



Metro Inner Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 12 September 2024; 9:30am
Meeting Number: MIDAP/32
Meeting Venue: 140 William Street, Perth

Due to an emergency drill at 140 William Street, Perth the MIDAP delayed the commencement of the meeting until 11.00am.

A recording of the meeting is available via the following link:

[MIDAP/32 - 12 September 2024 - City of Subiaco](#)

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 SUBIACO

1. Declaration of Due Consideration
2. Disclosure of Interests
3. Form 1 DAP Applications
 - 3.1 Lots 13, 14, 15 & 57 (No. 474-484) Hay Street, Subiaco & Lots 124, 125 & 126 (No.61) Rokeby Road, Subiaco - Demolition of existing structures (including partial demolition / alterations to regal theatre) and construction of a nine (9) storey mixed use development including five (5) commercial tenancies and 71 multiple dwellings – DAP/24/02704
4. Form 2 DAP Applications
5. Section 31 SAT Reconsiderations

PART C – OTHER BUSINESS

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

Francesca Lefante
Presiding Member, Metro Inner DAP



Attendance	
<i>Specialist DAP Members</i>	<i>DAP Secretariat</i>
Francesca Lefante (Presiding Member)	Laura Simmons
Eugene Koltasz (Deputy Presiding Member)	Ashlee Kelly
Peter Lee	
<i>Part B – City of Subiaco</i>	
<i>Local Government DAP Members</i>	<i>Officers in Attendance</i>
Cr Penny O'Connor	Aoise Noone
Cr Rick Powell	Anthony Denholm

Applicant and Submitters
<i>Part B – City of Subiaco</i>
Warren Kerr (Regal Theatre Foundation)
Felipe Soto (SCA)
Matthew Cain (Planning Solutions)
Oliver Gane (GHC Group)
Domenic Nardelli (Westbridge Funds)
Damian Collins (Westbridge Funds)
Owen Snook (Westbridge Funds)

Members of the Public / Media

Nil

Observers via livestream

There was 1 person observing the meeting via the livestream.

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PART A – INTRODUCTION

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 10:56am on 12 September 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

Cr Russell Jones (Local Government DAP Member, City of Subiaco)
Cr Simon White (Local Government DAP Member, City of Subiaco)

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](#).

Francesca Lefante
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PART B – CITY OF SUBIACO

1. Declaration of Due Consideration

The Presiding Member noted that details of a DAP direction for further information and responsible authority response in relation to Item 3.1, received on 11 September 2024 was published in Part B of the Related Information.

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

2. Disclosure of Interests

In accordance with section 2.4.9 of the DAP Code of Conduct 2024, DAP Member, Cr Penny O'Connor and Cr Rick Powell, declared that they had participated in a prior Council meeting in relation to the application at item 3.1. However, under section 2.1.2 of the DAP Code of Conduct 2024, Cr Powell and Cr O'Connor 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 DAP executive director determined that the members listed above, who have disclosed an impartiality interest, are permitted to participate in the discussion and voting on the items.

3. Form 1 DAP Applications

3.1 Lots 13, 14, 15 & 57 (No. 474-484) Hay Street, Subiaco & Lots 124, 125 & 126 (No.61) Rokeby Road, Subiaco - Demolition of existing structures (including partial demolition / alterations to regal theatre) and construction of a nine (9) storey mixed use development including five (5) commercial tenancies and 71 multiple dwellings – DAP/24/02704

Deputations and Presentations

Warren Kerr (Regal Theatre Foundation) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

Felipe Soto (SCA) addressed the DAP in support of the recommendation for the application at Item 3.1.

Matthew Cain (Planning Solutions) addressed the DAP in support of the recommendation for the application at Item 3.1 and responded to questions from the panel.

Francesca Lefante
Presiding Member, Metro Inner DAP



Anthony Denholm (City of Subiaco) addressed the DAP in relation to the application at Item 3.1 and responded to questions from the panel.

REPORT RECOMMENDATION

Moved by: Cr Rick Powell

Seconded by: Cr Penny O'Connor

It is recommended the Metro Inner Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/24/02704 is appropriate for consideration as "Multiple Dwelling, Restaurant/Café, Shop and Small Bar" land uses and compatible with the objectives of the zoning table in accordance with Clause 16 of the City of Subiaco Local Planning Scheme No. 5.
2. **Approve** DAP Application reference DAP/24/02704 and accompanying plans dated 9 August 2024 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Metropolitan Region Scheme, and the provisions of the City of Subiaco Local Planning Scheme No. 5, subject to the following conditions:

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 development 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. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for at least 1 in 100 stormwater event. No stormwater will be permitted to enter the City of Subiaco's stormwater drainage system unless otherwise approved.
4. Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street and or secondary street or otherwise located to not be visually obtrusive to the satisfaction of the City of Subiaco.
5. Prior to the issue of a building permit (but not including a demolition permit of building permit for forward works only), the applicant is to demonstrate that the development achieves either a minimum of:
 - a) 20 per cent of all dwellings, across a range of dwelling sizes, meet Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia); or
 - b) 5 per cent of dwellings are designed to Platinum Level as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia).

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6. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit a schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Subiaco. The schedule may be subject to review and comment by the City's Design Review Panel.
7. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), an outdoor lighting plan must be submitted and approved by the City of Subiaco. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties. Prior to occupation of the development, the endorsed lighting plan shall be implemented and maintained thereafter, to the satisfaction of the City of Subiaco.
8. Prior to occupation of the development, each multiple dwelling shall be provided with a mechanical clothes dryer or alternatively shall have an adequate area provided for drying clothes. This drying area shall be screened from view from any adjacent public place to the satisfaction of the City of Subiaco.
9. Prior to occupation of the development, brickwork and finishes on or adjacent to boundaries, including exposed parapet walls, are to be finished externally to the same standard as the rest of the development in either:
 - Face brick;
 - Painted render;
 - Painted brickwork; or
 - Other clean material,And are to be thereafter maintained to the satisfaction of the City of Subiaco.
10. A notification under section 70A of the *Transfer of Land Act 1893* is to be lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot prior to commencement of the development. This notification is to read as follows:

'The locality may be subject to noise, traffic and other activities associated with the Subiaco Secondary Activity Centre.'

The notification is to be prepared by the City's solicitors at the expense of the owner and executed by all parties prior to occupation.
11. Prior to the issue of an occupancy permit, No. 484 (Lot 57) Hay Street, No. 474 (Lots 13, 14 & 15) Hay Street and No. 61 Rokeby Road (Lots 125 & 126) are to be legally amalgamated or alternatively the owner(s) may enter into a legal agreement with the City of Subiaco, drafted by the City's solicitors at the expense of the owner(s) and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of multiple lots under separate ownership, to the satisfaction of the City of Subiaco.
12. Prior to occupation of the development, each multiple dwelling is to be provided with a permanent enclosed storage area and maintained thereafter, in accordance with the requirements of the Residential Design Codes Volume 2 to the satisfaction of the City of Subiaco.

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13. Prior to the issue of a building permit, the applicant is to demonstrate incorporation of water efficient irrigation systems or water harvesting re-use technologies within the development, to the satisfaction of the City of Subiaco.
14. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant is to submit and have approved by the City of Subiaco, a comprehensive signage strategy for the site which shall include signage locations, characteristics, dimensions and clearances to pedestrian and vehicle spaces below, to the satisfaction of the City of Subiaco.
15. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit amended plans detailing that the glazing to the ground floor commercial tenancies contain transparent glass or a similar treatment to minimum of 75% of the surface area of the windows in order to maintain a connection to the streetscape, to the satisfaction of the City of Subiaco

Heritage

16. Prior to the issue of a demolition permit and building permit, the applicant is to prepare and have approved by the City of Subiaco, a Vibration Management Plan (VMP) prepared by a suitably qualified professional, for any construction works associated with the hereby approved development to be carried out in accordance with the approved VMP, to the satisfaction of the City of Subiaco.
17. Prior to the issue of a building permit, the applicant is to prepare and have approved by the City of Subiaco, in consultation with the Director Historic Heritage Conservation (at the Department of Planning, Lands and Heritage (DPLH)), plans showing the detail of the hereby approved theatre storage area and covered fire escape route, to the satisfaction of the City of Subiaco.
18. Prior to the issue of a building permit, the applicant is to prepare and have approved by the City of Subiaco, in consultation with the Director Historic Heritage Conservation (at the Department of Planning, Lands and Heritage (DPLH)), plans showing the conversion of the original cry room into a parent's room (or similar), to the satisfaction of the City of Subiaco.
19. Prior to the issue of a building permit (but not including a building permit for forward works only) the applicant shall prepare and submit an Interpretation Plan prepared by a suitably qualified professional to guide the proposed interpretation works, to the satisfaction of the City of Subiaco.
20. The works hereby approved (except the approved demolition works) shall be undertaken in a manner which does not irreparably damage any original or significant heritage fabric of the building (Lots 13, 14 & 15). Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Subiaco.

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21. Prior to the issue of a demolition permit, an archival record is to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.
22. Prior to occupation of the development, an updated Conservation Management Plan for the Regal Theatre shall be submitted to and approved by the City of Subiaco.

Landscaping

23. Prior to occupation of the development, landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Subiaco. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Subiaco.
24. Prior to commencement of physical works, a Tree Preservation Zone (TPZ) is to be established and maintained around each existing street tree during the construction of the development.
25. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall prepare a street tree planting plan in consultation with the City of Subiaco, detailing proposed street tree locations and species, ongoing maintenance and any other relevant matters. The plan shall be approved by the City of Subiaco and implemented prior to occupation of the development, and maintained thereafter unless otherwise approved.

Public art

26. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant/owner shall either:
 - a) Obtain approval from the City of Subiaco for an artist to provide public art on the development site in accordance with an approved Public Art Plan, to a minimum value of 1% (\$360,000 exclusive GST) of the construction cost. Prior to occupation, the endorsed public art or works shall be implemented and maintained thereafter to the satisfaction of the City of Subiaco; or
 - b) Enter into a legal agreement with the City of Subiaco for a cash-in-lieu payment of 1% (\$360,000 exclusive GST) of the construction cost for the purpose of public art works. The agreement is to be prepared by the City's solicitors at the expense of the owner and executed by all parties prior to occupation.

Francesca Lefante
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Sustainability

27. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit a statement of compliance prepared by a Green Star Accredited Professional confirming that the development can achieve the targeted informal (equivalency) 5 star Green Star Buildings rating performance, to the satisfaction of the City of Subiaco. The Statement of Compliance must include a formal peer review by an independent Green Star Accredited Professional.
28. Prior to occupation of the development, the applicant shall submit to the City of Subiaco a Statement of Compliance completed by an independent peer reviewer confirming that the project has delivered upon the sustainability initiatives claimed to contribute to the sustainability performance target for the project. Any outstanding initiatives or deliverables are to be clearly outlined with confirmation of when works will be completed, to the satisfaction of the City of Subiaco.
29. Within 12 months of practical completion of the development, all outstanding sustainability initiatives and deliverables must be completed. The applicant is to submit to the City of Subiaco documentation confirming as such, to the satisfaction of the City of Subiaco.

Noise

30. Prior to the issue of a building permit, the applicant shall submit and have approved by the City of Subiaco, a detailed Noise Management Plan demonstrating that potential noise from the proposed development will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended). The plan is to be prepared by a suitably qualified consultant and is to address matters including, but not limited to:
 - a) Type and specifications of selected mechanical plant and equipment and screening;
 - b) Delivery and on site operations associated with the restaurant/café;
 - c) Predictions of noise levels;
 - d) Sound proofing measures used in the design and construction of the development;
 - e) Control measures to be undertaken (including monitoring procedures); and
 - f) A complaint response procedure.The approved plan and its recommendations, as well as any additional requirements by the City, shall be implemented prior to occupancy of the development and adhered to at all times, to the satisfaction of the City of Subiaco.

Demolition and Construction

31. Prior to the issue of a demolition permit and/or building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:
 - a) construction noise;
 - b) hours of construction;
 - c) dust;

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- d) vibration;
- e) waste;
- f) sand;
- g) temporary fencing;
- h) scaffolding;
- i) hoarding;
- j) gantries;
- k) site access and egress;
- l) site deliveries;
- m) traffic management;
- n) parking management;
- o) management of loading and unloading of vehicles;
- p) heavy vehicle access;
- q) protection of verge trees; and
- r) any other relevant matters.

The requirements of this plan are to be observed at all times during the construction process to the satisfaction of the City of Subiaco.

32. Prior to the issue of a demolition permit and/or building permit, a dilapidation report prepared by a suitably qualified professional shall be submitted to the City of Subiaco for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located on these properties:

- No. 474 Hay Street, Subiaco,
- No. 61 Rokeby Road, Subiaco,
- No. 43 Rokeby Road, Subiaco,
- No. 61 Rokeby Road, Subiaco,
- No. 8 Alvan Street, Subiaco,
- No. 500 Hay Street, Subiaco,
- No. 455 Hay Street, Subiaco,
- No. 477 Hay Street, Subiaco,
- No. 479 Hay Street, Subiaco
- No. 481 Hay Street, Subiaco,
- No. 483 Hay Street, Subiaco,
- No. 513 Hay Street, Subiaco, and
- No. 21 Rowland Street.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



Infrastructure and Traffic

33. Prior to occupation of the development, all existing redundant crossovers are to be removed and the verge reinstated. The new or modified crossover associated with the hereby approved development must receive separate approval from the City of Subiaco.
34. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained, to the satisfaction of the City of Subiaco.
35. All car parking dimensions, manoeuvring areas, crossovers and driveways shall accord with the Australian Standard AS2890.1 (as amended).
36. Prior to occupation of the development, the applicant shall submit certification from an appropriately qualified consultant to verify that all vehicle parking bays have capacity to be converted to electric vehicle charging bays in the future, to the satisfaction of the City of Subiaco.
37. All infrastructure in the road reserve adjacent to the development site shall be protected from damage for the duration of the construction of the development and reinstated to the condition that existed prior to the commencement of the development, to the satisfaction of the City of Subiaco.
38. Prior to the occupation of the development, a finalised waste management plan shall be submitted to the City of Subiaco for approval. The plan shall be implemented and adhered to throughout the life of the development to the satisfaction of the City of Subiaco.
39. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), a Road Safety Audit (RSA) is to be prepared and submitted to the City of Subiaco for approval with any recommendations being implemented and adopted thereafter, to the satisfaction of the City of Subiaco.
40. Prior to occupation of the development, all bicycle parking spaces are to be provided in accordance with Australian Standard AS2890.3, to the satisfaction of the City of Subiaco.
41. Prior to occupation, a minimum of two (2) showers and six (6) lockers are to be provided within the development for the use of the tenants, to the satisfaction of the City of Subiaco.
42. Prior to occupation of the development, the car and motorcycle parking, and vehicle access and circulation areas shown on the approved plans, including the provision of disabled car parking, shall be constructed, drained, line marked and provided, and be accompanied by appropriate directional signage, to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



43. Prior to the occupation of the development, a Parking and Operational Management Plan (POMP) is to be prepared and approved by the City of Subiaco. Prior to occupation the POMP shall be implemented and adhered to for the life of the development, to the satisfaction of the City of Subiaco.
44. Prior to the issue of a building permit, amended plans shall be submitted demonstrating a minimum 2 metre by 2.5 metre sightline truncation at the vehicle exit ramp at Alvan Street in accordance with AS 2890.1, to the satisfaction of the City of Subiaco.

Advice Notes

- i. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.
- ii. Please note multiple conditions are required to be formally cleared by the City of Subiaco prior to the issue of a building permit and prior to occupation of the development. Please contact the City's Planning Services on 9237 9222 for further information.
- iii. In relation to external fixtures, the exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:
 - outside of balcony/verandah areas (if applicable); and
 - below the height of a standard dividing fence within a side or rear setback area; or
 - within a screened rooftop plant area or nook.
- iv. In relation to the dilapidation report(s), these should address the following matters to satisfy the City of Subiaco:
 - a) Dilapidation reports are to clearly identify the name of the organisation and person(s) undertaking the inspection and shall include their relevant qualifications;
 - b) Dilapidation reports are to be prepared in accordance with relevant legislation and standards, including Australian Standard AS4349.1 (or equivalent);
 - c) A calibration gauge should be used for measurement, in combination with high resolution photos for accurate record keeping;
 - d) Landowners of properties requiring dilapidation reports are to be afforded the opportunity by the applicant to identify any existing areas of concern that can be visually identified and recorded in any dilapidation report;
 - e) The applicant, in consultation with the owner of the property requiring the dilapidation report, is to ensure that every reasonable effort is made to ensure that they can obtain safe and reasonable access to any and all areas of a property requiring dilapidation reports;
 - f) Landowners of properties requiring dilapidation reports are to be provided the same copy and version of the dilapidation report as any submitted to the City of Subiaco as part of any request to clear conditions of development approval as required; and

Francesca Lefante
Presiding Member, Metro Inner DAP



- g) For the City to be fully satisfied, consideration will be given to written feedback from landowners up to seven days after receipt of the dilapidation report.
 - h) In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.
- v. In regard to sustainability matters:
- a) An independent Green Star Accredited Professional means a third-party consultant that is otherwise not part of the project team (or an associated subsidiary of an engaged entity) and is engaged to verify that the claimed sustainability initiatives and associated deliverables have been completed. They must be suitably qualified, namely a practicing Green Star Accredited Professional. The City of Subiaco encourages early engagement with the peer reviewer to ensure the proposed approach is appropriate for the project, to the satisfaction of the peer reviewer. Any alternative methodologies or initiatives (i.e. based on project scale or complexity) is to be agreed with the peer reviewer and the City of Subiaco.
 - b) The applicant is advised that the Green Star Certification or Equivalency pathway should address the following considerations and deliverables:
 - Green Star Energy Modelling
 - Upfront carbon emissions calculations
 - LCA Modelling
 - Heat Resilience calculations
 - Climate change risk assessment and adaptation report
 - Ventilation rates schedule confirming percentage improvement in outside air
 - Provide Zero Carbon Action Plan where Minimum Expectation standard is claimed
 - Prior to Occupancy Stage:
 - Energy supply contract for 100% renewable power for base building for minimum 5 years
 - Commissioning reporting including air tightness and acoustic testing (where relevant) results demonstrating compliance with target.
 - Suitable evidence for all other Green Star credits claimed should be agreed upon with the independent peer reviewer.Note, all testing and validation must be in accordance with Green Star methodologies.
- vi. In relation to Environmental Health matters:
- a) Laundry provisions must comply with the Health Act (Laundries and Bathrooms) Regulations.
 - b) The handling and removal of any asbestos material must be carried out in accordance with the Health (Asbestos) Regulations 1992 (as amended). Safe work procedures are required to be adhered to and all material must be disposed of at an approved land fill facility.

Francesca Lefante
Presiding Member, Metro Inner DAP



- c) The development that is the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions.
- d) The developer / landowner is advised of their obligations to ensure that all sand drift, waste, building materials and equipment is contained within the boundaries of the site during the construction period. Each building site shall be provided with a receptacle or enclosure of a size and type which will properly contain all litter and waste materials and on completion all rubbish, litter and waste materials will be removed from site.
- e) All mechanical service systems including air-conditioners etc. to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).
- f) The residential component of the development is to be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation is to be in accordance with recommendations developed in consultation with the City and an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The engagement of the acoustic consultant and the implementation of the recommendations are to be at the owner's cost.
- g) A suitable bin enclosure is to be provided in accordance with the City of Subiaco Health Local Laws 1999 which require bin enclosures to be of sufficient size to accommodate all bins used on the premises and serviced with an approved liquid refuse disposal system, have a tap connected to an adequate supply of water, have walls at least 1.8m in height, have an access way of not less than 1.0m in width and have a self closing gate.
- h) The applicant is to ensure the car park design and construction complies with the Health Act (Carbon Monoxide) Regulations 1975 (as amended).
- i) Premises selling food as defined under the Food Act 2008 are required to submit a City of Subiaco Food Business Notification/Registration form.
- j) Prior to the construction and fit out of the approved food premises, detailed plans and specifications of all internal fixtures, finishes and fittings must be submitted to the City of Subiaco for assessment.
- k) Any approved food premises using deep fryers and/or rotisseries is required to install a grease trap - to a size specified by Local Government and the Water Corporation.
- l) As it is intended to use part of this premises as a "public building" as defined in Section 173 of the Health Act 1911 (as amended), it is necessary to apply for and receive a Certificate of Approval from the City of Subiaco Environmental Health Services before commencing use as a public building.
- m) The air conditioner assessment/report to be forwarded to the City's Health Services team once design is finalised.
- n) Noise impact assessment/report for roof top of Regal Theatre and apartments to be forwarded to the City's Health Services team once completed.

Francesca Lefante
Presiding Member, Metro Inner DAP



- vii. In relation to Building Services matters:
 - a) A demolition permit is required to be obtained from the City prior to the demolition of the existing building(s) and/or structure(s) on the site.
 - b) A building permit is required to be obtained from the City prior to commencement of any work in relation to this approval.
 - c) Your attention is drawn to the need to comply with the requirements of Part D3 of the Building Code of Australia – Access for People with Disabilities, including parking, sanitary facilities and tactile indicators in accordance with AS1428.1, AS 1428.4, AS 1428.5 and AS/NZS 2890.6.
 - d) Proposed work must not compromise or affect in any way any existing, passive or active fire safety system or fire service.
- viii. In relation to Parks Services matters:
 - a) The City's street tree policy, protocols and Australian Standard relating to the protection of trees adjacent to development site (AS 4970–2009) to be adhered to at all times.
 - b) The City supports the proposed additional trees to be planted adjacent to the proposed development. Further discussions in relation to the trees and landscaping plants species within the City's road reserve would be required.
 - c) Tree Preservation Zone (TPZ) Protective fencing shall be formed around each tree prior to works commencing and shall be retained for the entirety of the project. To minimize the risk of tree damage/death a minimum construction clearance of two (2) meters is required from the outer part of the trunk base of the existing street tree. Where required protection may be to the drip line of the tree canopy whichever is greater.
 - d) No tree removal, branches or tree roots from the City's trees are to be cut without the authorisation of the City's arborist. Branches or roots approved for cutting are to be cut in accordance with the appropriate arboricultural standards by City staff.
 - e) The developer/contractor and property owner shall protect the City's street trees from any damage that may be caused by the scope of works
- ix. In relation to Waste Services matters:
 - a) sufficient space also needs to be provided to accommodate FOGO bins in the bin storage areas for commercial tenancies.
 - b) The City will require a minimum of 10 weeks' notice prior to occupation of these premises to allow for procurement and delivery of the bins required for this development.
- x. In relation to Compliance Services matters and regarding vehicles associated with the construction of the development, parking time restrictions apply to on-street parking, consideration should be given to making application for Commercial Parking Permit and workers on the site encouraged to make use of available all-day parking facilities and public transport.
- xi. In relation to Public Art matters, please note further information about the Public Art assessment process can be downloaded from the Public Art Strategy & Policy on the City's website.

Francesca Lefante
Presiding Member, Metro Inner DAP



- xii. In relation to the Interpretation Plan, it should investigate the history of the site at 484 Hay Street (Lot 57), its use as the Rance Sheet Metal Workers and its association with the Rance Family.
- xiii. In relation to the revised plans showing the theatre storage area and covered fire escape route, the drawings are to show how the new work intersects with the original fabric of the Regal Theatre.
- xiv. In relation to the revised plans showing the conversion of the original cry room (annotated on the plans as 'office') into a modern interpretation of a parents room, the drawings are to show the new work and how it may alter original fabric of the Regal Theatre.
- xv. The Road Safety Audit is an assessment of the potential road safety risks associated with the new development, conducted by an independent qualified auditor. The assessment should consider all road users and suggest measures to eliminate or mitigate those risks which arise from the proposed vehicle access and egress from the development.
- xvi. In relation to the POMP, please provide specific details relating to the operation of the internal and ROW traffic control system with the Road Safety Audit to ensure safe vehicle movements in and out of the development.
- xvii. In relation to the VMP, the Heritage Council WA is to be notified immediately if any impact occurs and advised on a recommended course of action by a suitably qualified structural engineer.

AMENDING MOTION 1

Moved by: Eugene Koltasz

Seconded by: Peter Lee

The following amendments were made en bloc;

- i) That Condition No. 18 be deleted, and the remaining conditions be renumbered accordingly.
- ii) That Advice Note No. xiv be deleted, and the remaining advice notes be renumbered accordingly.

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

For: Francesca Lefante
Peter Lee
Eugene Koltasz

Against: Cr Penny O'Connor
Cr Rick Powell

REASON: These works do not form part of the application, as such the nexus is not substantiated.

Francesca Lefante
Presiding Member, Metro Inner DAP



AMENDING MOTION 2

Moved by: Eugene Koltasz

Seconded by: Peter Lee

That Condition No. 32 (now Condition No. 31) be amended to read as follows:

Prior to the issue of a demolition permit and/or building permit, a dilapidation report prepared by a suitably qualified professional shall be submitted to the City of Subiaco for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located on these properties:

- ~~No. 474 Hay Street, Subiaco,~~
- ~~No. 61 Rokeby Road, Subiaco,~~
- ~~No. 43 Rokeby Road, Subiaco,~~
- ~~No. 61 Rokeby Road, Subiaco,~~
- ~~No. 8 Alvan Street, Subiaco,~~
- ~~No. 500 Hay Street, Subiaco,~~
- ~~No. 455 Hay Street, Subiaco,~~
- ~~No. 477 Hay Street, Subiaco,~~
- ~~No. 479 Hay Street, Subiaco~~
- ~~No. 481 Hay Street, Subiaco,~~
- ~~No. 483 Hay Street, Subiaco,~~
- ~~No. 513 Hay Street, Subiaco, and~~
- ~~No. 21 Rowland Street.~~
- **Lots 13-15 (No.474) Hay Street, Subiaco**
- **Lot 124 (No.61) Rokeby Road, Subiaco**
- **Lot 126 (No.61) Rokeby Road, Subiaco**
- **Lots 10-12 (No.455) Hay Street, Subiaco**
- **Lot 501 (No. 8) Alvan Street, Subiaco – limited to the building that adjoins the Right of Way.**
- **Lot 30 No 67 Rokeby & Lot 31-33 No 477-479 Hay Street, Subiaco**

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.

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

For: Francesca Lefante
Eugene Koltasz
Peter Lee

Against: Cr Penny O'Connor
Cr Rick Powell

Francesca Lefante
Presiding Member, Metro Inner DAP



REASON: To reflect the extent of site dilapidation report, given consideration of works, proximity of sites and building historic classification.

AMENDING MOTION 3

The following amendments were made en bloc;

Moved by: Francesca Lefante

Seconded by: Eugene Koltasz

- (i) That Condition No. 15 be amended to read as follows:

Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit amended plans detailing that the glazing to the ground floor commercial tenancies contain transparent glass or a similar treatment to minimum of ~~75%~~ 50% of the surface area of the windows in order to maintain a connection to the streetscape, to the satisfaction of the City of Subiaco.

REASON: To reflect the policy position.

- (ii) That Condition No. 22 (now Condition No. 21) be amended to read as follows:

Prior to occupation of the development, ~~an updated~~ an addendum to the existing Conservation Management Plan for the Regal Theatre shall be submitted to, and approved by, the City of Subiaco. The detail of the addendum shall be agreed in consultation with the City of Subiaco.

REASON: To provide clarity.

- (iii) That Condition No. 36 (now Condition No. 35) be deleted, and the remaining conditions be renumbered accordingly.

REASON: This matter is covered by separate legislation.

- (iv) That Condition No. 44 (now Condition No. 42) be deleted, and the remaining conditions be renumbered accordingly.

REASON: Not relevant as this matter is included in the plans submitted.

The Amending Motion was put and CARRIED UNANIMOUSLY.

Francesca Lefante
Presiding Member, Metro Inner DAP



REPORT RECOMMENDATION (AS AMENDED)

It is recommended the Metro Inner Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/24/02704 is appropriate for consideration as “Multiple Dwelling, Restaurant/Café, Shop and Small Bar” land uses and compatible with the objectives of the zoning table in accordance with Clause 16 of the City of Subiaco Local Planning Scheme No. 5.
2. **Approve** DAP Application reference DAP/24/02704 and accompanying plans dated 9 August 2024 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Metropolitan Region Scheme, and the provisions of the City of Subiaco Local Planning Scheme No. 5, subject to the following conditions:

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 development 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. All stormwater generated on site is to be retained on site. An onsite storage/infiltration system is to be provided within the site for at least 1 in 100 stormwater event. No stormwater will be permitted to enter the City of Subiaco’s stormwater drainage system unless otherwise approved.
4. Prior to occupation of the development, all external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street and or secondary street or otherwise located to not be visually obtrusive to the satisfaction of the City of Subiaco.
5. Prior to the issue of a building permit (but not including a demolition permit of building permit for forward works only), the applicant is to demonstrate that the development achieves either a minimum of:
 - a) 20 per cent of all dwellings, across a range of dwelling sizes, meet Silver Level requirements as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia); or
 - b) 5 per cent of dwellings are designed to Platinum Level as defined in the Liveable Housing Design Guidelines (Liveable Housing Australia).

Francesca Lefante
Presiding Member, Metro Inner DAP



6. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit a schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Subiaco. The schedule may be subject to review and comment by the City's Design Review Panel.
7. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), an outdoor lighting plan must be submitted and approved by the City of Subiaco. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties. Prior to occupation of the development, the endorsed lighting plan shall be implemented and maintained thereafter, to the satisfaction of the City of Subiaco.
8. Prior to occupation of the development, each multiple dwelling shall be provided with a mechanical clothes dryer or alternatively shall have an adequate area provided for drying clothes. This drying area shall be screened from view from any adjacent public place to the satisfaction of the City of Subiaco.
9. Prior to occupation of the development, brickwork and finishes on or adjacent to boundaries, including exposed parapet walls, are to be finished externally to the same standard as the rest of the development in either:
 - Face brick;
 - Painted render;
 - Painted brickwork; or
 - Other clean material,And are to be thereafter maintained to the satisfaction of the City of Subiaco.
10. A notification under section 70A of the *Transfer of Land Act 1893* is to be lodged with the Registrar of Titles for endorsement on the Certificate of Title for the subject lot prior to commencement of the development. This notification is to read as follows:
'The locality may be subject to noise, traffic and other activities associated with the Subiaco Secondary Activity Centre.'
The notification is to be prepared by the City's solicitors at the expense of the owner and executed by all parties prior to occupation.
11. Prior to the issue of an occupancy permit, No. 484 (Lot 57) Hay Street, No. 474 (Lots 13, 14 & 15) Hay Street and No. 61 Rokeby Road (Lots 125 & 126) are to be legally amalgamated or alternatively the owner(s) may enter into a legal agreement with the City of Subiaco, drafted by the City's solicitors at the expense of the owner(s) and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of multiple lots under separate ownership, to the satisfaction of the City of Subiaco.
12. Prior to occupation of the development, each multiple dwelling is to be provided with a permanent enclosed storage area and maintained thereafter, in accordance with the requirements of the Residential Design Codes Volume 2 to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



13. Prior to the issue of a building permit, the applicant is to demonstrate incorporation of water efficient irrigation systems or water harvesting re-use technologies within the development, to the satisfaction of the City of Subiaco.
14. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant is to submit and have approved by the City of Subiaco, a comprehensive signage strategy for the site which shall include signage locations, characteristics, dimensions and clearances to pedestrian and vehicle spaces below, to the satisfaction of the City of Subiaco.
15. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit amended plans detailing that the glazing to the ground floor commercial tenancies contain transparent glass or a similar treatment to minimum of 50% of the surface area of the windows in order to maintain a connection to the streetscape, to the satisfaction of the City of Subiaco

Heritage

16. Prior to the issue of a demolition permit and building permit, the applicant is to prepare and have approved by the City of Subiaco, a Vibration Management Plan (VMP) prepared by a suitably qualified professional, for any construction works associated with the hereby approved development to be carried out in accordance with the approved VMP, to the satisfaction of the City of Subiaco.
17. Prior to the issue of a building permit, the applicant is to prepare and have approved by the City of Subiaco, in consultation with the Director Historic Heritage Conservation (at the Department of Planning, Lands and Heritage (DPLH)), plans showing the detail of the hereby approved theatre storage area and covered fire escape route, to the satisfaction of the City of Subiaco.
18. Prior to the issue of a building permit (but not including a building permit for forward works only) the applicant shall prepare and submit an Interpretation Plan prepared by a suitably qualified professional to guide the proposed interpretation works, to the satisfaction of the City of Subiaco.
19. The works hereby approved (except the approved demolition works) shall be undertaken in a manner which does not irreparably damage any original or significant heritage fabric of the building (Lots 13, 14 & 15). Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Subiaco.
20. Prior to the issue of a demolition permit, an archival record is to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.
21. Prior to occupation of the development, an addendum to the existing Conservation Management Plan for the Regal Theatre shall be submitted to, and approved by, the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



Landscaping

22. Prior to occupation of the development, landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Subiaco. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Subiaco.
23. Prior to commencement of physical works, a Tree Preservation Zone (TPZ) is to be established and maintained around each existing street tree during the construction of the development.
24. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall prepare a street tree planting plan in consultation with the City of Subiaco, detailing proposed street tree locations and species, ongoing maintenance and any other relevant matters. The plan shall be approved by the City of Subiaco and implemented prior to occupation of the development, and maintained thereafter unless otherwise approved.

Public art

25. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant/owner shall either:
 - a) Obtain approval from the City of Subiaco for an artist to provide public art on the development site in accordance with an approved Public Art Plan, to a minimum value of 1% (\$360,000 exclusive GST) of the construction cost. Prior to occupation, the endorsed public art or works shall be implemented and maintained thereafter to the satisfaction of the City of Subiaco; or
 - b) Enter into a legal agreement with the City of Subiaco for a cash-in-lieu payment of 1% (\$360,000 exclusive GST) of the construction cost for the purpose of public art works. The agreement is to be prepared by the City's solicitors at the expense of the owner and executed by all parties prior to occupation.

Sustainability

26. Prior to the issue of a building permit (but not including a demolition permit or building permit for forward works only), the applicant shall submit a statement of compliance prepared by a Green Star Accredited Professional confirming that the development can achieve the targeted informal (equivalency) 5 star Green Star Buildings rating performance, to the satisfaction of the City of Subiaco. The Statement of Compliance must include a formal peer review by an independent Green Star Accredited Professional.
27. Prior to occupation of the development, the applicant shall submit to the City of Subiaco a Statement of Compliance completed by an independent peer reviewer confirming that the project has delivered upon the sustainability initiatives claimed to contribute to the sustainability performance target for the project. Any outstanding initiatives or deliverables are to be clearly outlined with confirmation of when works will be completed, to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



28. Within 12 months of practical completion of the development, all outstanding sustainability initiatives and deliverables must be completed. The applicant is to submit to the City of Subiaco documentation confirming as such, to the satisfaction of the City of Subiaco.

Noise

29. Prior to the issue of a building permit, the applicant shall submit and have approved by the City of Subiaco, a detailed Noise Management Plan demonstrating that potential noise from the proposed development will comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended). The plan is to be prepared by a suitably qualified consultant and is to address matters including, but not limited to:
- a) Type and specifications of selected mechanical plant and equipment and screening;
 - b) Delivery and on site operations associated with the restaurant/café;
 - c) Predictions of noise levels;
 - d) Sound proofing measures used in the design and construction of the development;
 - e) Control measures to be undertaken (including monitoring procedures); and
 - f) A complaint response procedure.
- The approved plan and its recommendations, as well as any additional requirements by the City, shall be implemented prior to occupancy of the development and adhered to at all times, to the satisfaction of the City of Subiaco.

Demolition and Construction

30. Prior to the issue of a demolition permit and/or building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:
- a) construction noise;
 - b) hours of construction;
 - c) dust;
 - d) vibration;
 - e) waste;
 - f) sand;
 - g) temporary fencing;
 - h) scaffolding;
 - i) hoarding;
 - j) gantries;
 - k) site access and egress;
 - l) site deliveries;
 - m) traffic management;
 - n) parking management;
 - o) management of loading and unloading of vehicles;
 - p) heavy vehicle access;
 - q) protection of verge trees; and
 - r) any other relevant matters.
- The requirements of this plan are to be observed at all times during the construction process to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



31. Prior to the issue of a demolition permit and/or building permit, a dilapidation report prepared by a suitably qualified professional shall be submitted to the City of Subiaco for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located on these properties:
- Lots 13-15 (No.474) Hay Street, Subiaco
 - Lot 124 (No.61) Rokeby Road, Subiaco
 - Lot 126 (No.61) Rokeby Road, Subiaco
 - Lots 10-12 (No.455) Hay Street, Subiaco
 - Lot 501 (No. 8) Alvan Street, Subiaco – limited to the building that adjoins the Right of Way.
 - Lot 30 No 67 Rokeby & Lot 31-33 No 477-479 Hay Street, Subiaco

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.

Infrastructure and Traffic

32. Prior to occupation of the development, all existing redundant crossovers are to be removed and the verge reinstated. The new or modified crossover associated with the hereby approved development must receive separate approval from the City of Subiaco.
33. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained, to the satisfaction of the City of Subiaco.
34. All car parking dimensions, manoeuvring areas, crossovers and driveways shall accord with the Australian Standard AS2890.1 (as amended).
35. All infrastructure in the road reserve adjacent to the development site shall be protected from damage for the duration of the construction of the development and reinstated to the condition that existed prior to the commencement of the development, to the satisfaction of the City of Subiaco.
36. Prior to the occupation of the development, a finalised waste management plan shall be submitted to the City of Subiaco for approval. The plan shall be implemented and adhered to throughout the life of the development to the satisfaction of the City of Subiaco.
37. Prior to issue of a building permit (but not including a demolition permit or building permit for forward works only), a Road Safety Audit (RSA) is to be prepared and submitted to the City of Subiaco for approval with any recommendations being implemented and adopted thereafter, to the satisfaction of the City of Subiaco.

Francesca Lefante
Presiding Member, Metro Inner DAP



38. Prior to occupation of the development, all bicycle parking spaces are to be provided in accordance with Australian Standard AS2890.3, to the satisfaction of the City of Subiaco.
39. Prior to occupation, a minimum of two (2) showers and six (6) lockers are to be provided within the development for the use of the tenants, to the satisfaction of the City of Subiaco.
40. Prior to occupation of the development, the car and motorcycle parking, and vehicle access and circulation areas shown on the approved plans, including the provision of disabled car parking, shall be constructed, drained, line marked and provided, and be accompanied by appropriate directional signage, to the satisfaction of the City of Subiaco.
41. Prior to the occupation of the development, a Parking and Operational Management Plan (POMP) is to be prepared and approved by the City of Subiaco. Prior to occupation the POMP shall be implemented and adhered to for the life of the development, to the satisfaction of the City of Subiaco.

Advice Notes

- i. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.
- ii. Please note multiple conditions are required to be formally cleared by the City of Subiaco prior to the issue of a building permit and prior to occupation of the development. Please contact the City's Planning Services on 9237 9222 for further information.
- iii. In relation to external fixtures, the exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:
 - outside of balcony/verandah areas (if applicable); and
 - below the height of a standard dividing fence within a side or rear setback area; or
 - within a screened rooftop plant area or nook.
- iv. In relation to the dilapidation report(s), these should address the following matters to satisfy the City of Subiaco:
 - a) Dilapidation reports are to clearly identify the name of the organisation and person(s) undertaking the inspection and shall include their relevant qualifications;
 - b) Dilapidation reports are to be prepared in accordance with relevant legislation and standards, including Australian Standard AS4349.1 (or equivalent);
 - c) A calibration gauge should be used for measurement, in combination with high resolution photos for accurate record keeping;
 - d) Landowners of properties requiring dilapidation reports are to be afforded the opportunity by the applicant to identify any existing areas of concern that can be visually identified and recorded in any dilapidation report;

Francesca Lefante
Presiding Member, Metro Inner DAP



- e) The applicant, in consultation with the owner of the property requiring the dilapidation report, is to ensure that every reasonable effort is made to ensure that they can obtain safe and reasonable access to any and all areas of a property requiring dilapidation reports;
 - f) Landowners of properties requiring dilapidation reports are to be provided the same copy and version of the dilapidation report as any submitted to the City of Subiaco as part of any request to clear conditions of development approval as required; and
 - g) For the City to be fully satisfied, consideration will be given to written feedback from landowners up to seven days after receipt of the dilapidation report.
 - h) In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.
- v. In regard to sustainability matters:
- a) An independent Green Star Accredited Professional means a third-party consultant that is otherwise not part of the project team (or an associated subsidiary of an engaged entity) and is engaged to verify that the claimed sustainability initiatives and associated deliverables have been completed. They must be suitably qualified, namely a practicing Green Star Accredited Professional. The City of Subiaco encourages early engagement with the peer reviewer to ensure the proposed approach is appropriate for the project, to the satisfaction of the peer reviewer. Any alternative methodologies or initiatives (i.e. based on project scale or complexity) is to be agreed with the peer reviewer and the City of Subiaco.
 - b) The applicant is advised that the Green Star Certification or Equivalency pathway should address the following considerations and deliverables:
 - i. Green Star Energy Modelling
 - ii. Upfront carbon emissions calculations
 - iii. LCA Modelling
 - iv. Heat Resilience calculations
 - v. Climate change risk assessment and adaptation report
 - vi. Ventilation rates schedule confirming percentage improvement in outside air
 - vii. Provide Zero Carbon Action Plan where Minimum Expectation standard is claimed
 - viii. Prior to Occupancy Stage:
 - ix. Energy supply contract for 100% renewable power for base building for minimum 5 years
 - x. Commissioning reporting including air tightness and acoustic testing (where relevant) results demonstrating compliance with target.
 - xi. Suitable evidence for all other Green Star credits claimed should be agreed upon with the independent peer reviewer.

Note, all testing and validation must be in accordance with Green Star methodologies.

Francesca Lefante
Presiding Member, Metro Inner DAP



- vi. In relation to Environmental Health matters:
- j) Laundry provisions must comply with the Health Act (Laundries and Bathrooms) Regulations.
 - k) The handling and removal of any asbestos material must be carried out in accordance with the Health (Asbestos) Regulations 1992 (as amended). Safe work procedures are required to be adhered to and all material must be disposed of at an approved land fill facility.
 - l) The development that is the subject of this planning approval must comply with the Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997 in relation to noise emissions.
 - m) The developer / landowner is advised of their obligations to ensure that all sand drift, waste, building materials and equipment is contained within the boundaries of the site during the construction period. Each building site shall be provided with a receptacle or enclosure of a size and type which will properly contain all litter and waste materials and on completion all rubbish, litter and waste materials will be removed from site.
 - n) All mechanical service systems including air-conditioners etc. to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).
 - o) The residential component of the development is to be adequately sound insulated prior to the first occupation of the development. The necessary sound insulation is to be in accordance with recommendations developed in consultation with the City and an acoustic consultant registered to conduct noise surveys and assessments in accordance with the Environmental Protection Act 1986. The engagement of the acoustic consultant and the implementation of the recommendations are to be at the owner's cost.
 - p) A suitable bin enclosure is to be provided in accordance with the City of Subiaco Health Local Laws 1999 which require bin enclosures to be of sufficient size to accommodate all bins used on the premises and serviced with an approved liquid refuse disposal system, have a tap connected to an adequate supply of water, have walls at least 1.8m in height, have an access way of not less than 1.0m in width and have a self closing gate.
 - q) The applicant is to ensure the car park design and construction complies with the Health Act (Carbon Monoxide) Regulations 1975 (as amended).
 - r) Premises selling food as defined under the Food Act 2008 are required to submit a City of Subiaco Food Business Notification/Registration form.
 - s) Prior to the construction and fit out of the approved food premises, detailed plans and specifications of all internal fixtures, finishes and fittings must be submitted to the City of Subiaco for assessment.
 - t) Any approved food premises using deep fryers and/or rotisseries is required to install a grease trap - to a size specified by Local Government and the Water Corporation.
 - u) As it is intended to use part of this premises as a "public building" as defined in Section 173 of the Health Act 1911 (as amended), it is necessary to apply for and receive a Certificate of Approval from the City of Subiaco Environmental Health Services before commencing use as a public building.
 - v) The air conditioner assessment/report to be forwarded to the City's Health Services team once design is finalised.

Francesca Lefante
Presiding Member, Metro Inner DAP



- w) Noise impact assessment/report for roof top of Regal Theatre and apartments to be forwarded to the City's Health Services team once completed.
- vii. In relation to Building Services matters:
 - a) A demolition permit is required to be obtained from the City prior to the demolition of the existing building(s) and/or structure(s) on the site.
 - b) A building permit is required to be obtained from the City prior to commencement of any work in relation to this approval.
 - c) Your attention is drawn to the need to comply with the requirements of Part D3 of the Building Code of Australia – Access for People with Disabilities, including parking, sanitary facilities and tactile indicators in accordance with AS1428.1, AS 1428.4, AS 1428.5 and AS/NZS 2890.6.
 - d) Proposed work must not compromise or affect in any way any existing, passive or active fire safety system or fire service.
- viii. In relation to Parks Services matters:
 - a) The City's street tree policy, protocols and Australian Standard relating to the protection of trees adjacent to development site (AS 4970–2009) to be adhered to at all times.
 - b) The City supports the proposed additional trees to be planted adjacent to the proposed development. Further discussions in relation to the trees and landscaping plants species within the City's road reserve would be required.
 - c) Tree Preservation Zone (TPZ) Protective fencing shall be formed around each tree prior to works commencing and shall be retained for the entirety of the project. To minimize the risk of tree damage/death a minimum construction clearance of two (2) meters is required from the outer part of the trunk base of the existing street tree. Where required protection may be to the drip line of the tree canopy whichever is greater.
 - d) No tree removal, branches or tree roots from the City's trees are to be cut without the authorisation of the City's arborist. Branches or roots approved for cutting are to be cut in accordance with the appropriate arboricultural standards by City staff.
 - e) The developer/contractor and property owner shall protect the City's street trees from any damage that may be caused by the scope of works
- ix. In relation to Waste Services matters:
 - a) sufficient space also needs to be provided to accommodate FOGO bins in the bin storage areas for commercial tenancies.
 - b) The City will require a minimum of 10 weeks' notice prior to occupation of these premises to allow for procurement and delivery of the bins required for this development.
- x. In relation to Compliance Services matters and regarding vehicles associated with the construction of the development, parking time restrictions apply to on-street parking, consideration should be given to making application for Commercial Parking Permit and workers on the site encouraged to make use of available all-day parking facilities and public transport.

Francesca Lefante
Presiding Member, Metro Inner DAP



- xi. In relation to Public Art matters, please note further information about the Public Art assessment process can be downloaded from the Public Art Strategy & Policy on the City's website.
- xii. In relation to the Interpretation Plan, it should investigate the history of the site at 484 Hay Street (Lot 57), its use as the Rance Sheet Metal Workers and its association with the Rance Family.
- xiii. In relation to the revised plans showing the theatre storage area and covered fire escape route, the drawings are to show how the new work intersects with the original fabric of the Regal Theatre.
- xiv. The Road Safety Audit is an assessment of the potential road safety risks associated with the new development, conducted by an independent qualified auditor. The assessment should consider all road users and suggest measures to eliminate or mitigate those risks which arise from the proposed vehicle access and egress from the development.
- xv. In relation to the POMP, please provide specific details relating to the operation of the internal and ROW traffic control system with the Road Safety Audit to ensure safe vehicle movements in and out of the development.
- xvi. In relation to the VMP, the Heritage Council WA is to be notified immediately if any impact occurs and advised on a recommended course of action by a suitably qualified structural engineer.

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

REASON: The proposed is consistent with the planning framework, including local planning strategy and Scheme. The building design, façade articulation, material are appropriate in the locational context, noting the DRP comments that the proposal represents an exemplary design, and the setbacks complement the design and protect the adjoining heritage building. The Panel agreed that improvements to the Regal Theatre functionality and amenity are substantial community benefits, and ground level landuses enhance streetscape activation.

The Panel gave due regard to the RAR technical assessment, submissions and presentations, and was satisfied that the exercise of discretion on height, setbacks, and other minor deviations are justified, given the high-quality design. The proposal was approved inclusive of changes to various conditions.

4. Form 2 DAP Applications

Nil

5. Section 31 SAT Reconsiderations

Nil.

Francesca Lefante
Presiding Member, Metro Inner DAP



PART C – OTHER BUSINESS

1. State Administrative Tribunal Applications and Supreme Court Appeals

The DAP noted the status of the following State Administrative Tribunal Applications and Supreme Court Appeals:

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/22/02317 DR81/2023	City of Vincent	41-43 and 45 Angove Street, North Perth	Proposed Service Station	31/05/2023
DAP/22/02259 DR166/2023	City of Subiaco	No. 424-428 (Lot 2) & No. 440 (Lots 4, 5 & 6) Hay Street, Subiaco	Demolition Of Existing Commercial Buildings and Construction Of Single And Two Storey Commercial Building	11/01/2024
DAP/22/02372 DR44/2024	City of Perth	Lot 20 (No.141) Wellington Street, East Perth	Proposed Convenient Store	28/03/2024

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 12:44pm.

Francesca Lefante
Presiding Member, Metro Inner DAP