilities must be accessible to site operators and employees and provided prior to the commencement of operations to the satisfaction of the City.

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23. Unless otherwise approved by the City in writing, no peat, landfill, soil, chemical or other substance, material or product is to be brought onto the subject land for the purposes of:
- a) filling the land to achieve the approved finished floor levels; or
 - b) storage or stockpiling.
24. The operator/s of the approved development must:
- a) Keep a complaints log in which the following is to be recorded:
 - i. The date and time, where relevant, of each complaint made and received;
 - ii. The means (telephone, email or mail) by which the complaint was made;
 - iii. Any personal details of the complainant that were provided or, if no details were provided, a note to that effect;
 - iv. The nature of the complaint (including a description of the operations and the equipment to which the complaint relates);
 - v. The steps or actions taken in, and the timing of, the response to each complaint, including any follow up contact with the complainant; and
 - vi. If no actions or steps were taken in relation to the complaint/enquiry, the reason(s) why no actions or steps were taken.
 - b) Respond to a complaint by no later than three working days and provide the City with a copy of the complaint and the operator's response; and
 - c) Provide the complaints' log to the City, together with a copy of any complaints received and its response upon request.
25. By 31 July each year, a report (Annual Report) must be submitted to the City that includes, in respect of the period from 1 July to 30 June of the previous year in question:
- a) the progress of the excavation activities;
 - b) production levels;
 - c) the progress of rehabilitation undertaken and completed;
 - d) the measures taken to suppress and minimise dust;
 - e) the measures taken to suppress and minimise noise;
 - f) results of noise, dust and bore monitoring.

Additionally, the annual report shall include a predictive contour and rehabilitation plan and illustrate the intended levels, depth, locations and direction of excavation and earthworks as well as extent of rehabilitation in the coming 12-month period.

26. No explosives shall be stored on the subject land and no blasting shall be carried out without the written approval of the City.

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27. If karstic features are identified as being present through excavation or earthworks, such works in the vicinity of the feature shall cease until further karstic feature investigations are undertaken. The karstic feature investigations are then to be discussed with the City, with excavation recommencing once the City is satisfied that it would be safe and acceptable to do so.
28. Felling of trees are to occur outside of the birds breeding period wherever possible, alternatively trees must be inspected by a suitably experienced fauna specialist prior to it being felled to ensure that nesting is not occurring. If nesting occurs, the trees must be demarcated and avoided.
29. A perimeter security fence around the subject land shall be installed prior to the commencement of extraction and earthworks. The fence shall thereafter be maintained to the satisfaction of the City.
30. The landowner is to maintain fencing to prevent unauthorised access to the site post expiration of this approval.
31. Stormwater and any other water run-off shall be collected and retained on site.
32. Appropriate measures shall be undertaken to prevent or minimise the generation of dust or sand drift; and ensure that visible dust or sand drift does not cross the boundaries of the subject land.
33. Staging of extraction shall be managed to a scale that meets the availability of water and other resources for adequate dust suppression, to the satisfaction of the City.

AMENDING MOTION

Moved by: Karen Hyde

Seconded by: Clayton Higham

The following amendments were made en bloc:

- (i) That the preamble of the recommendation be amended to read as follows:

Approve DAP Application reference DAP/24/02821 and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, and the provisions of the City of Wanneroo's District Planning Scheme No. 2, ~~as well as relevant provisions under the Metropolitan Region Scheme~~, subject to the following conditions:

REASON: Reference to the Metropolitan Region Scheme was no longer required due to the recent legislative changes through the Planning and Development Amendment (Metropolitan Region Scheme) Act 2024.

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- (ii) That Condition No. 4f be amended to read as follows:

~~Modification to remove remediation to grassland~~ **Additional information to be provided on weed management, as part of the remediation process; and**

REASON: To provide clarity around management of the rehabilitation works and any introduced grassland pasture to ensure a weed management regime.

- (iii) That Condition No. 12 be amended to read as follows:

~~Prior to the commencement of works~~ **expiry of the approval**, a long term, post extraction works, strategic land use concept must be prepared and submitted to the satisfaction of the City to outline how the overall extraction works disturbance footprint and quarry void will be configured and function post works. The concept must consider sequential land use and a staging plan for the rehabilitation of the site for its intended long-term use and needs to ensure a productive landform and spatial footprint to meet long term planned strategic land use options that integrate with the long term land use strategy of the surrounding land use intentions.

REASON: To provide flexibility in the timeframe to ensure the concept was provided at an appropriate time.

- (iv) That Condition No. 29 be amended to read as follows:

A perimeter ~~security~~ fence around the subject land shall be installed prior to the commencement of extraction and earthworks. The fence shall thereafter be maintained to the satisfaction of the City.

REASON: To enable flexibility and consideration of the appropriate style of fencing at the time of installation.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REPORT RECOMMENDATION (AS AMENDED)

That the Metro Outer DAP resolves to:

1. **Approve** DAP Application reference DAP/24/02821 and accompanying plans (**Attachment 2**) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Wanneroo's District Planning Scheme No. 2, subject to the following conditions:

Conditions

1. This decision constitutes planning approval only and is valid for a period of 10 years from the date of this determination.

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2. Unless further approval is granted by the City, the subject land shall only be used for the purposes of 'Industry – Extractive'. The land use of 'Industry – Extractive' is defined in the City of Wanneroo's District Planning Scheme No. 2 (**DPS 2**) as follows:

***Industry – Extractive:** means premises, other than premises used for mining operations, that are used for the extraction of basic raw materials including by means of ripping, blasting or dredging and may include facilities for any for any of the following purposes –*
 - (a) *The processing of raw materials including crushing, screening, washing, blending or grading;*
 - (b) *Activities associated with the extraction of basic raw materials including wastewater treatment, storage, rehabilitation, loading, transportation, maintenance and administration.*
3. Conditions of this approval that require works or actions to be undertaken following the expiry of this approval, are enforceable notwithstanding the expiration of the approval.
4. The Environmental Assessment and Management Report – Lot 107 Godel Road, Nowergup – Revision 1, dated October 2024 by Coterra Environment is to be updated in accordance with the City's Local Planning Policy (LPP) 3.3 Fauna Management to the satisfaction of the City in accordance with the City's EMP Guidelines and approved prior to commencement of works and thereafter implemented, and must include:
 - a. An implementation schedule pre, during and post work;
 - b. Section 2.6 Fauna and Habitat to be updated with information on macrofauna which would frequent the site;
 - c. Section 4 – Table 4-1 to address the City's Local Planning Policy 3.3 in more detail, including monitoring post development, preventing re-entering of fauna into the site;
 - d. Additional information on trapping being undertaken to demonstrate adequate management;
 - e. Section 5 Decommissioning to allow for adequate stabilization of site and revegetation where urbanization has not extended to this area;
 - f. Additional information to be provided on weed management, as part of the remediation process; and
 - g. Section 4 – Table 4-1 be updated with additional information following a desktop Karst Survey or in the absence of this a Geotech report as the area is identified as being Medium Cave Risk under the City's Local Planning Policy (LPP) 4.13.
5. Development on the subject land must comply with the updated Environmental Assessment and Management Report, including but not limited to the Environmental Impact, Management and Mitigation Measures. In the event of any inconsistency between the conditions of this development approval and the above, the conditions of this development approval will prevail to the extent of any inconsistency.

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6. The groundwater investigation report is to be updated to demonstrate that there will be no hydrological impact on Lake Nowergup as a result of the proposed development, in consultation with the Department of Biodiversity, Conservation and Attractions and to the satisfaction of the City.
7. The Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA must be updated to include Gibbs Road to Karoborup Road as an alternative haulage route together with the current proposed route along Gibbs and Nowergup Roads to facilitate a more even split to distribute haulage movements across the local road network, to the satisfaction of the City prior to the commencement of operations and all other relevant reports and plans updated accordingly.
8. Traffic generated from the approved development shall be limited to that prescribed in an updated Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA.
9. Prior to the commencement of works, a dilapidation report including photo and video images of the haulage route/s must be prepared in consultation with and to the satisfaction of the City and submitted to facilitate the repair of damage to the road surfaces caused by trucks associated with the operation of the proposed use.
10. Prior to the commencement of works, the proponent must enter into an agreement with the City to ensure any damages to road surfaces as a result of truck movements associated with the operation of the extractive industry, as identified through the dilapidation report, are repaired at the cost of the applicant.
11. The hours of operation for the approved development must be limited to the hours of 7:00am to 6:00pm, Monday to Friday and 7:00am to 12:00pm on Saturdays. No works are to occur on Sundays or Public Holidays.
12. Prior to the expiry of the approval, a long term, post extraction works, strategic land use concept must be prepared and submitted to the satisfaction of the City to outline how the overall extraction works disturbance footprint and quarry void will be configured and function post works. The concept must consider sequential land use and a staging plan for the rehabilitation of the site for its intended long-term use and needs to ensure a productive landform and spatial footprint to meet long term planned strategic land use options that integrate with the long term land use strategy of the surrounding land use intentions.
13. Prior to the expiry of this approval or cessation of works and operations, whichever is sooner, a Site Remediation Plan must be submitted, outlining any works that are required to restore the subject land to a state ready for future use. Any such works (Site Remediation Works) are then to be undertaken in accordance with the Site Remediation Plan to the satisfaction of the City within a timeframe set by the City of Wanneroo as part of the approval of the Site Remediation Plan.
14. Within 90 days following the expiry of this approval; all structures, plant, machinery, equipment and amenities erected on the subject land shall be removed to the satisfaction of the City.

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15. Within 90 days of the expiry of this approval, a satisfactory detailed feature and contour survey of the subject land shall be submitted to the City; as well as a geotechnical, compaction and stabilisation certification of the finished ground levels.
16. Access to the site must be via sealed crossovers which is designed, constructed and maintained to the City's satisfaction, including hardstands with wheel baths, in the locations as specified under Figure 3-1 of the Traffic Impact Statement – Lot 107 (No. 59) Godel Road, Nowergup - Version C dated 26 November 2024 prepared by PJA and/or as updated to include any additional crossovers that may be required during the term of this approval.
17. Unless an alternative is agreed to in writing by the City, internal access roads from the site facilities compound to crossovers shall be sealed to the satisfaction of the City. All internal access roads (sealed and unsealed) shall be maintained to the City's satisfaction.
18. The access road must be managed to ensure dust emissions from machinery and traffic as a result of material extraction and transport operations are minimised.
19. All approved activities are to be in accordance with the suppression and mitigation measures and assumptions contained in the Acoustic Assessment Version No.1, dated 7 August 2024 by Herring Storer Acoustics, and ensure that the requirements of the Environmental Protection (Noise) Regulations 1997 (Regulations) are complied with at all times.
20. If at any time compliance with the Environmental Protection (Noise) Regulations 1997 cannot be maintained; the operations on site shall immediately cease until such time that operations can comply with the aforementioned Regulations.
21. Only minor servicing and repair of vehicles may occur on site, provided that the vehicles are those used in conjunction with the activities the subject of this approval.
22. Ancillary facilities, including (but not limited to) ablution and lunchroom facilities must be accessible to site operators and employees and provided prior to the commencement of operations to the satisfaction of the City.
23. Unless otherwise approved by the City in writing, no peat, landfill, soil, chemical or other substance, material or product is to be brought onto the subject land for the purposes of:
 - a) filling the land to achieve the approved finished floor levels; or
 - b) storage or stockpiling.

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24. The operator/s of the approved development must:
- a) Keep a complaints log in which the following is to be recorded:
 - i. The date and time, where relevant, of each complaint made and received;
 - ii. The means (telephone, email or mail) by which the complaint was made;
 - iii. Any personal details of the complainant that were provided or, if no details were provided, a note to that effect;
 - iv. The nature of the complaint (including a description of the operations and the equipment to which the complaint relates);
 - v. The steps or actions taken in, and the timing of, the response to each complaint, including any follow up contact with the complainant; and
 - vi. If no actions or steps were taken in relation to the complaint/enquiry, the reason(s) why no actions or steps were taken.
 - b) Respond to a complaint by no later than three working days and provide the City with a copy of the complaint and the operator's response; and
 - c) Provide the complaints' log to the City, together with a copy of any complaints received and its response upon request.
25. By 31 July each year, a report (Annual Report) must be submitted to the City that includes, in respect of the period from 1 July to 30 June of the previous year in question:
- a) the progress of the excavation activities;
 - b) production levels;
 - c) the progress of rehabilitation undertaken and completed;
 - d) the measures taken to suppress and minimise dust;
 - e) the measures taken to suppress and minimise noise;
 - f) results of noise, dust and bore monitoring.
- Additionally, the annual report shall include a predictive contour and rehabilitation plan and illustrate the intended levels, depth, locations and direction of excavation and earthworks as well as extent of rehabilitation in the coming 12-month period.
26. No explosives shall be stored on the subject land and no blasting shall be carried out without the written approval of the City.
27. If karstic features are identified as being present through excavation or earthworks, such works in the vicinity of the feature shall cease until further karstic feature investigations are undertaken. The karstic feature investigations are then to be discussed with the City, with excavation recommencing once the City is satisfied that it would be safe and acceptable to do so.

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28. Felling of trees are to occur outside of the birds breeding period wherever possible, alternatively trees must be inspected by a suitably experienced fauna specialist prior to it being felled to ensure that nesting is not occurring. If nesting occurs, the trees must be demarcated and avoided.
29. A perimeter fence around the subject land shall be installed prior to the commencement of extraction and earthworks. The fence shall thereafter be maintained to the satisfaction of the City.
30. The landowner is to maintain fencing to prevent unauthorised access to the site post expiration of this approval.
31. Stormwater and any other water run-off shall be collected and retained on site.
32. Appropriate measures shall be undertaken to prevent or minimise the generation of dust or sand drift; and ensure that visible dust or sand drift does not cross the boundaries of the subject land.
33. Staging of extraction shall be managed to a scale that meets the availability of water and other resources for adequate dust suppression, to the satisfaction of the City.

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

REASON: The panel considered the proposal in the context of the prevailing planning framework. The subject site is zoned 'Rural Resource' under Local Planning Scheme No. 2 (TPS 2), within which the proposed 'Industry – Extractive' is a discretionary use and capable of approval. The proposed land use is consistent with the objectives for 'Rural Resource' zoning under TPS 2.

The proposal is subject to State Planning Policy SPP 2.4 – Basic Raw Materials which aims to ensure that basic raw materials (BRM) are efficiently used and protected to support WA's economic development. The subject site is within a Significant Geological Supply (SGS) area, indicating high resource value. SPP 2.4 objectives include the opportunity for the efficient extraction of BRM. The site is located within the Basic Raw Materials policy area and the intent is to protect and make sand resource available for extraction. The proposal meets the objectives of the policy. Furthermore, the panel gave weight to the classification of the basic raw material deposits which are of a high quality in this location and noted that the EPA, DWER and DBCA had not raised objection to the proposal and that potential environmental impacts were to be addressed by separate environmental legislation, both state and federal.

The Panel noted and considered the preliminary and conceptual work on a proposed Carabooda District Structure Plan but did not regard this as a seriously entertained document at this time. The panel also noted that the concept mapping indicated that this site, whilst notionally identified for conservation purposes in the future, also acknowledged the potential for basic raw material extraction. It was noted that the subject site is within an area (Carabooda Urban Precinct) that the Western Australian Planning Commission resolved in November 2024 should be developed for urban purposes and that the coordination of planning and development through the preparation of a District

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Structure Plan (DSP) is necessary for integrated and sustainable development of the area. As indicated in the RAR, the Structure plan and required technical reports supporting potential urban zoning have not been submitted. The Structure Plan has not undergone public advertising or formal assessment and, as such, would not be considered seriously entertained for the purposes of decision making. The District Structure Plan does not have an evident timeframe for advertising or progression to finalisation and a number of further technical studies were required by the Western Australian Planning Commission.

The environmental values of the site had been clearly articulated and researched in the development application supporting information, including the presence of foraging vegetation. This information, based on tree counts, locations, and assessments was regarded as satisfactory and accurate by the City assessors. The panel also noted that other permits for clearing of vegetation would be required by the EPA and EPBC.

There were submissions concerned about adverse amenity impacts on the rural amenity of adjoining and nearby properties. It was considered that potential adverse impact such as noise and traffic would not be significant. The technical documentation concerning traffic, acoustic, water management, and operational management were acceptable, and conditions of approval, which required minor updates and modifications at various stages of the development, would mitigate potential environmental impacts. This includes the requirement for various management plans, noting that the proposed Extractive Industry proposal would have a limited operational life. The panel were unanimous in support of the proposal for extraction for a period of time followed by rehabilitation as stated in the conditional approval.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

Nil.

Cr Bronwyn Smith (Local Government DAP Member, City of Wanneroo) left the panel at 11:02am.

PROCEDURAL MOTION

Moved by: Karen Hyde

Seconded by: Clayton Higham

That the meeting be adjourned for a period of 5 minutes.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To allow members a comfort break.

The meeting was adjourned at 11:02am.

The meeting was reconvened at 11:07am.

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PART C – CITY OF ROCKINGHAM

Cr Mark Jones & Cr Dawn Jecks (Local Government DAP Members, City of Rockingham) joined the panel at 11:07am.

1. 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 3.1, received on 8 April 2025.

All members declared that they had duly considered the documents contained within Part C of the Agenda and Part C of the Related Information.

2. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Member, Cr Mark Jones and Cr Dawn Jecks, declared that they had participated in a prior Council meeting in relation to the application at item 3.1. However, under section 2.1.2 of the DAP Code of Conduct 2024, Cr Jones and Cr Jecks 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 3.3 of the DAP Code of Conduct 2024, the DAP Executive Director determined that the members listed above, who had disclosed an impartiality interest, were permitted to participate in the discussion and voting on the item.

3. Form 1 DAP Applications

3.1 Lot 1181 (No.2) Daintree Street, Baldivis – Proposed Child Care Premises – DAP/24/02797

Deputations and Presentations

Eva Cronin (Eco Logical) addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Tim Dawkins & Cameron Sturges (Urbis) addressed the DAP against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Jackson Parker (DFES) responded to questions from the panel in relation to the application at Item 3.1.

The City of Rockingham addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.

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REPORT RECOMMENDATION

Moved by: Clayton Higham

Seconded by: Cr Mark Jones

That the Metro Outer Development Assessment Panel (**MODAP**) resolves to:

Refuse DAP Application reference DAP/24/02797 and accompanying plans in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of clause 68(2)(c) of the deemed provisions of the City of Rockingham Town Planning Scheme No.2, subject to reasons as follows:

Reasons

1. The Application fails to demonstrate compliance with both the former State Planning Policy 3.7 - Planning in Bushfire Prone Areas and the current State Planning Policy 3.7 - Bushfire, as the Applicants Bushfire Management Plan incorrectly classifies vegetation within 'Plot 2 - Baldivis Tramway Reserve'. This misclassification underestimates the bushfire risk, potentially placing the development within a Bushfire Attack Level (BAL-40) area, posing an unacceptable threat to life and property.
2. The Application is inconsistent with the Restrictive Covenant over the site which states:

"Pursuant to section 129BA of the Transfer of Land Act 1893 (WA), the Owner, for itself and its successors in title, hereby covenants with the City that no habitable buildings are to be built on Lot 1181 within areas determined by the City of Rockingham as BAL-40 or BAL-Flame Zone."
3. The Application fails to comply with the on-site car parking requirements of the City of Rockingham Town Planning Scheme No.2 and the applicant has not adequately justified the car parking shortfall.
4. The proposed development, accommodating up to 112 children and 22 staff, exceeds the development capacity of the site, resulting in an over-intensification of land use. The scale of the proposal is not adequately supported by the available on-site parking, leading to a likely increased over-reliance of parking within the public realm and potential adverse impacts on the surrounding area.
5. The Application fails to demonstrate compliance with the Environmental Protection (Noise) Regulations 1997, particularly in relation to potential noise impacts on future residential development at Lot 9033 Morwell Loop, Baldivis.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The panel gave weight to the information provided by the City and DFES on the condition of the adjacent vegetation, which these authorities felt should be classified as Forest rather than Woodland in the BAL and BMP technical work. The Forest classification meant that the Child Care Premises as illustrated in the development proposal would partially fall into the BAL-40/FZ. The panel were of the view that there

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was a risk associated with this given the vulnerability of the client group. The panel also gave consideration to the requirement of the WAPC subdivision approval which precluded habitable accommodation in the BAL-40/FZ.

The panel also considered the parking shortfall to be beyond that which could be allowed through discretion and felt that the extent of the shortfall would place undue pressure on the street parking which would be in demand by other user groups. Whilst it was noted that the applicant suggested additional land could be allocated to parking from the adjacent undeveloped commercial lot, the panel were of the opinion that this solution, together with any review of the building interface in the context of the Bushland Forest classification, would entail a redesign which could not be reasonably conditioned or deferred to facilitate.

The acoustic documentation was also incomplete and additional consideration and design measures were required to protect the amenity of future adjacent residential development indicated in the Local Development Plan. The panel were unanimous in their decision to refuse the application.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

Nil.

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PART D – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals

The DAP noted the status of the following State Administrative Tribunal Applications and Supreme Court Appeals:

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DR146/2024 DAP/23/02523	City of Gosnells	65 (Lot 98) Mills Road West, Gosnells	Place of Worship	30/09/2024

2. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 12:27pm.

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