Metro Outer Joint Development Assessment Panel Agenda

Meeting Date and Time: Friday, 22 October 2021; 9:30am

Meeting Number:MOJDAP/133Meeting Venue:Electronic Means

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

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Attendance

DAP Members

Mr Ian Birch (Presiding Member)
Ms Sheryl Chaffer (Deputy Presiding Member)
Mr John Syme (A/Third Specialist Member)
Cr Lorna Buchan (Local Government Member, City of Rockingham)
Cr Mark Jones (Local Government Member, City of Rockingham)

Officers in attendance

Mr David Banovic (City of Rockingham)
Mr David Waller (City of Rockingham)

Minute Secretary

Ms Megan Ventris (DAP Secretariat) Ms Zoe Hendry (DAP Secretariat)

Applicants and Submitters

Mr Paul Kotsoglo (Planning Solutions) Mr Andre Van der Huizen (McDonalds)

Members of the Public / Media

Nil.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:32am on 22 October 2021 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2020 under the *Planning and Development (Development Assessment Panels) Regulations 2011.*

1.1 Announcements by Presiding Member

The Presiding Member advised that in accordance with Section 5.16 of the DAP Standing Orders 2020 which states 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.', the meeting would not be recorded.

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



2. Apologies

Mr Jason Hick (Third Specialist Member)
Mayor Deb Hamblin (Local Government 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.

5. Declaration of Due Consideration

All members declared that they had duly considered the documents.

6. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Members, Cr Mark Jones and Cr Lorna Buchan, declared that they participated in a prior Council meeting in relation to the application at item 8.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, Cr Jones and Cr Buchan acknowledged that they are not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member determined that the members listed above, who have disclosed an Impartiality Interest, are permitted to participate in the discussion and voting on the item.

7. Deputations and Presentations

- 7.1 Mr Paul Kotsoglo (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- **7.2** Mr Andre Van der Huizen (McDonalds) responded to questions from the panel in relation to the application at Item 8.1
- **7.3** The City of Rockingham officers addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

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8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 1 (364) Baldivis Road, Baldivis

Development Description:

Applicant:

Owner:

Responsible Authority:

DAP File No:

Proposed Fast Food Outlet
Planning Solutions Pty Ltd
MGP Baldivis Pty Ltd
City of Rockingham
DAP/21/02069

REPORT RECOMMENDATION

Moved by: Ms Sheryl Chaffer Seconded by: Cr Mark Jones

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

(i) That Condition No. 1 is amended to read as follows:

This decision constitutes Development Approval only and is valid for a period of four years from the date of approval (this is inclusive of the additional two years available under 'Clause 78H Notice of Exemption from planning requirements during State of Emergency' issued by the Minister for Planning on 8 April 2020). If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

REASON: To align this condition with the current regulations.

(ii) That Condition No. 12 is amended to read as follows:

Access to service/w **W**aste vehicles or operation of forklifts must be restricted to the hours of 7:00am and 7:00pm Monday to Saturday and 9:00am to 7:00pm Sunday and public holidays, for the duration of the development.

REASON: In response to a request from the applicant that was supported by the City of Rockingham officers and accepted by the panel. The proposal is not in proximity to sensitive land uses and has been assessed as satisfying Environmental Protection Noise Regulations.

(iii) That Condition No. 14 be deleted, and the remaining conditions be renumbered accordingly.

REASON: In response to a request from the applicant that was supported by the City of Rockingham officers and accepted by the panel. Follows on from amendment to Condition No. 12.

(iv) That Advice Note No. 7 be deleted, and the remaining advice notes be renumbered accordingly.

REASON: The advice note refers to Condition No. 14 which is now deleted.



That the Metro Outer Joint Development Assessment Panel resolves to:

Approve DAP Application reference DAP/21/02069 and accompanying plans as contained within Attachment 1:

- Site Plan, Drawing No.DA02;
- Site Signage Plans; Drawing No.DA03;
- Landscaping Plan; Drawing No.DA04;
- Floor Plan; Drawing No.DA05;
- Roof Plan; Drawing No.DA06;
- Elevations; Drawing No.DA07 and DA08;
- Signage Details Drawing No.DA10 and DA11; and
- Feature Survey Plans; Drawing No.001 and 012;

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of clause 68(2)(b) of the deemed provisions of the City of Rockingham Town Planning Scheme No.2, subject to the following conditions as follows:

Conditions

- This decision constitutes Development Approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
- 2. A Dust, Noise and Vibration Management Plan is to be submitted and approved by the City of Rockingham prior to the commencement of works.
- 3. 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.
- 4. All service areas and service-related hardware, including air-conditioning units, being suitably located from public views and/or screened, the details of which are to be provided to the City of Rockingham's satisfaction prior to applying for a Building Permit.

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- 5. A revised Landscaping Plan must be prepared and include the following detail, to the satisfaction of the City, prior to applying for a Building Permit:
 - (i) The Location, number and type of existing and proposed trees and shrubs (including street trees, shade trees within the car parking areas, indicating calculations for the landscaping area;
 - (ii) Any lawns to be established and areas to be mulched;
 - (iii) Any natural areas/trees to be retained;
 - (iv) Those areas to be reticulated or irrigated as part of a strategy for internal/external areas;
 - (v) Irrigation plans for all planted areas including the adjoining verge areas;
 - (vi) Proposed upgrading to landscaping, paving and reticulation of the street setback area and all verge areas, including ongoing maintenance;
 - (vii) Install five (5) additional trees along the Baldivis Road boundary, two (2) trees within the carpark planted nibs and one (1) additional tree along Fifty Road boundary. All trees are to be a minimum of 200Ltr.

The landscaping (including all verge landscaping) must be completed prior to the occupation of the development by the operator or landowner and must be maintained at all times to the satisfaction of the City of Rockingham.

- 6. Prior to applying for a Building Permit, a Waste Management Plan must be prepared and include the following detail to the satisfaction of the City of Rockingham:
 - 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.

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7. 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.
- 8. Earthworks over the site associated with the development must be stabilised to prevent sand or dust blowing off the site, and appropriate measures shall be implemented within the time and the manner directed by the City of Rockingham in the event that sand or dust is blown from the site.
- 9. The proposed Pylon Sign must be modified to a maximum height of 9.0m.
- 10. The proposed Banner Signage is excluded from this Development Approval.
- 11. The proposed Directional Signage outside the development boundaries of the Fast Food Outlet site is excluded from this Development Approval.
- 12. Waste vehicles must be restricted to the hours of 7:00am and 7:00pm Monday to Saturday and 9:00am to 7:00pm Sunday and public holidays, for the duration of the development.
- 13. All odours and emissions must be controlled as not to create a nuisance, to the satisfaction of the City of Rockingham.
- 14. 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—1997, Control of the obtrusive effects of outdoor lighting. All illuminated signage shall have boxing or casing constructed of incombustible materials. The signage shall not comprise of flashing, pulsating, chasing or running lights and shall not have such intensity as to cause annoyance to the public or illuminate beyond the extend of the lot boundaries.
- 15. Existing retained 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, unless further approval has been obtained.

16. Four (4) 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, prior to commencement of development.

The bicycle parking spaces must be constructed prior to occupation of the development.

- 17. The car parking areas must:
 - (i) provide a minimum of 26 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 unless otherwise specified by this approval, prior to applying for a Building Permit (kerb ramping to be located outside the shared area for the universal bay);
 - (iii) provide car parking spaces 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.
- 18. The proposed development must be kept neat and tidy, and free of rubbish at all times for the duration of the development.

Advice Notes

- 1. A separate approval from the City of Rockingham's Health Services is required under the Food Act 2008 and Food Safety Standards. This is required prior to lodgement of an application for a Building Permit. The Applicant should liaise with the City of Rockingham's Health Services in this regard.
- 2. A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the Applicant should liaise with the City's Building Services in this regard.
- All works in the road reserve, including construction of a crossover or footpath and any other 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 Land and Development Infrastructure Services in this regard.



- 4. The development must comply with the Environmental Protection (Noise) Regulations 1997; contact the City of Rockingham's Health Services in this regard.
- 5. In relation to Condition 2, 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.
- 6. In relation to Condition 3, a Stormwater Management Plan (SMP) is to reflect the overarching Local Water Management Strategy, that being:
 - (i) Treatment of the first 15mm of rainfall runoff from trafficable areas. Note that the proposed carpark elevations provided on the Site Plan indicate that treatment of the first 15mm utilizing Water Sensitive Urban Design elements is not proposed. This will need to be rectified in the SMP.
 - (ii) Retention and infiltration of all events up to the critical 10% AEP (1:10) storm event within the development boundary.
 - (iii) Provision of an overflow route towards the future adjacent Public Open Space, for events greater than the 10% AEP.

AMENDING MOTION 1

Moved by: Cr Mark Jones Seconded by: Cr Lorna Buchan

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

The proposed Pylon Sign must be modified to a maximum height of 9.0m 10.0m and is to be re-located so as to ensure existing trees identified for protection are not removed.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: For clarity in that the proposed location of the pylon sign is in conflict with existing trees required to be retained. An additional 1 metre in height for the sign was allowed to assist with maintaining its visibility.

AMENDING MOTION 2

Moved by: Mr Ian Birch Seconded by: Nil.

That Condition No. 11 be deleted, and the remaining conditions be renumbered accordingly.

The amending motion LAPSED for want of a seconder.



REPORT RECOMMENDATION (AS AMENDED)

That the Metro Outer Joint Development Assessment Panel resolves to:

Approve DAP Application reference DAP/21/02069 and accompanying plans as contained within Attachment 1:

- Site Plan, Drawing No.DA02;
- Site Signage Plans; Drawing No.DA03;
- Landscaping Plan; Drawing No.DA04;
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- Elevations; Drawing No.DA07 and DA08;
- Signage Details Drawing No.DA10 and DA11; and
- Feature Survey Plans; Drawing No.001 and 012;

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of clause 68(2)(b) of the deemed provisions of the City of Rockingham Town Planning Scheme No.2, subject to the following conditions as follows:

Conditions

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- 3. 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.
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- 5. A revised Landscaping Plan must be prepared and include the following detail, to the satisfaction of the City, prior to applying for a Building Permit:
 - (i) The Location, number and type of existing and proposed trees and shrubs (including street trees, shade trees within the car parking areas, indicating calculations for the landscaping area;
 - (ii) Any lawns to be established and areas to be mulched;
 - (iii) Any natural areas/trees to be retained;
 - (iv) Those areas to be reticulated or irrigated as part of a strategy for internal/external areas;
 - (v) Irrigation plans for all planted areas including the adjoining verge areas;
 - (vi) Proposed upgrading to landscaping, paving and reticulation of the street setback area and all verge areas, including ongoing maintenance;
 - (vii) Install five (5) additional trees along the Baldivis Road boundary, two (2) trees within the carpark planted nibs and one (1) additional tree along Fifty Road boundary. All trees are to be a minimum of 200Ltr.

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

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 - (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.

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7. 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
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The bicycle parking spaces must be constructed prior to occupation of the development.

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 - (iv) be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter; and
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- 18. The proposed development must be kept neat and tidy, and free of rubbish at all times for the duration of the development.

Advice Notes

- A separate approval from the City of Rockingham's Health Services is required under the Food Act 2008 and Food Safety Standards. This is required prior to lodgement of an application for a Building Permit. The Applicant should liaise with the City of Rockingham's Health Services in this regard.
- 2. A Sign Permit must be obtained for any advertising associated with the development, including signage painted on the building; the Applicant should liaise with the City's Building Services in this regard.



- All works in the road reserve, including construction of a crossover or footpath and any other 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 Land and Development Infrastructure Services in this regard.
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 - (v) Retention and infiltration of all events up to the critical 10% AEP (1:10) storm event within the development boundary.
 - (vi) Provision of an overflow route towards the future adjacent Public Open Space, for events greater than the 10% AEP.

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

REASON: Through the hierarchy of planning under the City's Town Planning Scheme, the Local Development Plan prepared for Lot 1 Fifty Road, Baldivis identifies the use of the subject site for Fast Food premises. Subject to conditions the application is recommended for approval in the Responsible Authority Report. With some amendment to the conditions, the panel supported the recommendation.

9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval

Nil.

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10. State Administrative Tribunal Applications and Supreme Court Appeals

The Presiding Member noted the following SAT Applications -

Current SAT Applications									
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged					
DAP/19/01708 DR 138/2020	City of Kwinana	Lot 108 Kwinana Beach Road, Kwinana	Proposed Bulk Liquid Storage for GrainCorp Liquid Terminals	01/07/2020					
DAP/20/01764 DR 204/2020	City of Swan	Lot 780 (46) Gaston Road, Bullsbrook	Proposed Stock Feed Grain Mill	8/09/2020					
DAP/210/01926 DR144/2021	City of Armadale	Lot 60 Centre Road, Camillo	Proposed 45 Grouped Dwellings	09/07/2021					
DAP/21/02000 DR203/2021	City of Joondalup	Lot 642 (104) Mullaloo Drive & Lot 643 (20) Stanford Road, Kallaroo	Proposed Child Care Centre	28/09/2021					
DAP/21/02016 DR207/2021	City of Joondalup	centre Lot 667 (73) Kingsley Drive & Lot 666 (22) Woodford Wells Way, Kingsley	Child Care Centre	28/09/2021					

Withdrawn SAT Applications*										
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged	Reason					
DAP/01729 DR 176/2020	City of Kalamunda	Lot 130 (74) Warlingham Drive, Lesmurdie	Aged Residential Care Facility	05/8/2020	Applicant withdrew application on 26 August 2021.					
DAP/20/01829 DR 001/2021	City of Swan	Lot 1 (42) Dale Road & Lot 4 (43) Yukich Close, Middle Swan	Aged care and community purpose	08/01/2021	DAP is no longer the respondent for this application					

^{*} Matters finalised during the last meeting cycle.

Meeting No. 133 22 October 2021

11. General Business

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 10:36am.

Jan Lord