



Metro Outer Development Assessment Panel Minutes

Meeting Date and Time: Wednesday, 17 July 2024; 9:30am
Meeting Number: MODAP/25
Meeting Venue: 140 William Street, Perth
Public Observing: Online

A recording of the meeting is available via the following link: [17 July 2024 – MODAP/25 – City of Joondalup](#)

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 JOONDALUP

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lot 23 (77) Gibson Ave, Padbury – Proposed Residential Aged Care Facility – DAP/23/02529
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

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) Jacky Jurmann (Deputy Presiding Member) Lindsay Baxter	Claire Ortlepp Laura Simmons
<i>Part B – City of Joondalup</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Adrian Hill Cr Rebecca Pizzey	Cathrine Temple Adam Wood Ciara Slim

Eugene Koltasz
Presiding Member, Metro Outer DAP



Applicant and Submitters
<i>Part B – City of Joondalup</i>
Steve Allering (Allering & Associates) John Williamson (Allering & Associates) Salim Lee (Regents Garden Group) Frank Del Borrello (Regents Garden Group)

Members of the Public / Media

There were 2 members of the public in attendance.

Observers via livestream

There were 4 persons observing the meeting via the livestream.

Eugene Koltasz
Presiding Member, Metro Outer DAP



PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:53am on 17 July 2024 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

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

1.1 Announcements by Presiding Member

The Presiding Member advised that panel members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

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

2. Apologies

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](#).

Eugene Koltasz
Presiding Member, Metro Outer DAP



PART B – CITY OF JOONDALUP

1. Declaration of Due Consideration

The Presiding Member noted that details of a DAP direction for further information and responsible authority response in relation to Item 3.1, received on 16 July 2024 was published in Part B of the Related Information.

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

2. Disclosure of Interests

Nil.

3. Form 1 DAP Applications

3.1 Lot 23 (77) Gibson Ave, Padbury – Proposed Residential Aged Care Facility – DAP/23/02529

Deputations and Presentations

Steve Allerding (Allerding & Associates) presenting against the recommendation for the application at Item 3.1 and responded to questions from the panel.

Salim Lee (Regents Garden Group) presenting against the recommendation for the application at Item 3.1 and responded to questions from the panel.

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

REPORT RECOMMENDATION

Moved by: Cr Adrian Hill

Seconded by: Cr Rebecca Pizzey

That the Metro Outer DAP resolves to:

1. **Refuse** DAP Application reference DAP/23/02529 and accompanying plans (dated 24 April 2024) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Joondalup Local Planning Scheme No. 3, for the following reasons:

Eugene Koltasz
Presiding Member, Metro Outer DAP



Reasons

1. The proposal does not meet the requirements of Cl.67(2)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as whilst it is considered that proposed use of the site is acceptable and has the potential to provide diversity in housing choice throughout Padbury, the height and scale of the building is incompatible with the established surrounding residential development and future scale of residential development as envisaged in the local planning framework.
2. The proposal does not meet the requirements of Cl.67(2)(g) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposal does not meet the objectives of the Non-residential Development in the Residential Zone Local Planning Policy as the height and scale is incompatible with the existing character, which is predominantly one and two storey building heights, and in turn it will have a negative impact on the amenity of the surrounding residential area;
3. The proposal does not meet the requirements of Cl.67(2)(m)(n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the appearance and height and scale of the building, building design and setbacks (particularly in relation to the southern boundary) result in a development that is inconsistent with the residential R40 zoning of the subject site and incompatible with the existing and desired future character of the directly abutting residential R20 land.
4. The proposal does not meet the requirements of Cl.67(2)(zb) of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the recommendations and comments from the Joondalup Design Review Panel have not been addressed, particularly in relation to the building height, bulk and scale, in relation to the adjoining lots, and the existing streetscape of Gibson Avenue.

The Report Recommendation was put and LOST UNANIMOUSLY.

ALTERNATE MOTION

Moved by: Lindsay Baxter

Seconded by: Jacky Jurmann

That the Metro Outer DAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02529 is appropriate for consideration as a "Residential Aged Care Facility" land use and compatible with the objectives of the zoning table in accordance with the City of Joondalup Local Planning Scheme No. 3.
2. **Approve** DAP Application reference DAP/23/02529 and accompanying plans (SK.01, SK.02, SK.03, SK.04, SK.05, SK.06, SK.07, MP.01, MP.02, MP.03) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the City of Joondalup Local Planning Scheme No. 3, subject to the following conditions:

Eugene Koltasz
Presiding Member, Metro Outer DAP



Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. This approval relates to the Residential Aged Care Facility as defined by the City of Joondalup *Local Planning Scheme No.3* and associated works only and development shall be in accordance with the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.
4. A detailed landscaping plan shall be submitted to, and approved by, the City prior to a building permit being submitted. The plan is to indicate the proposed landscaping treatment(s) in the subject site and the adjoining road verge(s), and shall:
 - Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500; Provide all details relating to paving, treatment of verges and tree planting in the car park.
 - Include a minimum of 1 shade tree per 4 open air car bays.
 - Show spot levels and/or contours of the site.
 - Indicate any natural vegetation to be retained and the proposed manner in which this will be managed.
 - Be based on water sensitive urban design principles to the satisfaction of the City.
 - Be based on Designing out Crime principles to the satisfaction of the City.
 - Show all irrigation design details.

Approved landscaping is to be installed prior to occupation and thereafter maintained to the satisfaction of the City.
5. A detailed Waste Management Plan indicating the method of rubbish collection is to be submitted and approved prior to the occupation of the development. The plan shall be thereafter implemented to the satisfaction of the City.
6. Detailed Engineering Drawings shall be submitted to the City showing the connection from the internal pathways to the City's pathway infrastructure within the Gibson Avenue road reserve and Leichhardt Park. The plans are to be approved prior to commencement of the development, and constructed prior to occupation of the development to the satisfaction of the City.
7. All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.
8. All development shall be contained within the property boundaries.

Eugene Koltasz
Presiding Member, Metro Outer DAP



9. Retaining walls and fencing shall be of a clean finish and made good to the satisfaction of the City.
10. The fencing infill panels, pedestrian gates and vehicle access gates within the street setback area and to the rear western boundary adjoining Leichhardt Park, as indicated on the approved plans, shall be visually permeable as defined in the *Residential Design Codes – Volume 1*.
11. Screening between the private balconies shall be installed prior to the occupation of the dwelling and maintained to the satisfaction of the City. All screening devices shall be in accordance with Clause 5.4.1, C1.2 of the deemed to comply provisions of the Residential Design Codes.
12. Amended plans are to be submitted to the City for approval prior to an application for a building permit being submitted for the following:
 - a. The communal balcony on the northern elevation shall be setback a minimum of 7.5 metres from the northern lot boundary; and
 - b. Balconies on the southern elevation being modified to be non-accessible to the satisfaction of the City.

Construction of the balconies shall be in accordance with the approved amended plans.

13. The car parking bays, driveways and access points shown on the approved plans are to be designed, constructed, drained and marked in accordance with the Australian Standard for Off-street Car Parking (AS/NZS2890.1 2004), Off-street Parking for People with Disabilities (AS/NZS2890.6 2009) and Off-street Commercial Vehicle Facilities (AS2890.2:2002), prior to the occupation of the development. These bays are to be thereafter maintained to the satisfaction of the City.
14. The parking areas and associated access indicated on the approved plans must not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.
15. A Construction Management Plan shall be submitted to and approved by the City prior to the commencement of development. The management plan shall include details regarding mitigation measures to address impacts associated with construction works and shall be prepared to the specification and satisfaction of the City. The plan must address the following:
 - a) The delivery of and delivery times for materials and equipment to the site.
 - b) Storage of materials and the location and types of equipment on site.
 - c) Parking arrangements for contractors and sub-contractors.
 - d) The impact on traffic movement.
 - e) Construction times.
 - f) The relocation of public footpaths.
 - g) Measures to minimise impacts of noise and sand drift and dust from the site.

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Presiding Member, Metro Outer DAP



- h) Tree protection zones to be established for trees identified to be retained in the approved landscaping plan (including any verge trees) where applicable.
- i) The relocation/disruption of any public transport infrastructure.
- j) Any other matter required by the City.

The construction works shall be undertaken in accordance with the approved Construction Management Plan.

- 16. Any proposed building plant and equipment, including air conditioning units, piping, ducting and water tanks shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with these approved details.
- 17. Lighting shall be installed along the driveways, footpaths and common areas prior to the development first being occupied, to the satisfaction of the City. The lighting design is to minimise light spillage onto the surrounding properties and be in accordance with the requirements of Australian Standard AS4282.

Advice Notes

- 1. Further to condition 3, the City of Joondalup *Local Planning Scheme No. 3* defines the following:

“Residential Aged Care Facility”:

means a residential facility providing personal and/or nursing care primarily to people who are frail and aged and which, as well as accommodation, includes appropriate staffing to meet nursing and personal care of residents; meals and cleaning services; furnishings, furniture and equipment. May also include residential respite (short term) care but does not include a hospital or psychiatric facility.

- 2. The City encourages the applicant/owner to incorporate materials and colours to the external surface of the development, including roofing, that have low reflective characteristics to minimise potential glare from the development impacting the amenity of the adjoining or nearby neighbours.
- 3. Any existing infrastructure/assets within the road reserve (e.g. footpath, kerbing and street trees) are to be retained and protected during construction of the development and are not to be removed or altered. Should any infrastructure or assets be damaged during the construction of the development, it is required to be reinstated to the satisfaction of the City.
- 4. Further to conditions 6, 8 and 10, the pedestrian gate to the rear boundary adjoining Leichhardt Park is to open into the subject site, and not into the park.

Eugene Koltasz
Presiding Member, Metro Outer DAP



5. Further to condition 10, the Residential Design Codes define visually permeable as:

In reference to a wall, gate, door, screen or fence that the vertical surface when viewed directly from the street or other public space has:

- *continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;*
- *continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or*
- *a surface offering equal or lesser obstruction to view.*

6. In relation to condition 11, the Residential Design Codes require screening to be at least 1.6 metres in height above the finished floor level of the balconies, at least 75% obscure, made of a durable material and restrict view in the direction of overlooking into any adjoining property.

The Residential Design Codes define screening as:

“Permanently fixed external perforated panels or trellises composed of solid or obscured translucent panels”.

7. In regard to condition 11, this excludes balconies on the southern elevation which are to be amended to be non-accessible in accordance with condition 12.
8. In regard to condition 14, the applicant is advised that the associated crossover (including crossover wings) is to be wholly contained within the verge directly adjacent to the subject site and is to be constructed either side of the existing footpath, maintaining a continuous uninterrupted footpath. The crossover is to be designed and constructed in accordance with the City's Crossover Guidelines.
9. This approval does not include the dividing fence(s). You are advised that in accordance with the Dividing Fences Act 1961 you are required to reach agreement with the adjoining owners as to the height, appearance and location of the dividing fence. Further information is available at www.buildingcommission.wa.gov.au.
10. The Construction Management Plan shall be prepared using the City's Construction Management Plan template which can be provided upon request.
11. Any signage may be the subject of a separate development application.
12. Registration of a food business is required under the *Food Act 2008*. The kitchen shall be designed and constructed in accordance with the *Food Standards Code*.
13. The bin store shall be constructed with a concrete floor, or other impervious material, and graded to an industrial floor waste gully that is connected to sewer. A hose cock is required to be provided in the bin store area.
14. All plant and equipment shall comply with the *Environmental Protection (Noise) Regulations 1997*.

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15. Air-handling and water systems shall be designed and installed in accordance with the *Health (Air-handling and Water Systems) Regulations 1994* and AS3666.
16. A hydrotherapy pool would be considered an aquatic facility. Department of Health (WA) approval is required for any aquatic facility under the *Health (Aquatic Facility) Regulations 2007*, prior to construction.
17. Registration of a hairdressing establishment is required. The hairdressing premises shall comply with the *Hairdressing Establishment Regulations 1972*.

AMENDING MOTION

Moved by: Eugene Koltasz

Seconded by: Lindsay Baxter

That a new Condition No. 15 be added to read as follows, with all other Conditions renumbered accordingly:

Prior to the commencement of use, the applicant is to provide a Parking Management Plan, to demonstrate management of the carparking provided onsite, to the satisfaction of the City of Joondalup.

The Amending Motion was put and CARRIED UNANIMOUSLY.

REASON: The Panel considered that there was adequate parking provided for the development, however, in view of the number of submissions received during the public consultation phase regarding adequacy of parking it was appropriate that the proponents submit a Parking Management Plan to demonstrate that there is no detrimental impact on the amenity on the surrounding area.

ALTERNATE MOTION (AS AMENDED)

That the Metro Outer DAP resolves to:

1. **Accept** that the DAP Application reference DAP/23/02529 is appropriate for consideration as a "Residential Aged Care Facility" land use and compatible with the objectives of the zoning table in accordance with the City of Joondalup Local Planning Scheme No. 3.
2. **Approve** DAP Application reference DAP/23/02529 and accompanying plans (SK.01, SK.02, SK.03, SK.04, SK.05, SK.06, SK.07, MP.01, MP.02, MP.03) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the City of Joondalup Local Planning Scheme No. 3, subject to the following conditions:

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2. This decision constitutes planning approval only and is valid for a period of four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
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 - Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500; Provide all details relating to paving, treatment of verges and tree planting in the car park.
 - Include a minimum of 1 shade tree per 4 open air car bays.
 - Show spot levels and/or contours of the site.
 - Indicate any natural vegetation to be retained and the proposed manner in which this will be managed.
 - Be based on water sensitive urban design principles to the satisfaction of the City.
 - Be based on Designing out Crime principles to the satisfaction of the City.
 - Show all irrigation design details.

Approved landscaping is to be installed prior to occupation and thereafter maintained to the satisfaction of the City.

5. A detailed Waste Management Plan indicating the method of rubbish collection is to be submitted and approved prior to the occupation of the development. The plan shall be thereafter implemented to the satisfaction of the City.
6. Detailed Engineering Drawings shall be submitted to the City showing the connection from the internal pathways to the City's pathway infrastructure within the Gibson Avenue road reserve and Leichhardt Park. The plans are to be approved prior to commencement of the development, and constructed prior to occupation of the development to the satisfaction of the City.
7. All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.
8. All development shall be contained within the property boundaries.
9. Retaining walls and fencing shall be of a clean finish and made good to the satisfaction of the City.

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10. The fencing infill panels, pedestrian gates and vehicle access gates within the street setback area and to the rear western boundary adjoining Leichhardt Park, as indicated on the approved plans, shall be visually permeable as defined in the *Residential Design Codes – Volume 1*.
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14. The parking areas and associated access indicated on the approved plans must not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.
15. Prior to the commencement of use, the applicant is to provide a Parking Management Plan, to demonstrate management of the carparking provided onsite, to the satisfaction of the City of Joondalup.
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- h) Tree protection zones to be established for trees identified to be retained in the approved landscaping plan (including any verge trees) where applicable.
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Advice Notes

- 1. Further to condition 3, the City of Joondalup *Local Planning Scheme No. 3* defines the following:

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- 4. Further to conditions 6, 8 and 10, the pedestrian gate to the rear boundary adjoining Leichhardt Park is to open into the subject site, and not into the park.

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14. All plant and equipment shall comply with the *Environmental Protection (Noise) Regulations 1997*.

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15. Air-handling and water systems shall be designed and installed in accordance with the *Health (Air-handling and Water Systems) Regulations 1994* and AS3666.
16. A hydrotherapy pool would be considered an aquatic facility. Department of Health (WA) approval is required for any aquatic facility under the *Health (Aquatic Facility) Regulations 2007*, prior to construction.
17. Registration of a hairdressing establishment is required. The hairdressing premises shall comply with the *Hairdressing Establishment Regulations 1972*.

The Alternate Motion (as amended) was put and CARRIED (4/1).

For: Eugene Koltasz
Jacky Jurmann
Lindsay Baxter
Cr Adrian Hill

Against: Cr Rebecca Pizzey

REASON: The majority of the Panel considered that the proposed development is compatible with the Planning Framework for the locality under City of Joondalup Local Planning Scheme No. 3, and the site in particular given one of the few permitted uses for the site is for “Residential Aged Care Facility” (subject to the use of discretion).

In exercising discretion, the majority of the Panel were cognisant of the variations sought for the development including building height, side setbacks and visual privacy to southern boundary.

In regard to building height, it was considered that the discretion sought to approve a 4 level rather than 3 level development was appropriate given the overall impact of bulk was on adjoining non-residential properties. The appearance of the development from the street was of a 3-level building in keeping with the planning framework.

The main impact on amenity for the side setback and visual privacy variations sought were also on adjoining commercial development on the southern boundary which the majority of Panel members agreed that the provision of appropriate balconies and landscaping will ameliorate concerns.

In total the variations were considered appropriate by the majority of the Panel in order that the locally sought after Aged Care Facility could proceed to cater for the ageing population of the locality and surrounding suburbs.

4. Form 2 DAP Applications

Nil.

5. Section 31 SAT Reconsiderations

Nil.

Eugene Koltasz
Presiding Member, Metro Outer DAP



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
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	Lot 218 (No.575) Abernethy Road, Oakford	Proposed Educational Establishment	19/12/2023
DR94/2024 DAP/23/02623	City of Cockburn	Lot 9501 Gaebler Road, Hammond Park	Mixed Use Commercial Development	27/06/2024

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 11:13am.

Eugene Koltasz
Presiding Member, Metro Outer DAP