



Metro Outer Development Assessment Panel Minutes

Meeting Date and Time: Tuesday, 12 March 2024; 9:30am
Meeting Number: MODAP/3
Meeting Venue: 140 William Street, Perth
Public Observing: via Electronic Means

This DAP meeting was live streamed open to the public rather than requiring attendance in person.

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 193 and Lot 194 (No.4 and 6) Malibu Road, Safety Bay – Child Care Premises – DAP/23/02487
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations
 - 5.1 Lot 622 (No.2) Aurea Boulevard, Golden Bay – Proposed mixed commercial development (Golden Bay Neighbourhood Centre) – DAP/23/02447

PART D – OTHER BUSINESS

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

Eugene Koltasz
Presiding Member, Metro Outer DAP



Attendance	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Eugene Koltasz (Presiding Member) Karen Hyde (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>
Cr Lorna Buchan Cr Mark Jones	Mike Ross Casey Gillespie Sally Birkhead

Eugene Koltasz

Presiding Member, Metro Outer DAP



Applicant and Submitters
<i>Part B – City of Rockingham – Item 3.1</i>
Sam Bowers (Rowe Group) Nathan Stewart (Rowe Group) Malek Vahdat (Carmel Group) Bo Xiong (Greener4 Pty Ltd) John Hurley (EAQ Consulting) Tim Reynolds (Herring Storer Acoustics) Ann Brennan – <i>written submission</i> Dion Alston – <i>written submission</i> Hazel Ecker – <i>written submission</i> Judy Malley – <i>written submission</i> Kath Innes – <i>written submission</i> Peggy-Anne Wilson – <i>written submission</i> Pierina Miragliotta – <i>written submission</i>
<i>Part B – City of Rockingham – Item 5.1</i>
Alessandro Stagno (Apex Planning) John Hurley (EAQ Consulting)

Members of the Public / Media

Nil.

Observers via livestream

There were 5 persons observing the meeting via the livestream.



PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:33am on 12 March 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 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

Nil.

3. Members on Leave of Absence

Nil.

4. Noting of Minutes

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).



PART B – CITY OF ROCKINGHAM

1. Declaration of Due Consideration

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

2. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Members, Cr Lorna Buchan and Cr Mark Jones, declared that they had participated in a prior Council meeting in relation to the applications at items 3.1 & 5.1. However, under section 2.1.2 of the DAP Code of Conduct 2024, Cr Buchan and Cr Jones 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, are permitted to participate in the discussion and voting on the items.

In accordance with section 2.4.10 of the DAP Code of Conduct 2024, DAP Member, Karen Hyde, declared that they had participated in a State Administrative Tribunal process in relation to the application at item 5.1. However, under section 2.1.3 of the DAP Code of Conduct 2024, Karen Hyde acknowledged that they are not bound by any confidential discussions that occurred as part of the mediation process and undertakes to exercise independent judgment in relation to any DAP applications before them, which will be considered on its planning merits.



3. Form 1 DAP Applications

3.1 Lot 193 and Lot 194 (No.4 and 6) Malibu Road, Safety Bay – Child Care Premises – DAP/23/02487

Deputations and Presentations

The panel noted a written submission from Ann Brennan in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from various community members in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Dion Alston in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Hazel Ecker in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Judy Malley in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Kath Innes in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Peggy-Anne Wilson in support of the recommendation and against the application at Item 3.1.

The panel noted a written submission from Pierina Miragliotta in support of the recommendation and against the application at Item 3.1.

John Hurley (EAQ Consulting) addressed the DAP against the recommendation but in support of the application at Item 3.1 and responded to questions from the panel.

Sam Bowers & Nathan Stewart (Rowe Group) addressed the DAP against the recommendation but in support of 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: Cr Mark Jones

Seconded by: Cr Lorna Buchan

That the Metro Outer Development Assessment Panel resolves to:

REFUSE DAP Application reference DAP/23/02487 and amended plans and supporting information received on 20 September 2023, 29 November 2023, 6 December 2023 and 25 January 2024:

- SK000; Rev G – Survey and Location Plan;
- SK100; Rev H – Proposed Site Plan and Landscaping;
- SK200; Rev G – Floor Plan and Elevations;
- SK301; Rev G – 3D Views;
- Development Application Report (19 September 2023);
- Development Application – Response to Requested Information (29 November 2023);
- Updated Traffic Impact Statement (27 November 2023);
- Environmental Acoustic Assessment (Acoustic Report) (September 2023);
- Response to Requested Information – Emissions Advice (November 2023);
- Emissions Impact Assessment (EIA) (January 2024);
- Waste Management Plan (15 September 2023).

in accordance with Clause 68(2)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Metropolitan Region Scheme, for the following reasons:

1. The proposed development is an unplanned and unanticipated development within the Residential Zone and is likely to have an adverse impact on the residential amenity of the adjacent residents associated with the noise impacts from the facility, traffic impacts, change in built form and character, increased fencing height and the intensity of the land use associated with 60 child care places.
2. The proposed development as a sensitive land use, is not compatible in the locality, due to being in immediate proximity of an existing Service Station, where the proposal presents an unacceptable health risk and amenity impact to children from benzene exposure.

The Report Recommendation was put and LOST (2/3).

For: Cr Mark Jones
Cr Lorna Buchan

Against: Eugene Koltasz
Karen Hyde
John Syme

Eugene Koltasz 
Presiding Member, Metro Outer DAP



ALTERNATE MOTION

Moved by: Karen Hyde

Seconded by: John Syme

With the agreement of the mover and seconder, the following amendments were made:

- i) That Condition No. 19 be amended to read as follows:

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;*
- (v) Shade trees at a rate of one (1) per four (4) car parking bays;*
- (vi) Street trees must be in accordance with the City's standard for street tree planting and to the Utility's Providers Code of Practice for Western Australia, 1 June 2015.*

(vii) Landscape to be provided to the north eastern boundary

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.

- ii) That Condition No. 20 be amended to read as follows:

*Fencing heights, types and alignments to be consistent with the recommendations of the Environmental Acoustic Assessment, prepared by Herring Storer Acoustic (Job Reference 23085-02) and dated September 2023, **with the exception of the north east boundary wall which is to be masonry**, to the satisfaction of the City for the duration of the development.*

REASON: To enable a greater degree of landscape screening and noise attenuation to the adjoining property on the northeast boundary of the subject site.

That the Metro Outer Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/23/02487 and accompanying plans and supporting information received on 20 September 2023, 29 November 2023, 6 December 2023 and 25 January 2024:
 - SK000; Rev G - Survey and Location Plan;
 - SK100; Rev H - Proposed Site Plan and Landscaping;
 - SK200; Rev G - Floor Plan and Elevations;
 - SK301; Rev G - 3D Views;
 - Development Application Report (19 September 2023);
 - Development Application - Response to Requested Information (29 November 2023);

Eugene Koltasz
Presiding Member, Metro Outer DAP



- Updated Traffic Impact Statement (27 November 2023);
- Environmental Acoustic Assessment (Acoustic Report) (September 2023);
- Response to Requested Information - Emissions Advice (November 2023);
- Emissions Impact Assessment (EIA) (January 2024);
- Waste Management Plan (15 September 2023).

in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 68(2)(c) of the City of Rockingham Town Planning Scheme No. 2, 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 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 60 children are to be accommodated by the Child Care Premises.
4. No more than 11 staff are permitted at the Child Care Premises at any time.
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 play areas before 7:00am.
6. Prior to applying for a Building Permit, a Stormwater Management Plan must be prepared by a suitably qualified engineering 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 the commencement of works a Construction Management Plan must be submitted and approved by the City of Rockingham. The Construction Management Plan shall include, but not be limited to, the following:
 - (i) A Dust, Noise and Vibration Management Plan;
 - (ii) Detail how access roads to and all trafficable areas on the site/s will be treated and maintained to prevent or minimise the generation of airborne dust;
 - (iii) How any stockpiles on site/s are to be managed;
 - (iv) Construction waste disposal strategy and location of waste disposal bins;
 - (v) How materials and equipment will be delivered and removed from the site/s; and
 - (vi) A Traffic Management Strategy for the duration of the project, including the locations of all car parking and loading areas to be used, the duration and frequency of use of these areas and any exemption requests.



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

8. Prior to occupation of the development, the existing crossover must be removed and the verge, footpath, kerbing and landscaping must be reinstated to the satisfaction of the City of Rockingham.
9. Prior to applying for a Building Permit, detailed Engineering Drawings and specifications are to be submitted to the 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.
10. The vehicle crossover shall be designed and constructed in accordance with the City of Rockingham Commercial Crossover Specifications.
11. The carpark must:
 - (i) provide a minimum of 19 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 lighting installed, prior to the occupation of the development, to the satisfaction of the City of Rockingham; and
 - (vi) 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.
12. Car parking shall be managed for the duration of the development in accordance with the Parking Restriction Plan contained within the Environmental Acoustic Assessment, prepared by Herring Storer Acoustics (Job No. 23085-02) and dated September 2023.



13. 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.
14. All works must be carried out in accordance with the Waste Management Plan, prepared by Talis Consultants (Project Number WMP23025), and dated 15 September 2023, and maintained at all times, for the duration of development.
15. 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.
16. The Building Permit application must be accompanied by written confirmation from a suitably qualified Acoustic Consultant that the plans have been reviewed and confirmed they incorporate the requirements of the Acoustic Report prepared by Herring Storer Acoustics (Job Reference 23085-02) and dated September 2023.
17. Prior to the occupation of the development, written confirmation from a suitably qualified Acoustic Consultant must be provided that demonstrates that all requirements indicated in the Acoustic Report prepared by Herring Storer Acoustics (Job Reference 23085-02) and dated September 2023 have been implemented within the development. The acoustic requirements must thereafter be implemented to the satisfaction of the City of Rockingham for the duration of the development.
18. Prior to occupation of the development, an Operational Noise Management Plan (ONMP) is to be prepared to the satisfaction of the City of Rockingham, demonstrating how noise will be managed at the premises, including the management of car parking areas, activity and outdoor play areas, mechanical plant operations and servicing/deliveries of the site as referred to in the Acoustic Report prepared by Herring Storer Acoustics (Job Reference 23085-02) and dated September 2023 to ensure the development complies with the Environmental Protection (Noise) Regulations 1997.

The development must operate in accordance with the approved ONMP for the duration of the development.



19. 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;
 - (v) Shade trees at a rate of one (1) per four (4) car parking bays;
 - (vi) Street trees must be in accordance with the City's standard for street tree planting and to the Utility's Providers Code of Practice for Western Australia, 1 June 2015.
 - (vii) Landscape to be provided to the north eastern boundary.

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.

20. Fencing heights, types and alignments to be consistent with the recommendations of the Environmental Acoustic Assessment, prepared by Herring Storer Acoustic (Job Reference 23085-02) and dated September 2023, **with the exception of the north east boundary wall which is to be masonry**, to the satisfaction of the City for the duration of the development.
21. Prior to the occupation of the development, a final illumination report must be prepared which demonstrates to the satisfaction of the City of Rockingham, that the completed development complies with the requirements of *Australian Standard AS 4282—2019, Control of the obtrusive effects of outdoor lighting*.
22. The owner shall install CCTV security cameras to provide passive surveillance to the Child Care Premises and surrounding public areas, capturing at a minimum the entry/exit areas of the premises. The camera/s should be registered on the Western Australian Police Cam-Map WA register at full cost to the owner.
23. The applicant shall install an automated gate across the vehicle access entry on the lot boundary to be in a style and material consistent to the garrison style fencing along the Malibu Road frontage. The gate shall remain open during operating hours at all times.
24. Prior to applying for a Building Permit, a Signage 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.
25. A notification, pursuant to Section 165 of the *Planning and Development Act 2005* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (Deposited Plan). The notification is to state as follows:

"This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years from the date this notification is registered."



Advice

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. 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.
5. With respect to Condition 19, the applicant and owner should liaise with the City's Land Infrastructure and Development Services to confirm requirements for landscaping plans.
6. All works in the road reserve, including construction of a crossover or footpath, installation of on-street car parking spaces, planting of street trees, bicycle parking devices, street furniture and other streetscape works and works to the road carriageway must be to the specifications of the City; the applicant and owner should liaise with the City's Land Infrastructure and Development Services in this regard.
7. The applicant is responsible for protecting any existing City streetscape assets along Malibu Road 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.
8. 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.
9. The applicant is advised that in respect of 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.



10. In regard to Condition 22, the owner should be aware of the following documents and their responsibilities associated with the management of a CCTV system:

Standards

Australian Standard AS 4806.1 – 2006 Closed Circuit Television Management and Operations, Part 1, Section 2. Principles and Management of the CCTV System is the most relevant to the City's CCTV System. The objective of which is that a CCTV System should be documented in writing, clearly indicating intended uses.

Legislation

Freedom of Information Act 1992 - request/s for access to CCTV information are covered in Part III Access to Documents, e.g. a record.

Privacy Act 1988, Schedule 3 - general provisions for the protection of the privacy of individuals relating to CCTV.

Surveillance Devices Act 1998, Section 6 - regulation of use, installation and maintenance of optical surveillance devices, and Section 27 - use of optical surveillance devices in public interest.

Guidelines

The Australia New Zealand Policing Advisory Agency (ANZPAA) has published the ANZPAA Recommendations for CCTV Systems ('the ANZPAA Recommendations'). This document was prepared by a national committee of police experts in forensic imaging, and covers many aspects of CCTV operation. The document is supported by WA Police and has also been adopted by the State CCTV Strategy as the minimum level for the use and installation of CCTV systems in Western Australia.

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

For: Eugene Koltasz
Karen Hyde
John Syme

Against: Cr Mark Jones
Cr Lorna Buchan

REASON: The majority of the Panel considered that the proposed Child Care Premises (CCP) is in conformity with the Planning Framework for the locality and therefore the use of discretion to approve it is warranted.

The revised proposal submitted demonstrated, with the support of the submitted accompanying reports, compliance with issues associated with traffic, noise and parking.

The Traffic Impact Statement demonstrated that the scale of the CCP is such that the additional traffic it generates in the locality is well within the design capacity of the road network. Similarly, the relatively small size of the CCP at 60 child care places reduces its potential noise and parking impacts on residential amenity.

Eugene Koltasz 
Presiding Member, Metro Outer DAP



The proponents have also demonstrated, through the submitted and updated Emissions Impact Statement, assessed by a Council engaged independent environmental consultant, that the reduced buffer distance to the existing service station opposite the CCP will not result in unacceptable impacts under the applicable Environmental Protection Policy (GS3).

The majority of the Panel also considered that the CCP is compatible with the surrounding context of the locality and the revised siting of the building on the site, proposed acoustic fencing treatments and reconsideration of the location of the outdoor play areas has mitigated a number of potential impacts on adjoining and neighbouring properties.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

5.1 Lot 622 (No.2) Aurea Boulevard, Golden Bay – Proposed mixed commercial development (Golden Bay Neighbourhood Centre) – DAP/23/02447

Deputations and Presentations

Alessandro Stagno (Apex Planning) addressed the DAP against the recommendation but in support of the application at Item 5.1 and responded to questions from the panel.

The City of Rockingham addressed the DAP in relation to the application at Item 5.1 and responded to questions from the panel.

REPORT RECOMMENDATION

Moved by: Cr Lorna Buchan

Seconded by: Cr Mark Jones

That the Metro Outer Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR135/23, resolves to:

1. Reconsider its decision dated 10 July 2023; and
2. **REFUSE** DAP Application reference DR135/2023 and accompanying revised plans and supporting information received on 22 December 2023:
 - DA001 - DA003 - Perspective
 - DA100 - Location and Survey Plan
 - DA101 - Site Plan - Rev K, Dated 16.11.2023
 - DA102 - Demolition Plan
 - DA200 - Proposed Ground Floor Plan – Rev L, Dated 16.11.2023
 - DA400 - Proposed Elevations - Streetside
 - DA401 - Proposed Elevations - Internal
 - DA900 Proposed Signage Schedule
 - DA901 - DA902 - Material Schedule

Eugene Koltasz 
Presiding Member, Metro Outer DAP



- DA905 - Pedestrian Movement Diagram
- Landscape Concept Plan
- Landscape Piazza Concept Plan
- Development Application Report
- Traffic Impact Assessment (May 2023), including Technical Note No.1 (Dated 30.11.2023)
- Environmental Noise Assessment (Acoustic Report) (Dated 28.4.2023)
- Emissions Impact Assessment (EIA) (Dated December 2023)

in accordance with Clause 68(2)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the Metropolitan Region Scheme, for the following reasons:

1. The proposed development is not compatible with sensitive land uses in the locality, in particular, to the two operating Child Care Centres located in immediate proximity to the proposed Service Station, where the proposal presents an unacceptable health risk and amenity impact to children from benzene exposure.
2. The proposal will likely result in unacceptable traffic impacts given the proximity of the crossover to the Warnbro Sound Avenue/Aurea Boulevard signalised intersection its location immediately adjacent to the start of the slip lane on Aurea Boulevard.

The Report Recommendation was put and LOST (2/3).

For: Cr Mark Jones
Cr Lorna Buchan

Against: Eugene Koltasz
Karen Hyde
John Syme

ALTERNATE MOTION

Moved by: John Syme

Seconded by: Karen Hyde

It is recommended that the Metro Outer Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR135/2023, resolves to:

1. Reconsider its decision dated 10 July 2023; and
2. **Approve** DAP Application reference DR135/2023 and accompanying revised plans and supporting information received on 22 December 2023:
 - DA001 - DA003 - Perspective
 - DA100 - Location and Survey Plan
 - DA101 - Site Plan - Rev K, Dated 16.11.2023
 - DA102 - Demolition Plan
 - DA200 - Proposed Ground Floor Plan – Rev L, Dated 16.11.2023

Eugene Koltasz 
Presiding Member, Metro Outer DAP



- DA400 - Proposed Elevations - Streetside
- DA401 - Proposed Elevations - Internal
- DA900 Proposed Signage Schedule
- DA901 - DA902 - Material Schedule
- DA905 - Pedestrian Movement Diagram
- Landscape Concept Plan
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- Environmental Noise Assessment (Acoustic Report) (Dated 28.4.2023)
- Emissions Impact Assessment (EIA) (Dated December 2023)

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the Metropolitan Region Scheme, subject to the following conditions:

1. This decision constitutes planning approval only, and is valid for a period of 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. Prior to applying for a Building Permit, a Construction Management Plan (CMP) is to be submitted to and approved by the City of Rockingham addressing but not limited to:
 - (i) Hours of construction;
 - (ii) Temporary fencing;
 - (iii) Traffic management including a Traffic Management Plan addressing site access, egress and parking arrangement for staff and contractors;
 - (iv) Management of vibration and dust; and
 - (v) Management of construction noise and other site generated noise.
3. 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, including with specific provision for the Service Station. Those plans must be submitted to the City of Rockingham for 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.



4. Prior to applying for a Building Permit, the Proponent must submit fully detailed civil engineering drawings showing the various footpaths, crossovers and car parking embayments to be adopted across the entire development site and adjoining road reserves, for review and approval by the City of Rockingham. Construction works in accordance with approved civil drawings are to be completed prior to occupation of the development, at the landowner's cost to the satisfaction of the City of Rockingham.
5. Prior to applying for a Building Permit, a Landscaping Plan must be prepared and include the following detail to the satisfaction of the City of Rockingham:
 - (i) The location, number and type of existing and proposed trees and shrubs (including street trees, shade trees within the car parking areas, and planting within verge areas), 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;
 - (v) Protection and enhancement of existing vegetation within the verge areas of Warnbro Sound Avenue and Aurea Boulevard;
 - (vi) Detailed landscape, irrigation, lighting and street furniture plans; and
 - (vii) The paving material used for the footpaths shall be carried across all crossovers in order to maintain the visual continuity of the pedestrian network and aid pedestrian legibility.

The 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 for the duration of the development.

6. Prior to occupation of the development, car parking areas must:
 - (i) Provide a minimum of 147 car parking spaces, including 4 parking spaces within the Thundelarra Drive road reserve adjoining the development;
 - (ii) Be designed, constructed, sealed, kerbed, drained and marked in accordance with User Class 3A of Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking;
 - (iii) Provide seven (7) car parking space(s) 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 marked prior to the development being occupied and maintained thereafter; and
 - (v) Comply with the above requirements for the duration of the development.
7. The Environmental Noise Assessment prepared by Lloyd George Acoustics dated 28 April 2023 (ref: 22117749-01A), shall be implemented in the design, construction and ongoing operation of the development at all times to the satisfaction of the City of Rockingham, including but not limited to the following requirements:
- (i) The Supermarket loading bay to be screened as follows:
 - (a) A 3.0m acoustic screen wall to be constructed on the northern side of the Supermarket loading bay, and extended the length of the loading bay, of solid construction (no gaps) and of material with a minimum surface mass of 15kg/m².
 - (b) The design and finish of the screen wall to be designed, coloured and articulated to provide an attractive appearance to Wyloo Lane, to the satisfaction of the City of Rockingham.
 - (c) The loading bay overhead (roof) structure to extend at least 4m across the loading bay and be lined with an absorptive material such as anticon insulation. No gaps shall exist between the overhead section and the vertical acoustic screen wall.
 - (ii) A solid screen wall to be constructed in the vicinity of the Liquor Store bin area fronting Warnbro Sound Avenue, of minimum height 1.6m and of minimum surface mass of 4kg/m², and be free of gaps, as shown on the approved plans. The screening to be of a masonry construction and of a suitable design complementing the overall development, as illustrated in the Material Schedule, to ensure an attractive appearance to Warnbro Sound Avenue and internal to the site to the satisfaction of the City of Rockingham, having regard to the high level of visibility of the screen wall to Warnbro Sound Avenue.
 - (iv) Acoustic screening around the northern and western edges of the Supermarket to air conditioning and refrigeration equipment in order to protect existing and future residential development from noise, in accordance with the *Environmental Protection (Noise) Regulations 1997*.
 - (v) Use of broadband type reversing alarms for delivery vehicles rather than standard tonal alerts.
 - (vi) Delivery vehicles are not allowed to idle within the loading bays, and are required to be switched off during loading and unloading periods.



- (vii) Bin servicing via Wyloo Lane shall occur only between 7am and 6pm Mondays to Fridays and 9am to 5pm on Saturdays; and 7am to 7pm Mondays to Saturdays otherwise. No bin servicing shall occur on a Sunday.
 - (viii) Any external music or the like shall be low level and inaudible at residences.
 - (ix) Section 5 recommendations in the Environmental Noise Assessment for mechanical plant shall be implemented.
8. Deliveries via Wyloo Lane shall only occur between 6am to 6pm Monday to Friday, and 9am to 5pm on Saturdays. No deliveries are permitted on Sundays. Signage shall be positioned at the entry to the site from Wyloo Lane specifying delivery times, to minimise adverse impacts on the amenity of the adjacent residence(s).
9. 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.

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

10. Prior to applying for a Building Permit, a City Approved Waste Management Plan must be prepared and include the following detail:
- (i) For the Supermarket and specialty shops, include waste generation quantities, number, volume and type of bins, proposed collection frequency and cleaning and maintenance of the bin store. With at least one food business likely within the specialty shops, any liquid waste storage (eg. used oil) to also be addressed;
 - (ii) For all premises within the development:
 - (a) the location of bin storage areas and bin collection areas;
 - (b) the number, volume and type of bins, and the type of waste to be placed in the bins;
 - (c) management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas;
 - (d) frequency of bin collections;
 - (e) regular rubbish collection patrols; and
 - (f) demonstration of compliance with the Acoustic Report prepared by Lloyd George Acoustics.



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

11. Prior to occupation of the development, public rubbish bin facilities must be provided adjacent to the entry of the Supermarket premises so as to be convenient to pedestrians, but positioned so as not to obstruct pedestrian movements, to the satisfaction of the City of Rockingham.
12. Prior to the occupation of the development, any damage to existing City infrastructure within the road reservation including kerb, road pavement, turf, irrigation, bollards and footpaths is to be repaired to the satisfaction of the City of Rockingham, at the cost of the Applicant.
13. A pedestrian refuge being installed within the Thundelarra Drive and Aurea Boulevard crossovers to assist pedestrian safety given the extended width required for this crossover to service the development.
14. Prior to the occupation of the development, an illumination report must be prepared which demonstrates to the satisfaction of the City of Rockingham, that the completed development complies with the requirements of Australian Standard AS/NZS 4282:2019 - *Control of the obtrusive effects of outdoor lighting*, and manages light spill to existing and future adjoining/nearby residential lots to the north, west and north-west of the site.
15. Prior to occupation of the development, fifteen (15) short-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 located within the development to the satisfaction of the City of Rockingham.
16. Prior to the occupation of the development, in accordance with Planning Policy 3.3.25 Percent for Public Art – Private Developer Contribution, the developer shall make a contribution to the City of Rockingham equal to 1% of the total construction value for the provision of public art, being \$110,000.
17. 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.
18. Bulk fuel deliveries to be limited to 7am - 7pm Monday to Saturday.
19. All plant and roof equipment and other external fixtures must be designed to be located away from public view/or screened for the life of the development, to the satisfaction of the City of Rockingham.
20. The mall area located between the Supermarket and specialty shops shall be maintained in a clean, tidy and sanitary condition with routine high pressure water cleaning to prevent any accumulations of litter, grime or oily deposits, to the satisfaction of the City of Rockingham.



21. Prior to applying for a Building Permit, the applicant must demonstrate to the satisfaction of the City of Rockingham that ground floor glazing of the Supermarket fronting Thundelarra Drive, along with the Specialty Shops facing Thundelarra Drive and all windows facing the mall, have a minimum visible light transmission rate of at least 79% and a maximum visible reflectivity rate of 9% in order ensure that a commercial, interactive frontage is available to the development from Thundelarra Drive and the mall. The glazing must be thereafter be installed and maintained to the satisfaction of the City of Rockingham for the duration of the development.
22. Entries and window frontages of the Supermarket and specialty shop tenancies facing Thundelarra Drive and the mall 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 Thundelarra Drive at all times.
23. The internal layout of the Supermarket shall ensure Supermarket aisles do not extend to the windows fronting Thundelarra Drive, and shelving and storage be located to ensure no obstruction of windows occurs, in order to maintain the view between Thundelarra Drive and the Supermarket tenancy.
24. Trolley storage shall occur within the Supermarket tenancy or within designated trolley parking bays within the carparking area, and not within the mall or along the Thundelarra Drive frontage.
25. The awning in front of the specialty shops on Thundelarra Drive shall be extended south by 3.5m to provide weather protection for the bike parking area.
26. Bollards must be installed at both ends of the mall to ensure no vehicle access along the mall. All other parking bays to contain wheel stops to prevent vegetation damage, and prevent encroachment to the pedestrian movement network.
27. The proposed Service Station must incorporate Stage 1 and Stage 2 (VR1 and VR2) Vapour Recovery Systems which are to be installed and operated from the commencement of operation of the Service Station, and for the duration of its operation. These systems are to be operated at all times, and under a regular program of inspection and maintenance for the life of the development.
28. The existing, redundant steel frame and slab on site being removed prior to commencement of development.
29. An Odour Management Plan for the Fast Food Outlets shall be prepared for the approval of the City's Environmental Health Services prior to issue of a Building Permit, demonstrating management of odour impact on surrounding existing and future residential properties.
30. 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.



31. An Operational Management Plan being prepared for the Service Station for the approval of the City prior to the issue of a Building Permit, demonstrating required vehicle movement through bowsters, and contingency in the instance the VR2 system fails to operate.
32. During the operating hours of the Fast Food Outlets, all rubbish associated with the Fast Food Outlets must be collected daily from the associated carparking areas to the satisfaction of the City.

Advice Notes

1. The disposal of wastewater into the Water Corporation's sewerage system must be with the approval of the Water Corporation; the applicant and owner should liaise with the Water Corporation in this regard.
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.
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 development must comply with the *Environmental Protection (Noise) Regulations 1997*; contact the City's Health Services for information on confirming requirements.
5. All works in the road reserve, including construction of a crossover, planting of street trees, and other streetscape works and works to the road carriageway must be to the specifications of the City of Rockingham; the applicant should liaise with the City of Rockingham's Engineering Services in this regard.
6. In regards to Condition 2(iv), Dust Management is to be in accordance with the *Department of Environment and Conservation Guideline: A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*.
7. The Liquor Store 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.
8. A site cannot store or sell fuel without first obtaining a licence from the Department of Mines Industry Regulation and Safety, which requires strict criteria to be met and assessed as part of the process regulated under the *Dangerous Goods Safety Act 2005*.



9. A separate Development Approval may be required for the occupation of any tenancy not specified in this approval, prior to the occupation of the tenancy. The City's Planning Services should be contacted to determine whether development approval is required.
10. Where a Development Approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the Applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

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

For: Eugene Koltasz
Karen Hyde
John Syme

Against: Cr Mark Jones
Cr Lorna Buchan

REASON: The majority of the Panel considered that the proposed Neighbourhood Centre is compatible with the Planning Framework for the locality and is in generally accordance with the provisions of the City of Rockingham Town Planning Scheme No 2, the approved Local Development Plan (LDP) and applicable State planning policies.

Variations to the LDP such as land use, general distribution of uses around the site, parking shortfall and access and egress have been satisfactory justified and assessed by Council officers and with the imposition of suitable conditions the proposal is now considered suitable for the site and locality.

A primary issue of concern was the perceived public health risk associated resulting from the development of a proposed service station on the site opposite 2 existing Child Care Premises (CCP). This was the subject of a detailed Emissions Impact Statement (EIS), submitted by the proponents and independently assessed by a Council engaged environmental consultant.

The conclusion of both the proponent EIS and assessment by the independent consultant was that the benzene emissions from the proposed service station is unlikely to pose an unacceptable risk to human health at the CCP.



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
DR75/2022 DAP/18/01543	City of Joondalup	Portion of 9040 (34) Kallatina Drive, Iluka	Mixed Commercial Centre (Iluka Plaza)	02/05/2022
DR169/2023 DAP/23/02486	City of Swan	Lot 1 (No.9) Waterhall Road, South Guildford	Child Care Premises	13/11/2023
DR175/2023 DAP/22/02166	City of Joondalup	1 Lyell Grove (Lot 2), Woodvale	Child Care Premises	30/11/2023
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
DR193/2023 DAP/23/02545	Shire of Serpentine Jarrahdale	575 (Lot 218) 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

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 10:52am.

Eugene Koltasz
Presiding Member, Metro Outer DAP