



Metro Outer Development Assessment Panel Minutes

Meeting Date and Time: Wednesday, 12 June 2024; 9:30am
Meeting Number: MODAP/17
Meeting Venue: 140 William Street, Perth
Public Observing: Online

A recording of the meeting is available via the following link: [MODAP/17 - 12 June 2024 - 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 ROCKINGHAM

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 3022 Morfontaine Parade, Port Kennedy – Proposed Tavern, Brewery and Short Stay Accommodation – DAP/24/02659
 - 3.2 431 Surf Drive, Secret Harbour – Child Care Premises – DAP/24/02661
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART C – OTHER BUSINESS

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

Tony Arias
Presiding Member, Metro Outer DAP



Attendance	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Tony Arias (Presiding Member) Lee O'Donohue (Deputy Presiding Member) John Syme	Claire Ortlepp Ashlee Kelly
<i>Part B – City of Rockingham</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Mayor Deb Hamblin Cr Dawn Jecks	David Banovic Mike Ross Chris Parlane

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Applicant and Submitters

<i>Part B – City of Rockingham</i>

Adrian Dhue (Lateral Planning) Jess Beaver (MJA Studio) Matt Middleton (MJA Studio) Elliot Langdon (MJA Studio) Darren Cooper (DCM) Reyne Dial (Place Development) Ben McCarthy (King City) Shane Wormall (Proponent) Ben Beverly (Marshall Day Acoustics) Marina Kleyweg (KCTT) Ross Underwood (Planning Solutions) Brandon Bradburn (Planning Solutions) Rhys Kelly (Proponent)

Members of the Public / Media

Nil.

Observers via livestream

There were 3 persons observing the meeting via the livestream.

Tony Arias
Presiding Member, Metro Outer DAP



PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:31am on 12 June 2024 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 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)
Cr Mark Jones (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](#).

Tony Arias
Presiding Member, Metro Outer DAP



PART B – CITY OF ROCKINGHAM

1. Declaration of Due Consideration

The Presiding Member noted that details of a DAP direction for further information and responsible authority response in relation to Item 3.1, received on 11 June 2024 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

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Members, Mayor Deb Hamblin and Cr Dawn Jecks, declared that they had participated in a prior Council meeting in relation to the application at items 3.1 & 3.2. However, under section 2.1.2 of the DAP Code of Conduct 2024, Mayor Hamblin 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 Presiding Member determined that the members listed above, who have disclosed an impartiality interest, were permitted to participate in the discussion and voting on the items.

3. Form 1 DAP Applications

PROCEDURAL MOTION

Moved by: Mayor Deb Hamblin

Seconded by: Cr Dawn Jecks

That the application at Item 3.2 be heard prior to the application at Item 3.1.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: to allow the less complex Item 3.2 application to be heard before the Item 3.1 application.

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3.2 431 Surf Drive, Secret Harbour – Child Care Premises – DAP/24/02661

Deputations and Presentations

Ross Underwood (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 3.2 and responded to questions from the panel.

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

REPORT RECOMMENDATION

Moved by: Mayor Deb Hamblin

Seconded by: Cr Dawn Jecks

With the agreement of the mover and seconder, the following amendment was made:

That Condition No. 9 be amended to read as follows:

Prior to applying for a Building Permit, a ~~Vegetation Retention~~ Tree Management Plan must be submitted and approved by the City of Rockingham for all trees identified for retention/possible retention on the approved plans. If any of the earmarked trees become no longer suitable for retention ~~due to damage caused by site works~~, prior written approval is to be required from the City in order to remove tree/s.

REASON: *The amended condition was appropriate to recognise the objective to retain the trees but provide some flexibility during the detailed design process.*

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

APPROVE DAP Application reference DAP/24/02661 and revised development plans received on 29 April 2024 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Rockingham Town Planning Scheme No.2 (TPS2), subject to the following conditions:

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. 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.
3. No more than 85 children are to be accommodated at the Child Care Premises.
4. No more than 21 staff are permitted at the Child Care Premises at any one time.

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5. The Child Care Premises must only operate between the hours of 6:30am to 6:30pm, Monday to Friday, with children not permitted in the open space areas before 7:00am.
6. Prior to applying for a Building Permit, a Stormwater Management Plan must be prepared by a suitably qualified engineering consultant showing how stormwater will be contained on-site and those plans must be submitted to the City of Rockingham for its approval. All stormwater generated by the development must be managed in accordance with Planning Policy 3.4.3 - Urban Water Management to the satisfaction of the City of Rockingham. The approved plans must be implemented and all works must be maintained for the duration of the development.
7. Prior to applying for a Building Permit, a bin storage area must be designed with a size suitable to service the development and screened from view of the street to the satisfaction of the City of Rockingham. The bin storage area must be constructed prior to the occupation of the development and must be retained and maintained in good condition for the duration of the development.
8. Prior to applying for a Building Permit, a Landscaping Plan to the satisfaction of the City of Rockingham must be prepared and include the following detail:
 - (i) The location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - (ii) Any lawns to be established and areas to be mulched;
 - (iii) Those areas to be reticulated or irrigated;
 - (iv) Proposed upgrading to landscaping, paving and reticulation of the street setback area and all verge areas; and
 - (v) Shade trees at a rate of one (1) per four (4) car parking bays.

The landscaping (including all verge landscaping), paving and reticulation must be completed prior to the occupation of the development, and must be maintained at all times to the satisfaction of the City of Rockingham.

9. Prior to applying for a Building Permit, a Tree Management Plan must be submitted and approved by the City of Rockingham for all trees identified for retention/possible retention on the approved plans. If any of the earmarked trees become no longer suitable for retention, prior written approval is to be required from the City in order to remove tree/s.
10. Prior to applying for a Building Permit, detailed Engineering Drawings and specifications are to be submitted to City of Rockingham for approval for all works within the road reserve, including crossover approach, carparks, footpaths, kerbing, drainage and landscape works. All works are to be installed and maintained at the Applicant's cost to the satisfaction of the City of Rockingham for the duration of the development.

Tony Arias
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11. Prior to applying for a Building Permit, exhaust facilities associated with the proposed kitchen area must be designed in accordance with Australian Standard AS 1668.2—2002, The use of ventilation and air conditioning in buildings, Part 2: Ventilation design for indoor air containment control (excluding requirements for the health aspects of tobacco smoke exposure) and be fitted with filtration and odour suppression devices to the satisfaction of the City of Rockingham.

The exhaust facilities must be installed prior to the occupation of the development and must be thereafter maintained to the satisfaction of the City of Rockingham for the duration of the development.

12. Prior to applying for a Building Permit, an Acoustic Report which demonstrates that all mechanical services associated with the proposed development, and any other noise source, will comply with the *Environmental Protection (Noise) Regulations 1997*, must be submitted to and approved by the City of Rockingham.
13. Prior to applying for a Building Permit, a Sign Strategy must be prepared (which must include the information required by Planning Policy 3.3.1 - Control of Advertisements) to the satisfaction of the City of Rockingham, and it must thereafter be implemented for the duration of the development.
14. Prior to the occupation of the development, the Bushfire Emergency Evacuation Plan prepared by Emerge Associates, dated March 2024, shall be updated to:
 - (i) Page iv under "If you are told to leave" to list the Emergency WA website as a primary source of information;
 - (ii) Page iv to include actions and considerations in the circumstances that an "Emergency Warning" is issued by DFES;
 - (iii) Include a plan showing the nominated safe place(s) where the children and staff will be evacuated to via bus. This plan should consider possible road closures and alternative routes;
 - (iv) Include a separate appendix with a list of possible transport providers for evacuation; and
 - (v) Delete "City of Rockingham fire and emergency services manager" from Page 5.

The Bushfire Emergency Evacuation Plan must thereafter be implemented and maintained at all times to the satisfaction of the City of Rockingham.

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15. Prior to occupation of the development, the Asset Protection Zone (APZ), as depicted in Figure 4 of the Bushfire Management Plan prepared by Emerge Associates, must be installed on the site in accordance with the following requirements:

- (i) maximum Fine Fuel Load of two (2) tonnes per hectare;
- (ii) tree trunks at maturity must be a minimum distance of six (6) metres from all elevations of the building and tree canopies at maturity must be 5 metres apart;
- (iii) shrubs must not be located within three (3) metres of a building;
- (iv) grass must be managed to maintain a height of 100mm or less;
- (v) fences and sheds must be constructed of non-combustible material; and
- (vi) sheds must not contain flammable materials.

The APZ must be maintained in accordance with these requirements and in a good and safe condition for the duration of the development.

16. Earthworks over the site associated with the development must be stabilised to prevent sand or dust blowing off the site, and appropriate measures must be implemented within the time and in the manner directed by the City of Rockingham in the event that sand or dust is blown from the site.

17. The carpark must:

- (i) provide a minimum of 29 car parking spaces;
- (ii) be designed, constructed, sealed, kerbed, drained and marked in accordance with User Class 3 of Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking prior to applying for a Building Permit;
- (iii) provide one (1) of these car parking spaces as a space dedicated to people with disabilities, which are designed, constructed, sealed, kerbed, drained and marked in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities and which are linked to the main entrance of the development by a continuous accessible path of travel designed and constructed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
- (iv) be constructed, sealed, kerbed, drained and clearly marked prior to the development being occupied and maintained thereafter;
- (v) have all parking bays clearly marked as 'Staff' or 'Visitor' prior to occupation

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of the development, to the satisfaction of the City of Rockingham. The tandem car parking bays must not form part of the visitor parking allocation;

- (vi) have lighting installed, prior to the occupation of the development, to the satisfaction of the City of Rockingham; and
- (vii) confine all illumination to the land in accordance with the requirements of Australian Standard AS 4282-2019, Control of the obtrusive effects of outdoor lighting, at all times.

18. In accordance with City of Rockingham Planning Policy 3.3.14 - Bicycle Parking and End of Trip Facilities, four (4) bicycle parking spaces must be provided for the development. The bicycle parking spaces must be designed in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities and must be approved by the City of Rockingham prior to applying for a Building Permit and constructed prior to occupancy of the development. The bicycle parking spaces must be retained and maintained in good and safe condition for the duration of the development.

Advice Notes

1. This Approval relates to the details provided in the application; to undertake the development in a different manner to that stated in the application a fresh application for Development Approval must be submitted to the City.
2. A Certified Building Permit must be obtained prior to construction and thereafter an Occupancy Permit must be obtained; the Applicant and owner should liaise with the City's Building Services in this regard.
3. The development must comply with the *Food Act 2008*, the Food Safety Standards and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only); the Applicant and owner should liaise with the City's Health Services in this regard.
4. The development must comply with the *Health (Public Building) Regulations 1992*; the Applicant and owner should liaise with the City's Health Services in this regard.
5. The Applicant is advised the vehicle crossover must be designed and constructed in accordance with the City of Rockingham's Specifications for Commercial Crossovers.
6. A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the Applicant and owner should liaise with the City's Building Services in this regard.
7. With respect to Condition 6, a Stormwater Management Plan will require compliance with Planning Policy 3.4.3 - Urban Water Management. The Applicant is encouraged to discuss the specific policy requirements with the City prior to the submission of the plan.

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8. With respect to Condition 8, the Applicant and owner should liaise with the City's Land and Development Infrastructure Services to confirm requirements for landscaping plans.
9. All works in the road reserve, including construction of a crossover or footpath, installation of on-street car parking spaces, planting of street trees, and other streetscape works or works to the road carriageway, must be to the specifications of the City; the Applicant and owner should liaise with the City's Land and Development Infrastructure Services in this regard.
10. The Applicant is responsible for protecting any existing City streetscape assets along Warnbro Sound Avenue and Surf Drive during the course of the project. This includes any existing streetscape lighting, grated gully pits, side entry pits, kerbing, footpaths, trees, turf etc. If any damage is caused to the existing assets (identified to be retained), they must be rectified to the satisfaction of the Manager Land and Development Infrastructure. It is recommended that a photographic dilapidation report is undertaken by the Applicant, to record the current condition of these assets.
11. Existing street trees adjacent to the development site must be protected throughout the course of the project in accordance with Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

The Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: The subject land is zoned 'Development' in the City's Local Planning Scheme No.2 (LPS2) where 'Child Care Centre' uses is a discretionary use in the Residential zone and capable of approval. The panel was satisfied that the proposed development was consistent with the local planning framework.

The site is well located to minimise amenity impacts, having two road frontages, Warnbro Sound Avenue to the west and Surf Drive to the north, and opposite the site is undeveloped land proposed as Public Open Space by the City through a Scheme Amendment.

It was noted that the Traffic Impact Statement (TIS) recognised that there would be an increase in traffic as a result of the development on the adjoining roads Warnbro Sound Avenue and Surf Drive. However, both Warnbro Sound Avenue and Surf Drive have been designed to carry high traffic volumes. The traffic analysis undertaken in the TIS indicates that the traffic generation of the proposed development is relatively low and as such would not have a significant impact on the surrounding road network. The City Officer's accepted that the local road network can accommodate the estimated additional traffic generated by the proposal.

There was some discussion regarding the retention of five trees within the open space area of the proposed development, but following discussion with the applicant and City Officers, the Panel was satisfied that an amended condition was appropriate to recognise the objective to retain the trees but provide some flexibility during the detailed design process.

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3.1 Lot 3022 Morfontaine Parade, Port Kennedy – Proposed Tavern, Brewery and Short Stay Accommodation – DAP/24/02659

Deputations and Presentations

Jess Beaver (MJA Studio) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

Reyne Dial (Place Development) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

Adrian Dhue (Lateral Planning) 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 Rockingham addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.

REPORT RECOMMENDATION

Moved by: Mayor Hamblin

Seconded by: Cr Dawn Jecks

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

APPROVE DAP Application reference DAP/24/02659 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Rockingham Town Planning Scheme No.2 (TPS2), subject to the following conditions:

1. In the event of an inconsistency between the approved plans and a requirement of the conditions set out below, the requirement of the conditions shall prevail.
2. 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.
3. Prior to applying for a Building Permit, a Stormwater Management Plan must be prepared by a suitably qualified engineer showing how stormwater will be contained on-site; those plans must be submitted to the City of Rockingham for approval.

All stormwater generated by the development must be managed in accordance with Local Planning Policy 3.4.3 - Urban Water Management to the satisfaction of the City of Rockingham. The approved plans must be implemented and all works must be maintained for the duration of the development.

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4. Earthworks over the site associated with the development must be stabilised to prevent sand or dust blowing off the site, and appropriate measures must be implemented within the time and in the manner directed by the City of Rockingham in the event that sand or dust is blown from the site.
5. Prior to occupation of the development, a crossover is to be constructed in accordance with the City's Commercial Crossover Specifications to the satisfaction of the City of Rockingham.
6. Engineering drawings for works within the development site and along the existing road reserves must be submitted to the Manager of Land and Development Infrastructure for approval prior to works commencing on site. All works within the Road Reserve must be completed to the satisfaction of the City of Rockingham.
7. An inspection of the existing infrastructure surrounding the proposed area of works needs to be identified and documented prior to works commencing. Particular interest is to be paid to the state of the existing road pavements. Any damage due to the works, will need to be repaired to the satisfaction of the Manager Land & Development Infrastructure.
8. Prior to occupation of the development the car parking area must:
 - (i) provide a minimum of 45 car parking spaces;
 - (ii) be designed, constructed, sealed, kerbed, drained and marked in accordance with User Class 3 for visitors of Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking prior to applying for a Building Permit;
 - (iii) provide one (1) car parking space(s) dedicated to people with disabilities, which are designed, constructed, sealed, kerbed, drained and marked in accordance with User Class 4 of Australian/New Zealand Standard AS/NZS2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities and which are linked to the main entrance of the development by a continuous accessible path of travel designed and constructed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access —New building work;
 - (iv) be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;
 - (v) comply with the above requirements for the duration of the development; and
 - (vi) all 45 car parking bays within the development complex must be accessible for customer, and staff parking at all times and not be gated or otherwise physically controlling access.

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9. Prior to applying for a Building Permit, a Landscaping Plan must be submitted and approved to the satisfaction of the City of Rockingham and shall include the following detail:
- (i) the location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area inclusive of the verge;
 - (ii) any lawns to be established and areas to be mulched;
 - (iii) any natural landscape areas to be retained;
 - (iv) those areas to be reticulated or irrigated.

The landscaping must be completed prior to the occupation of the development, and must be maintained at all times to the satisfaction of the City of Rockingham.

10. In accordance with City of Rockingham Planning Policy 3.3.14 - Bicycle Parking and End of Trip Facilities, 10 short term and 2 long-term bicycle parking spaces must be provided for the development. The bicycle parking spaces must be designed in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities and must be approved by the City of Rockingham prior to applying for a Building Permit and constructed prior to occupancy of the development. The bicycle parking spaces must be retained and maintained in good and safe condition for the duration of the development.
11. Prior to applying for a Building Permit, a Revised Acoustic Report and a Noise Management Plan must be submitted to and approved by the City of Rockingham, that includes appropriate noise mitigation and management measures to ensure that all mechanical services associated with the proposed development and any other noise source, including noise emanating from Licensed Premises will comply with the *Environmental Protection (Noise) Regulations 1997*.
12. Prior to the occupation of the development, a Final Acoustic Assessment must be prepared and provided to the City of Rockingham which demonstrates to City's satisfaction, that the completed development complies with the *Environmental Protection (Noise) Regulations 1997*.

The Final Acoustic Assessment must include the following information:

- (i) noise sources compared with the assigned noise levels as stated in the *Environmental Protection (Noise) Regulations 1997*, when the noise is received at the nearest "noise sensitive premises" and surrounding residential area;
- (ii) tonality, modulation and impulsiveness of noise sources; and
- (iii) confirmation of the implementation of noise attenuation measures.

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Any further works must be carried out in accordance with the Acoustic Report and implemented as such for the duration of the development.

13. Prior to applying for a Building Permit, a revised Waste Management Plan must be prepared and include the following detail to the satisfaction of the City of Rockingham:
- (i) the location of bin storage areas and bin collection areas;
 - (ii) the number, volume and type of bins, and the type of waste to be placed in the bins;
 - (iii) management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas; and
 - (iv) frequency of bin collections.

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

14. In accordance with Local Planning Policy 3.3.25 - Percent for Public Art - Private Developer Contribution, prior to occupation of the development, the developer shall either:
- (i) Submit to the City of Rockingham for approval an artwork designed by a professional artist at a cost of 1% of the total project cost (being \$65,000), to be located within the subject site in an area which must be publicly visible for the duration of the development;
 - (ii) Enter into a contract with a professional artist/s to design and install the artwork approved by the City of Rockingham;
 - (iii) The artwork shall then be installed prior to occupation of the development and maintained thereafter to the satisfaction of the City of Rockingham; or
 - (iv) Make a contribution to the City of Rockingham equal to 1% of the total construction value for the provision of public art, being \$65,000 in value.
15. Prior to applying for a Building Permit, a Traffic Sightline Safety Audit shall be prepared by a suitably qualified expert that verifies that compliant sight distance is provided for vehicles leaving the car park in proximity to the adjacent proposed commercial vehicle loading bay in the street verge, to the satisfaction of the City of Rockingham. The applicant shall implement any recommended mitigation measures required to achieve compliance.
16. Floodlighting must not be illuminated after 10pm or before 7am on any day. All illumination must be confined to the land in accordance with the requirements of Australian Standard AS 4282—2019, Control of the obtrusive effects of outdoor lighting, at all times, for the duration of the development.

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17. Entries and window frontages of the building facing the Foreshore Plaza 'main street' must contain clear, transparent glass, and not be covered, closed or screened off (including by means of dark or other tinting, shutters, curtains, blinds, posters, paint, roller doors or similar), to ensure that visibility and a commercial, interactive frontage is available between the development and the public domain at all times.
18. Prior to building occupancy, the developer responsibilities outlined in Table 3 of the 'Kennedy Bay Brewery - Element 5 Vulnerable Tourism Land Uses Assessment Report', prepared by Bushfire Safety and dated 21/2/2024, shall be implemented and maintained thereafter for the duration of the development.
19. The development shall be managed to prevent the emission or transmission of odour which unreasonably interferes with the health, welfare, convenience, comfort or amenity of surrounding premises.
20. Prior to occupation of the development, public access easement(s) in accordance with Sections 195 and 196 of the *Land Administration Act 1997* are to be placed on the certificate of title for portion of Lot 3007 Port Kennedy Drive, Port Kennedy (Golf Course Car Park). Notice of this easement is to be included on the Deposited Plan to the satisfaction of the City of Rockingham.
21. Prior to occupation of the development, the landowner(s) shall enter into a legal agreement with the City of Rockingham to place public access easement(s) in accordance with Sections 195 and 196 of the *Land Administration Act 1997* on proposed Lot 4 (Lot 3023) Morfontaine Parade, Port Kennedy. Notice of this easement is to be included on the Deposited Plan to the satisfaction of the City of Rockingham.
22. To facilitate access for a private waste servicing vehicle the plans shall be amended to increase the vertical clearance at the car park entrance to 3.650m minimum, consistent with the Western Australian Local Government Association (WALGA) Multiple Dwelling Waste Management Plan Guidelines.

Advice Notes:

1. Regarding Condition 13, the applicant is advised that the WMP should be updated to consider the need to accommodate:
 - A full complement of FOGO bins (which the City is preparing to implement); and
 - A waste collection vehicle that can enter the car park to collect the commercial waste bins, given the vertical clearance provided at the vehicle entry to the first floor slab level.
2. The development must comply with the *Food Act 2008*, the *Food Safety Standards* and Chapter 3 of the Australian New Zealand Food Standards Code (Australia Only); the Applicant and owner should liaise with the City's Health Services in this regard.

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Presiding Member, Metro Outer DAP



3. A Building Permit must be obtained for the proposed works prior to commencement of site works. The Applicant and owner should liaise with the City's Building Services in this regard.
4. The Tavern is to comply with the *Liquor Control Act 1988*. All relevant approvals and licenses are to be sought prior to the occupation of the development in conjunction with the Department of Local Government, Sport and Cultural Industries (DLGSC).
5. The development must comply with the *Health (Public Building) Regulations 1992*; the Applicant and owner should liaise with the City's Health Services in this regard.
6. The Applicant is responsible for protecting any existing City streetscape assets during the course of the project. This includes any existing streetscape lighting, grated gully pits, side entry pits, kerbing, footpaths, trees, turf etc. If any damage is caused to the existing assets (identified to be retained), they must be rectified to the satisfaction of the City of Rockingham. It is recommended that a photographic dilapidation report is undertaken by the Applicant, to record the current condition of these assets.

AMENDING MOTION

Moved by: Lee O'Donohue

Seconded by: John Syme

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

*Make a contribution to the City of Rockingham equal to 1% of the total construction value for the provision of public art, being \$65,000 in value, **which may be utilised in the adjoining public realms.***

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: To recognise that a related party is to provide public art in the adjoining public open space and provide flexibility in the application and avoid duplication of contributions.

PROCEDURAL MOTION

Moved by: John Syme

Seconded by: Cr Dawn Jecks

That the consideration of DAP Application DAP/24/02659 be deferred for up to 180 days, being 9 December 2024, in accordance with section 5.10.1a of the DAP Standing Orders 2024, for the following reasons:

- To enable the proponent to supply evidence that public access easements required by Condition 20 are formally agreed to by third parties.

Tony Arias
Presiding Member, Metro Outer DAP



The Procedural Motion was put and CARRIED (3/2).

For: Lee O'Donohue
John Syme
Cr Dawn Jecks

Against: Tony Arias
Mayor Deb Hamblin

REASON: Condition 20 requires the agreement of a third party and may be beyond the jurisdiction of the DAP to apply. Evidence is supplied by the City that the reciprocal parking arrangements that are the subject of Condition 20 are an essential element of the precinct parking plan, and the proposed development would have a significant shortfall of parking in the absence of guaranteed access to this parking supply. Evidence is required that these arrangements will be concluded or other suitable arrangements to address the car parking deficit can be implemented.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

Nil.

Tony Arias
Presiding Member, Metro Outer DAP



PART C – 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
DR169/2023 DAP/23/02486	City of Swan	Lot 1 (No.9) Waterhall Road, South Guildford	Child Care Premises	13/11/2023
DR179/2023 DAP/22/02358	Shire of Serpentine Jarrahdale	Lot 806 South Western Highway, Byford	Proposed Showroom and Fast Food/Takeaway Development	4/12/2023
DAP/23/02545 PA23/588	Shire of Serpentine Jarrahdale	Lot 218 (No.575) Abernethy Road, Oakford	Proposed Educational Establishment	19/12/2023

The Presiding Member noted the following Supreme Court Appeal -

Current Supreme Court Appeals				
File No.	LG Name	Property Location	Application Description	Date Lodged
DAP/23/02496 CIV 2251 of 2023	City of Swan	Lot 2 & 67 (No.163) and Lot 18 (No.159) James Street, Guildford	Proposed redevelopment of Vaudeville Theatre	03/11/2023

* Matters finalised during the last meeting cycle.

2. General Business

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2024 a DAP member must not publicly comment on any action or determination of a DAP.

3. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 11:10am.

Tony Arias
Presiding Member, Metro Outer DAP