



## **Metro North West Joint Development Assessment Panel Agenda**

**Meeting Date and Time:** Wednesday 27 July 2016; 2:00pm  
**Meeting Number:** MNWJDAP/139  
**Meeting Venue:** Department of Planning  
140 William Street, Perth

### **Attendance**

#### **DAP Members**

Ms Karen Hyde (Presiding Member)  
Mr Paul Drechsler (Deputy Presiding Member)  
Mr Fred Zuideveld (Specialist Member)  
Cr John Chester (Local Government Member, City of Joondalup)  
Cr Philippa Taylor (Local Government Member, City of Joondalup)

#### **Officers in attendance**

Ms Renae Mather (City of Joondalup)

#### **Department of Planning Minute Secretary**

Ms Rachel Osborne

#### **Applicant and Submitters**

Mr Jeremy Hofland (Rowe Group)

#### **Members of the Public**

Nil

#### **1. Declaration of Opening**

The Presiding Member declares the meeting open and acknowledges the past and present traditional owners and custodians of the land on which the meeting is being held.

#### **2. Apologies**

Nil

#### **3. Members on Leave of Absence**

Nil

#### **4. Noting of Minutes**

Note the Minutes of the Metro North West meeting No.136 held on the 11 July 2016.



Note the Minutes of the Metro North West meeting No.137 held on the 13 July 2016.

The Minutes of the Metro North West Meeting No.138 held on 15 July 2016 were not available at time of Agenda preparation.

**5. Declarations of Due Consideration**

Any member who is not familiar with the substance of any report or other information provided for consideration at the DAP meeting must declare that fact before the meeting considers the matter.

**6. Disclosure of Interests**

Nil

**7. Deputations and Presentations**

Nil

**8. Form 1 - Responsible Authority Reports – DAP Application**

Nil

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

Nil

**10. Appeals to the State Administrative Tribunal**

<b>10.1</b>	Property Location:	Lot 9 (937) Whitfords Avenue, Woodvale
	Application Details:	Three Storey Medical Centre
	Applicant:	Rowe Group
	Owner:	Citypride Holdings Pty Ltd
	Responsible authority:	City of Joondalup
	DoP File No:	DAP/15/00832

**11. General Business / Meeting Closure**

In accordance with Standing Order 7.3 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.



## **Minutes of the Metro North West Joint Development Assessment Panel**

**Meeting Date and Time:** Monday 11 July 2016; 9:30am  
**Meeting Number:** MNWJDAP/136  
**Meeting Venue:** Department of Planning  
140 William Street

### **Attendance**

#### **DAP Members**

Ms Karen Hyde (Presiding Member)  
Mr Paul Drechsler (Deputy Presiding Member)  
Mr Fred Zuideveld (Specialist Member)  
Cr David Boothman (Local Government Member, City of Stirling)  
Cr David Michael (Local Government Member, City of Stirling)

#### **Officers in attendance**

Mr Greg Bowering (City of Stirling)  
Ms Patricia Wojcik (City of Stirling)  
Mr Alex Campbell (City of Stirling)  
Mr Austin Donaghey (City of Stirling)  
Ms Gemma Basley (Department of Planning)  
Mr Robert Hodges (Department of Planning)  
Mr Mohsin Muttugui (Department of Planning)  
Ms Shannon Savage (Department of Planning)  
Mr John Chortis (Department of Planning)

#### **Department of Planning Minute Secretary**

Ms Rachel Osborne (Development Assessment Panels)

#### **Applicants and Submitters**

Mr Dan Pearce (RobertsDay)  
Mr Carlo Famiano (Urban & Rural Perspectives)  
Ms Rebecca Travaglione (Planning Solutions)  
Mr Marc Re (Planning Solutions)  
Mr Dennis Delaney (Caltex)  
Mr Behnam Bordbar (Transcore)  
Mr Simon Wheeler  
Mr Neil Wallington  
Mr Nicholas Helm

#### **Members of the Public**

Nil



## 1. Declaration of Opening

The Presiding Member, Ms Karen Hyde declared the meeting open at 9:30am on 11 July 2016 and acknowledged the past and present traditional owners and custodians of the land on which the meeting was being held.

The Presiding Member announced the meeting would be run in accordance with the *Development Assessment Panel Standing Orders 2012* under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

The Presiding Member advised that the meeting is being audio recorded in accordance with Section 5.16 of the Standing Orders 2012; No Recording of Meeting, which states: 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.' The Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

## 2. Apologies

Mayor Giovanni Italiano JP (Local Government Member, City of Stirling)

## 3. Members on Leave of absence

Nil

## 4. Noting of minutes

Minutes of the Metro North West JDAP meeting No.135 held on 28 June 2016 were not available for noting at the time of meeting.

Minutes of the Metro North West JDAP meeting No.135 held on 8 July 2016 were not available for noting at the time of meeting.

## 5. Declaration of Due Consideration

All members declared that they had duly considered the documents.

## 6. Disclosure of interests

Panel member, Cr David Michael, declared an impartiality interest in item 8.1a) and b). Cr Michael is an Osborne Ward Councillor which has previously covered this development application.

In accordance with section 4.6.1 and 4.6.2 of the Standing Orders 2012, the Presiding Member determined that the member listed above, who had disclosed an impartiality interest, was permitted to participate in discussion and voting on the items.

Panel member, Ms Karen Hyde, declared an impartiality interest in Item 8.1a) and b). Ms Hyde provided consultancy advice on the detailed area plan and structure plan for the Herdsman/Glendalough area in which this development application falls under. Ms Hyde provided the advice in her external role to the DAP.





In accordance with section 4.6.1, 4.6.2 and 6.25 of the Standing Orders 2012, the Deputy Presiding Member determined that the Presiding Member, Ms Karen Hyde, who had disclosed an impartiality interest, was permitted to participate in discussion and voting on the items.

## 7. Deputations and presentations

- 7.1 Mr Dan Pearce (Roberts Day) addressed the DAP for the application at Item 8.1.

***The presentation at Item 7.1 was heard prior to the application at Item 8.1***

- 7.2 Mr Simon Wheeler addressed the DAP against the application at Item 9.1. Mr Wheeler answered questions from the panel.

- 7.3 Mr Neil Wallington addressed the DAP against the application at Item 9.1. Mr Wallington answered questions from the panel.

- 7.4 Mr Nicholas Helm addressed the DAP against the application at Item 9.1. Mr Helm answered questions from the panel.

- 7.5 Mr Carlo Famiano (Urban & Rural Perspectives) addressed the DAP for the application at Item 9.1.

***The presentations at Items 7.2 to 7.5 were heard prior to the application at Item 9.1***

- 7.6 Mr Marc Re (Planning Solutions) and Mr Dennis Delaney (Caltex) addressed the DAP for the application at Item 9.2. Mr Re and Mr Delaney answered questions from the panel.

- 7.7 Mr Behnam Bordbar (Transcore) addressed the DAP for the application at Item 9.2. Mr Bordbar answered questions from the panel.

***The presentations at Item 7.6 and 7.1 were heard prior to the application at Item 9.2***

## 8. Form 1 - Responsible Authority Reports – DAP Application

- 8.1a Property Location: Lot 25 (352) Scarborough Beach Road, Osborne Park  
Application Details: Motor Vehicle, Boat or Caravan Sales Office and Restaurant Development  
Applicant: Australian Development Capital  
Owner: Troy Anthony Barbagallo & Vincenzo Barbagallo  
Responsible authority: City of Stirling  
DoP File No: DAP/15/00874

## REPORT RECOMMENDATION / PRIMARY MOTION

**Moved by:** Cr David Boothman

**Seconded by:** Cr David Michael



That the Metro North-West Joint Development Assessment Panel resolves to:

**Approve** DAP Application reference DAP/15/00874 and accompanying plans (Attachment 1) in accordance with Schedule 2, Clause 68(2) of the Planning and Development (Local Planning Scheme) Regulations 2015, subject to the following conditions:

1. The Metropolitan Region Scheme road widening reservation as shown on WAPC Land Requirement Plan Number 1.7245 is to be ceded free of cost to the Crown prior to the commencement of use.
2. Detailed design drawings are to be submitted for the City and written approval granted, prior to commencement of construction, for the proposed access onto Scarborough Beach Road, including the provision of a left turn pocket at a minimum width of 3.1m and minimum length of 25.0m plus transition tapers, in compliance with the attached Plan DA15-1650-SK02-A, to the satisfaction of the City.
3. A minimum 2.5m wide brick paved footpath within the verge is to be provided along the entire site frontage to the satisfaction of the City. Where any part of the footpath is to be located on the subject lot, a public access easement shall be registered on the title of the subject lot. The public access easement required by this condition shall be granted by the owner to the City of Stirling as an easement in gross pursuant to sections 195 and 196 of the *Land Administration Act 1997* for the benefit of the City of Stirling and the public at large.
4. Detailed design drawings are to be submitted to the City and written approval granted by the City prior to commencement of works, for the provision of a right turn pocket into the development on Frobisher Street at the proposed site access, in compliance with the attached Plan DA15-1650-SK02-A.
5. If a public road is constructed on the land adjoining the subject site to the east, which at the date of this approval is contained in Lot 806 (No. 344) Scarborough Beach Road, Osborne Park, and the public road is located immediately adjoining the eastern boundary of the subject site, then within 12 months following the completion of the public road:
  - (a) a new vehicular access from the basement car park of the development to this new road is to be constructed;
  - (b) the crossover access from the development to Scarborough Beach Road is to be permanently closed and the area occupied by this crossover is to be reinstated as part of the road verge to the satisfaction of the City; and
  - (c) the slip lane to be converted to embayed car parking and be line marked, to the satisfaction of the City.
6. The construction of future embayed street parking along Scarborough Beach Road does not form part of this approval. Any parking within this road reserve shall require the separate approval of the City and/or Department of Planning, and will be subject to the future removal of the Scarborough Beach Road access.



7. Prior to commencement of development, the plans are to be modified to identify a future access point from the parking area to the east, to the satisfaction of the City of Stirling.
8. The development shall be constructed as one integral development incorporating the Motor Vehicle Sales, Motor Vehicle Repairs, Restaurant and Office components. Prior to the occupation of the Motor Vehicle Sales use, there must be substantial commencement of the office component.
9. The development shall be amended to include a continuous awning for the entirety of the building frontage adjoining Scarborough Beach Road and Frobisher Street. The construction of the awning shall comply with the requirements of clause 3.2.6 of the City of Stirling Draft Herdsman Glendalough Area Detailed Area Plan, being:
  - The awning shall be a minimum width of 3 metres;
  - The awning shall have a minimum height of 3 metres and a maximum height of 3.6m as measured from the finished pavement level immediately below; and
  - The use of glazing shall only be permitted where it is designed to reduce glare and air temperature at street level.
10. The applicant/owner shall prepare and submit to the City of Stirling for its approval detailed landscape design drawings, which comply with the City's Landscaping Policy, for all landscaping to be provided on the subject site and within the adjoining road reserves. All landscaping of the subject site and the abutting road reserves is to be completed in accordance with the drawings approved by the City prior to the commencement of use of the development and thereafter maintained to the satisfaction of the City.
11. A service vehicle bay shall be provided within Frobisher Street to accommodate site deliveries and all Mobile Garbage Bin (MGB) pickup, in compliance with the attached Plan DA15-1650-SK02-A to the satisfaction of the City. The service bay is to be a minimum width of 3.0m and 20.0m in length, plus transition tapers.
12. Road reserve widening is required along the Frobisher Street frontage to accommodate the service vehicle bay and public footpath, in compliance with the attached Plan DA15-1650-SK02-A, and to the satisfaction of the City. The road reserve widening is to be ceded to the Crown prior to commencement of use of the development.
13. All roadworks required as part of the development are to be completed to the satisfaction of the City, prior to commencement of the use of the development.
14. No goods or service delivery or sanitation pickup is permitted from the Scarborough Beach Road frontage.
15. A minimum 6.0m x 6.0m street corner truncation of the site is to be provided on the corner of Frobisher Street and Scarborough Beach Road and ceded to the Crown prior to the occupancy of the development. No development, other than awnings, shall be permitted within the truncation area. (refer Advice Notes (o) and (p)).



16. The proposed 3 x 1100L Dealership/Workshop bulk bins are to be collected within the site, and the sanitation collection vehicle must enter and leave the site in forward gear and sufficient clearance height within the building is to be provided to accommodate this vehicle on-site. Vehicle movement and clearance details are to be submitted to the City for approval.
17. A bond is to be paid for all construction works within the road reserve, prior to any works commencing. The bond will be determined by the City of Stirling and will be based on the approved engineering construction plans. The bond will be returned once all works within the road reserve have been completed in accordance with the approved construction plans and to the satisfaction of the City.
18. Payment to the City of an inspection fee equivalent to 1½% of the tendered cost of construction works within the road reserve.
19. Payment to the City of a 12 months defects liability period retention bond of 5% of the tendered cost of construction works within the road reserve.
20. A Site Management Plan is to be submitted to the satisfaction of the City of Stirling prior to the commencement of any works. The Site Management Plan shall address dust, noise, waste management, parking, storage of materials, traffic and site safety/security. The Site Management Plan as approved by the City shall be complied with for the duration of the construction of the development.
21. A Noise Management Plan be prepared and its recommendations implemented in the works. The Noise Management Plan shall be submitted to and approved in writing by the City of Stirling prior to commencement of works. The Noise Management Plan shall address all functions of this facility including deliveries, mechanical services and all other activities.
22. End of Trip bicycle facilities shall be provided and are to include bicycle racks to accommodate a minimum of 54 bicycles in the bicycle storage area. Lockers for a minimum of 54 staff are to be appropriately distributed amongst the four change rooms. All end of journey facilities, bicycle racks and lockers are to be provided prior to commencement of use of the development.
23. A Stormwater Management Plan to the satisfaction of the City shall be submitted prior to commencement of works and shall indicate all stormwater collected and contained on site.
24. All vehicle parking facilities and manoeuvring areas shall comply with AS/NZS 2890.1, AS 2890.2 and AS/NZS 2890.6.
25. All off street parking shall be available onsite during business hours for all customers and staff to the satisfaction of the City.
26. No goods or materials shall be stored either temporarily or permanently in the parking or landscape areas or within access driveways. All goods and materials are to be stored within the buildings or storage yards where provided.



27. Vehicular parking, manoeuvring and circulation areas indicated on the approved plans shall be sealed and drained to the satisfaction of the City and the parking spaces being marked out and maintained in good repair.
28. The lower ground floor carpark entry off Scarborough Beach Road must match the existing ground level (13.99 AHD, based on the applicants survey) at the WAPC Planning Control Area 104 Boundary along Scarborough Beach Road at the adjoining boundary of the TyrePower Site. All proposed floor levels are to be amended to suit, and be to the satisfaction of the City.
29. All redundant vehicle crossovers shall be removed and the verge, landscaping, footpaths and kerbing reinstated in accordance with this approval.
30. All proposed crossovers to the development shall be designed and constructed in accordance with the City's Crossover Policy to the satisfaction of the City.
31. Glazed areas on the lower ground floor and ground floor external walls are not to be painted or obscured so as to obstruct views between the exterior and/or interior.
32. All signage shown on the submitted plans does not form of this approval.
33. All ground floor external walls are to be treated with an anti-graffiti coating upon completion.
34. All vehicle servicing and repair activities to take place within the workshop area only.
35. Any on site floodlights not being positioned or operated in such a manner as to cause annoyance or nuisance to surrounding uses and passing traffic.
36. Where the satisfaction of any condition requires the preparation of a legal agreement, such agreement shall be prepared by the City of Stirling's solicitors.
37. Unless otherwise specified all costs of and incidental to the satisfaction of these conditions must be paid by the owner including, without limitation, the City of Stirling's legal costs and all registration fees and stamp duty (if any).

#### **Advice Notes**

- a) If the development the subject of this approval is not substantially commenced within a period of two years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
- b) Where an approval has so lapsed, no development shall be carried out without the further approval under the City of Stirling Local Planning Scheme No. 3 having first been sought and obtained.



- c) If an applicant is aggrieved by this determination there is a right of appeal under Part V of the *Planning and Development Act 2005*. An appeal must be lodged within 28 days of the determination with the State Administrative Tribunal.
- d) This is a Development Approval under the City of Stirling Local Planning Scheme No. 3 and related policies. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant to obtain any other necessary approvals, consents and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
- e) This approval is not an authority to ignore any constraint to development on the land, which may exist through statute, regulation, contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City's attention.
- f) The applicant is responsible for ensuring that all lot boundaries as shown on the approved plans are correct.
- g) Construction noise is not permitted outside of the hours of 7am to 7pm Monday to Saturday inclusive. Any construction works are to comply with the *Environmental Noise Protection Regulations 1997*.
- h) Services shall not be visible from the street frontage or other public areas, including aerials, air conditioners and satellite dishes, etc and operated to comply with the Environmental Protection (Noise) Regulations 1997.
- i) Additional lighting of key elements and features of the building and landscaping is encouraged to add vitality.
- j) All waste services must comply with the City of Stirling Waste Management Local Law 2010.
- k) The following details are to be submitted to and approved by the City's Health and Compliance Business Unit prior to commencement of fit-out of the food premises:
- two copies of scale floor plans showing the position of all fixtures and equipment;
  - two copies of scaled sectional elevation plans showing the position of all fixtures and equipment;
  - finishes of every wall, floor and ceiling;
  - indication of hot and cold water supply and waste water services;
  - toilet facilities;
  - mechanical exhaust ventilation - where applicable; and
  - grease trap - where applicable.

If this information is to be submitted as a Certified Building Permit application, additional plans and specifications are required as above.



- l) Wash-down waste water to be discharged to sewer in accordance with requirements a Water Corporation approval.
- m) The proposed crossover configuration is subject to the approval of the City's Engineering Operations Business Unit. A "Crossover Installation Application" is required to be submitted and approved prior to the commencement of the crossover installation/s.
- n) The applicant is advised of the requirement to liaise with the City's Engineering Operations Business Unit to ensure compliance with the City's Verge Treatment Policy, prior to commencing any works within the verge.
- o) The truncation required is from the Scarborough Beach Road WAPC Planning Control Area 104 road widening boundary and the Frobisher Street road widening boundary.
- p) Any conditions requiring changes to the built form are to be satisfied prior to the issue of a building permit. Where the changes have further planning implications, a Form 2 application for the further determination of the Metro North-West JDAP in relation to the amended plans will be required.
- q) In the preparation of any legal agreement or notification required by these conditions, the City's solicitors act for the City. You are advised to take your own legal advice in connection with any documentation prepared in connection with these conditions.

**The Report Recommendation/Primary Motion was put and CARRIED UNANIMOUSLY.**

<b>8.1b</b> Property Location:	Lot 25 (352) Scarborough Beach Road, Osborne Park
Application Details:	Motor Vehicle, Boat or Caravan Sales Office and Restaurant Development
Applicant:	Australian Development Capital
Owner:	Troy Anthony Barbagallo & Vingenzo Barbagallo
Responsible authority:	WAPC
DoP File No:	DAP/15/00874

#### **REPORT RECOMMENDATION / PRIMARY MOTION**

**Moved by:** Cr David Michael

**Seconded by:** Cr David Boothman

That the Metro Central JDAP resolves to:

**Approve** DAP Application reference DAP/15/00874 and accompanying plans; date stamped 1 December 2015 and 28 January 2016 by the Department of Planning on behalf of the Western Australian Planning Commission, in accordance with Clause 30(1) of the Metropolitan Region Scheme, subject to the following conditions:

1. The Scarborough Beach Road crossover to be serviced by a slip lane prior to the completion of the development to the specification of the Local Government and the satisfaction of the Western Australian Planning Commission.



2. The Frobisher Road crossover to be serviced by a right turn pocket prior to the completion of the development to the specification of the Local Government and the satisfaction of the Western Australian Planning Commission.
3. A legal Agreement by way of a caveat to be lodged against the Title of Lot 25 to require the Scarborough Beach Road crossover to be closed upon construction of alternative road access being provided to the site and works to connect Lot 25 to this alternative access to be carried out within 6 months, to the specification of the Local Government and the satisfaction of the Western Australian Planning Commission.
4. Prior to the issue of a Building Licence, the plans hereby approved to be modified to reflect the existing shared crossover arrangements on Scarborough Beach Road between Lots 25 and 19, satisfaction of the Western Australian Planning Commission.
5. Prior to the issue of a Building Licence, the plans hereby approved to be modified to provide an internal carpark connection between Frobisher Street and Scarborough Beach Road, to the specification of the Local Government and the satisfaction of the Western Australian Planning Commission.
6. The implementation of the Traffic Management System as proposed in the Transport Technical Note dated 21 October 2015 or as required to be modified to respond to other conditions to the specification of the Local Government and the satisfaction of the Western Australian Planning Commission.
7. This decision constitutes planning approval only and is valid for a period of two years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.

#### **ADVICE NOTE**

1. With regard to Condition's 3 and 4, the Draft Herdsman Glendalough Area Detailed Area Plan and Herdsman Glendalough Integrated Transport Strategy identify an alternative access being provided to the site (eastern boundary) by way of a new road connection between Scarborough Beach Road and Frobisher Street. Once constructed, this would provide access to Lot 15 and would remove the need for direct access to Scarborough Beach.
2. With regard to Condition 2, the Western Australian Planning Commission is willing to discuss alternative mechanisms to a legal agreement and caveat
3. With regard to Condition 5, the internal carpark connection is required to provide vehicle users the choice of access and egress, particularly in peak times.

**The Report Recommendation/Primary Motion was put and CARRIED UNANIMOUSLY.**





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

9.1 Property Location:	Lot 81 (18) Ozone Parade, Trigg
Application Details:	20 Multiple Dwellings
Applicant:	Urban & Rural Perspectives
Owner:	Montague Holdings Pty Ltd
Responsible authority:	City of Stirling
DoP File No:	DAP/14/00507

### REPORT RECOMMENDATION / PRIMARY MOTION

**Moved by:** Ms Karen Hyde

**Seconded by:** Mr Fred Zuideveld

That the Metro North-West Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DP/14/00507 as detailed on the DAP Form 2 dated 4 May 2016 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** the DAP Application reference DP/14/00507 as detailed on the DAP Form 2 dated 4 May 2016 and accompanying plans (Attachment 1) in accordance with the provisions of the City of Stirling Local Planning Scheme No.3, for the proposed amendments to the approved 20 Multiple Dwellings at Lot 81, House Number 18, Ozone Parade, Trigg, subject to:

### Removal of Conditions

Conditions 7, 18 and 25 being removed.

### Amended Conditions

Conditions 14 and 26 being amended as follows:

14. The five visitor parking spaces being provided on site are to be permanently marked for the exclusive use of visitors to the satisfaction of the City.
26. The proposed development complying with all details and amendments marked in red as shown on the approved plan, specifically:

Privacy screening shall be provided to the raised outdoor (pool) area as marked in red on the approved plans. The screening is to be visually impermeable and to comply in all respects with the requirements of Clause 6.4.1 of the Residential Design Codes (Visual Privacy).

### Advice Notes

1. All other conditions and requirements detailed on the previous approvals dated 24 July 2014 and 17 August 2015 shall remain unless altered by this approval.

The following advice note being added to the approval:



11. The occupier of the premises is required under regulation 8 of the Health (Aquatic Facilities) Regulations 2007 to apply for an approval from the Executive Director of Public Health to construct an aquatic facility.

**The Report Recommendation/Primary Motion was put and CARRIED (4/1).**

For: Ms Karen Hyde  
Mr Paul Drechsler  
Mr Fred Zuideveld  
Cr David Boothman

Against: Cr David Michael

**PROCEDURAL MOTION**

**Moved by:** Ms Karen Hyde

**Seconded by:** Mr Paul Drechsler

That the meeting be adjourned for a period of 5 minutes to allow the City officer's to devise an alternate recommendation for Item 9.2.

**The Procedural Motion was put and CARRIED UNANIMOUSLY.**

*The meeting was adjourned at 11.19am.*

*The meeting reconvened at 11.25am*

<b>9.2</b> Property Location:	Lot 50 (490) Karrinyup Road, Gwelup
Application Details:	Redevelopment of Existing Caltex Service Station
Applicant:	Planning Solutions
Owner:	John Joseph Andretich, Vilma Hasler, Gojko Glamuzina and Johnie Glamuzina
Responsible authority:	City of Stirling
DoP File No:	DAP/15/00936

**ALTERNATE RECOMMENDATION / PRIMARY MOTION**

**Moved by:** Cr David Boothman

**Seconded by:** Mr Fred Zuideveld

That the Metro North-West Joint Development Assessment Panel resolves to:

**Accept** that the DAP Application reference DAP/15/00936 as detailed on the DAP Form 2 dated 6 May 2016 is appropriate for consideration in accordance with Regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011;

**Approve** the DAP Application reference DAP/15/00936 as detailed on the DAP Form 2 dated 6 May 2016 and accompanying plans (Attachment 1) in accordance with the provisions of regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011, for the proposed Amendment to DAP/15/00936 - Redevelopment of Existing Service Station, subject to:



## Amended Condition

2. The proposed development shall comply with all details and amendments marked in red as shown on the approved plans, specifically:
  - a) A revised landscaping plan to be provided demonstrating a minimum of 68.8m<sup>2</sup> of additional landscaping being provided on-site as indicatively shown on the approved plans, which will result in the relocation of one (1) staff car bay;
  - b) The proposed bowser canopy shall be setback a minimum of 1.2m from the western lot boundary;
  - c) The southern crossover located on North Beach Road, as identified in Attachment 1, designed and constructed in accordance with the City's Crossover Policy to the satisfaction of the City.
  - d) The monolith sign on the corner of North Beach Road and Karrinyup Road shall be no higher than 7.5m.

**REASON:** The Report Recommendation/Primary Motion for refusal lapsed for want of a mover and seconder and the DAP felt that the application could be approved given the new information received from the applicant and the City officers.

**The Alternate Recommendation / Primary Motion was put and CARRIED UNANIMOUSLY.**

## 10. Appeals to the State Administrative Tribunal

As invited by the State Administrative Tribunal under Section 31 of the *State Administrative Tribunal Act 2004*, the Metro North West JDAP will reconsider DR 360/2015 Lot 547 & 548 (22 & 24) Southampton Lane, Mindarie on the 13 July 2016.

## 11. General Business / Meeting Close

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

There being no further business, the Presiding Member declared the meeting closed at 11.32am.



## Minutes of the Metro North West Joint Development Assessment Panel

**Meeting Date and Time:** Wednesday 13 July 2016; 9:00am  
**Meeting Number:** MNWJDAP/137  
**Meeting Venue:** Department of Planning,  
140 William Street

### Attendance

#### DAP Members

Ms Karen Hyde (Presiding Member)  
Mr Paul Drechsler (Deputy Presiding Member)  
Mr Fred Zuideveld (Specialist Member)  
Cr David Boothman (Local Government Member, City of Stirling)  
Cr David Michael (Local Government Member, City of Stirling)  
Cr Frank Cvitan (Local Government Member, City of Wanneroo)  
Cr Russell Driver (Local Government Member, City of Wanneroo)

#### Officers in attendance

Mr Greg Bowering (City of Stirling) - via teleconference  
Mr Jeremy Thompson (City of Wanneroo)  
Ms Rana Murad (City of Wanneroo)

#### Department of Planning Minute Secretary

Ms Rachel Osborne (Department of Planning)

#### Applicants and Submitters

Mr Henry Betlehem (Urban Concepts)  
Mr Nik Hidding (Peter Webb & Associates)  
Mr Norm Carey (Dale Grove)

#### Members of the Public

Nil

### 1. Declaration of Opening

The Presiding Member, Ms Karen Hyde declared the meeting open at 8:55am on Wednesday 13 July 2016 and acknowledged the past and present traditional owners and custodians of the land on which the meeting was being held.

The Presiding Member announced the meeting would be run in accordance with the *Development Assessment Panel Standing Orders 2012* under the *Planning and Development (Development Assessment Panels) Regulations 2011*.



The Presiding Member advised that the meeting is being audio recorded in accordance with Section 5.16 of the Standing Orders 2012; No Recording of Meeting, which states: 'A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.' The Presiding Member granted permission for the minute taker to record proceedings for the purpose of the minutes only.

**2. Apologies**

Mayor Giovanni Italiano JP (Local Government Member, City of Stirling)

**3. Members on Leave of absence**

Nil

**4. Noting of minutes**

The Minutes of the Metro North West JDAP Meeting No.135 held on 8 July 2016 were not available at time of Agenda preparation.

The Minutes of the Metro North West JDAP Meeting No.136 held on 11 July 2016 were not available at time of Agenda preparation.

**5. Declaration of Due Consideration**

All members declared that they had duly considered the documents.

**6. Disclosure of interests**

Panel member, Cr David Michael, declared an impartiality interest in item 9.1. Cr Michael is a Ward Councillor for Cedric Street which has previously covered this development application.

In accordance with section 4.6.1 and 4.6.2 of the Standing Orders 2012, the Presiding Member determined that the member listed above, who had disclosed an impartiality interest, was permitted to participate in discussion and voting on the items.

**7. Deputations and presentations**

**7.1** Mr Nik Hidding (Peter Webb & Associates) addressed the DAP for the application at Item 10.1.

***The presentation at Item 7.2 was heard prior to the application at Item 10.1***

**8. Form 1 - Responsible Authority Reports – DAP Application**

Nil



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

9.1 Property Location:	Lot 604 (114) Cedric Street, Stirling
Application Details:	Mixed Use Commercial & Residential Development
Applicant:	TPG Town Planning Urban Design & Heritage
Owner:	Mr Peter Hearn
Responsible authority:	City of Stirling
DoP File No:	DAP/13/00723

**REPORT RECOMMENDATION / PRIMARY MOTION**

**Moved by:** Ms Karen Hyde

**Seconded by:** Mr Fred Zuideveld

That the Metro North-West JDAP resolves to:

1. **Accept** that the DAP Application reference DP/13/00723 as detailed on the DAP Form 2 dated 19 May 2016 is appropriate for consideration in accordance with Regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** the DAP Application reference DP/13/00723 as detailed on the DAP Form 2 dated 19 May 2016 in accordance the provisions of Regulation 17 of Page 2 the *Planning and Development (Development Assessment Panels) Regulations 2011*, for the proposed extension of time to the approved Mixed Use Development at Lot 604, House Number 114, Cedric Street, Innaloo, for a further two years, subject to:

**Amended Conditions**

1. Nil.

**Amended Advice Notes**

1. All other conditions and requirements detailed on the previous approval dated 24 July 2014 shall remain unless altered by this application.
2. If the development has not substantially commenced by 24 July 2018 this approval shall no longer be valid. Notwithstanding, if a further application is made under regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the responsible authority will assess any new application under the operative planning framework at that point in time.

**The Report Recommendation/Primary Motion was put and CARRIED (4 / 1).**

For: Ms Karen Hyde  
Mr Paul Drechsler  
Mr Fred Zuideveld  
Cr David Boothman

Against: Cr David Michael



## 10. Appeals to the State Administrative Tribunal

10.1 Property Location:	Lot 547 & 548 (22 & 24) Southampton Lane, Mindarie
Application Details:	8 Multiple Dwellings
Applicant:	Peter Webb & Associates
Owner:	Carona Construction Pty Ltd
Responsible authority:	City of Wanneroo
DoP File No:	DAP/15/00818

### REPORT RECOMMENDATION / PRIMARY MOTION

**Moved by:** Cr Russell Driver

**Seconded by:** Cr Frank Cvitan

That the Metro North-West Joint Development Assessment Panel, pursuant to Section 31 of the *State Administrative Tribunal Act 2004* with respect to SAT application DR 360 of 2015, resolves to **reconsider** its decision dated 2 September 2015 and **approve** DAP application reference DAP/15/00818 and accompanying plans (**Attachment 3 Plans 1 – 9**), in accordance with the provisions of the City of Wanneroo District Planning Scheme No. 2, subject to the following conditions:

#### Conditions

1. This decision constitutes planning approval only and is valid for a period of two (2) years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.
2. An approval being granted by the Western Australian Planning Commission for the amalgamation of Lots 547 and 548 prior to any works commencing, and a copy of the Certificate of Title for the amalgamated land being submitted to the City before the development is occupied.
3. Detailed landscaping and reticulation plans for the subject site shall be lodged for approval by the City within three (3) months from the date of this approval. Planting and installation shall be in accordance with the approved Landscaping and Reticulation plans and completed prior to the occupation of the development and thereafter maintained to the City's satisfaction.
4. Lighting shall be installed in all car-parking areas. Any lighting is to be designed in accordance with Australian Standards for the "Control of Obtrusive Effects of Outdoor Lighting" (AS4282) and shall, where possible, be directed internally so as not to overspill into nearby lots.
5. Parking areas, driveways, crossovers and points of ingress and egress shall be designed and constructed in accordance with the Australian Standard for Offstreet Carparking (AS2890) as amended and the City of Wanneroo Technical Standards, and shall be drained, sealed and marked.
6. The parking areas and associated access indicated on the approved plans shall not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.



7. An on-site stormwater drainage system, sufficient to contain a 1:100 year storm event (over 24 hours) must be provided. Plans illustrating the system proposed shall be submitted prior to the commencement of works, to the satisfaction of the City of Wanneroo, and the system shall be installed during the construction of the development.
8. All earthworks shall be contained on-site and not encroach onto any adjoining road reserves or rights-of-way.
9. The applicant shall undertake adequate measures to minimise any impacts of dust and sand drift from the site.
10. All refuse shall be stored within the designated bin enclosures and shall be collected from the site by a private contractor.
11. A construction management plan shall be submitted for approval when application is made for a building licence. This plan is to detail how construction will be managed to minimise disruption in the area and shall include;
  - The delivery of and delivery times for materials and equipment to the site;
  - Storage of materials and equipment on site;
  - Parking arrangements for contractors and sub-contractors
  - The impact on traffic movement;
  - Construction and delivery times; and,
  - Any other matter required by the City.

#### **Advice Notes:**

1. Adequate measure to minimise any impacts of dust and sand drift from the site include all requirements as stipulated within the Department of Environmental Regulation's *'A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities'*.
2. Where an approval has so lapsed, no development must be carried out without further approval of the Metro North-West Joint Development Assessment Panel having first been sought and obtained.
3. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

#### **AMENDING MOTION**

**Moved by:** Mr Fred Zuideveld

**Seconded by:** Ms Karen Hyde

(i) To amend condition 3 to read as follows;

*"Detailed landscaping and reticulation plans for the subject site shall be lodged for approval by the City prior to commencement of construction. Planting and installation shall be in accordance with the approved Landscaping and Reticulation plans and completed prior to the occupation of the development and thereafter maintained to the City's satisfaction."*





(ii) To introduce new condition 12 to read as follows;

*"Bin storage areas shall be located internally within the existing car parking bay one (1), with access externally from Southampton Lane to the satisfaction of the City of Wanneroo."*

**REASON:**

(i) To clarify intent of condition.

(ii) To improve the amenity for the residents and landscape of the street.

**The Amending Motion was put and CARRIED UNANIMOUSLY.**

**PRIMARY MOTION (AS AMENDED)**

That the Metro North-West Joint Development Assessment Panel, pursuant to Section 31 of the *State Administrative Tribunal Act 2004* with respect to SAT application DR 360 of 2015, resolves to **reconsider** its decision dated 2 September 2015 and **approve** DAP application reference DAP/15/00818 and accompanying plans (**Attachment 3 Plans 1 – 9**), in accordance with the provisions of the City of Wanneroo District Planning Scheme No. 2, subject to the following conditions:

**Conditions**

1. This decision constitutes planning approval only and is valid for a period of two (2) years from the date of approval. If the subject development is not substantially commenced within the two year period, the approval shall lapse and be of no further effect.
2. An approval being granted by the Western Australian Planning Commission for the amalgamation of Lots 547 and 548 prior to any works commencing, and a copy of the Certificate of Title for the amalgamated land being submitted to the City before the development is occupied.
3. Detailed landscaping and reticulation plans for the subject site shall be lodged for approval by the City prior to commencement of construction. Planting and installation shall be in accordance with the approved Landscaping and Reticulation plans and completed prior to the occupation of the development and thereafter maintained to the City's satisfaction.
4. Lighting shall be installed in all car-parking areas. Any lighting is to be designed in accordance with Australian Standards for the "Control of Obtrusive Effects of Outdoor Lighting" (AS4282) and shall, where possible, be directed internally so as not to overspill into nearby lots.
5. Parking areas, driveways, crossovers and points of ingress and egress shall be designed and constructed in accordance with the Australian Standard for Offstreet Carparking (AS2890) as amended and the City of Wanneroo Technical Standards, and shall be drained, sealed and marked.
6. The parking areas and associated access indicated on the approved plans shall not be used for the purpose of storage or obstructed in any way at any time, without the prior approval of the City.



7. An on-site stormwater drainage system, sufficient to contain a 1:100 year storm event (over 24 hours) must be provided. Plans illustrating the system proposed shall be submitted prior to the commencement of works, to the satisfaction of the City of Wanneroo, and the system shall be installed during the construction of the development.

8. All earthworks shall be contained on-site and not encroach onto any adjoining road reserves or rights-of-way.

9. The applicant shall undertake adequate measures to minimise any impacts of dust and sand drift from the site.

10. All refuse shall be stored within the designated bin enclosures and shall be collected from the site by a private contractor.

11. A construction management plan shall be submitted for approval when application is made for a building licence. This plan is to detail how construction will be managed to minimise disruption in the area and shall include;

- The delivery of and delivery times for materials and equipment to the site;
- Storage of materials and equipment on site;
- Parking arrangements for contractors and sub-contractors
- The impact on traffic movement;
- Construction and delivery times; and,
- Any other matter required by the City.

12. Bin storage areas shall be located internally within the existing car parking bay one (1), with access externally from Southampton Lane to the satisfaction of the City of Wanneroo.

#### **Advice Notes:**

1. Adequate measure to minimise any impacts of dust and sand drift from the site include all requirements as stipulated within the Department of Environmental Regulation's '*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*'.

2. Where an approval has so lapsed, no development must be carried out without further approval of the Metro North-West Joint Development Assessment Panel having first been sought and obtained.

3. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

**The Primary Motion (as amended) was put and CARRIED UNANIMOUSLY.**



## **11. General Business / Meeting Close**

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

There being no further business, the Presiding Member declared the meeting closed at 9:17am.



## State Administrative Tribunal Reconsideration

### Responsible Authority Report

(Regulation 12)

<b>Property Location:</b>	Lot 9 (937) Whitfords Avenue, Woodvale
<b>Application Details:</b>	Proposed three storey mixed use development
<b>DAP Name:</b>	Metro North-West JDAP
<b>Applicant:</b>	Rowe Group
<b>Owner:</b>	Citypride Holdings Pty Ltd
<b>LG Reference:</b>	DA15/0664
<b>Responsible Authority:</b>	City of Joondalup
<b>Authorising Officer:</b>	Dale Page Director Planning and Community Development
<b>Department of Planning File No:</b>	DAP/15/00832
<b>Report Date:</b>	15 July 2016
<b>Application Receipt Date:</b>	19 June 2015
<b>Application Process Days:</b>	263 days
<b>Attachment(s):</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Amended Development plans</li><li>3. Original Building perspectives</li><li>4. Additional traffic and parking justification</li><li>5. City of Joondalup Environmentally Sustainable Design checklist</li><li>6. Examples of similar developments</li><li>7. 1991 and 1992 deeds</li></ol>

#### Officer Recommendation:

That the Metro North-West Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 86 of 2016, resolves to:

Set aside the decision dated 29 February 2016 and **refuse** DAP Application reference DAP/15/00832 and accompanying plans Job 818 pages 1-7 of Rev Di in accordance with Clause 68(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reason:

#### Reason

1. Having due regard to the matters set out in of clauses 67 (m), (s) and (za) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the obligations under the 1991 and 1992 deeds applicable to the site, the proposed development is not considered to appropriately accommodate the required access arrangements for the Woodvale district centre as the proposal will remove reciprocal rights of access from Whitfords Avenue to Lot 66, and varies the approved car parking layout without first obtaining written consent of all parties subject to theses deeds.

## Background:

Property Address:	Lot 9 (937) Whitfords Avenue, Woodvale
Zoning	MRS: Urban
	TPS: Commercial
Use Class:	Medical Centre – permitted (“P”) use Office – permitted (“P”) use Shop – permitted (“P”) use Restaurant – permitted (“P”) use
Strategy Policy:	N/A
Development Scheme:	<i>City of Joondalup District Planning Scheme No. 2 (DPS2)</i>
Lot Size:	2,200m <sup>2</sup>
Existing Land Use:	‘Medical Centre’ and ‘Take Away Food Outlet’
Value of Development:	\$5 million

The subject site is located immediately north of Whitfords Avenue and forms part of the Woodvale Commercial Centre. It is bound by a service station and car wash to the east, a drive through food outlet to the west and Woodvale Boulevard Shopping Centre to the north. Low density, privately owned residential lots are located to the east and south of the commercial centre, and a retirement village is located to the west (Attachment 1 refers).

The site is zoned ‘Urban’ under the *Metropolitan Region Scheme* (MRS) and ‘Commercial’ under the City’s *District Planning Scheme No. 2 (DPS2)*.

Approval for the Woodvale Commercial Centre was granted in April 1991. A non-retail commercial development to the south-west of the site was approved in July 1991 and was subject to conditions which included the requirement for reciprocal rights of access and car parking to be provided between individual landholdings within the commercial centre. A deed made between the owners of the shopping centre and the City of Wanneroo came into effect in July 1991, granting reciprocal access and parking rights across the commercial centre (Attachment 7 refers).

Since this date, the centre has been subdivided several times to create additional lots, including the creation of the subject lot in 1992. Upon sale of the subject lot, the owner of the shopping centre and the new owner entered into a deed in which the City of Joondalup is a party, and requires the subject lot to be bound by the conditions and covenants contained in the July 1991 deed (Attachment 7 refers).

Currently Lot 9 (937) Whitfords Avenue contains a single storey building over the eastern half of the site, which consists of a medical centre and take away food outlet, with associated car parking over the western side of the lot. The development was approved by the City in July 2003 with 41 car parking bays approved in lieu of the 49 car bays required under DPS2. This represented an eight car bay shortfall (16.3%).

### Amendment No. 65

Scheme Amendment No. 65 was gazetted on 17 June 2016, implementing changes to DPS2 to improve the operation and update and modernise standards. This included modifying the car parking standard for ‘Office’ and ‘Shop’.

As Amendment No. 65 was adopted by Council at its meeting held on 25 June 2013 it was given due regard through the original assessment of the application as a 'seriously entertained proposal'. As the amendment has now been gazetted and modifications incorporated into DPS2, the car parking standards referenced in this Responsible Authority Report (RAR) are standards that were identified as Amendment No. 65 standards in the previous RAR.

#### Joondalup Design Reference Panel

This application was referred to the Joondalup Design Reference Panel (JDRP) on 1 September 2015.

The purpose of the JDRP is to provide advice on the design of development with a particular focus on the impact of buildings on the streetscape and the environmentally sustainable design features. Council at its meeting held on 24 June 2014 adopted amendments to the Terms of Reference for the JDRP which extended the requirement for applications determined by the JDAP to be referred to the JDRP where they relate to new commercial development or major additions to existing development that impact on the streetscape.

The amendments to the design the subject of this report are minor and the development has therefore not been referred back to the JDRP. The original comments from the JDRP meeting were addressed through amended plans and additional information as outlined in the RAR considered by the JDAP at its meeting held on 29 February 2016.

#### Subject Application History

The Metro North-West Joint Development Assessment (JDAP) originally considered the application for this development at its meeting held on 26 November 2015 and resolved to defer the application to enable the applicant to:

1. *Give further consideration to the building setbacks and building bulk;*
2. *To provide perspective drawings to show all facades of the proposal for each stage of the development;*
3. *To provide further information in relation to how the parking requirements of the City can be met at each stage of the development.*

Additional information and modifications were subsequently considered by the JDAP at its meeting held on 29 February 2016. The JDAP resolved to refuse the application for the following reasons:

1. *Having due regard to the matters set out in of clauses 67 (m), (s) and (za) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the obligations under the 1991 and 1992 deeds applicable to the site, the proposed development is not considered to appropriately accommodate the required access arrangements for the Woodvale district centre as the proposal will remove reciprocal rights of access from Whitfords Avenue to Lot 66.*
2. *The proposed development does not meet the requirements of the City of Joondalup District Planning Scheme No. 2 in relation to the amount of on-site car parking required, being 50 bays in lieu of 80 bays. There is considered insufficient car parking on-site to accommodate the demand of the development.*

3. *Having due regard to the matters set out in of clauses 67 (m), (s), (y) and (za) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 the proposal is not considered to provide adequate access or egress to the development as the design of the basement access does provide for adequate vehicle sightlines, and the northern pedestrian entrance is not integrated with the surrounding access network.*

The applicant subsequently sought a review of the JDAP's decision through the State Administrative Tribunal, and following the submission of amended plans by the applicant, the JDAP has been invited to reconsider its decision of 29 February 2016.

### **Details: outline of development application**

As outlined in the previous RAR of 29 February 2016, overall the development includes:

- Demolition of the existing takeaway food outlet prior to the commencement of development.
- Construction of a basement with 29 car bays, accessible from the Woodvale Boulevard Shopping Centre car park.
- An internal bin store located within a basement.
- A three storey building consisting of:
  - Various health centre uses located on the ground and first floor, including a general practice, dental, physiotherapy, radiology and pathology and other medical specialist, with a total NLA of 1,138.5m<sup>2</sup>.
  - One restaurant located on the ground floor with an internal NLA of 74.6m<sup>2</sup> and outdoor dining area of 24.6m<sup>2</sup>.
  - One shop located on the ground floor to be used as a pharmacy, with a total NLA of 157m<sup>2</sup>.
  - Office space located on the ground and second floor, with a total NLA of 824.4m<sup>2</sup>.
- Demolition of the existing medical centre building after the completion of the new building.
- Construction of 15 at grade car bays over the existing medical centre location, including one accessible bay.
- Construction of six at grade car bays to the south-west of the site.

Since the JDAP's previous decision, the applicant has provided amended plans and further justification for traffic and parking. The modifications made to the development comprise:

- Increased truncation to the basement exit to improve vehicular sightlines for vehicles parked adjacent to the exit.
- Reduced bin store area and minor modifications to the car park as a result of the increasing the truncation to the basement exit.
- The pedestrian path along the southern side of the building widened, with the majority now two metres in width. A new awning has been added over a portion of this pedestrian path.
- New entrance door added to the eastern elevation.
- Reduction in the dining room area for the café (restaurant) from 86m<sup>2</sup> to 77m<sup>2</sup>.
- Modifications to the at-grade car park and reduction in soft landscaping to accommodate the increased pedestrian path width.

These modifications are indicated in the development plans provided as Attachment 2, with the original building perspectives provided as Attachment 3.

Further justification for the traffic and car parking demand is provided as Attachment 4.

## **Legislation & policy:**

### Legislation

- *Planning and Development Act 2005*;
- *Metropolitan Region Scheme (MRS)*;
- *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations);
- *City of Joondalup District Planning Scheme No. 2 (DPS2)*.

### State Government Policies

*State Planning Policy 4.2 – Activity Centres for Perth and Peel (SPP 4.2)*

Under SPP4.2, the Woodvale Commercial Centre is designated a district centre.

## **Local Policies**

*City Policy – Height of Non-Residential Buildings Local Planning Policy*

This policy applies to all non-residential buildings, except those on land included on a reserve under the MRS or subject to an approved structure plan. The purpose of the policy is to set provisions for the height of non-residential buildings in the City of Joondalup.

*Council Policy - Environmentally Sustainable Design*

This policy applies to the construction of major residential, commercial and mixed use buildings. The purpose of the policy is to encourage development to incorporate environmentally sustainable principles into the building design. The policy also requires applicants to complete the City's Environmentally Sustainable Design Checklist.

The checklist for the proposed development is provided as Attachment 5.

## **Consultation:**

### Public Consultation

As outlined in the City's previous RAR on the proposed development, consultation was undertaken for a period of 14 days from 19 October 2015 to 2 November 2015. Consultation was undertaken by way of letters (outlining the nature of the development application) sent to all landowners within the Commercial Centre and a notice published on the City's website.

A total of five submissions were received during the consultation period, being five objections.



The submissions received raised the following key issues on the proposal:

- The design and operation of the basement car parking bays may not fulfil the sharing of parking bay requirements contained in the Deed dated 8 July 1991 between Jayshore Pty Ltd and the City of Wanneroo at clauses 2.1 and 2.2.
- The number of parking bays required by the proposal does not meet the City of Joondalup DPS2 requirements, resulting in a significant shortfall that will have major implications on the surrounding shopping centre car park.
- The proposal relies on the car parking provided by others on their land to meet the development requirements. The proposal therefore transfers additional financial return to the owners of 937 Whitfords Avenue at the expense of the adjoining land owners and should not be permitted.
- The proposed height is significantly greater than the predominant single storey development surrounding the existing medical centre.
- Building bulk results in a loss of visibility from Whitfords Avenue to the Shopping Centre.
- As there are no easements or agreements for car parking across the various sites, car parking should be contained wholly within the subject site.
- The additional dental business will lead to unhealthy competition, given that there are already two dental businesses operating from the commercial centre.

The modified proposal which is the subject of this report was not readvertised as the changes were not considered to have greater impact on nearby landowners and occupiers than the previous proposal did. The concerns raised in the submissions are addressed in the planning assessment section below.

#### Consultation with other Agencies or Consultants

The application was previously referred to the Department of Planning's Infrastructure and Land Use Coordination section as the overall development site abuts Whitfords Avenue, which is reserved as an 'Other Regional Road' under the MRS.

The Department responded stating that it has no objection to the proposal on regional transport planning grounds, subject to reciprocal rights of access agreements being formalised to ensure continued vehicular and pedestrian access from the subject site through adjoining lots.

#### **Planning assessment:**

The JDAP has been invited by the SAT to reconsider its decision of 29 February 2016 to refuse the development application for a three storey mixed use development. To address the previous reasons for refusal the applicant has submitted amended plans making minor modifications to improve accessibility and integration with the adjoining sites, and additional justification for car parking and traffic impacts.

The proposal has been assessed in accordance with the provisions of DPS2, with particular regard given to the 'Commercial' zone. The objectives of the 'Commercial' zone are to:

- (a) *make provision for existing or proposed retail and commercial areas that are not covered by a Structure Plan;*
- (b) *provide for a wide range of uses within existing commercial areas, including retailing, entertainment, professional offices, business services and residential.*

Further to the above, clause 67 of Schedule 2 of the Regulations sets out the matters to be considered by the decision maker when determining an application for development approval.

#### Restrictive Covenant

The subject site has a restrictive covenant held on its Certificate of Title that limits the development to a gross leasable retail floor space area of 180m<sup>2</sup>. The development proposes a retail floor space of 157m<sup>2</sup>, to be used as a pharmacy.

#### Built Form

The following table outlines those aspects of the built form that do not comply with the provisions of DPS2 and *Height of Non-Residential Buildings Local Planning Policy* following the final stage of construction:

Criteria	Proposed
Minimum building setback from side boundary of three metres.	Building setback of nil from the basement to the side boundaries.
Minimum building setback from rear boundary of six metres.	Building setback of nil from the basement to the rear boundary.
A three metre wide landscaping strip between the car parking area and the street.	A nil landscaping strip width between part of the car parking area and the street boundary.
A minimum of 8% of the site to be landscaped.	Soft landscaping to 7.2% of the site (previously 9.1%)
Maximum external wall height of 13 metres.	A portion of the development at the centre of the site has a maximum height of 14.2 metres.

With the exception of the total amount of landscaping on site these areas of discretion are unaltered from the proposal that was considered by the JDAP at its meeting held on 29 February 2016.

As set out in the previous report the elevations incorporate variation in colour and large aluminium composite panelling to provide a strong horizontal emphasis to the facades. Glazing has been provided to the eastern and western upper floor facades, with shade structures incorporated to provide further interest to these elevations. An awning on the southern and eastern elevation of the building has been increased to provide greater shelter to the pedestrian path.

The amount of landscaping has been reduced slightly on the southern and eastern portions of the development, immediately adjacent to the building. This is to accommodate a wider pedestrian path and improve the functionality of the development. Notwithstanding the reduction in landscaping, there is still considered to be adequate landscaping to soften the appearance of the development as viewed from the rest of the commercial centre and Whitfords Avenue.

It is considered that the level of building articulation and landscaping provided serve to reduce the bulk of the development and provide for an attractive, visually interesting building. In this context, the reduced setbacks and landscaping strip width are considered to be appropriate.

In regard to the built form, reason 3 of the JDAP's decision of 29 February 2016 is relevant:

3. *Having due regard to the matters set out in of clauses 67 (m), (s), (y) and (za) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 the proposal is not considered to provide adequate access or egress to the development as the design of the basement access does provide for adequate vehicle sightlines, and the northern pedestrian entrance is not integrated with the surrounding access network.*

The amended plans have provided an increased truncation at the exit to the basement from 1.5 metres to 2.5 metres. This modification, in addition to it being a low speed environment, is considered sufficient to provide adequate surveillance for vehicles exiting the basement and for reversing vehicles from the car bay immediately adjacent to the exit. The truncation on the opposite side (the basement entry) has not been altered from 1.5 metres as vehicles exiting the bay immediately adjacent will be looking for vehicles entering the basement, and there is adequate distance from this bay to provide sightlines for vehicles exiting the basement.

The northern pedestrian entrance provided on the previous proposal has not been altered. Rather the pedestrian connection on the north eastern side of the development has been strengthened by increasing the width of the path, extending the pedestrian awning over the path and a new entrance on the eastern elevation (highlighted in Attachment 2). The applicant has also stated that directional signage will be used to direct customers to this alternative entry, however detail has not been included in the development plans.

It is acknowledged that the current pedestrian connections on the shopping centre site require utilisation of vehicle access areas, with there being no separate or clear pedestrian network for which this development can clearly integrate with. While the original northern pedestrian entrance has not been altered, it is considered that the modifications provide a suitable alternative safe and functional connection to the new building entrance on the eastern elevation. The location of this alternative entrance would also encourage customers undertaking multi-purpose trips (visiting the subject site and adjoining shopping centre) to make use of the more underutilised area of car parking on the eastern portion of the shopping centre site. The additional justification provided in relation to traffic and parking indicate that the majority of customers would still park within the subject site, utilising other access points within the basement and from the eastern and southern sides of the development.

It is considered that the modifications to the built form have adequately addressed this previous reason for refusal. Should the application be approved by the JDAP it is recommended that a condition of approval include the requirement for a signage strategy which will include details of the directional signage.

#### Traffic, Access and Car Parking

The initial phase of the development entails the construction of a 29 car bay basement car park and a new building over the area of the existing car park to the west of the existing building. The existing medical centre, which requires 40 car bays to be provided under DPS2, will continue to operate during this time with no car bays available on the site.

The existing medical centre building will then be demolished, with 15 parking spaces, including one accessible bay, constructed where this building was previously located. Six at grade bays will also be reinstated at the south of the site.

Reasons 1 and 2 of the JDAP's decision of 29 February 2016 related to access and parking:

- 1. Having due regard to the matters set out in of clauses 67 (m), (s) and (za) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the obligations under the 1991 and 1992 deeds applicable to the site, the proposed development is not considered to appropriately accommodate the required access arrangements for the Woodvale district centre as the proposal will remove reciprocal rights of access from Whitfords Avenue to Lot 66.*
- 2. The proposed development does not meet the requirements of the City of Joondalup District Planning Scheme No. 2 in relation to the amount of on-site car parking required, being 50 bays in lieu of 80 bays. There is considered insufficient car parking on-site to accommodate the demand of the development.*

Since the JDAP's previous decision, further justification has been submitted for the development (Attachment 4 refers).

#### *Traffic and access*

The development will result in minor modifications to the entrance point from Whitfords Avenue, and remove two access ways that currently provide access to the shopping centre site. The additional justification and details provided with the original application have adequately demonstrated that the modifications to the access ways will be acceptable and the increase in traffic demand can be accommodated within the existing road network and access point.

Surveys undertaken as part of the transport reports indicate a very low number of vehicles use the two access ways that will be removed by this development. Given this, and as the primary entry to the shopping centre site from Whitfords Avenue is further west (within the boundaries of the shopping centre) adequate vehicle access for the adjoining site is considered to remain.

### *Car parking*

The car parking standard for a 'Medical Centre' under DPS2 is five bays per practitioner. However, the applicant has requested that the car parking standard for a 'Health Centre', which is one bay per 30m<sup>2</sup> NLA, be applied as the applicant is unable to predict the number of practitioners that will eventually operate from the site.

Utilising this standard, the table below provides the car parking calculations for the site against the requirements of DPS2 following final construction. These car parking standards reflect those recently included into DPS2 through the gazettal of Amendment No. 65.

<b>Land Use (NLA)</b>	<b>DPS2 car parking standard</b>	<b>Car Bays required</b>
Health Centre (Medical Centre) (1,138.5m <sup>2</sup> )	1 per 30m <sup>2</sup> NLA based on Health Centre standard	37.95
Office (824.4m <sup>2</sup> )	1 per 50m <sup>2</sup>	16.4
Shop (157m <sup>2</sup> )	5 per 100m <sup>2</sup>	7.85
Restaurant (77m <sup>2</sup> )	1 bay per 5m <sup>2</sup> dining area	15.4
Bays Required		77.6 (78)
Bays provided		50
Shortfall		<b>28 (35.9%)</b>

Additional information from the applicant justifies the above shortfall through the analysis of multi-purpose trips, being both within the new development (customers visiting more than one business within the site) and outside the new development, which reduces the overall car parking demand for a site.

In support of the multi-purpose trips within the site, the justification sets out:

- A significant number of customers to the 'Shop' (pharmacy) will be customers that are also attending the 'Medical Centre'. Other customers may include staff from within the development.
- The 'Medical Centre' component is intended to consist of General Practitioners together with a number of medical specialists and paramedical professionals. The collocation allows patients to visit a GP and obtain a referral for specialist medical diagnosis and/or treatment at the centre.
- It is expected that the main clientele to the 'Restaurant (café)' will be from internal to the development.

On this basis, it is considered that the peak car parking demand for the site can be reduced, particularly for the 'Shop' (pharmacy) and 'Restaurant' (café) given the bulk of the customers would be customers or staff from other uses within the site. As a result, it is considered that 10 bays is appropriate for the 'Shop (pharmacy), 'Restaurant' (café) land uses (as opposed to 23.25 bays required under DPS2) taking into account staff parking and some customers making a single trip to these land uses. This would then reduce the car parking shortfall for the development to 15 bays (22%).

In regard to cross-trade with the surrounding commercial centres, the previous Traffic and Parking report (provided as Attachment 4 to the RAR of 29 February 2016) included a survey of car parking usage in relation to the existing medical centre. This survey revealed that 32% of medical centre patrons undertook cross trade within the surrounding shops. It is considered reasonable that the 22% shortfall be justified on

the basis of cross-trade with the adjoining commercial sites given the compatibility across land uses on both sites.

The City's previous concerns relating to the car parking shortfall also related to the functionality of the development, with the only northern entrance point to the development being poorly integrated with the adjoining shopping centre site. The modifications undertaken to the development to strengthen the pedestrian access on the north eastern side of the development has addressed this as outlined above. The parking surveys conducted as part of the original previous Traffic and Parking report demonstrates that the car parking areas to the north east and west of the subject site, being a greater distance from the shopping centre, are significantly underutilised. It would be expected that patrons to the subject site would utilise these areas in the event that car parking is not available on the subject site, with there being no impact on the heavily utilised car parking areas for patrons of the shopping centre.

#### Reciprocal Rights of Access and Parking

The development results in modifications to access and car parking areas that are subject to a Deed of Agreements between the land owner of the subject site, adjoining commercial sites, and the City (Attachment 7 refers). The deeds grant the parties irrevocable right or licence:

- (a) *To use and occupy the bays for car parking purposes;*
- (b) *To use the driveways for the purpose of obtaining access to and egress from the bays; and*
- (c) *To use the accessways as access ways in common with others entitled to use the same for the purpose of access to and egress from the bays and the Land or facilities from time to time erected thereon.*

Clause 2.2 (g) also states that the applicant would need:

- (g) *To obtain the written consent of the Covenantor and all the other Parties (which consent will not be unreasonably withheld) to vary the car parking layout as approved by the Covenantor.*

As set out in the previous report, the applicant has stated that as the above clause specifies that written consent is to be obtained to an approved plan, the terms of the deed require approval to be obtained from the City prior to progressing such an agreement. However, the City considers that the approved plan refers to the original plan approved in 1991 and, therefore, written consent of all parties is required to vary the existing car parking layout. Further to this, in accordance with the 1991 deed, the accessways must remain free to be used by all parties. The subject development, in removing access from Whitfords Avenue to Lot 66 (the shopping centre site), is not in keeping with this.

The City does not consider it reasonable to grant approval subject to a condition requiring an agreement to be reached between the separate landowners concerning parking and access issues as this requires action to be taken by third parties not involved in the development application process. Additionally, there are no reasons to suppose the adjoining landowners would be willing and able to take the necessary action, potentially resulting in a condition that cannot be fulfilled.

Without agreement being achieved between adjoining land owners, there would need to be substantial modifications to the development such that it would not be consistent with any approval issued.

In regard to the matters required to be considered when determining an application for development approval, the Regulations require the adequacy of the proposed means of access to and egress from the site and arrangements for the loading, unloading, maneuvering and parking of vehicles to be considered. However, without all parties to the Deeds agreeing to the modifications it is not considered appropriate for a development approval to be issued for the development.

#### Response to submissions

Public consultation was undertaken as part of the assessment of the original proposal (refer to the Consultation section earlier in this report). The majority of the concerns raised related to issues of parking, access and building height, which have been discussed above.

In regard to the concern relating to unhealthy competition, commercial competition or loss of trade, this is not a valid planning consideration.

#### Options/Alternatives

This application is recommended for refusal on the basis that the development does not adequately address issues relating to the deed of agreements between the subject site and adjoining properties as outlined above. However, should the JDAP consider that the application satisfies all relevant requirements, and the development should be approved an alternative recommendation is set out below:

That the Metro North-West Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 86 of 2016, resolves to:

Set aside the decision dated 29 February 2016 and **approve** DAP Application reference DAP/15/00832 and accompanying plans Job 818 pages 1-7 of Rev Di in accordance with Clause 68(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, subject to the following conditions:

1. **A Construction Management Plan shall be submitted to and approved by the City prior to the commencement of development. The management plan shall detail how it is proposed to manage:**
  - (a) all forward works for the site;
  - (b) the delivery of materials and equipment to the site;
  - (c) the storage of materials and equipment on the site;
  - (d) the parking arrangements for the contractors and subcontractors;
  - (e) the management of sand and dust during the construction process;
  - (f) the management of noise during the construction process; and
  - (g) other matters likely to impact on the surrounding properties;

**Works shall be undertaken in accordance with the approved plan.**

2. **All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.**

3. The parking bays, driveways and access points to be designed in accordance with the Australian Standard for Off-street Car Parking (AS/NZS2890.1 2004) and Off-street Parking for People with Disabilities (AS/NZS2890.6 2009). Such areas are to be constructed, drained and marked prior to the development first being occupied, and thereafter maintained, to the satisfaction of the City.
4. Detailed landscaping plans shall be submitted to and approved by the City, prior to the commencement of development. These landscaping plans are to indicate the proposed landscaping treatment(s) of the subject site and the adjoining road verge(s), and shall:
  - (a) Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500;
  - (b) Provide all details relating to paving, treatment of verges and tree planting in the car park;
  - (c) Show spot levels and/or contours of the site;
  - (d) Be based on water sensitive urban design principles to the satisfaction of the City;
  - (e) Be based on Designing out Crime principles to the satisfaction of the City; and
  - (f) Show all irrigation design details.
5. Landscaping and reticulation shall be established in accordance with the approved landscaping plans, Australian Standards and best trade practice prior to the development first being occupied and thereafter maintained to the satisfaction of the City.
6. Any proposed external building plant, including air conditioning units, piping, ducting and water tanks, being 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, with details of the location of such plant being submitted to and approved by the City prior to the commencement of development. Works shall be undertaken in accordance with the approved plan prior to the occupation of the development.
7. Lighting shall be installed along all car parking areas, communal open space areas, pedestrian pathways and in all common service areas prior to the development first being occupied, to the satisfaction of the City. A lighting plan shall be submitted for approval by City prior to the commencement of development. Works shall be undertaken in accordance with the approved plans prior to the occupation of the development.
8. A full schedule of colours and materials for all exterior parts to the building shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with the approved schedule and all external materials and finishes shall be maintained to a high standard, including being free of vandalism, to the satisfaction of the City.
9. A refuse management plan indicating the method of rubbish collection is to be submitted to the City prior to the commencement of development, and approved by the City prior to the development first



being occupied. The refuse management shall then be undertaken in accordance with the approved plan.

10. Bicycle parking facilities shall be provided in accordance with the Australian Standard for Offstreet Carparking – Bicycles (AS2890.3-1993 as amended) prior to the development first being occupied. Details of bicycle parking area(s) shall be provided to the City for approval prior to the commencement of development.
11. All development shall be contained within the property boundaries.
12. Basement car parking spaces 28 and 29 shall be marked and clearly signposted as dedicated for staff use only prior to occupation of the development, to the satisfaction of the City.
13. The applicant/landowner shall obtain written consent from the Parties of the 1991 deed applicable to the subject site for the proposed changes to the existing accessways and car parking layout, to the satisfaction of the City, prior to the commencement of development.
14. The General Practice, Medical Specialist, Dental, Radiology and Physio are approved for the purposes of a 'Medical Centre' as defined under the City of Joondalup Local Planning Scheme.
15. The Café is approved for the purposes of a 'Restaurant' as defined under the City of Joondalup Local Planning Scheme.
16. The Pharmacy is approved for the purposes of a 'Shop' as defined under the City of Joondalup Local Planning Scheme.
17. A signage strategy shall be submitted to and approved by the City prior to occupation of the development.

**Advice notes:**

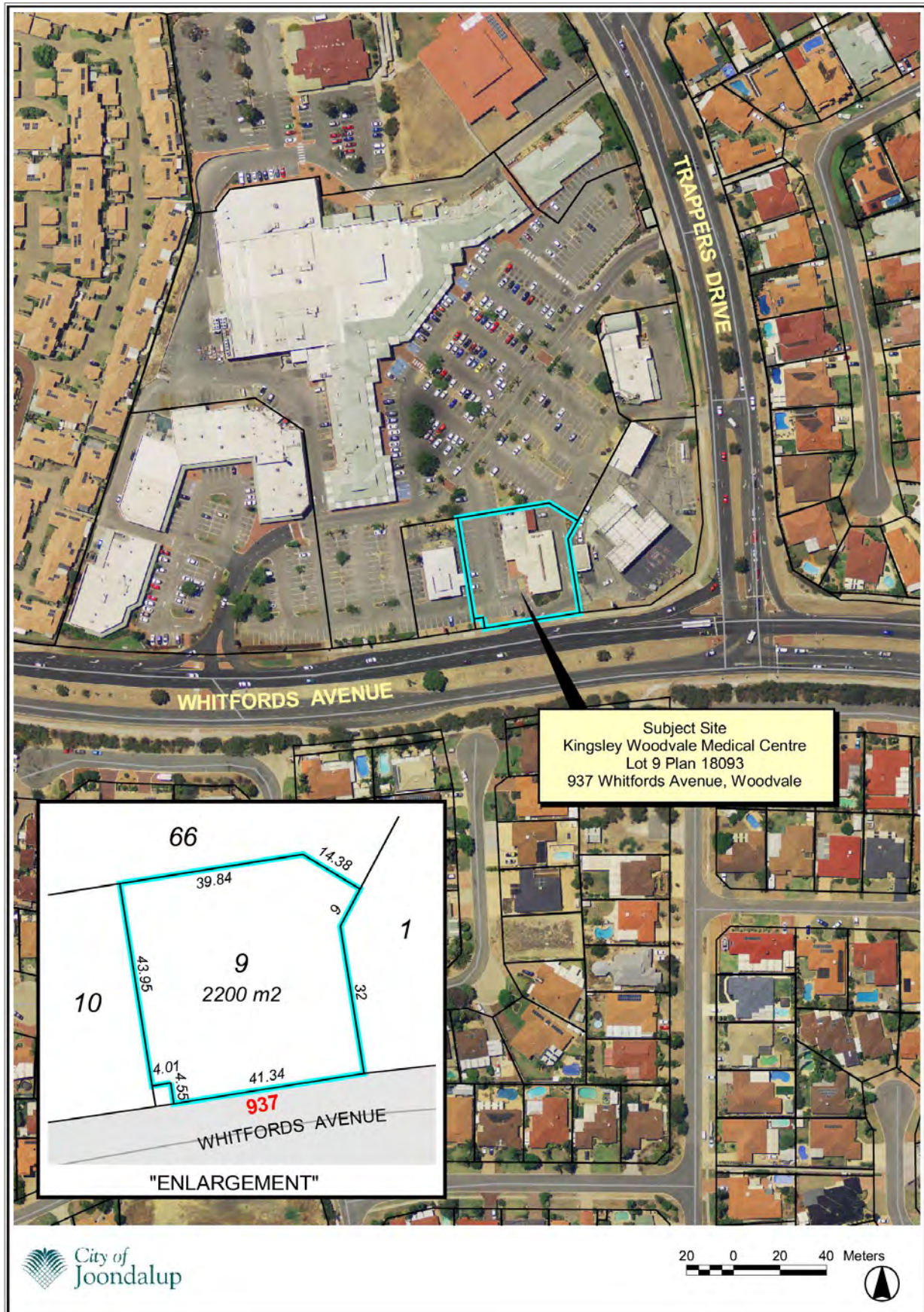
1. Further to condition 3, the at-grade car bays to the south of the development shall meet the minimum width required under Australian Standard AS2890.1.
2. Car park ventilation to comply with the B.C.A. and Australian Standards 1668.2.
3. This approval relates to the proposed three storey mixed use development only, as indicated on the approved plans. It does not relate to any other development.
4. The City of Joondalup District Planning Scheme No. 2 defines 'Medical Centre' as meaning a "premises, other than a hospital, used by one or more health consultant(s) for the investigation or treatment of human injuries or ailments and for general outpatient care (including preventative care, diagnosis, medical and surgical treatment, and counselling)".

5. The City of Joondalup District Planning Scheme No. 2 defines 'Office' as meaning a "any premises used for the administration of clerical, technical, professional or other like business activities but does not include administration facilities which are required in association with a predominant use on site, and does not include consulting rooms or medical centres".
6. The City of Joondalup District Planning Scheme No. 2 defines 'Shop' as meaning a "premises other than a bulky good showroom, a liquor store – large or a liquor store – small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services".
7. The City of Joondalup District Planning Scheme No. 2 defines 'Restaurant' as meaning "any premises where the predominant use is the preparation of food for sale and consumption within the building or portion thereof. The expression may include the sale of food for consumption off the premises, where local government is of the opinion that it is incidental to the business. The term may include an outdoor eating area which shall be treated as being within the building of the Restaurant. The expression excludes "Drive-Through Food Outlets".
8. Any signage shall be the subject of a separate development application.
9. Food business premises to comply with the requirements of the *Food Act 2008*.

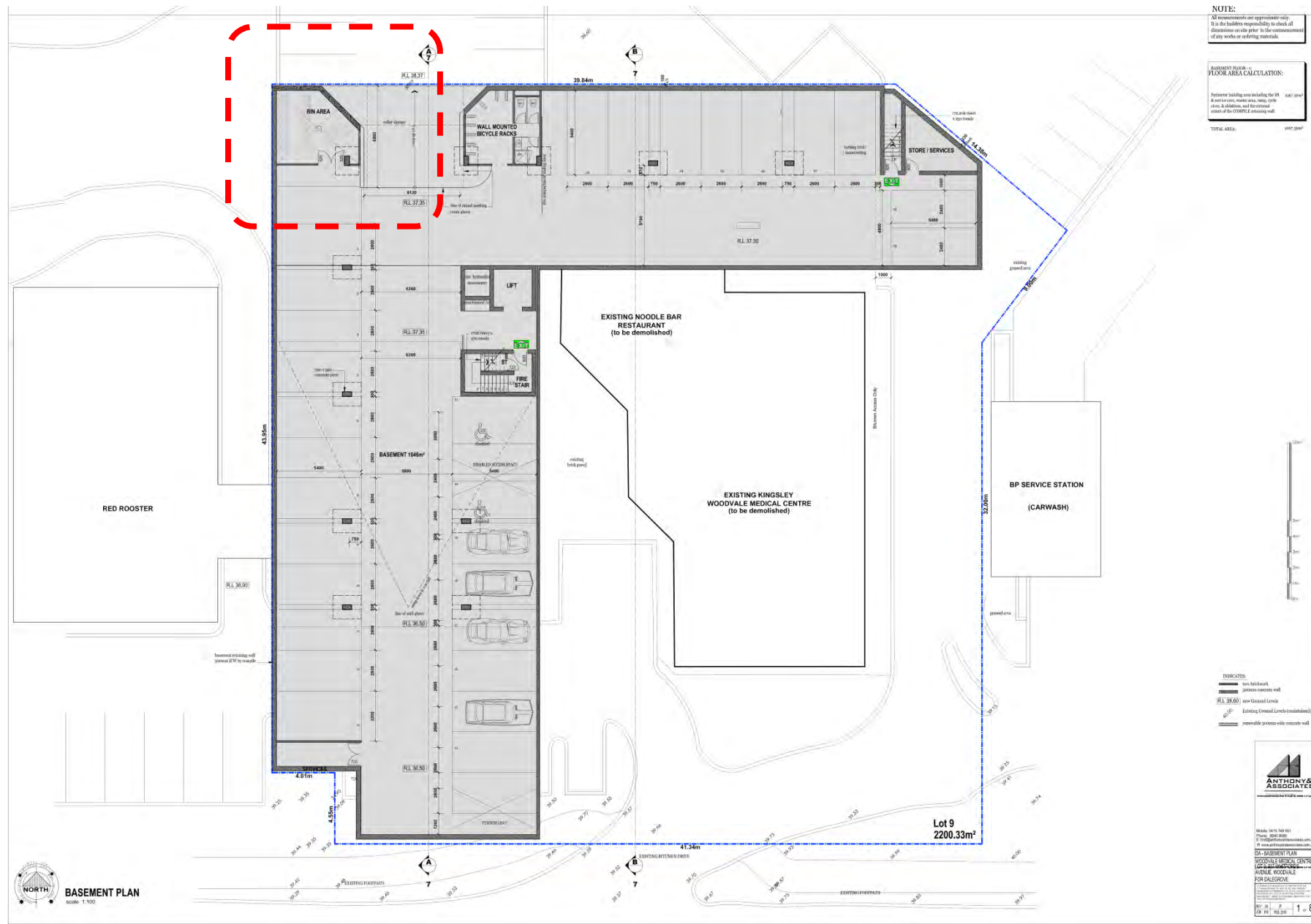
#### **Conclusion:**

The modified proposal and new traffic and parking report is considered to adequately address reasons 2 and 3 of the JDAP's previous decision of 29 February 2016. However, it is considered that approval of this development which is in contravention to the deed of agreements in place with the subject and adjoining sites would not be in the interest of orderly and proper planning given that a number of objections from surrounding land owners (who are party to these agreements) have been received.

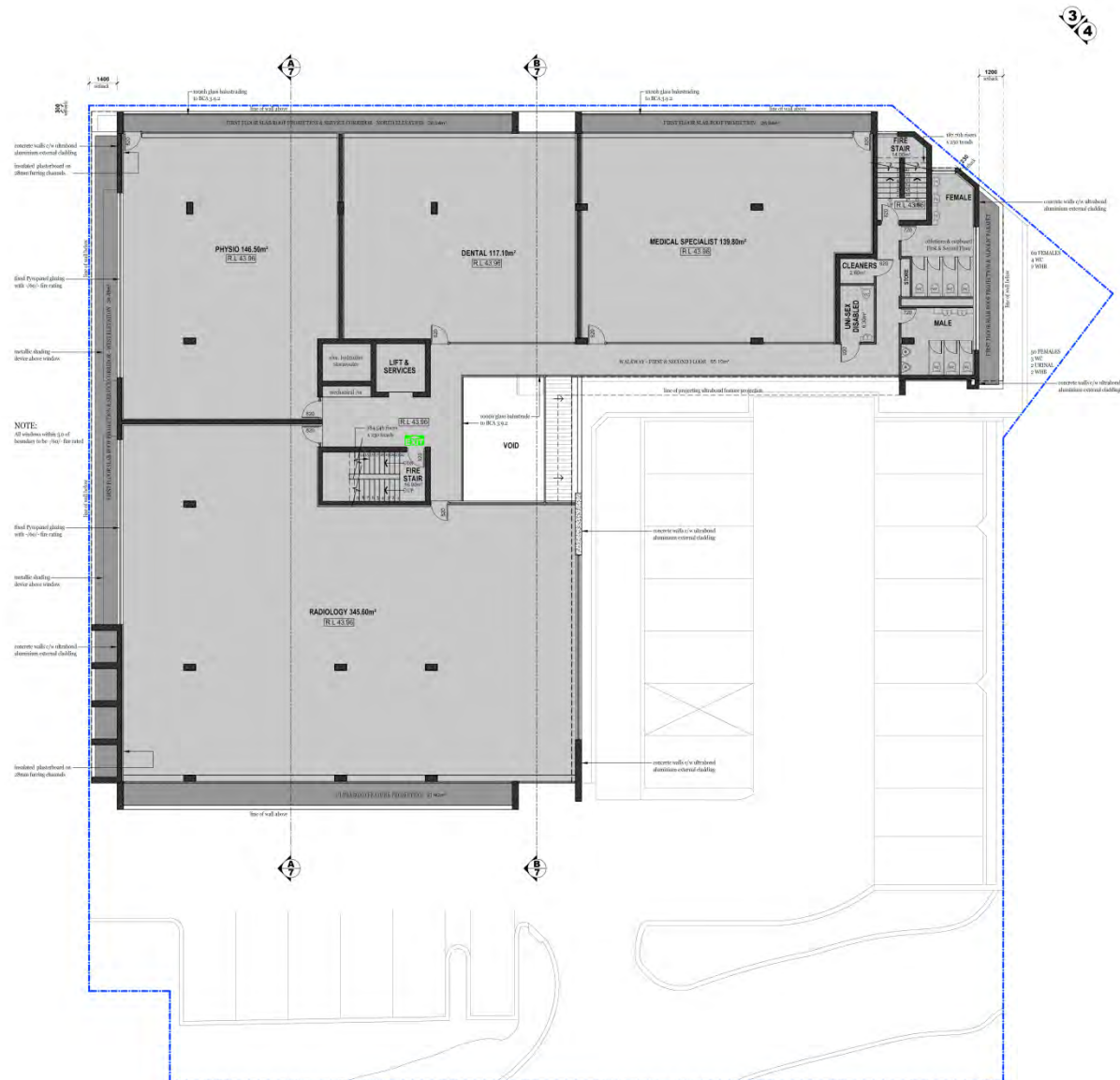
As such it is recommended that the JDAP refuse the amended proposal. However, should the JDAP consider that the application should be approved, it is recommended that the conditions and advice notes provided above be applied.











**NOTE:**  
All measurements are approximate only.  
It is the builder's responsibility to check all dimensions on site prior to the commencement of any work or ordering materials.

**FLOOR AREA CALCULATION:**

Room/Description	Area (m²)
RADIOLOGY	344.50
PHYSIO	146.50
DENTAL	117.19
MEDICAL SPECIALIST	139.50
CLEANERS	10.00
RESTROOMS (FEMALE, MALE)	10.00
LIFT & SERVICES	10.00
VOID	10.00
<b>TOTAL AREA</b>	<b>636.69</b>

**LEGEND:**  
 Floor slab  
 Concrete wall  
 Concrete column  
 Concrete beam  
 Concrete floor  
 Concrete ceiling  
 Concrete roof  
 Concrete floor slab  
 Concrete wall  
 Concrete column  
 Concrete beam  
 Concrete floor  
 Concrete ceiling  
 Concrete roof

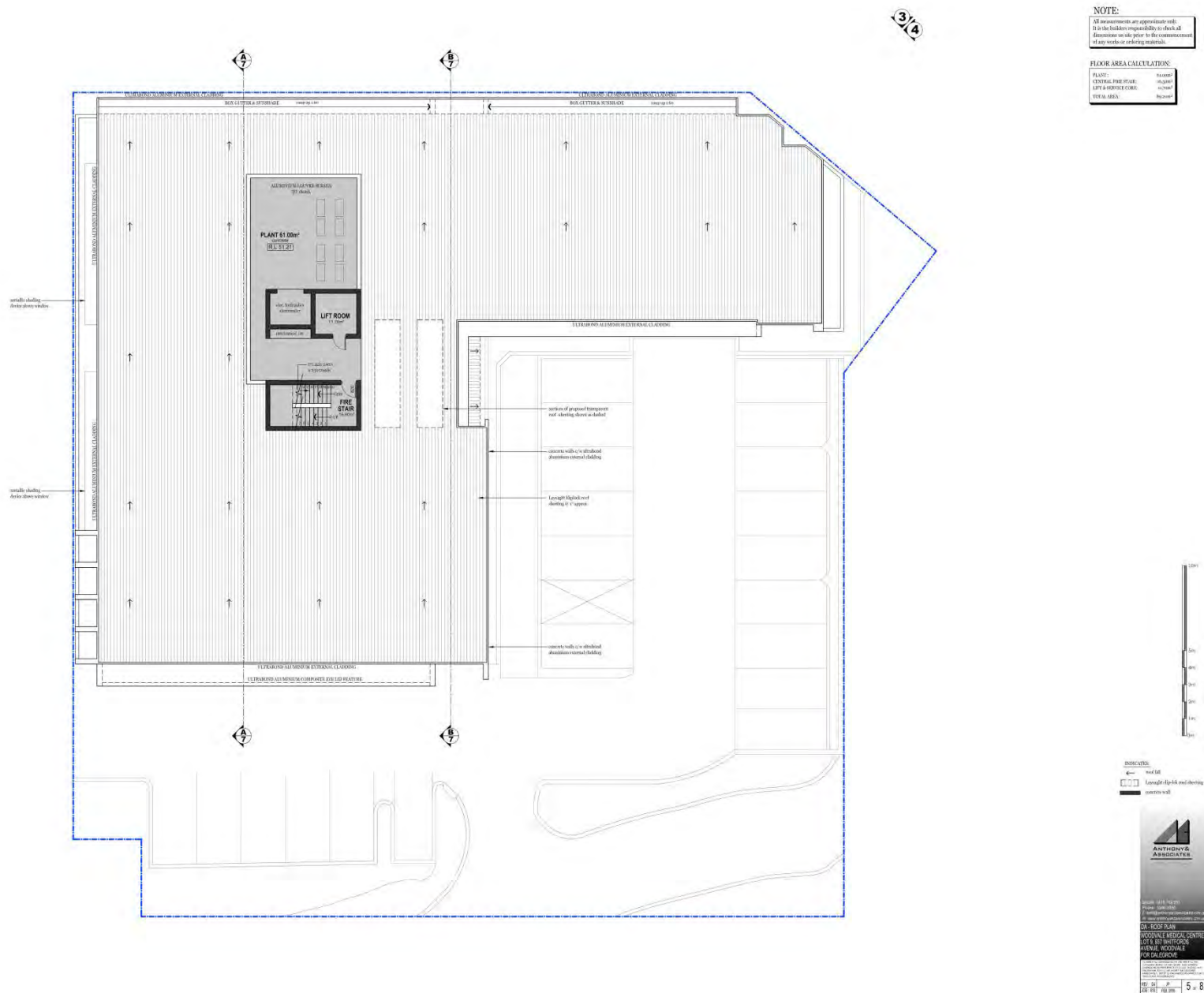
**ANTHONY & ASSOCIATES**

Architects

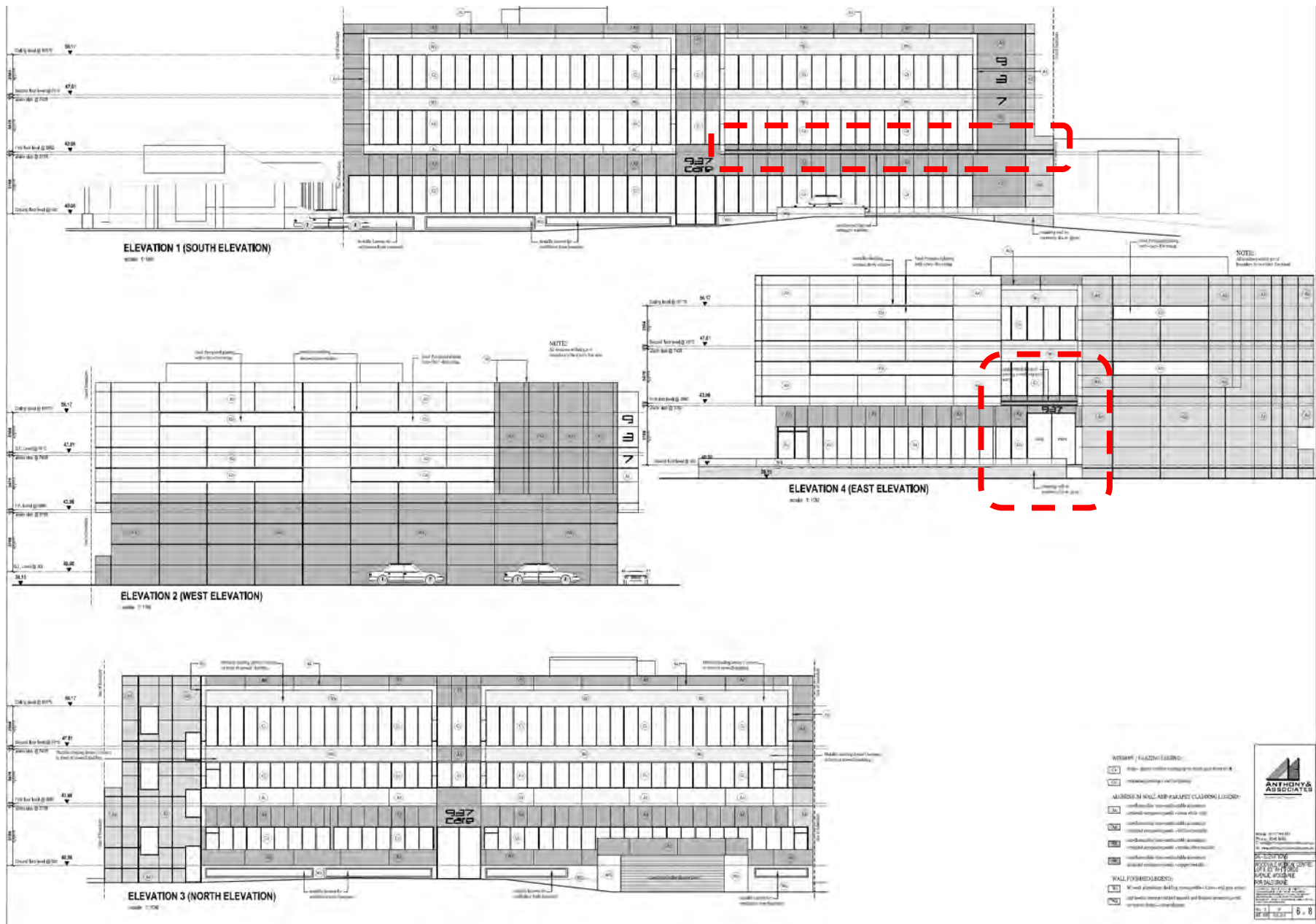
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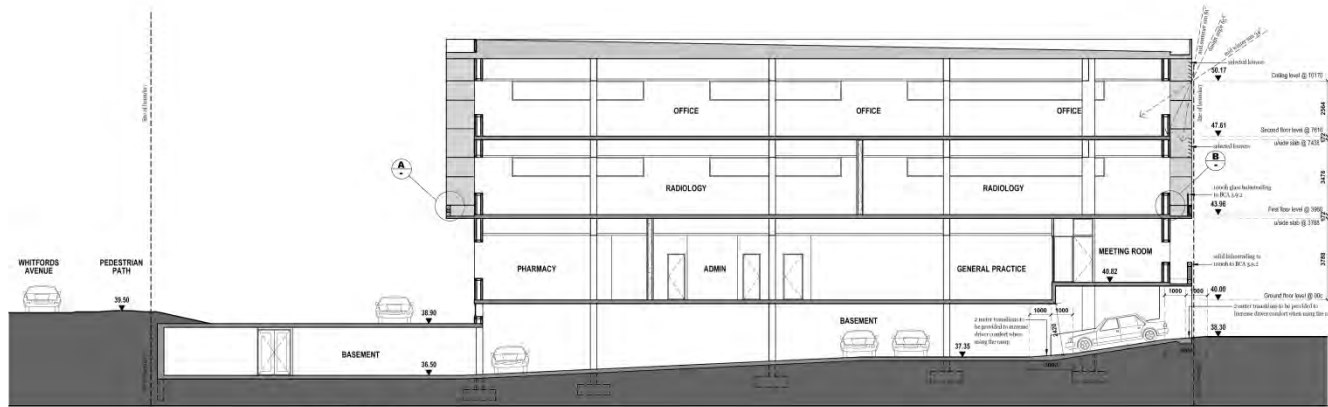












**SECTION A-A**  
scale 1:100

**NOTE:**  
use bifenoxin chemical for  
insect treatment.

**NOTE:**  
roof construction is specified  
and is accordance with AS/NZS 4040



**SECTION B-B**  
scale 1/100













June 2016

Final Rev 1

## Woodvale Development – Transport Impact Assessment

Prepared For:  
Rowe Group



ROWEGROUP

Supplementary Report



## DOCUMENT ISSUE AUTHORISATION

Issue	Rev	Date	Description	Prepared by	Checked by	Approved by
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Donald Veal Consultants Pty Ltd



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## **1. INTRODUCTION**

### **1.1 Background**

Dalegrove Holdings Pty Ltd has commissioned Donald Veal Consultants (DVC) to provide a Supplementary Report, expanding upon the Transport Impact Assessment (TIA) prepared by Transcore in support of the Development Application for a Proposed Medical and Commercial Development at Lot 9, Whitfords Avenue, Woodvale. The submission was initially considered by the JDAP at meetings held on 26th November 2015 and 29th February 2016, with the application ultimately being refused at the latter meeting.

### **1.2 Scope of this Report**

The scope of this Supplementary Report is primarily to address three areas which were raised as reasons for refusal. The Report will therefore focus on the following issues:

- a) to demonstrate that the closure of the existing 'left in' entry from Whitfords Avenue into Lot 9 which continues east into Lot 1 (BP Service Station), north through Lot 9 into the neighbouring Lot 66 (Shopping Centre) and west into Lot 10 (Red Rooster) would not result in safety concerns for vehicles on Whitfords Avenue and that sufficient manoeuvring would be available within the site;
- b) a review of the parking provision aspect of the DA which provides a more accurate representation of the current parking demand for the existing operation, together with a more accurate demonstration of the potential cross-trade with the Shopping Centre; and
- c) a statement in relation to the sight lines for manoeuvring vehicles in the location of the basement entry/exit.

This revised report includes further information to address comments made by the City of Joondalup.

## 2. PROPOSED DEVELOPMENT

The development is identified within Transcore's report as follows:-

*"The proposal for the subject site is for redevelopment of the existing medical centre into a mixed-use medical and professional centre comprising:*

### Basement Level

- *Secured basement level car parking provided 29 bays including 2 ACROD bays;*
- *Bin Store; and*
- *Bicycle parking and end of trip facilities including showers and change room.*

### Ground Level

- *Medical – General Practice 331.9m2 NLA;*
- *Pathology 57.6m2 NLA;*
- *Pharmacy 157m2 NLA;*
- *Office tenancy 65m2 NLA;*
- *Café and outdoor dining area – 99.2m2 (approx. 86m2 dining room); and,*
- *Car parking provided 21 bays including 1 ACROD bay.*

### Level 1

- *Medical uses physio, dental, specialist, medical suites and radiology. Total area 749m2.*

### Level 2

- *Office tenancies total area 759.4m2.*

*The proposed development provides a total floor area of approximately 1,919m2 on ground level and levels 1 & 2.*

*The redevelopment of the site entails demolition of the existing noodle bar restaurant at the rear of the existing medical centre, construction of the basement car park (29 basement level car bays), construction of a new building structure on the existing site parking west of the existing medical centre building then demolition of the existing medical centre building and provision of a total of 21 parking spaces on the ground floor."*

### 3. SITE ACCESS

In the initial design drawings, it is understood that the intention was for the left slip lane into the site from Whitfords Avenue to be closed. However, in subsequent iterations, this proposal was deleted, allowing the access to remain open.

Nonetheless, the demolition and reconstruction of the development on Lot 9 will lead to a revised road layout and changed access opportunities. The effect of these changes needs to be determined, in order to assess the impact on current patrons of the centre.

The effect of the latest development layout on the access arrangements in this location will be as follows:-

- The left slip lane from Whitfords Avenue will remain open;
- Drivers using this left slip lane will be able to:
  - Travel straight on to access the BP service station;
  - Turn sharp left to access the main shopping centre car parks and/or the Red Rooster drive thru;
  - Turn sharp left and then right to access the Medical Centre / Red Rooster / Basement car parking facilities.
- Drivers will no longer be able to:-
  - Access the main shopping centre car parks via the current gap between the medical centre and the car wash;
  - Access the main shopping centre car parks via the existing car park between Red Rooster and the Medical Centre.

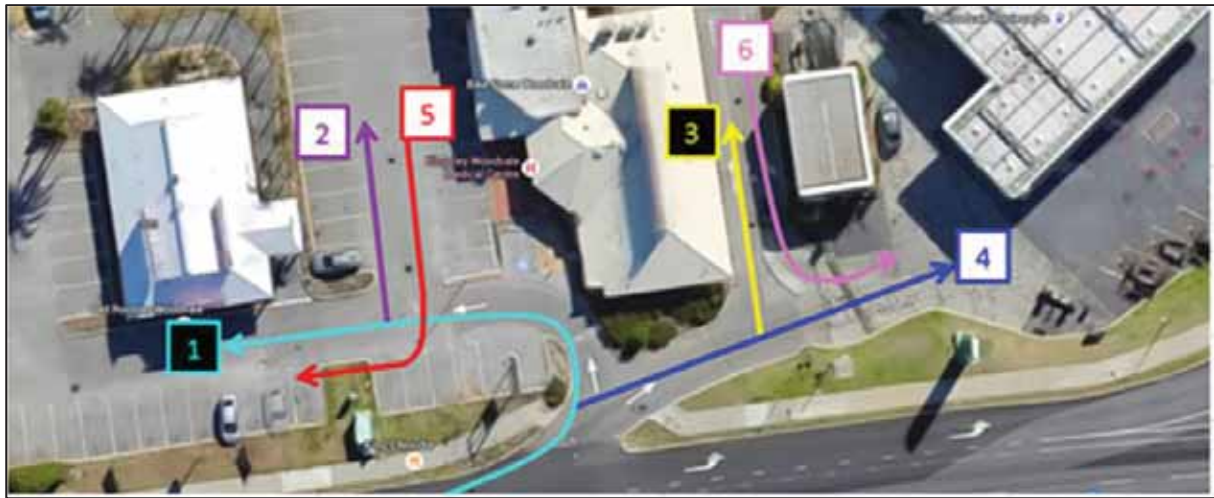
In order to assess the likely number of patrons affected by these changes, DVC carried out on-site surveys of vehicles using the slip lane, as well as those moving through the existing car park between Red Rooster and the existing Medical Centre / Noodle Bar building.

DVC liaised with the City of Joondalup regarding their preferred timing of these surveys, prior to carrying them out. The surveys were subsequently carried out between 4 pm and 6 pm on Thursday 26<sup>th</sup> May and 11.30 am and 12.30 pm on Saturday 28<sup>th</sup> May, 2016.

The survey results reveal that the left slip lane is not used extensively, even during these peak periods.

A summary of the survey outcomes is shown in **Tables 3.1 & 3.2**.

The main basic movements of interest were identified prior to the surveys, and are shown in **Figure 3.1**, although a number of drivers undertook additional variations.



**Figure 3.1: Main Traffic Movements**

**Table 3.1** shows the number of vehicles that made the indicated movements during the three peak hour periods surveyed. Green figures indicate movements that will be unaffected, whilst Red figures show ones that will need to use the readily available alternative routes.

Movement	1	2	3	4	5	6
Thursday 4 - 5 pm	4	5	3	15	2	4
Thursday 5 – 6 pm	2	5	0	26	7	1
Saturday 11.30 – 12.30	11	8	1	20	2	1

**Table 3.1: Peak Hour Vehicle Movements**

Additional movements identified on site are shown in **Figure 3.2**. None of these movements will be significantly affected by the development. Those accessing the car parking bays from the Whitfords Avenue side will still be able to do so, but will need to use a different route to leave. Those accessing the car parking bays from the shopping centre side can either reroute or use other bays on that side. Vehicles passing through the car park after exiting the Red Rooster drive thru can easily turn right instead of left to access the main parking area or the various site exits.

**Table 3.2** shows the number of vehicles that made these additional movements during the three peak hour periods surveyed. Green figures indicate movements that will be unaffected, whilst Orange figures show ones that will need to use alternative routes or parking areas.



**Figure 3.2: Additional Movements**

Movement	2a	2b	2c	4a	5a	5b
<b>Thursday 4 - 5 pm</b>	4	15	12	0	4	1
<b>Thursday 5 – 6 pm</b>	2	14	14	4	12	1
<b>Saturday 11.30 – 12.30</b>	5	7	12	3	9	4

**Table 3.2: Additional Peak Hour movement data.**

The number of vehicles making each of these movements throughout the three hour peak periods is low, and the overall impact of the proposed changes can be seen to be minimal. The following observations were made in the peak hours surveyed:-

- The closure of the access between the Medical building and the car wash would have no real impact. This access was only used by a total of 7 vehicles, even in the busiest of the peak hour periods. Alternative routes are readily available;



- The route through the existing car park is used more extensively, but again the actual impact would be minimal. Most of the vehicles coming into and out of the car park are actually parking and visiting either the Red Rooster, the Noodle Bar or the Medical Centre. Some were observed to park here and walk across to the main shopping centre. None of these vehicles were actually using the car park as a thoroughfare, and could easily park elsewhere.
- The main element that do use the car park as a through route are a small proportion of those exiting the Red Rooster drive thru, and these vehicles can just as easily reach their destinations by turning right out of the drive thru rather than left;
- Of the few vehicles that genuinely used the car park as a through route from north to south, several were seen to be unsure which way to turn at the southern end. It appeared that they were simply looking for an exit from the shopping centre site onto Whitfords Avenue eastbound. Most belatedly realised that they had to turn right past the front of Red Rooster and did so, albeit reluctantly. A small number decided to try to exit anyway, and drove against the arrows into the BP service station. Some drivers deliberately made this manoeuvre directly from the Red Rooster drive thru exit to the BP service station. Again, alternative routes are readily available for each of these movements;
- A number of the movements to and from the car park were performed by staff from the medical centre and delivery drivers from the fast food outlets. These will not be affected by the revised layout;
- No queuing was observed at the left slip lane access whatsoever. No more than two vehicles were seen to enter the slip lane access at any one time;
- Only two trucks were seen to enter the slip lane access in the three hours of surveys.

Given the low numbers of vehicles currently making any of these manoeuvres during the observed peak periods, and the relatively small increase in the number of vehicles expected to use this access as a result of the development, the potential for future queuing issues at the slip lane is considered to be negligible:-

- There will be no resulting increase in patronage at the BP service station and no requirement for trips to redistribute to the slip lane access;
- There will be no resulting increase in patronage at the Red Rooster and no requirement for trips to redistribute to the slip lane access;
- There will be an overall increase in the trips generated by the Medical Centre, and some of these may use the slip lane access to enter the basement car park. Others will use other accesses, especially given the location of the basement car park access. However, any increase will be offset by an expected reduction in the number of vehicles using the existing car park as a thoroughfare via this access.

Any nett increase is therefore expected to be well within the capacity of the slip lane access.

## 4. PARKING PROVISION

### 4.1 City of Joondalup Required Parking Provision

The Transcore TIA states that the level of parking provision required by the City of Joondalup's Town Planning Scheme would be 94 bays. This is based on the following calculations:-

Use	Parking Standard	Bays Required
Medical Centre (General Practice) 331.90m <sup>2</sup> NLA	1 car bay per 30m <sup>2</sup>	11.06
Pathology 57.60m <sup>2</sup> NLA	1 car bay per 30m <sup>2</sup>	1.92
Office tenancy 65m <sup>2</sup> NLA	1 car bay per 30m <sup>2</sup>	2.17
Pharmacy 157m <sup>2</sup> NLA	7 per 100m <sup>2</sup> NLA (1 bay per 14.28m <sup>2</sup> NLA)	10.99
Cafe Seating Area 86m <sup>2</sup>	1 per 5m <sup>2</sup> dining area	17.2
Medical Centre (Physio/Dental/Medical Specialist/Radiology) 748.9m <sup>2</sup> NLA	1 car bay per 30m <sup>2</sup>	24.97
Office 759.4m <sup>2</sup> NLA	1 car bay per 30m <sup>2</sup>	25.31
<b>Total Requirement</b>		<b>93.62 (94)</b>

The proposed number of bays to be provided within the development is 50. Of these, 29 will be in a basement car park, with 21 at grade.

As the exact number of practitioners is still to be determined, the 'Health Centre' parking rate of 1 bay per 30m<sup>2</sup> will still need to be used. However, the parking provision rate previously used for the 'Office' and 'Shop' land uses can now be reduced in line with the City of Joondalup's Amendment No. 65 to their DPS2. The revised rate for Office is now 1 bay per 50m<sup>2</sup>, whilst the rate for Shop has been reduced to 5 bays per 100m<sup>2</sup> NLA.

In addition, the previously used figure of 86m<sup>2</sup> for the Café dining area also requires a small adjustment down to 77m<sup>2</sup>, consisting of a 53 m<sup>2</sup> internal seating area, plus the 24m<sup>2</sup> outdoor area. This then drops from a requirement of 17.2 bays to 15.4.

This now gives a total parking provision requirement of 78 bays as opposed to 94.

This reduces the apparent shortfall from 44 bays to 28, as detailed in **Table 4.1**.



Land Use (NLA)	Rate (Amendment No. 65)	Car Bays required
Health Centre (1,138.5m <sup>2</sup> )	1 per 30m <sup>2</sup>	37.95
Office (824.4m <sup>2</sup> )	1 per 50m <sup>2</sup>	16.4
Pharmacy (157m <sup>2</sup> )	5 per 100m <sup>2</sup>	7.85
Cafe (77m <sup>2</sup> )	1 bay per 5m <sup>2</sup> dining area	15.4
	<b>Bays Required</b>	<b>77.6 (78)</b>
	<b>Bays provided</b>	<b>50</b>
	<b>Shortfall</b>	<b>28</b>

**Table 4.1: Revised Parking Bay Requirements**

## 4.2 Shortfall Mitigation

The indicated shortfall in parking bay provision can be seen to be mitigated in two main ways, namely:

- Multi-purpose trips within the new development; and
- Multi-Purpose Trips outside the new development.

It should be noted that patrons of shopping centre and business park type developments do not always park in the specifically allocated areas for the particular land use to which they are primarily attracted, regardless of the number of bays provided. As a simple example, the existing medical centre car park is well used by patrons and staff of Red Rooster.

More generally, this phenomenon often occurs when a number of different access points are available into a shopping centre site. Depending upon the direction from which they arrive, or how they intend to leave, it may simply be more convenient for them to park in other areas, than to use the specifically provided parking for a particular activity.

### 4.2.1 Multi-Purpose Trips within the new development

The term ‘multi-purpose trips’ is taken here to indicate the use of parking bays by patrons who visit more than one business in a single trip. This is generally taken into account when estimating the number of trips being generated by a development with more than one different land use, but can obviously be extended to the calculation of parking demand as well.

In this case, especially given the presence of an alternative outlet in the main shopping centre, a significant number of patrons of the Pharmacy will be people who have just visited the Medical Centre, and been presented with a prescription. Other patrons may include staff members who work in the offices or other businesses within the proposed complex, popping into the nearest pharmacy to their workplace. (Whilst a

small number of customers may try this pharmacy having failed to get what they require at the alternative store in the main centre, these patrons will have already parked elsewhere).

The medical centre component of the development is intended to consist of a General Practitioner together with a number of medical specialists and paramedical professionals. This collocation allows for patients to visit their doctor and obtain a referral for specialist medical diagnosis and/or treatment as required, with such professionals being situated in the same premises. In instances where the referral relates to further diagnostic investigation or treatment (in fields such as pathology, radiography or physiotherapy), this process may occur within the same visit, without the need for a subsequent appointment. This would further contribute to the extent of multi-purpose trips within the development.

It is expected that a significant proportion of the business of the proposed café will come from people working within the complex, or from other patrons of it.

Effectively, therefore, the number of parking bays required by the Café and the Pharmacy can be reduced significantly, with the pharmacy requiring bays primarily for their 3 staff members, and the required allocation for the café being reduced to say, 2 bays for staff parking and a maximum of 5 for patrons. This would reduce the overall required level of parking provision to 65 bays (64.35), resulting in a shortfall of only 15 bays – or around 22%.

This level of shortfall would easily be offset by the expected cross trading between the new development and the main centre, as detailed below.

#### ***4.2.2 Multi-Purpose Trips outside the new development***

Multi-purpose trips can also be extended to include patrons visiting both the proposed development and the existing elements of the main shopping centre. It is expected that a proportion of these visitors will park in the main shopping centre car parking areas. This may occur for a number of reasons:-

- Patrons may be intending to visit the main retail shopping centre either before or after visiting the new development. As well as food shopping, other facilities within the main centre include a gym, an optometrists, a pharmacy, newsagents, hairdressers and nail salons, banks, real estate agents, restaurants, a dry cleaner, a florist and a bakery;
- Whilst there may be a small number of patrons visiting the proposed café in a single purpose trip, it is more likely that they would also be visiting other businesses within the main shopping centre, and would simply walk across from their parking space in the main car park;
- Patrons may decide to visit the Red Rooster before or after visiting the new development; or
- They may wish to get fuel from the BP service station either before or after visiting the new development.

Staff members of the businesses within the proposed development may also take advantage of the proximity of the shopping centre, walking across for their lunch, or carrying out various errands.

It is expected that the opportunities for cross trading identified above would easily meet the 22% level required to justify a reduction in parking provision of just 15 bays. However, in the unlikely event that all 50 bays provided within the development were to be fully utilised at any one time, the outcomes of the parking surveys provided within the Traffic and Parking report for the development by Transcore dated June 2015 demonstrate that the parking areas closest to the shopping centre experience a greater level of use as customers seek to achieve the shortest travel distance from the parking area to the shopping centre entry. As a consequence the car parking areas to the north-east and west of Lot 9, being a greater distance from the shopping centre, are significantly underutilised and are ideally positioned for use by patrons attending both the shopping centre and the proposed development.

#### ***4.2.3 Summary***

The City of Joondalup parking provision rates for specific types of land use are intended to be applied where that land use is constructed in isolation. In providing 50 parking bays, the proposal shows a shortfall of 30 bays when measured against the sum of the requirements for each land use within the development. However, there is clearly a case for reducing this total provision to allow for the realities of the parking demands within a multi-use site.

The nature of the development and the availability of alternative options in close proximity mean that the pharmacy is unlikely to generate any demand for parking beyond their staff requirements. Similarly the café's requirements can be significantly reduced. This would bring the total requirement of the proposed development to 65 bays – a shortfall of just 15 bays.

Taking into account the expected elements of cross trading outlined above, together with the high level of availability of alternative parking spaces identified in Transcore's original TIA report, particularly at peak periods of demand of the medical centre development, this level of shortfall in parking provision would appear to be reasonable, and unlikely to have any discernible effect on the operation of the car parking in the general area.

## **5. BASEMENT PARKING ACCESS**

Discussions with the City of Joondalup have confirmed that their main issues regarding the access to the basement parking area are a) visibility; and b) the lack of a turnaround facility if the roller door is closed.

From the latest design drawings, it can be seen that the walls either side of the access to the basement car park are splayed back, which will assist with visibility. In fact, the presence of the walls is unlikely to present any more of a visibility issue for drivers reversing out of the adjacent bays than would a large van being parked alongside. Nonetheless, the truncations will improve visibility.

A further examination of the latest drawings reveals that the roller door has been relocated further back from the parking bays, which will then provide a suitable turnaround area for vehicles exiting the last two parking bays. Whilst this turnaround area will include part of the transition curve for the entry ramp into the basement, the first metre of that transition will be more or less level.

## **6. SUMMARY**

This Supplementary Report has addressed the three areas which were raised as reasons for refusal and found that none of them pose any significant adverse impact on the surrounding road network, parking provision or shopping centre activities.

In terms of the access changes both off Whitfords Avenue and internal circulation within the shopping centre, on-site surveys show that very few drivers will be impacted and that all would have an alternative route easily available with no significant impact on travel time.

A review of the parking provision aspect of the DA demonstrated that the multi-purpose nature of trips to the many varied outlets of the shopping centre would easily offset the theoretical shortfall in parking if calculated as separate land uses.

A review of the revised arrangements for accessing the basement car park found that sight lines for manoeuvring vehicles would be adequate and that a suitable turnaround facility has been incorporated.

Hence, we find that the reasons identified by the JDAP for refusal would not result in any significant adverse impact and recommend these reasons be withdrawn.



## Environmentally Sustainable Design – Checklist

Under the City's planning policy, *Environmentally Sustainable Design in the City of Joondalup*, the City encourages the integration of environmentally sustainable design principles into the construction of all new residential, commercial and mixed-use buildings and redevelopments (excluding single and grouped dwellings, internal fit outs and minor extensions) in the City of Joondalup.

Environmentally sustainable design is an approach that considers each building project from a 'whole-of-life' perspective, from the initial planning to eventual decommissioning. There are five fundamental principles of environmentally sustainable design, including: siting and structure design efficiency; energy efficiency; water efficiency; materials efficiency; and indoor air quality enhancement.

For detailed information on each of the items below, please refer to the *Your Home Technical Manual* at: [www.yourhome.gov.au](http://www.yourhome.gov.au), and *Energy Smart Homes* at: [www.clean.energy.wa.gov.au](http://www.clean.energy.wa.gov.au).

This checklist must be submitted with the planning application for all new residential, commercial and mixed-use buildings and redevelopments (excluding single and grouped dwellings, internal fit outs and minor extensions) in the City of Joondalup.

The City will seek to prioritise the assessment of your planning application and the associated building application if you can demonstrate that the development has been designed and assessed against a national recognised rating tool.

Please tick the boxes below that are applicable to your development.

### Siting and structure design efficiency

Environmentally sustainable design seeks to affect siting and structure design efficiency through site selection, and passive solar design.

Does your development retain:

- ☒ existing vegetation; and/or (none existing)
- ☒ natural landforms and topography

Does your development include:

- ☒ northerly orientation of daytime living/working areas with large windows, and minimal windows to the east and west *Southwly orientation, minimal windows east + west*
- ☒ passive shading of glass
- ☒ sufficient thermal mass in building materials for storing heat
- ☒ insulation and draught sealing
- ☒ floor plan zoning based on water and heating needs and the supply of hot water; and/or
- ☒ advanced glazing solutions

### Energy efficiency

Environmentally sustainable design aims to reduce energy use through energy efficiency measures that can include the use of renewable energy and low energy technologies.

Do you intend to incorporate into your development:

- ☒ renewable energy technologies (e.g. photo-voltaic cells, wind generator system, etc); and/or
- ☒ low energy technologies (e.g. energy efficient lighting, energy efficient heating and cooling, etc); and/or
- ☒ natural and/or fan forced ventilation

### Water efficiency

Environmentally sustainable design aims to reduce water use through effective water conservation measures and water recycling. This can include stormwater management, water reuse, rainwater tanks, and water efficient technologies.

Does your development include:

- ☒ water reuse system(s) (e.g. greywater reuse system); and/or
- ☒ rainwater tank(s)

Do you intend to incorporate into your development:

- ☒ water efficient technologies (e.g. dual-flush toilets, water efficient showerheads, etc)

### Materials efficiency

Environmentally sustainable design aims to use materials efficiently in the construction of a building. Consideration is given to the lifecycle of materials and the processes adopted to extract, process and transport them to the site. Wherever possible, materials should be locally sourced and reused on-site.

Does your development make use of:

- ☒ recycled materials (e.g. recycled timber, recycled metal, etc)
- ☒ rapidly renewable materials (e.g. bamboo, cork, linoleum, etc); and/or
- ☒ recyclable materials (e.g. timber, glass, cork, etc)
- ☒ natural/living materials such as roof gardens and "green" or planted walls

### Indoor air quality enhancement

Environmentally sustainable design aims to enhance the quality of air in buildings, by reducing volatile organic compounds (VOCs) and other air impurities such as microbial contaminants.

Do you intend to incorporate into your development:

- ☒ low-VOC products (e.g. paints, adhesives, carpet, etc)

### 'Green' Rating

Has your proposed development been designed and assessed against a nationally recognised "green" rating tool?

- ☐ Yes
- ☒ No

If yes, please indicate which tool was used and what rating your building will achieve:

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If yes, please attach appropriate documentation to demonstrate this assessment.

Environmentally sustainable design  
checklist

Page 3 of 3

If you have not incorporated or do not intend to incorporate any of the principles of environmentally sustainable design into your development, can you tell us why:

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Is there anything else you wish to tell us about how you will be incorporating the principles of environmentally sustainable design into your development:

*Will be given more detailed consideration as part of the building permit process*

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When you have checked off your checklist, sign below to verify you have included all the information necessary to determine your application.

Thank you for completing this checklist to ensure your application is processed as quickly as possible.

Applicant's Full Name: Jeremy Hofland Contact Number: 9221 1991

Applicant's Signature: \_\_\_\_\_ Date Submitted: 19/6/15

Accepting Officer's Signature: \_\_\_\_\_

















EXEMPT from W.A. Stamp Duty

*Adelaide*  
-Per Commissioner of State Taxation

THIS DEED is made

*8 July*

1991

BETWEEN

JAYSHORE PTY LTD of Suite 6, 62 Ord Street West Perth Western Australia ("Covenantor")

AND

CITY OF WANNEROO of Boas Avenue Joondalup Western Australia ("Covenantee")

RECITALS

- A. The Covenantor has applied to the Covenantee for approval to develop the Land.
- B. The Land is situated within the municipal district of the Covenantee.
- C. The Covenantee has approved the Covenantor's application to commence development on the Land pursuant to the City of Wanneroo Town Planning Scheme Number 1 but subject, inter alia, to the Covenantor entering into a deed with the Covenantee to facilitate reciprocal vehicular access and car parking between lots to be created on the Land.
- D. The Covenantor has agreed to enter into this Deed in compliance with the Covenantor's obligation referred to in Recital C.

1. INTERPRETATION

- 1.1 In this Deed unless inconsistent with the context or subject matter:

"Accessways" means such parts of each Lot as are approved from time to time by the Covenantee and are used or intended to gain access to the Bays and the Land;

"Approval" means the approval to commence development issued by the Covenantee pursuant to the City of Wanneroo Town Planning Scheme Number 1 and dated 11 April 1991;

"Bays" means the car parking bays as approved by the Covenantee from time to time made available on each of the Lots;

"Building" any building from time to time constructed upon any of the Lots;

"Car Parking Areas" means those areas of each of the Lots set aside by the owner of each of the Lots for the purpose of parking motor vehicles;

"Design Plan" means the design plan a copy of which is annexed to this Agreement and marked "A2" respectively;

"Development" means the works to be carried out on or about the Land pursuant to the Approval;

"Driveways" means such parts of each Lot as are from time to time approved by the Covenantor and are used or intended to be used for the purpose of obtaining access to and egress from the Bays (and includes the Accessways);

"Land" the land described in the Schedule; and

"Lots" means the respective lots the subject of the Land;

"Parties" means the registered proprietors for the time being of any or all of the Lots other than the Covenantor;

"Plan" means the plan annexed to this Agreement and marked "A";

"Practical Completion" means the date of issue of a Certificate of Practical Completion in respect of the Shopping Centre Development to be constructed on part of the Land; and

"Schedule" means the Schedule to this Deed.

- 1.2 "Covenantor" and "Covenantee" shall mean and include the personal representatives and successors in title respectively.
- 1.3 Where two or more persons are party to this Deed the covenants and agreements on their part shall bind and be observed and performed by them jointly and each of them severally.
- 1.4 References to a statute include all amendments for the time being in force and any other statute enacted in substitution for and the regulations by-Laws requisitions or other orders made under that statute.
- 1.5 Except in the Schedule headings shall not affect the interpretation of this Deed.
- 1.6 The singular shall include the plural and vice versa and a reference to any one gender shall include any other gender. A reference to a person shall include a natural person and a corporation.

- (h) To maintain the landscape areas of the Car Parking Areas to a standard satisfactory to the Covenantee;
- (i) To obtain the written consent of the Covenantee (which consent will not be unreasonably withheld) before erecting any boundary fence or obstruction;
- (j) To comply with all Acts and Statutes (State or Federal) for the time being enacted or modifying any Acts and all Regulations By-Laws Requisitions or Orders made under any Act from time to time by any statutory public or other competent authority in connection with the use of the Bays for the purpose of parking private motor vehicles and the rights granted in compliance with this Deed;
- (k) Not to assign transfer or otherwise subrogate the rights to be granted in compliance with this Deed without the prior written consent of the other Parties (subject to each of the Parties covenanting that it shall not unreasonably withhold such consent) AND to the extent that the same may be applicable Sections 80 and 82 of the Property Law Act 1969 are to be expressly excluded;
- (l) To ensure adequate public risk insurance is effected to cover public risk to third parties resulting from the use or abuse of the Bays the Driveways or the Car Parking Areas;
- (m) That each of the other of the Parties observing and performing the covenants conditions and agreements contained or implied in or to be granted in compliance with this Deed may peaceably enjoy the rights to be granted pursuant to this Deed without any interruption or disturbance from or by any person;
- (n) That notwithstanding any other right or remedy available at law or in equity to any of the Parties in the event of any of the Parties remaining in breach of the obligations to be assumed as contemplated by this Deed for a period of TWENTY EIGHT (28) days after the receipt of a written notice from the Covenantee or any of the Parties requiring any or all of the Parties to remedy the breach specified in the notice, and in addition to any other remedy the Covenantee or any of the Parties may have, the Covenantee or any of the Parties shall be at liberty to remedy or rectify the breach and such Party or Parties and their respective agents are to be entitled to enter upon the Parties' land.
- (o) That the Covenantor or any of the Parties shall not sell transfer, assign, mortgage or otherwise dispose of any of the Lots or any part thereof and without first obtaining from the purchaser, transferee, assignee, mortgagee or donee as the case may be covenants in the form of a deed with the Covenantee, Covenantor and the parties whereby the purchaser, transferee, assignee, mortgagee and donee agree to be bound by the conditions and covenants contained in this Deed.

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ccCOVENANTOR'S FURTHER COVENANTS

The Covenantor COVENANTS AND AGREES with the Covenantee:

- 2.1 To GRANT to the Covenantee and to the Parties together with their respective tenants invitees licensees customers and all persons from time to time authorised by each of them in common with all of the Parties together with all their respective tenants invitees licensees customers and all persons from time to time authorised by all of the Parties in respect of any Lot of which from time to time the Covenantor is the registered proprietor the irrevocable right or licence;
- (a) To use and occupy the Bays for car parking purposes;
  - (b) To use the Driveways for the purpose of obtaining access to and egress from the Bays; and
  - (c) To use the Accessways as access ways in common with others entitled to use the same for the purpose of access to and egress from the Bays and the Land or facilities from time to time erected thereon.
- 2.2 To obtain from each of the Parties in favour of the Covenantor and in favour of all others comprising the Parties and as a separate covenant with the Covenantee in relation to each Party's respective Lot at that Party's cost covenants:
- (a) In the form set out in Clause 2.1;
  - (b) That it shall use its best endeavours and do all things reasonably required to ensure that the Bays are only used for the purpose of parking private motor vehicles;
  - (c) That it shall use its best endeavours and do all things reasonably required to ensure that all vehicles parking in the Bays are parked within the defined area of each of the Bays;
  - (d) That any rubbish and debris accumulating upon the Bays is periodically removed therefrom;
  - (e) To maintain the Car Parking Areas in a state of repair and cleanliness satisfactory to the Covenantee and to resurface the Car Parking Areas as and when it is necessary to do so and to comply with all statutes and regulations relating thereto;
  - (f) To mark out such Bays for disabled parking as the Covenantee shall from time to time consider appropriate;
  - (g) To obtain the written consent of the Covenantee and all of the other Parties (which consent will not be unreasonably withheld) to vary the car parking layout as approved by the Covenantee;



- (p) That each of the Parties in relation to the Lot in which it has an interest shall release the Covenantee from all claims for compensation or otherwise in respect of all or any approvals given by the Covenantee to that Party in relation to the Lot owned by that Party or any part or parts thereof.
- (q) That each of the Parties in relation to the Lot in which it has an interest shall covenant with the Covenantee that it shall indemnify the Covenantee and hold it indemnified against all claims to or against the Covenantee by any other person in respect of compensation or otherwise arising from any approval given by the Covenantee to that Party in the relation to the Lot owned by that Party or any part or parts thereof and shall pay upon demand to the Covenantee compensation which shall have been agreed by the Covenantee with the consent of the Party and all other claims or compensation which the Covenantee shall be called upon to pay by reason of any judgment or order of any Court or other tribunal having jurisdiction in that behalf in respect of such approval.
- (r) To reimburse the Covenantee on demand for any costs or expenses incurred by the Covenantee in remedying that Party's breach pursuant to Clause 2(n) — 2.2
- 2.3 To itself carry out, perform and observe the covenants contained in Clauses 2.2(b) to 2.2(r) inclusive.

### 3. CAVEAT

The Covenantee may register a subject to claim caveat (but not an absolute caveat) over the Land to protect its interest in the Land as set out in this Deed.

### 4. GRANT OF REGISTRABLE EASEMENTS - ACCESSWAYS

- 4.1 Not later than NINETY ONE (91) days after Practical Completion the Covenantor shall instruct its solicitors to prepare and forward to the Parties easements whereby each of the Parties (in this clause the "Grantor") grants to each of the other Parties the right for each of the other Parties to use so much of the Accessways and the Car Parking Areas as is on the Grantor's Lot and within the said period of NINETY ONE (91) days mentioned in this Clause 4.1 to ensure that such easements are registered at the Office of Titles Perth. Such easement shall be in substantial conformity with the Design Plan and shall be to the satisfaction of the Covenantee.
- 4.2 The Covenantor shall promptly execute and shall require each of the Parties promptly to execute the easements contemplated in the preceding paragraph as soon as reasonably practicable after receipt and to comply with all reasonable directions received from the Covenantor's solicitors and to take all steps reasonably necessary to procure that the easements are fully executed and stamped and registered at the Office of Titles, Perth within ONE (1) calendar month after receipt thereof (including without limitation arranging for its mortgagees to consent to the easements and for the duplicate Certificate of Title for its Lot to be produced at the Office of Titles, Perth to enable registration of the easements).

5. COVENANTOR'S ACKNOWLEDGEMENT

The Covenantor ACKNOWLEDGES AND AGREES that all rights to be granted pursuant to this Deed shall apply on a TWENTY FOUR (24) hour basis on all days of the year PROVIDED THAT for the purpose only of preventing any dedication of a public right-of-way each party shall be entitled to restrict all access to each of the Lots *for* from a period of not more than ONE (1) hour between 3:00am and 6:00am on Good Friday in each year.

6. FURTHER ASSURANCE

The Covenantor and the Covenantee mutually COVENANT AND AGREE promptly at the request of the other to do and execute all such acts things deeds and documents as may be necessary to give effect to the terms of the Deed.

7. TIME AND DEFAULT

Time shall be of the essence of this Deed in all respects but neither the Covenantor nor the Covenantee shall be entitled to enforce any rights or remedies under this Deed or at law or in equity arising out of the default of the other in performing and observing any of the terms conditions and covenants on this Deed until the party not in default has given to the other party a written notice specifying the default and stating its intention to enforce its rights and remedies unless the default is made good within the period of FOURTEEN (14) days of the service of the notice and the defaulting party fails within that period to remedy the default PROVIDED ALWAYS THAT if either party is prevented from carrying out its obligations hereunder because of the matters or circumstances referred to in Clause 7 then the time for carrying out such obligations shall be extended by a period equal to the period of delay in performance caused by such matters or circumstances.

8. COSTS AND STAMP DUTY

The Covenantor shall pay its own and the Covenantee's costs (including solicitors' costs) of and incidental to the instructions for and the drawing engrossing and execution of this Deed and the perusal of the easements referred to in Clause 4.1 and all stamp duty payable on this Deed and any executed copies.

9. MODIFICATION OR AMENDMENT

No amendment or variation to this Deed shall be effective or binding on the parties hereto unless in writing and executed by the parties. Unless the context otherwise requires, a reference to this Deed shall include a reference to this Deed as amended or varied from time to time.

10. WAIVER

The waiver by either party of a breach of any provision of this Deed shall not operate or be construed as a waiver of any other or subsequent breach thereof by the breaching party.

## 11. NOTICES

11.1 Any demand, consent, notice or other communication ("Notice") authorized or required to be made hereunder shall be in writing and may be given by facsimile, telex, telegram, cable, post or hand to a party at its address mentioned above.

### 11.2 A Notice:

- (i) Given by facsimile, telex, telegram or cable shall (in each case) be deemed to be a notice in writing given on the business day following the day of despatch;
- (ii) Sent by prepaid registered or certified post (airmail, if appropriate) shall be deemed to have been given (where posted to an address in the same country) on the fifth business day following the day on which it was posted or (where posted to an address in another country) on the seventh business day following the day on which it was posted;
- (iii) Delivered by hand during normal business hours on a business day shall be deemed to have been given on that day, or in any other case of hand delivery shall be deemed to have been given on the business day following the day of delivery.

## 12. PROPER LAW

This Deed shall be governed by the Laws and statutes of Western Australia and (where applicable) of the Commonwealth of Australia and the parties hereto hereby submit themselves irrevocably to the jurisdiction of the courts of competent jurisdiction of Western Australia.

## 13. SEVERABILITY

In the event of any part of this Deed being or becoming void or unenforceable then that part shall be severed from this Deed to the intent that all parts which shall not be or become void or unenforceable shall remain in full force and effect and be unaffected by any severance.

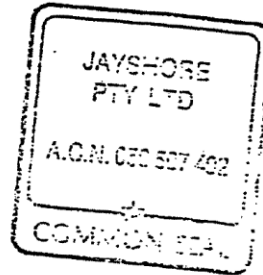
## SCHEDULE

### REMISES

wan Location 1879 being part of Lot 931 on Plan 17375 and being that part of the land comprised in Certificate of Title Volume 1895 Folio 548 is coloured green for identification on the attached plan.

EXECUTED BY THE PARTIES AS A DEED.

THE COMMON SEAL of  
JAYSHORE PTY LTD  
was affixed by authority of the  
Directors in the presence of:



.....  
DIRECTOR

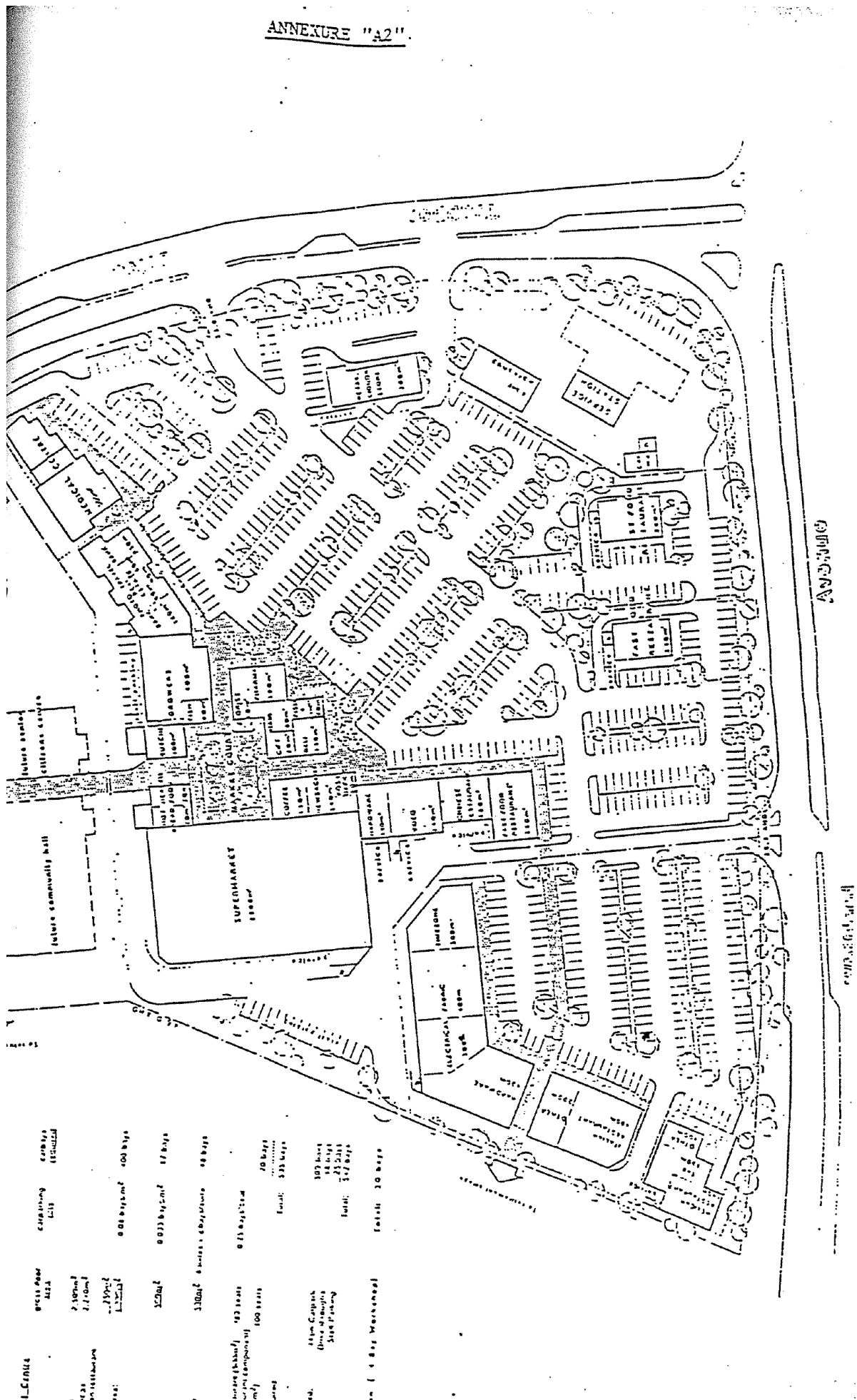
.....  
DIRECTOR/SECRETARY

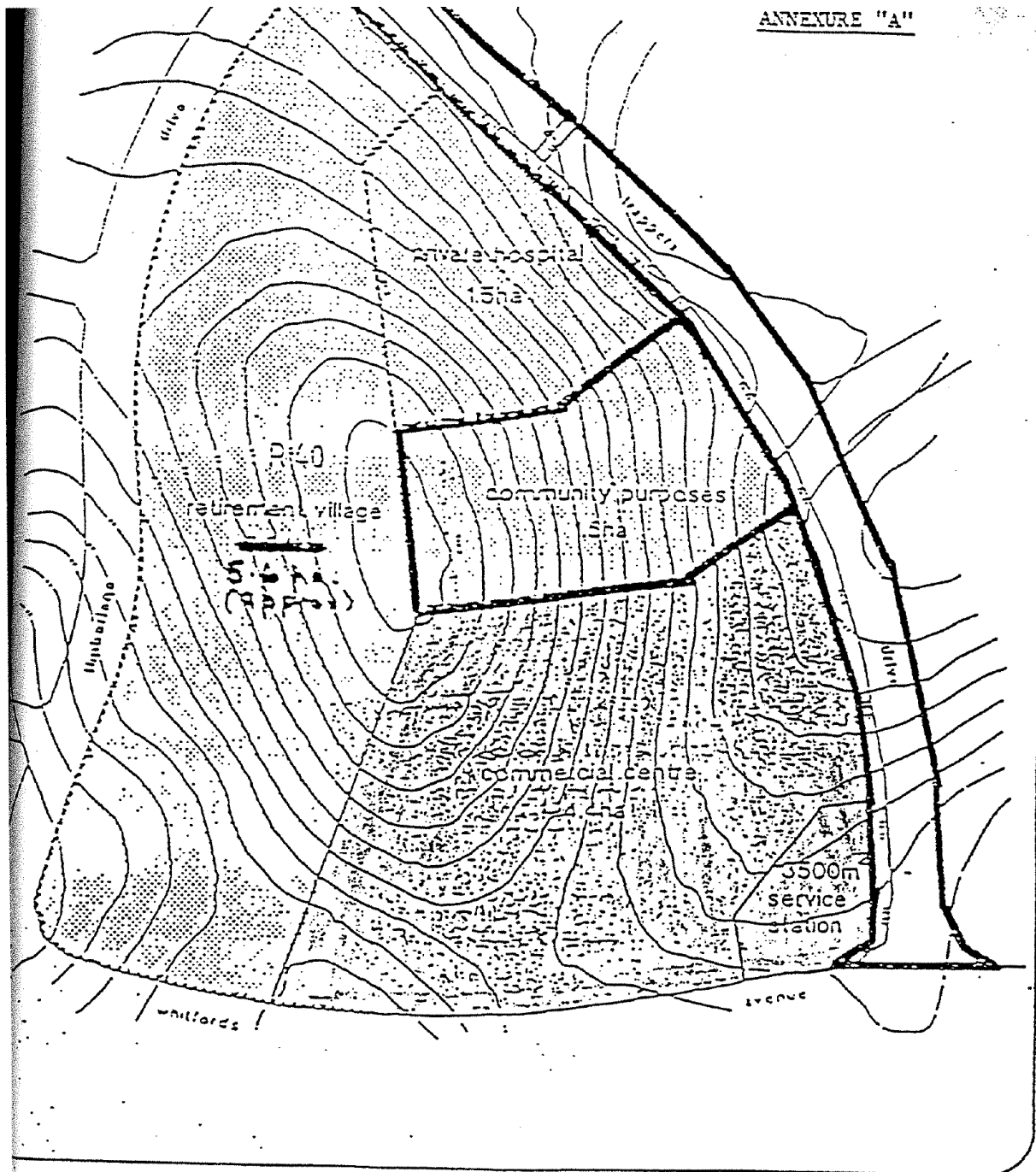
THE COMMON SEAL of  
CITY OF WANNEROO was  
affixed pursuant to an authority  
of a resolution of Council  
in the presence of:

.....  
MAYOR

.....  
TOWN CLERK

549PALD/1rb  
PAL:THS:WES9139734  
12/06/1991





vision & zone plan

LEGEND



Residential Development



Residential Development R40



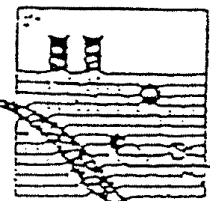
Commercial



Service Station



north



figure

2

A384. #12  
Lot 9 Assignment  
of Recept Park  
& Access

B E T W E E N

JAYSHORE PTY LTD  
A.C.N. 050 507 492

"Jayshore"

- and -

CITY OF WANNEROO

"City"

- and -

CITYPRIDE HOLDINGS PTY LTD  
A.C.N. 053 812 463

"Citypride"

---

DEED

---

KOTT GUNNING  
BARRISTERS & SOLICITORS  
LEVEL 11  
66 ST GEORGE'S TERRACE  
PERTH WA 6000  
TEL: 321 3755

THIS DEED is made the 11 day of August 1992

BETWEEN: JAYSHORE PTY LTD A.C.N. 050 507 492 of Suite 6, 62 Ord Street, West Perth, Western Australia ("Jayshore")  
 17/08/92 8782906 DUP \*\*\*\*\*2.00  
 8782806 D/S \$ 5.00



CITY OF WANNEROO of Boas Avenue, Joondalup, Western Australia ("City")

CITYPRIDE HOLDINGS PTY LTD A.C.N. 053 812 463  
 C/- Levy Fowler & Co Pty Ltd, 49 Hampden Road, Nedlands Western Australia ("Citypride")

RECITALS:

- A. Pursuant to the Agreement Jayshore (inter alia) agreed to facilitate reciprocal vehicular access and car parking between lots to be created on the Land.
- B. Clause 2.2 of the Agreement provides, inter alia, that Jayshore shall not sell any part of the Land without first obtaining from the purchaser thereof covenants in the form of a deed with the City and Jayshore whereby the purchaser agrees to be bound by the conditions and covenants contained in the Agreement.
- C. Jayshore has sold the Lot to Citypride.
- D. Citypride and Jayshore have agreed to enter into this deed in order to comply with clause 2.2 of the Agreement.

1.1 INTERPRETATION

The following words have these meanings in this deed unless the contrary intention appears.

"The Agreement" means the deed dated the 8th July 1991 made between Jayshore and the City a copy of which is annexed to this deed. *c.e. #4*

"the Lot" means Lot 9 on Diagram 18093 and being the whole of the land comprised in Certificate of Title Volume 1906 Folio 705.

"the Land" means "the Land" as defined in Clause 1.1 of the Agreement which has now been subdivided into further lots of which the Lot forms part of.

1.2 In this deed unless the contrary intention appears:

- (a) a reference to this deed or another instrument includes any variation or replacement of the same;



- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under, and consolidations, amendments, re-enactments or replacements of the same;
- (c) the singular includes the plural and vice versa;
- (d) the word "person" includes a firm, a body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
- (g) a reference to any thing (including, but not limited to, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to any one or more of them;
- (h) the headings shall not affect the interpretation of this deed.

## 2. COVENANT

- (a) Citypride HEREBY AGREES to be bound by the conditions and covenants contained in the Agreement and on the part of Jayshore to be performed observed or otherwise complied with as if Citypride was named in and had executed the Agreement instead of or as co-covenantor with Jayshore.
- (b) Citypride acknowledges that it is one of "the Parties" as defined in Clause 1.1 of the Agreement and hereby covenants to be bound by the conditions and covenants contained in the Agreement and on the part of "the Parties" to be performed observed or otherwise complied with so far as the same relate to the Lot as if Citypride was named in the Agreement as being one of "the Parties" and had executed the Agreement.

## 3. ASSIGNMENT

Citypride agrees to not sell transfer assign mortgage or otherwise dispose of the Lot or any part

thereof without first obtaining from the purchaser, transferee, assignee, mortgagee or disponent as the case may be covenants in the form of a duly executed deed with the City and Citypride whereby the purchaser, transferee assignee, mortgagee or disponent agrees to be bound by the conditions and covenants contained in the Agreement and this deed.

4. CAVEAT

- (a) Citypride hereby charges all its interest in the Lot with the due and punctual performance of its obligations pursuant to this deed and the Agreement.
- (b) Citypride affirms with the City that the City may register a subject to claim caveat over the Lot pursuant to Clause 3 of the Agreement and this deed.

5. REMEDIES CUMULATIVE

The rights, powers and remedies provided in this deed and the Agreement are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of those deeds.

6. FURTHER ASSURANCES

The parties mutually covenant and agree to do and execute such acts, things, deeds and documents as may be necessary to give effect to the terms of this deed and the Agreement.

7. SEVERABILITY

In the event of any part of this deed or the Agreement being or becoming void or unenforceable then that part shall be severed from this deed to the intent that all parts which shall not be or become void or unenforceable shall remain in full force and be unaffected by any severance.

8. WAIVER

The waiver by either party of the breach of any provision of this deed or the Agreement shall not operate or be construed as a waiver of any other or subsequent breach thereof by the breaching parties.

9. MODIFICATION OR AMENDMENT

No amendment or variation to this deed or the Agreement shall be affective or binding on the parties hereto unless in writing and executed by the parties. Unless the context otherwise requires a reference to this deed or the Agreement shall include a reference to this deed or the Agreement as amended or varied from time to time.


## 10. COSTS

Citypride agrees to pay its costs and the City's costs (including its solicitor's costs) of and incidental to the instructions for and the drawing, engrossing and execution of this deed and any caveat lodged pursuant hereto, all stamp duty payable on this deed and all executed copies thereof and any registration fees payable in relation to the registering, withdrawal or re-registering of any caveat lodged pursuant to this deed and the Agreement.

EXECUTED as an agreement.

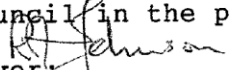
THE COMMON SEAL of )  
JAYSHORE PTY LTD )  
was hereunto affixed by )  
authority of a )  
resolution of the )  
Directors in the )  
presence of: )

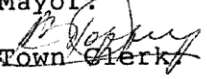
Director: 

Secretary: 




THE COMMON SEAL of )  
CITY OF WANNEROO )  
was hereunto affixed by )  
authority of a )  
resolution of the )  
Council in the presence of: )

Mayor: 

Town Clerk: 

THE COMMON SEAL of )  
CITYPRIDE HOLDINGS PTY LTD )  
was hereunto affixed by )  
authority of a )  
resolution of the )  
Directors in the )  
presence of: )

Director: 

Secretary: 

NS: lmm: 0405h

