



Minutes of the Metro South West Joint Development Assessment Panel

Meeting Date and Time: Friday, 9 March 2018; 2:00pm
Meeting Number: MSWJDAP/153
Meeting Venue: City of Rockingham
Civic Boulevard, Rockingham WA 6168

Attendance

DAP Members

Mr Ian Birch (Presiding Member)
Mr Tony Arias (Deputy Presiding Member)
Mr Andrew Mack (A/Specialist Member)
Cr Chris Elliott (Local Government Member, City of Rockingham)
Cr Joy Stewart (Local Government Member, City of Rockingham)

Officers in attendance

Mr Greg Delahunty (City of Rockingham)
Mr Mike Ross (City of Rockingham)
Mr Jason Carr (Western Australian Planning Commission)
Mr Paul Sewell (Western Australian Planning Commission)
Ms Frances Page-Croft (Western Australian Planning Commission)

Minute Secretary

Ms Nicole D'Alessandro (City of Rockingham)

Applicants and Submitters

Mr Terence Sanfead
Ms Annamaria Sanfead
Mr Paul Cunningham (Rowe Group)
Ms Belinda Moharich (Moharich and More)
Mr Nigel Denny (Rockingham Montessori School)
Ms Lisa Daley (Rockingham Montessori School)
Ms Tamara Smith (360 Environmental)
Mr Darrel Krammer (RUIC Fire)
Mr Brian Hartley (Shawmac (traffic and transport))
Ms Dani Martin (EIW Architects)

Members of the Public / Media

Nil



1. Declaration of Opening

The Presiding Member, Mr Ian Birch declared the meeting open at 1:57pm on 9 March 2018 and acknowledged the past and present traditional owners and custodians 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 2017 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

The Presiding Member advised that the meeting is being audio recorded in accordance with Section 5.16 of the DAP Standing Orders 2017; No Recording of Meeting, 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 Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

2. Apologies

Mr Peter Addison (Specialist Member)
Cr Deb Hamblin (Local Government Member, City of Rockingham)

3. Members on Leave of Absence

Panel member, Mr Peter Addison has been granted leave of absence by the Director General for the period of 1 November 2017 to 30 June 2018 inclusive.

4. Noting of Minutes

Minutes of the City of Fremantle meeting no.152 held on 8 March 2018 were not available for noting at the time of meeting.

5. Declaration of Due Consideration

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP member, Mr Ian Birch, declared an impartiality interest in item 9.1a and 9.1b.

Mr Birch is a causal employee with ARRB Group and undertook some work for them on an unrelated project for the City of Rockingham. Mr Birch has advised he has no involvement in contractual/commercial arrangements between ARRB and any of their clients.

In accordance with section 4.6.1 and 4.6.2 of the DAP Standing Orders 2017, the Deputy Presiding Member determined that the member listed above, who had disclosed an impartiality interest, was permitted to participate in discussion and voting on the items.

DAP member, Mr Tony Arias, declared an impartiality interest in item 9.1a and 9.1b.



Mr Arias was represented by Ms Belinda Moharich (Moharich and More) for a separate matter in 2016 and early 2017. There is no current business association.

DAP member, Mr Andrew Mack, declared an impartiality interest in item 9.1a and 9.1b.

Mr Mack worked with Ms Tamara Smith between 1998 to 2000 when they both worked together in State Government.

In accordance with section 4.6.1 and 4.6.2 of the DAP Standing Orders 2017, the Presiding Member determined that the members listed above, who had disclosed impartiality interests, were permitted to participate in discussion and voting on the items.

7. Deputations and Presentations

7.1 Ms Annamaria Sanfead addressed the DAP against the application at Item 9.1a and 9.1b. Ms Annamaria Sanfead answered questions from the panel.

7.2 Mr Terrence Sanfead addressed the DAP against the application at Item 9.1a and 9.1b. Mr Terrence Sanfead answered questions from the panel.

7.3 Mr Paul Cunningham (Rowe Group) addressed the DAP in support of the application at Item 9.1a and 9.1b. Ms Belinda Moharich (Moharich and More), Mr Paul Cunningham (Rowe Group), Ms Tamara Smith (360 Environmental) and Mr Darrel Krammer (RUIC Fire) answered questions from the panel.

8. Form 1 – Responsible Authority Reports – DAP Application

Nil

9. Form 2 – Responsible Authority Reports – Amending or cancelling DAP development approval

9.1a Property Location:	Lot 700 (1791) and Lot 11 (1809) Mandurah Road, Karnup
Application Details:	Extension to Term of Development Approval and Minor Realignment of Building Layout
Applicant:	Mr Paul Cunningham, Rowe Group
Owner:	Ms Jozefa Smith Mr Noel Francis Smith
Responsible Authority:	City of Rockingham
DAP File No:	DAP/14/00687

REPORT RECOMMENDATION

Moved by: Nil

Seconded by: Nil

That the Metro South-West JDAP resolves to:



1. **Accept** that the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 dated 29 November 2017 is appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011;
2. **Refuse** the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 date 29 November 2017 and accompanying plans:
 - Masterplan, Drawing No.SK01 Rev E, dated 14.09.2017;
 - Administrative/Sports Centre, Drawing No.SK08 Rev B, dated 15.08.2017;
 - Administrative/Sports Centre, Drawing No.SK07 Rev B, dated 15.08.2017;
 - Administrative/Sports Cntr Elevations, Drawing No.SK09 Rev B, dated 15.08.2017;
 - Administrative/Sports Cntr Elevations, Drawing No.SK010 Rev B, dated 15.08.2017;
 - Site Sections, Drawing No.SK02 Rev B, dated 14.09.2017;
 - Site Sections, Drawing No.SK03, dated 14.09.2017; and
 - Staging Plan, Drawing No.SK00 Rev C, dated 03.11.2017

in accordance with Clause 68 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the provisions of the 6.2 of the City of Rockingham Planning Scheme No.2, for the proposed extension of time and minor amendment to the approved Educational Establishment at Lot 11 (No.1809) and Lot 700 (No.1791) Mandurah Road, Karnup, for the following reasons:

Reasons

1. An 'Educational Establishment' is not permitted on Lots 700 and 701 Mandurah Road by virtue of not meeting the prerequisites of clause 7.3 of Town Planning Scheme No.2 for a change of non-conforming use, as the development would be more detrimental to the amenity of the locality than the existing non-conforming use, and it would not be closer to the intended purpose of the zone than the existing nonconforming use.
2. The proposed development is inconsistent with clause 4.11.1 of Town Planning Scheme No.2, being the objectives of the Rural Zone, as the proposal does not preserve land for farming nor foster semi-rural development which is sympathetic to the characteristics of the area in which it is located.
3. The development cannot provide for safe and efficient access to and from Mandurah Road.
4. The proposed development is inconsistent with the objectives of Planning Unit No.4C of Planning Policy 3.1.1 - Rural Land Strategy, Planning Unit C as the



- proposed development is not setback 10m from all lot boundaries and the scale of the development is considered to intrude into the landscape.
5. The traffic generated by the development will adversely affect the functioning and safety of Mandurah Road, which is inconsistent with its role as a Regional Road.
 6. The proposed development is inconsistent with clause 1.6.2(b) of Town Planning Scheme No.2 as it is not considered to secure the amenity, health and convenience of the Scheme Area and the inhabitants thereof by virtue of:
 - (a) Introducing a land use that substantially increases traffic and noise and results in adverse visual impacts;
 - (b) Not demonstrating that the method of providing drinking water to service the development will not result in an unacceptable risk to human health by virtue of the effluent disposal area being on the same site as the groundwater abstraction.
 7. The proposed development is inconsistent with clause 1.6.2(e) of Town Planning Scheme No.2, which aims to protect and enhance the environmental values and natural resources of the Scheme Area and to promote ecologically and environmentally sustainable land use and development which minimises resource use and waste, as the development:
 - (a) Will result in extensive vegetation clearing and reduction; and
 - (b) Requires extensive cut and fill.
 8. The development is inconsistent with Clause 4.11.2(a) of Town Planning Scheme No.2 as it does not achieve the required 30 metre setback to Mandurah Road which is required to provide for a vegetated visual buffer and the intrusion of parking and access areas within the required setback area results in an adverse visual impact.
 9. The proposed development fails to comply with State Planning Policy 3.7 - Planning in Bushfire Prone Areas, as an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity has not been achieved.
 10. The development will adversely impact on local rural amenity as a result of the substantial vegetation clearing and modification and earthworks required to facilitate the development on the site.

The Report Recommendation LAPSED for want of a mover and a seconder.



PROCEDURAL MOTION

Moved by: Cr Chris Elliott

Seconded by: Cr Joy Stewart

That the Metro South-West JDAP resolves to defer DAP Application reference DAP/14/00687 to on or before the end of April 2018 to allow the City of Rockingham to receive legal advice.

REASON: Moharich and More, representing the applicants, provided a legal advice in support of the application. The application was deferred to allow further time for the City to consider the legal positions in terms of the assessment for the extension of substantial commencement.

The deferral will also allow the applicant to clarify questions concerning site access for fire fighting vehicles in the Fire Management Plan and updated surveys for the Environmental Assessment Report.

The Procedural Motion was put and **CARRIED (4/1)**.

For: Mr Ian Birch
Mr Andrew Mack
Cr Chris Elliott
Cr Joy Stewart

Against: Mr Tony Arias

9.1b Property Location: Lot 700 (1791) and Lot 11 (1809) Mandurah Road, Karnup
Application Details: Extension to Term of Development Approval and Minor Realignment of Building Layout
Applicant: Mr Paul Cunningham, Rowe Group
Owner: Ms Jozefa Smith
Mr Noel Francis Smith
Responsible Authority: Western Australia Planning Commission
DAP File No: DAP/14/00687

REPORT RECOMMENDATION

Moved by: Nil

Seconded by: Nil

That the Metro South-West JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 dated 28 November 2017 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*; and
2. **Refuse** the DAP Application reference DAP/14/00687 as detailed on the DAP Form 2 dated 28 November 2017 and accompanying plans:
 - Masterplan, Drawing No. SK01, Rev E, dated 14.09.2017;
 - Administration/Sports Centre, Drawing No. SK08, Rev B, dated 15.08.2017;



- Administration/Sports Centre, Drawing No. SK07, Rev B, dated 15.08.2017;
- Admin/Sports Cntr Elevations, Drawing No. SK09, Rev B, dated 15.08.2017;
- Admin/Sports Cntr Elevations, Drawing No. SK10, Rev B, dated 15.08.2017;
- Site Sections, Drawing No. SK02, Rev B, dated 14.09.2017;
- Site Sections, Drawing No. SK03, dated 14.09.2017; and
- Staging Plan, Drawing No. SK.00, Rev C, dated 03.11.2017

in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Metropolitan Region Scheme for the proposed extension of time and minor amendment to the approved Educational Establishment at Lots 11, 700 & Pt 701 Rockingham Rd, Karnup, for the following reasons:

Reasons

1. The development is inconsistent with State Planning Policy 3 – Urban Growth and Settlement, and Development Control Policy 2.4 – School Sites as it:
 - a) does not represent a sustainable or well planned development due to the rural nature of the locality and relative isolation from urban facilities, such as a local road network, pedestrian and cyclist facilities, public transport, community services, supporting activity and residential uses;
 - b) does not contribute to a sustainable or liveable neighbourhood form, or a sense of neighbourhood and community identity;
 - c) does not integrate land use and transport planning to reduce the need to travel, promote the use of public transport and reduce dependence on private cars; and
 - d) does not facilitate the efficient use of existing urban infrastructure and proposes significant development and demand for infrastructure and services in an area where they are unlikely to be provided.

The development does not achieve the intent of the matters to be given regard pursuant to Cl.30(1) of the Metropolitan Region Scheme, as it would prejudice the orderly and proper planning of the locality by significantly intensifying development on the subject land, contrary to the purpose, character and amenity of the 'Rural' zone pursuant to the Metropolitan Region Scheme.

The Report Recommendation LAPSED for want of a mover and a seconder.



PROCEDURAL MOTION

Moved by: Cr Chris Elliott

Seconded by: Cr Joy Stewart

That the Metro South-West JDAP resolves to defer DAP Application reference DAP/14/00687 to on or before the end of April 2018 to allow the City of Rockingham to receive legal advice.

REASON: Moharich and More, representing the applicants, provided a legal advice in support of the application. The application was deferred to allow further time for the City to consider the legal positions in terms of the assessment for the extension of substantial commencement.

The deferral will also allow the applicant to clarify questions concerning site access for fire fighting vehicles in the Fire Management Plan and updated surveys for the Environmental Assessment Report.

The Procedural Motion was put and **CARRIED (4/1)**.

For: Mr Ian Birch
Mr Andrew Mack
Cr Chris Elliott
Cr Joy Stewart

Against: Mr Tony Arias

10. Appeals to the State Administrative Tribunal

Nil

11. General Business / Meeting Close

The Presiding Member reminded the meeting that in accordance with Section 7.3 of DAP Standing Order 2017 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.

There being no further business, the presiding member declared the meeting closed at 3:26pm.