

**LEGISLATIVE COUNCIL**  
**Question Without Notice**

**Tuesday, 19 November 2019**

**C1446. Hon Colin Holt to the Minister representing the Minister for Transport**

I refer to the proposed Dan Murphy's liquor barn at the intersection of Canning Highway and South Terrace in Como and I ask:

1. Has the Minister been briefed or received advice on the traffic implications of this development? If so please table the advice.
2. Did Main Roads WA raise concerns or place conditions on this Liquor Barn development? If so please table these conditions.
3. Does the Minister consider that the development will increase congestion and increase the risk of serious car accidents and fatalities in this area?
4. Will the Minister intervene in the approval of this development? If not, why not?

---

**Answer**

1. The Minister is aware of the concerns raised about this development.
2. Main Roads did not support the application. Conditions were placed on the development by the Development Assessment Panel in its decision making. I table the attached publicly available documents.
3. Canning highway is identified as an Urban corridor in the Central Sub-regional Planning Framework and Urban corridors operate not just as roads or infrastructure corridors but as diversified places for people to live and work.
4. In July 2018, the State Administrative Tribunal (SAT) made its determination in relation to this development. Where SAT has made such a determination, the Minister has no statutory right to intervene.

---





## Minutes of the Metro Central Joint Development Assessment Panel

**Meeting Date and Time:** 17 April 2015; 3:00pm  
**Meeting Number:** MCJDAP/100  
**Meeting Venue:** City of South Perth  
Cnr Sandgate Street and South Terrace  
South Perth

### Attendance

#### DAP Members

Mr Charles Johnson (Presiding Member)  
Mr Ian Birch (Deputy Presiding Member)  
Mr Luigi D'Alessandro (Specialist Member)  
Cr Colin Cala (Local Government Member, City of South Perth)  
Cr Glenn Cridland (Local Government Member, City of South Perth)

#### Officers in attendance

Ms Vicki Lummer (South Perth)  
Mr Les Croxford (South Perth)  
Mr Cameron Howell (City of South Perth)  
Mr Erik Dybdahl (City of South Perth)  
Ms Sally Grebe (Department of Planning)  
Mr Stephen Willey (State Solicitors Office)

#### Local Government Minute Secretary

Ms Narelle Cecchi (City of South Perth)

#### Applicants and Submitters

Mr Dan Lees (TPG)  
Mr Scott Cameron (Finbar)  
Mr David Caddy (Finbar)  
Mr David Van Den Dries (MRWA)  
Mr Ashis Parajuli (MRWA)  
Mr Darren Levey (Ulóth & Associates)  
Mayor Sue Doherty (City of South Perth)  
Mr Haydn Robinson (Haydn Robinson)  
Mr Steve Irons MP  
Mr Greg Benjamin  
Mr Peter Howatt  
Mr Barry France  
Mr Graham Kew  
Mr John McGrath MLA  
Mr Jonathon Riley (Riley Traffic & Transportation Consultants)  
Mr Peter Goff (MGA Town Planners)  
Ms Margie Tannock (Squire Patton Boggs)  
Ms Lauren Barnett (Squire Patton Boggs)



## Members of the Public

There were approximately 10 members of the public present.

### 1. Declaration of Opening

The Presiding Member declared the meeting open at 3:05pm and acknowledged the past and present traditional owners and custodians of the land on which the meeting was being held.

### 2. Apologies

Nil

### 3. Members on Leave of Absence

Nil

### 4. Noting of Minutes

The Minutes of the Metro Central JDAP Meeting No.99 held on 15 April 2015 were not available at time of the Agenda preparation.

### 5. Declarations of Due Consideration

All members declared that they had duly considered the documents.

### 6. Disclosure of Interests

Member/Officer	Report Item	Nature of Interest
Cr Glenn Cridland	10.1	Impartiality interest – City of South Perth Elected Member.
Cr Colin Cala	10.1	Impartiality interest – City of South Perth Elected Member.
Mr Charles Johnson	10.1	Impartiality interest – As author of the Local Government Town Planning Guideline for Alcohol Outlets for WALGA, released to the public in March 2015, perception may be that this background may cloud his judgement on the application.

In accordance with Section 4.6.1 and 4.6.2 of the Standing Orders 2012, the Presiding Member determined that Cr Glenn Cridland and Cr Colin Cala, who had disclosed an impartiality interest, were permitted to participate in discussion and voting on the item.

In accordance with Section 6.3.3 of the Standing Orders 2012, the Deputy Presiding Member determined that Mr Charles Johnson, who had disclosed an impartiality interest, was permitted to participate in the discussion and vote on the item.



## 7. Deputations and Presentations

- 7.1 Mr Dan Lees (TPG) presenting for the application at Item 9.1. The presentation will support the application and request a reworded Amended Advice Note.  
***The presentation at Item 7.1 was heard prior to the application at Item 9.1.***
- 7.2 Mr David Van Den Dries and Mr Ashis Parajuli (Main Roads WA) presenting against the application at Item 10.1. The presentation will address the concerns raised by Main Roads.  
***The presentation at Item 7.2 was heard prior to the application at Item 10.1.***
- 7.3 Mr Darren Levey (Uloth & Associates) presenting against the application at Item 10.1. The presentation will address parking and traffic.  
***The presentation at Item 7.3 was heard prior to the application at Item 10.1.***
- 7.4 Mr Haydn Robinson (Haydn Robinson) presenting against the application at Item 10.1. The presentation will address traffic, parking and social consequences.  
***The presentation at Item 7.4 was heard prior to the application at Item 10.1.***
- 7.5 Mr Peter Howatt presenting against the application at Item 10.1. The presentation will address the health and social issues that affect the local amenity.  
***The presentation at Item 7.5 was heard prior to the application at Item 10.1.***
- 7.6 Mr Barry France presenting against the application at Item 10.1. The presentation will address the loss of amenity for local residents.  
***The presentation at Item 7.6 was heard prior to the application at Item 10.1.***
- 7.7 Mr Graham Kew presenting against the application at Item 10.1. The presentation will address the access issues and impact to local streets.  
***The presentation at Item 7.7 was heard prior to the application at Item 10.1.***
- 7.8 Mr Greg Benjamin presenting against the application at Item 10.1.  
***The presentation at Item 7.8 was heard prior to the application at Item 10.1.***
- 7.9 Mr John McGrath MLA presenting against the application at Item 10.1. The presentation will address traffic movement issues and parking.  
***The presentation at Item 7.9 was heard prior to the application at Item 10.1.***
- 7.10 Mr Steve Irons (MP, Federal Member for Swan) provided a written submission against the application at Item 10.1.



- 7.11 Mayor Sue Doherty (City of South Perth) presenting against the application at Item 10.1.  
***The presentation at Item 7.11 was heard prior to the application at Item 10.1.***
- 7.12 Mr Jonathon Riley (Riley Traffic & Transportation Consultants) presenting for the application at Item 10.1. The presentation will address the traffic elements of the proposal.  
***The presentation at Item 7.12 was heard prior to the application at Item 10.1.***
- 7.13 Mr Peter Goff (MGA Town Planners) presenting for the application at Item 10.1. The presentation will address the planning elements of the proposal.  
***The presentation at Item 7.13 was heard prior to the application at Item 10.1.***
- 7.14 Ms Margie Tannock (Squire Patton Boggs) presenting for the application at Item 10.1. The presentation will address the legal elements of the proposal.  
***The presentation at Item 7.14 was heard prior to the application at Item 10.1.***

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

Nil

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

- 9.1 Property Location: Lot 100 (No. 96) Mill Point Road, South Perth  
Application Details: Amendment to Proposed Mixed Development within a 21-Storey, plus Basements, Building  
Applicant: TPG Town Planning, Urban Design and Heritage  
Owner: MPD WA Pty Ltd  
Responsible Authority: City of South Perth  
DoP File No. DAP/14/00619

#### REPORT RECOMMENDATION / PRIMARY MOTION

**Moved by:** Cr Colin Cala

**Seconded by:** Cr Glenn Cridland

That the Metro Central JDAP resolves to:

1. **Approve** that the DAP Application reference DAP/14/00619 as detailed on the DAP Form 2 dated 24 February 2015 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 DAP/14/00619 as detailed on the DAP Form 2 date 24 February 2015 and accompanying plans *SK00 through SK11* as amended (latest revisions 12 February 2015) in accordance with the provisions of Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, for the proposed minor amendment to the approved mixed development within a 21 storey building, plus basements at Lot 100 (No. 96) Mill Point Road, South Perth, subject to:



### Amended Conditions

1. The applicant is to reinstate the originally proposed 'green wall' landscaping feature elsewhere on the building facade that was deleted as part of this amended proposal. A revised detailed landscaping plan is required to be prepared and approved by the City's Landscape Architect prior to the issue of a building permit.

All other conditions and requirements detailed on the previous approval, dated 9<sup>th</sup> December 2015, shall remain in full unless altered by this application.

### Amended Advice Notes

1. The applicant is advised of the need to comply with any requirement of the City's Infrastructure Services; please see the memorandum, dated 10 March 2015, attached to this approval.

All other advice notes detailed on the previous approval, dated 9<sup>th</sup> December 2015, shall remain in full unless altered by this application.

### AMENDING MOTION

**Moved by:** Mr Luigi D'Alessandro

**Seconded by:** Mr Ian Birch

That Amended Advice Note 1 be modified to read; "The applicant is to have regard to the City's Infrastructure Services' memorandum, dated 10 March 2015, attached to this approval."

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

### PRIMARY MOTION (AS AMENDED)

**Moved by:** Mr Luigi D'Alessandro

**Seconded by:** Mr Ian Birch

That the Metro Central JDAP resolves to:

1. **Approve** that the DAP Application reference DAP/14/00619 as detailed on the DAP Form 2 dated 24 February 2015 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 DAP/14/00619 as detailed on the DAP Form 2 date 24 February 2015 and accompanying plans *SK00 through SK11* as amended (latest revisions 12 February 2015) in accordance with the provisions of Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, for the proposed minor amendment to the approved mixed development within a 21 storey building, plus basements at Lot 100 (No. 96) Mill Point Road, South Perth, subject to:

### Amended Conditions



1. The applicant is to reinstate the originally proposed 'green wall' landscaping feature elsewhere on the building facade that was deleted as part of this amended proposal. A revised detailed landscaping plan is required to be prepared and approved by the City's Landscape Architect prior to the issue of a building permit.

All other conditions and requirements detailed on the previous approval, dated 9<sup>th</sup> December 2015, shall remain in full unless altered by this application.

**Amended Advice Notes**

1. The applicant is to have regard to the City's Infrastructure Services' memorandum, dated 10 March 2015, attached to this approval.

All other advice notes detailed on the previous approval, dated 9<sup>th</sup> December 2015, shall remain in full unless altered by this application.

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

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

<b>10.1</b>	Property Location:	Lot 253 (No. 243) Canning Highway & Lot 6 (No. 148) South Terrace, South Perth
	Application Details:	Demolition & Redevelopment of Bottle Shop & Additions / Alterations to "Como Hotel"
	Applicant:	MGA Town Planners
	Owner:	ALH Group Property Holdings Pty Ltd (Australian Leisure & Hospitality Group)
	Responsible Authority:	City of South Perth
	DoP File No.	DAP/14/00542

**REPORT RECOMMENDATION / PRIMARY MOTION**

**Moved by:** Cr Colin Cala

**Seconded by:** Cr Glenn Cridland

**Reconsider** its decisions dated 15 August 2014 and 17 February 2015 and **refuse** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following reasons:

1. The additional traffic generated by the proposal, particularly from the proposed 'Dan Murphy's' bottle shop, will unreasonably contribute to greater traffic congestion in the immediate locality and adversely affect the amenity of surrounding residential streets. Accordingly, the proposal does not comply with clause 7.5(t) of Town Planning Scheme No. 6.
2. As advised by Main Roads Western Australia, the retention of the existing vehicle access from Canning Highway conflicts with Development Control



Policy 5.1 'Regional Roads (Vehicular Access)', poses an unacceptable vehicle collision risk and conflicts with future planning by the Public Transport Authority for a timed bus stop in an embayment in this location.

3. The number of car parking bays provided on site is insufficient in accordance with clause 6.3 and Table 6 of Town Planning Scheme No. 6. The proposal should provide 158 car bays and only provides 153 car bays, a shortfall of 5 car bays. Accordingly, the proposed provision of car parking on site does not comply with clause 7.5(s) of Town Planning Scheme No. 6.

The application of Council Policy P315 'Car Parking Reductions for Non-Residential Development', that enables a reduction to the car parking requirement specified in Table 6 of Town Planning Scheme No. 6, is not supported for this proposal.

The proposed supply of car bays does not provide sufficient car parking taking into account peak parking demand for different uses on the site, in accordance with clause 6.3(4) of Town Planning Scheme No. 6. The application of discretion in accordance with clause 7.8 of Town Planning Scheme No. 6 is also not warranted in this instance.

4. Main Roads Western Australia has advised that there is a possible future amendment to the Metropolitan Region Scheme for a bus embayment which will result in a further loss of 12 bays and an on-site car parking shortfall of 17 car bays. The location of these car parking bays within the future Primary Regional Roads reservation conflicts with future planning by the Public Transport Authority for a timed bus stop in an embayment in this location.
5. The scale of the proposed 'Dan Murphy's' bottle shop, being a Shop that will operate as a large format liquor outlet, is not an appropriate use of the site as the resultant quantity of off-premises consumption of alcoholic beverages will have a detrimental social impact on the amenity of the locality and the wider South Perth community. Accordingly, the proposal does not comply with clauses 7.5(i) and (p) of Town Planning Scheme No. 6.

#### Advice Notes

1. The proposed development in its current form is observed to conflict with town planning requirements relating to:
  - (a) Street Setback (Norton Street): TPS6 cl. 5.1(4).
  - (b) Car Parking - Vehicular Access: TPS6 cl. 6.3(6) and 6.6(1) and Development Control Policy 5.1.
  - (c) Car Parking - Provision of Shade Trees: TPS6 cl. 6.3(12).
  - (d) Bicycle Parking: TPS6 cl. 6.4.
  - (e) Local Heritage: TPS6 cl. 6.11, Council Policy P313 and the Municipal Heritage Inventory.
  - (f) Building Design: TPS6 cl. 7.5(n) / 6.12(6).
  - (g) Waste Management: TPS6 cl. 7.5(x).
  - (h) Public Art Contribution: Council Policy P316.
  - (i) Environmentally Sustainable Building Design: Council Policy P350.01.
  - (j) Trees on the Street Verge: Council Policy P350.05.





If this application was approved, the above listed matters could have been resolved with the inclusion of appropriate conditions of planning approval.

#### **AMENDING MOTION**

**Moved by:** Mr Charles Johnson

**Seconded by:** Mr Luigi D'Alessandro

That Reason 4 be deleted, and the remaining reasons be renumbered accordingly.

**Reason:** It was considered not appropriate as a reason for refusal since the parking bay shortfall by a possible future MRS amendment for a bus embayment is uncertain, notwithstanding Main Roads may implement in the future.

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

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro

**Against:** Cr Colin Cala and Cr Glenn Cridland

#### **AMENDING MOTION**

**Moved by:** Cr Glenn Cridland

**Seconded by:** Cr Colin Cala

That Reason 4 be inserted to read; "Large format liquor outlets are to be located in the District Centre Commercial Zone only. Any particular sites with direct adjacency to residential areas are discouraged for this type of liquor outlet."

**Reason:** It was considered appropriate as a reason for refusal since the Council's recently adopted Interim Policy is relevant and provides the following conditions:

- A traffic and parking impact assessment;
- A demand assessment;
- An amenity assessment taking into account adjoining land uses and issues including, but not limited to, noise and patron management; and
- A social impact and harm minimisation strategy.

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That the Presiding Member close the meeting to the public to enable the panel to seek confidential legal advice, from Mr Stephen Willey of the State Solicitors Office, on the above Interim Policy adopted by the City of South Perth Council on 24 March 2015.

**The Procedural motion was put and carried Unanimously.**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That the Presiding Member re-open the meeting to the public at 7:00pm, after a 5 minute recess. The Presiding Member invited members of the public back into the Chamber.

**The Procedural motion was put and carried Unanimously**

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



**For:** Cr Colin Cala and Cr Glenn Cridland  
**Against:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro

## REPORT RECOMMENDATION / PRIMARY MOTION

**Reconsider** its decisions dated 15 August 2014 and 17 February 2015 and **refuse** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following reasons:

1. The additional traffic generated by the proposal, particularly from the proposed 'Dan Murphy's' bottle shop, will unreasonably contribute to greater traffic congestion in the immediate locality and adversely affect the amenity of surrounding residential streets. Accordingly, the proposal does not comply with clause 7.5(t) of Town Planning Scheme No. 6.
2. As advised by Main Roads Western Australia, the retention of the existing vehicle access from Canning Highway conflicts with Development Control Policy 5.1 'Regional Roads (Vehicular Access)', poses an unacceptable vehicle collision risk and conflicts with future planning by the Public Transport Authority for a timed bus stop in an embayment in this location.
3. The number of car parking bays provided on site is insufficient in accordance with clause 6.3 and Table 6 of Town Planning Scheme No. 6. The proposal should provide 158 car bays and only provides 153 car bays, a shortfall of 5 car bays. Accordingly, the proposed provision of car parking on site does not comply with clause 7.5(s) of Town Planning Scheme No. 6.

The application of Council Policy P315 'Car Parking Reductions for Non-Residential Development', that enables a reduction to the car parking requirement specified in Table 6 of Town Planning Scheme No. 6, is not supported for this proposal.

The proposed supply of car bays does not provide sufficient car parking taking into account peak parking demand for different uses on the site, in accordance with clause 6.3(4) of Town Planning Scheme No. 6. The application of discretion in accordance with clause 7.8 of Town Planning Scheme No. 6 is also not warranted in this instance.

4. The scale of the proposed 'Dan Murphy's' bottle shop, being a Shop that will operate as a large format liquor outlet, is not an appropriate use of the site as the resultant quantity of off-premises consumption of alcoholic beverages will have a detrimental social impact on the amenity of the locality and the wider South Perth community. Accordingly, the proposal does not comply with clauses 7.5(i) and (p) of Town Planning Scheme No. 6.



## Advice Notes

1. The proposed development in its current form is observed to conflict with town planning requirements relating to:
  - (a) Street Setback (Norton Street): TPS6 cl. 5.1(4).
  - (b) Car Parking - Vehicular Access: TPS6 cl. 6.3(6) and 6.6(1) and Development Control Policy 5.1.
  - (c) Car Parking - Provision of Shade Trees: TPS6 cl. 6.3(12).
  - (d) Bicycle Parking: TPS6 cl. 6.4.
  - (e) Local Heritage: TPS6 cl. 6.11, Council Policy P313 and the Municipal Heritage Inventory.
  - (f) Building Design: TPS6 cl. 7.5(n) / 6.12(6).
  - (g) Waste Management: TPS6 cl. 7.5(x).
  - (h) Public Art Contribution: Council Policy P316.
  - (i) Environmentally Sustainable Building Design: Council Policy P350.01.
  - (j) Trees on the Street Verge: Council Policy P350.05.

If this application was approved, the above listed matters could have been resolved with the inclusion of appropriate conditions of planning approval.

## The Report Recommendation / Primary Motion was put and LOST (2/3).

**For:** Cr Colin Cala and Cr Glenn Cridland  
**Against:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro

**Reason:** The Panel by a majority vote considered that the report recommendations are not sufficient reasons for refusal and cannot be sustained under town planning Scheme No 6.

## ALTERNATIVE RECOMMENDATION

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That the Metro Central Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 305 of 2014, resolves to:

**Reconsider** its decisions dated 15 August 2014 and 17 February 2015 and **approve** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following conditions:

## Conditions



1. Revised drawings shall be submitted to the satisfaction of the City as part of a building permit application or prior to the submission of the building permit application, and such drawings shall incorporate the following:
  - (a) The Norton Street elevation of the proposed 'Dan Murphy's' building shall be provided with glazing to the external walls to the satisfaction of the City, to ameliorate building bulk impacts upon the existing streetscape, and to address compatibility with existing residential and non-residential buildings within Norton Street, in accordance with clause 7.5(n) of Town Planning Scheme No. 6.
  - (b) The western elevation of the proposed 'Dan Murphy's' building shall be provided with additional design elements to the external walls to the satisfaction of the City, to ameliorate building bulk impacts upon the existing streetscape, and to address compatibility with existing residential and non-residential buildings within Norton Street, in accordance with clause 7.5(n) of Town Planning Scheme No. 6.
  - (c) The street setback of the external walls of the 'Dan Murphy's' building to the Norton Street boundary shall be increased to a minimum of 6.0 metres, to reflect the street setback requirements for residential development in the adjoining Residential R20 zoning and to address clause 5.1(4)(a) of Town Planning Scheme No. 6.
  - (d) The signage tower element of the proposed 'Dan Murphy's' building shall be reduced in height to not exceed 39.20 metres relative to the datum shown on the approved site plan, being 2.0 metres above the top of the external walls of the building, as the height of the proposed signage tower conflicts with the signage objectives specified in clause 6.12(6) of Town Planning Scheme No. 6.
  - (e) As advised by Main Roads Western Australia, the existing crossover onto Canning Highway shall be closed, as the retention of the existing vehicle access from Canning Highway conflicts with Development Control Policy 5.1 'Regional Roads (Vehicular Access)'.  
(f) A plan being provided that demonstrates that delivery vehicles servicing the site can exit the site using the South Terrace crossover.
  - (g) In order to enhance the heritage character of the Como Hotel building, the colour of paintwork for all facades of the Hotel is to be similar to the cream colour shown on the Streetscape Elevation - Canning Highway plan, to the satisfaction of the City.
  - (h) Planting strips, including shade trees approved by the City shall be provided within the car parking area at the rate of 1 per 8 parking bays. Details shall be included within a landscaping plan.
  - (i) The upgraded crossover onto Norton Street shall be positioned at least 3.0 metres from the centre of the adjacent 'Corymbia Citriodora' street tree located on the Norton Street boundary of the site.
  - (j) An updated landscaping plan is to be provided, to incorporate changes to the site plan, including all changes required by the conditions of this planning approval.
2. The proposed signage on the 'Dan Murphy's' building does not form part of this approval.
3. The existing function area on the upper floor level of the Como Hotel building shall be permanently closed.
4. Prior to the occupation of the approved development, a public art concept for the subject development or alternatively a contribution to public art within the



vicinity of the development, to the value of \$60,000 shall be submitted to the City. The approved public art concept shall be to the satisfaction of the City.

5. The approved public art concept or contribution shall be thereafter implemented and the artwork constructed prior to occupation of the development, and maintained for the life of the development to the satisfaction of the City.
6. The approved drawings show that a proposed crossover onto Norton Street will interfere with existing City property, a street tree situated within the road reserve. The Applicant is required to pay a sum of \$11,933.10 for the cost of removing and replacing this property and the amenity value of this street tree, prior to the submission of a building permit, as detailed in a tax invoice that will be issued by the City,
7. The approved drawings show that the proposed crossover onto South Terrace will interfere with the location of a Western Power electrical transformer. The Applicant is required obtain the written agreement from Western Power to undertake the relocation of this infrastructure, prior to the submission of a building permit.
8. The Applicant is required obtain the written agreement from Main Roads Western Australia and the City, for all required road works associated with this development, including but not limited to the extension of the Canning Highway central median to prevent right turn movements into and out of Norton Street, the widening of South Terrace to provide right turning movements onto the site and the provision of additional traffic calming and restricted left out / right in turning movement measures to Norton Street, prior to the submission of a building permit.

The developer is responsible for all costs involved in the land acquisition, design and construction of intersection and access works adjacent to the site, as required by Main Roads or the City as a result of this new development. These costs include signing, road markings, relocation of services, street lighting and Main Roads / City costs involved in the checking of the design and construction drawings and any site inspections. (Also refer to the associated Advice Note)

9. At or prior to the submission of a building permit, the applicant is to submit to the City a copy of documentation which shows all measures undertaken in the development to reduce its environment footprint and to illustrate how it compares to "Green Star" aspirations.
10. Prior to the submission of a building permit, the applicant is to submit to the City a Waste Management Plan, to the satisfaction of the City. The approved Waste Management Plan shall thereafter be implemented, unless otherwise approved by the City.
11. The applicant is to pay the City \$88,400 as a cash payment in lieu of the onsite car parking shortfall of seventeen (17) bays, in accordance with clauses 6.3 and 6.3A of Town Planning Scheme No. 6, prior to the submission of a building permit, as detailed in a tax invoice that will be issued by the City.



12. The crossovers between the road and the property boundary shall be constructed in accordance with the approved drawings, associated conditions and the requirements contained within Management Practice M353, which is available at the City's website. The existing verge levels at the front property boundary shall not be altered.
13. The existing crossovers shall be removed and the verge and kerbing shall be reinstated to the satisfaction of the City.
14. Any new or extended crossover shall be located a minimum of 3.0 metres from an existing street tree unless a lesser distance is approved by the City.
15. The height of any letterbox, electricity installation, bin enclosure, or other structure, fence, wall or hedge within 1.5 metres of any vehicle driveway where it meets a street alignment shall not exceed 0.75 metres, in accordance with clause 6.3(6) of Town Planning Scheme No. 6.
16. The eight car parking bays situated in a tandem arrangement on the western side of the Como Hotel service ramp shall be restricted to staff use and clearly identified on site by means of a sign bearing the words "Staff Parking Only".
17. For the car bays with a 4.8 metre bay depth, no structure or obstruction is permitted within a 600mm overhang, in order to comply with Australian Standard AS2890 Part 2 'Off-Street Parking'.
18. The development shall provide lighting to the City's satisfaction to the car parking areas.
19. Provision shall be made for the parking of at least seventeen (17) bicycles in bays, the design and location of which shall be to the satisfaction of the City, in accordance with the requirements of clause 6.4(1) of Town Planning Scheme No. 6.
20. End of trip facilities for cyclists shall be provided for the use of staff. The design and location of those facilities shall be to the satisfaction of the City and the facilities shall be provided at the following ratios:
  - (a) Number of secure clothes lockers- At least seventeen (17); and
  - (b) Number of showers- Two (2) male showers and two (2) female showers;in separate change rooms, in accordance with the requirements of clause 6.4(5) of Town Planning Scheme No. 6.
21. The applicant is to arrange for a detailed internal and external photographic record to be taken of the Como Hotel building and the existing bottle shop and is to provide a copy of photographic these records to the City, to the satisfaction of the City, prior to any demolition or other works being undertaken on site.
22. As required by Council Policy P313 'Local Heritage Listing', the applicant is to provide the City with an 'Impact Statement' relating to the impact of the proposed demolition of the bottle shop and proposed alterations and additions to the Como Hotel building, prior to the submission of a building permit application. This statement should also address the addition of a new 'Dan



- Murphy's' bottle shop on the site and its visual impact, if any, on the existing Como Hotel building.
23. The Como Hotel building is to be restored in such a way as to respect and enhance the 'Art Deco' character of the building, including its internal fittings, to the satisfaction of the City.
  24. In accordance with the requirements of clauses 6.14(2) and (5) of Town Planning Scheme No. 6 and the landscaping revised drawing condition of this approval, an updated landscaping plan shall be submitted for approval by the City. No person shall occupy or use the land or any building the subject of this approval for the purpose for which this approval is given unless and until:
    - (a) The City has approved a landscaping plan; and
    - (b) The landscaping has been completed in accordance with the plan approved by the City.
  25. All existing trees intended to be retained as indicated on the site plan shall be identified for retention on the working drawings and landscaping plans and shall be protected prior to and during construction, and shall not be removed without the prior approval of the City.
  26. Lots 253 and 6 shall be amalgamated on a compiled Diagram of Survey and application for a new Certificate of Title shall be lodged with the Land Titles Office, prior to the submission of a building permit application. The building permit may not be issued until the new Certificate of Title is issued.
  27. In accordance with the provisions of clause 6.8 (2) of Town Planning Scheme No. 6, all subsoil water and stormwater from the property shall be discharged into soak wells or sumps located on the site unless special arrangements can be made to the satisfaction of the City for discharge into the street drainage system.
  28. Any required filling or excavation of the site shall be retained by embankments or walls, details of which are to be incorporated in the working drawings submitted in support of a building permit application.
  29. Any required retaining walls along lot boundaries shall be constructed immediately after excavation or filling has been carried out.
  30. The height of fences on side and rear boundaries of Lot 6, behind the primary street setback area, shall not exceed 2.1 metres. In accordance with Council Policy P350.07 'Fencing and Retaining Walls', the height of fences on side and rear boundaries of Lot 253, behind the primary street setback area is to be 1.8 metres unless a height greater than 1.8 metres, or a height not less than 1.6 metres is acceptable to all adjoining property owners. The height of such a fence at any point shall be measured from the level of the ground adjacent to the fence. If the level of the ground at any point along the lot boundary is higher on one side of the fence than the level on the other side, the height at that point shall be measured from the higher side.
  31. The Australian Leisure and Hospitality Group Pty Ltd Management Plan and Operational Management Plan for the Como Hotel and Dan Murphy Outlet dated March 2015 shall be implemented, unless otherwise approved by the City.



32. The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of planning approval.

### Advice Notes

1. This planning approval is not an authorisation to commence construction. A building permit must be obtained from Council's Building Services department prior to commencing any work of a structural nature.
2. It is necessary for revised drawings to be submitted prior to lodging a building permit application as identified in the revised drawings condition, prior to the assessment of the working drawings. Therefore, to avoid delays in obtaining a building permit, it is important for the Applicant to commence the related processes at the earliest.
3. Prior to lodging a building permit, the Applicant is required to satisfactorily address the outstanding planning matters identified in the public art, street tree, electrical transformer, road works, 'Green Star', waste management, car parking cash in lieu, bicycle parking, heritage, landscaping and amalgamation conditions. Therefore, to avoid delays in obtaining a building permit, it is important for the Applicant to commence the related processes at the earliest.
4. In relation to the public art conditions, the City will be required to give final consent for the proposed public art, including any cash-in-lieu arrangement. Full details and specifications should be submitted at the earliest opportunity to ensure that the finalisation of the public art does not delay the progression of the development.
5. In relation to the road works conditions, to avoid delays to the progression of the development, it is important for the Applicant to contact Main Roads and the City's Engineering Infrastructure Services to determine any works or financial contributions towards these works that will need to be undertaken.
6. The car parking bays shall be marked on site as indicated on the approved site plan, in order to comply with the requirements of clause 6.3(10)(c) of Town Planning Scheme No. 6 and such marking shall be subsequently maintained so that the delineation of parking bays remains clearly visible at all times.
7. Hard standing areas approved for the purpose of car parking or vehicle access shall be maintained in good condition at all times, free of potholes and dust and shall be adequately drained in accordance with the requirements of clause 6.3 (10) of Town Planning Scheme No. 6.
8. The applicant is advised of the need to comply with the relevant requirements of the City's Engineering Infrastructure Services and Environmental Health Services.
9. Please note that issues relating to dividing fences are civil matters between the respective parties / landowners (i.e. not the City of South Perth). These matters are controlled by the Dividing Fences Act 1961 (the Act), which includes certain rights and responsibilities. For an information booklet, please visit this site: <http://www.buildingcommission.wa.gov.au/consumers/dividing-fences>.





Alternatively, the Act is a comprehensive source of information, and is available from this website: <http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>.

10. Where any fencing is proposed to be constructed from brick or masonry, it will be necessary for the applicant to include full construction details in conjunction with the application for a building permit.
11. Where minor variations are sought at the building permit stage from an approved set of plans, a formal request for a variation to the planning approval is to be sought by the Applicant, in accordance with Council Policy P689.

If supported, the variations may be granted subject to all the previous terms and conditions, or possibly with new terms and conditions. If not supported, either the Building Plans must be amended for a Building Permit to be issued, or a new application for planning approval must be lodged for consideration by Council.

12. If you are aggrieved by aspects of the decision where discretion has been exercised, you may investigate the ability to lodge an appeal with the State Administrative Tribunal within 28 days of the determination date recorded on this notice.

There are no rights of appeal in relation to aspects of the decision where the City / Council or Development Assessment Panel cannot exercise discretion.

#### **AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 1(c) be deleted, and the remaining conditions be renumbered accordingly.

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

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro  
**Against:** Cr Colin Cala and Cr Glenn Cridland

**Reason:** It was considered that this condition would have a significant impact on the proposed development and that the setback as proposed is not detrimental to Norton Street and that the proposed treatment of the building provides a reasonable interface with the residential properties.

#### **AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That (renumbered) Conditions 1(d) and (e) be deleted, and the remaining conditions be renumbered accordingly.

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

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro  
**Against:** Cr Colin Cala and Cr Glenn Cridland



**Reason:** The development application relies upon the use of this existing crossover and the WAPC has not required its closure and the condition would have a significant impact on the functionality of the submitted proposal.

#### **AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 8 be modified to read:

"The applicant is required to obtain written agreement from Main Roads Western Australia and the City for all required road works associated with this development, including road carriageway amendments, and traffic island works in South Terrace and installation of new crossover works to South Terrace.

The developer is responsible for all costs involved in design and construction of road works and access works adjacent to the site, as required by Main Roads or the City as a result of this new development. These costs include signing, road markings, relocation of services, street lighting and Main Roads / City costs involved in the checking of the design and construction drawings and any site inspections. (Also refer to the associated Advice Note.)"

That a new Condition 9 be inserted to read as follows, and the remaining conditions be renumbered accordingly:

"Suitable measures are to be put in place to control traffic movements into and out of Norton Street, to the satisfaction of the City, as shown on the approved plan, and at the cost of the developer."

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

**Reason:** It was considered that the applicant should be responsible for the recommended road works for Norton Street resulting from the proposed development.

#### **AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 12 be modified to read; "Subject to review of the car parking layout, to ensure compliance with provision for disabled bays, to determine the exact overall onsite parking provision, the applicant is to pay the City \$6,600 per bay as a cash payment in lieu of the onsite car parking bay shortfall below 158 bays, in accordance with Clauses 6.3 and 6.3A of Town Planning Scheme No. 6, prior to the submission of a building permit, as detailed in a tax invoice that will be issued by the City."

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

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro  
**Against:** Cr Colin Cala and Cr Glenn Cridland



**Reason:** It was considered that it was not valid to include the possible loss of 12 bays from a future bus bay, but, that the provision for parking for the disabled needs to be re-examined.

**AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 13 be inserted to read as follows, and the remaining conditions be renumbered accordingly:

"The car parking layout is to be reviewed to ensure compliance with Australian Standard AS2890.1 and AS2890.6."

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

**Reason:** It was considered that this condition ensures the car parking layout is compliant with Australian Standards.

**AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 24 be deleted, and the remaining conditions be renumbered accordingly.

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

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro

**Against:** Cr Colin Cala and Cr Glenn Cridland

**Reason:** It was considered that this condition is not required by the Heritage Council of Western Australia and could be unreasonably onerous.

**AMENDING MOTION**

**Moved by:** Mr Luigi D'Alessandro

**Seconded by:** Mr Ian Birch

That Condition 24 be modified to read; "The Como Hotel building is to be restored in such a way as to respect and enhance the 'Art Deco' character of the building, to the satisfaction of the City."

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

**Reason:** It was considered that the building had 'Art Deco' internal fittings, but that no original internal fittings remain.

**AMENDING MOTION**

**Moved by:** Mr Ian Birch

**Seconded by:** Mr Luigi D'Alessandro

That Condition 27 be modified to read; "Lots 253 and 6 shall be amalgamated on a compiled Diagram of Survey and an application for a new Certificate of Title shall be lodged with the Land Titles Office, prior to the issue of a Certificate of Occupancy."



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

**Reason:** It was considered that this condition may have unreasonably delayed the proposed development.

**AMENDING MOTION**

**Moved by:** Mr Ian Birch

That Condition 33 be modified to read; "The validity of this approval shall cease if construction is not substantially commenced within 36 months of the date of planning approval."

**The Amending Motion LASED for want of a seconder.**

**AMENDING MOTION**

**Moved by:** Mr Charles Johnson

**Seconded by:** Cr Colin Cala

That Condition 32 be modified to read; "The Australian Leisure and Hospitality Group Pty Ltd Management Plan and Operational Management Plan, for the Como Hotel and Dan Murphy Outlet dated March 2015, shall incorporate and implement a commitment not to advertise 'a lowest price guarantee' on the exterior of the building."

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

**For:** Mr Charles Johnson, Mr Luigi D'Alessandro, Cr Colin Cala and Cr Glenn Cridland

**Against:** Mr Ian Birch

**Reason:** It was considered that this condition could assist in managing the social impact of advertising associated with this form of development.

**ALTERNATIVE RECOMMENDATION (AS AMENDED)**

That the Metro Central Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 305 of 2014, resolves to:

**Reconsider** its decisions dated 15 August 2014 and 17 February 2015 and **approve** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following conditions:

**Conditions**



1. Revised drawings shall be submitted to the satisfaction of the City as part of a building permit application or prior to the submission of the building permit application, and such drawings shall incorporate the following:
  - (a) The Norton Street elevation of the proposed 'Dan Murphy's' building shall be provided with glazing to the external walls to the satisfaction of the City, to ameliorate building bulk impacts upon the existing streetscape, and to address compatibility with existing residential and non-residential buildings within Norton Street, in accordance with clause 7.5(n) of Town Planning Scheme No. 6.
  - (b) The western elevation of the proposed 'Dan Murphy's' building shall be provided with additional design elements to the external walls to the satisfaction of the City, to ameliorate building bulk impacts upon the existing streetscape, and to address compatibility with existing residential and non-residential buildings within Norton Street, in accordance with clause 7.5(n) of Town Planning Scheme No. 6.
  - (c) The signage tower element of the proposed 'Dan Murphy's' building shall be reduced in height to not exceed 39.20 metres relative to the datum shown on the approved site plan, being 2.0 metres above the top of the external walls of the building, as the height of the proposed signage tower conflicts with the signage objectives specified in clause 6.12(6) of Town Planning Scheme No. 6.
  - (d) In order to enhance the heritage character of the Como Hotel building, the colour of paintwork for all facades of the Hotel is to be similar to the cream colour shown on the Streetscape Elevation - Canning Highway plan, to the satisfaction of the City.
  - (e) Planting strips, including shade trees approved by the City shall be provided within the car parking area at the rate of 1 per 8 parking bays. Details shall be included within a landscaping plan.
  - (f) The upgraded crossover onto Norton Street shall be positioned at least 3.0 metres from the centre of the adjacent 'Corymbia Citriodora' street tree located on the Norton Street boundary of the site.
  - (g) An updated landscaping plan is to be provided, to incorporate changes to the site plan, including all changes required by the conditions of this planning approval.
2. The proposed signage on the 'Dan Murphy's' building does not form part of this approval.
3. The existing function area on the upper floor level of the Como Hotel building shall be permanently closed.
4. Prior to the occupation of the approved development, a public art concept for the subject development or alternatively a contribution to public art within the vicinity of the development, to the value of \$60,000 shall be submitted to the City. The approved public art concept shall be to the satisfaction of the City.
5. The approved public art concept or contribution shall be thereafter implemented and the artwork constructed prior to occupation of the development, and maintained for the life of the development to the satisfaction of the City.
6. The approved drawings show that a proposed crossover onto Norton Street will interfere with existing City property, a street tree situated within the road



reserve. The Applicant is required to pay a sum of \$11,933.10 for the cost of removing and replacing this property and the amenity value of this street tree, prior to the submission of a building permit, as detailed in a tax invoice that will be issued by the City,

7. The approved drawings show that the proposed crossover onto South Terrace will interfere with the location of a Western Power electrical transformer. The Applicant is required obtain the written agreement from Western Power to undertake the relocation of this infrastructure, prior to the submission of a building permit.
8. "The applicant is required to obtain written agreement from Main Roads Western Australia and the City for all required road works associated with this development, including road carriageway amendments, and traffic island works in South Terrace and installation of new crossover works to South Terrace.  
The developer is responsible for all costs involved in the design and construction of road works and access works adjacent to the site, as required by Main Roads or the City as a result of this new development. These costs include signing, road markings, relocation of services, street lighting and Main Roads / City costs involved in the checking of the design and construction drawings and any site inspections. (Also refer to the associated Advice Note.)
9. Suitable measures are to be put in place to control traffic movements into and out of Norton Street to the satisfaction of the City, as shown on the approved plan, and at the cost of the developer.
10. At or prior to the submission of a building permit, the applicant is to submit to the City a copy of documentation which shows all measures undertaken in the development to reduce its environment footprint and to illustrate how it compares to "Green Star" aspirations.
11. Prior to the submission of a building permit, the applicant is to submit to the City a Waste Management Plan, to the satisfaction of the City. The approved Waste Management Plan shall thereafter be implemented, unless otherwise approved by the City.
12. Subject to review of the car parking layout, to ensure compliance with provision for disabled bays, to determine the exact overall onsite parking provision, the applicant is to pay the City \$6,600 per bay as a cash payment in lieu of the onsite car parking bay shortfall below 158 bays, in accordance with Clauses 6.3 and 6.3A of Town Planning Scheme No. 6, prior to the submission of a building permit, as detailed in a tax invoice that will be issued by the City.
13. The car parking layout is to be reviewed to ensure compliance with Australian Standard AS2890.1 and AS2890.6.
14. The crossovers between the road and the property boundary shall be constructed in accordance with the approved drawings, associated conditions and the requirements contained within Management Practice M353, which is available at the City's website. The existing verge levels at the front property boundary shall not be altered.



15. The existing crossovers shall be removed and the verge and kerbing shall be reinstated to the satisfaction of the City.
16. Any new or extended crossover shall be located a minimum of 3.0 metres from an existing street tree unless a lesser distance is approved by the City.
17. The height of any letterbox, electricity installation, bin enclosure, or other structure, fence, wall or hedge within 1.5 metres of any vehicle driveway where it meets a street alignment shall not exceed 0.75 metres, in accordance with clause 6.3(6) of Town Planning Scheme No. 6.
18. The eight car parking bays situated in a tandem arrangement on the western side of the Como Hotel service ramp shall be restricted to staff use and clearly identified on site by means of a sign bearing the words "Staff Parking Only".
19. For the car bays with a 4.8 metre bay depth, no structure or obstruction is permitted within a 600mm overhang, in order to comply with Australian Standard AS2890 Part 2 'Off-Street Parking'.
20. The development shall provide lighting to the City's satisfaction to the car parking areas.
21. Provision shall be made for the parking of at least seventeen (17) bicycles in bays, the design and location of which shall be to the satisfaction of the City, in accordance with the requirements of clause 6.4(1) of Town Planning Scheme No. 6.
22. End of trip facilities for cyclists shall be provided for the use of staff. The design and location of those facilities shall be to the satisfaction of the City and the facilities shall be provided at the following ratios:
  - (a) Number of secure clothes lockers- At least seventeen (17); and
  - (b) Number of showers- Two (2) male showers and two (2) female showers;in separate change rooms, in accordance with the requirements of clause 6.4(5) of Town Planning Scheme No. 6.
23. The applicant is to arrange for a detailed internal and external photographic record to be taken of the Como Hotel building and the existing bottle shop and is to provide a copy of photographic these records to the City, to the satisfaction of the City, prior to any demolition or other works being undertaken on site.
24. The Como Hotel building is to be restored in such a way as to respect and enhance the 'Art Deco' character of the building, to the satisfaction of the City.
25. In accordance with the requirements of clauses 6.14(2) and (5) of Town Planning Scheme No. 6 and the landscaping revised drawing condition of this approval, an updated landscaping plan shall be submitted for approval by the City. No person shall occupy or use the land or any building the subject of this approval for the purpose for which this approval is given unless and until:
  - (a) The City has approved a landscaping plan; and



- (b) The landscaping has been completed in accordance with the plan approved by the City.
26. All existing trees intended to be retained as indicated on the site plan shall be identified for retention on the working drawings and landscaping plans and shall be protected prior to and during construction, and shall not be removed without the prior approval of the City.
27. Lots 253 and 6 shall be amalgamated on a compiled Diagram of Survey and an application for a new Certificate of Title shall be lodged with the Land Titles Office, prior to the issue of a Certificate of Occupancy.
28. In accordance with the provisions of clause 6.8 (2) of Town Planning Scheme No. 6, all subsoil water and stormwater from the property shall be discharged into soak wells or sumps located on the site unless special arrangements can be made to the satisfaction of the City for discharge into the street drainage system.
29. Any required filling or excavation of the site shall be retained by embankments or walls, details of which are to be incorporated in the working drawings submitted in support of a building permit application.
30. Any required retaining walls along lot boundaries shall be constructed immediately after excavation or filling has been carried out.
31. The height of fences on side and rear boundaries of Lot 6, behind the primary street setback area, shall not exceed 2.1 metres. In accordance with Council Policy P350.07 'Fencing and Retaining Walls', the height of fences on side and rear boundaries of Lot 253, behind the primary street setback area is to be 1.8 metres unless a height greater than 1.8 metres, or a height not less than 1.6 metres is acceptable to all adjoining property owners. The height of such a fence at any point shall be measured from the level of the ground adjacent to the fence. If the level of the ground at any point along the lot boundary is higher on one side of the fence than the level on the other side, the height at that point shall be measured from the higher side.
32. The Australian Leisure and Hospitality Group Pty Ltd Management Plan and Operational Management Plan, for the Como Hotel and Dan Murphy Outlet dated March 2015, shall incorporate and implement a commitment not to advertise 'a lowest price guarantee' on the exterior of the building.
33. The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of planning approval.

#### **Advice Notes**

1. This planning approval is not an authorisation to commence construction. A building permit must be obtained from Council's Building Services department prior to commencing any work of a structural nature.
2. It is necessary for revised drawings to be submitted prior to lodging a building permit application as identified in the revised drawings condition, prior to the assessment of the working drawings. Therefore, to avoid delays in obtaining a





building permit, it is important for the Applicant to commence the related processes at the earliest.

3. Prior to lodging a building permit, the Applicant is required to satisfactorily address the outstanding planning matters identified in the public art, street tree, electrical transformer, road works, 'Green Star', waste management, car parking cash in lieu, bicycle parking, heritage, landscaping and amalgamation conditions. Therefore, to avoid delays in obtaining a building permit, it is important for the Applicant to commence the related processes at the earliest.
  4. In relation to the public art conditions, the City will be required to give final consent for the proposed public art, including any cash-in-lieu arrangement. Full details and specifications should be submitted at the earliest opportunity to ensure that the finalisation of the public art does not delay the progression of the development.
  5. In relation to the road works conditions, to avoid delays to the progression of the development, it is important for the Applicant to contact Main Roads and the City's Engineering Infrastructure Services to determine any works or financial contributions towards these works that will need to be undertaken.
  6. The car parking bays shall be marked on site as indicated on the approved site plan, in order to comply with the requirements of clause 6.3(10)(c) of Town Planning Scheme No. 6 and such marking shall be subsequently maintained so that the delineation of parking bays remains clearly visible at all times.
  7. Hard standing areas approved for the purpose of car parking or vehicle access shall be maintained in good condition at all times, free of potholes and dust and shall be adequately drained in accordance with the requirements of clause 6.3 (10) of Town Planning Scheme No. 6.
  8. The applicant is advised of the need to comply with the relevant requirements of the City's Engineering Infrastructure Services and Environmental Health Services.
  9. Please note that issues relating to dividing fences are civil matters between the respective parties / landowners (i.e. not the City of South Perth). These matters are controlled by the Dividing Fences Act 1961 (the Act), which includes certain rights and responsibilities. For an information booklet, please visit this site: <http://www.buildingcommission.wa.gov.au/consumers/dividing-fences>.
- Alternatively, the Act is a comprehensive source of information, and is available from this website: <http://www.slp.wa.gov.au/legislation/statutes.nsf/default.html>.
10. Where any fencing is proposed to be constructed from brick or masonry, it will be necessary for the applicant to include full construction details in conjunction with the application for a building permit.
  11. Where minor variations are sought at the building permit stage from an approved set of plans, a formal request for a variation to the planning approval is to be sought by the Applicant, in accordance with Council Policy P689.

If supported, the variations may be granted subject to all the previous terms and conditions, or possibly with new terms and conditions. If not supported,



either the Building Plans must be amended for a Building Permit to be issued, or a new application for planning approval must be lodged for consideration by Council.

12. If you are aggrieved by aspects of the decision where discretion has been exercised, you may investigate the ability to lodge an appeal with the State Administrative Tribunal within 28 days of the determination date recorded on this notice.

There are no rights of appeal in relation to aspects of the decision where the City / Council or Development Assessment Panel cannot exercise discretion.

**The Alternative Recommendation (as amended) was put and CARRIED (3/2).**

**For:** Mr Charles Johnson, Mr Ian Birch and Mr Luigi D'Alessandro  
**Against:** Cr Colin Cala and Cr Glenn Cridland

**Reason:** The Joint Development Assessment Panel felt they could support the alternative recommendation with a majority vote.

**11. General Business / Meeting Closure**

There being no further business, the Presiding Member thanked the City of South Perth for their hospitality and declared the meeting closed at 8:30pm.



## **Metro Central Joint Development Assessment Panel Minutes**

**Meeting Date and Time:** 13 August 2015; 2pm  
**Meeting Number:** MCJDAP/116  
**Meeting Venue:** City of South Perth  
Cnr Sandgate Street and South Terrace  
South Perth

### **Attendance**

#### **DAP Members**

Mr Charles Johnson (Presiding Member)  
Mr Ian Birch (Deputy Presiding Member)  
Mr Luigi D'Alessandro (Specialist Member)  
Cr Colin Cala (Local Government Member, City of South Perth)  
Cr Glenn Cridland (Local Government Member, City of South Perth)

#### **Officers in Attendance**

Mr Jason Gordon (Department of Planning)  
Mr Stephen Willey (State Solicitor's Office)  
Mr Cameron Howell (City of South Perth)  
Ms Vicki Lummer (City of South Perth)

#### **Local Government Minute Secretary**

Ms Sharron Kent (City of South Perth)

#### **Applicants and Submitters**

Ms Lauren Barnett (Squire Patton Boggs)  
Mr Reg Bateman (ALH Group)  
Mr Greg Benjamin  
Mayor Sue Doherty (City of South Perth)

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

There were approximately 8 members of the public in attendance.

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

The Presiding Member, Mr Charles Johnson, declared the meeting open at 2.01pm and acknowledged the past and present traditional owners and custodians of the land on which the meeting was held.

#### **2. Apologies**

Nil.



## 10. Appeals to the State Administrative Tribunal

10.1 Property Location:	Lot 253 (No. 243) Canning Highway and Lot 6 (No. 148) South Terrace, South Perth
Application Details:	Demolition & Redevelopment of Bottle Shop & Additions/Alterations to "Como Hotel"
Applicant:	MGA Town Planners
Owner:	ALH Group Property Holdings Pty Ltd (Australian Leisure & Hospitality Group)
Responsible authority:	City of South Perth
DoP File No:	DAP/14/00542

### REPORT RECOMMENDATION / PRIMARY MOTION

**Moved by:** Cr Colin Cala

**Seconded by:** Cr Glen Cridland

That the Metro Central Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 305 of 2014, resolves to:

**Reconsider** its decision dated 17 April 2015 and **approve** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following conditions:

#### Amended Conditions

32. The Australian Leisure and Hospitality Group Pty Ltd Management Plan and Operational Management Plan for the Como Hotel and Dan Murphy Outlet dated March 2015 shall be implemented, unless otherwise approved by the City, subject to the inclusion of a commitment to not advertise or imply 'a lowest price guarantee' or equivalent for liquor products on the exterior of the building or elsewhere on site where visible from a public street.
33. The validity of this approval shall cease if construction is not substantially commenced within 36 months of the date of planning approval. The date of planning approval is 17 April 2015.

All other conditions and requirements detailed on the previous approval dated 17 April 2015 shall remain unless altered by this application.

**The Presiding Member, with the agreement of the Panel, advised that Conditions 32. and 33. would be considered separately.**



**Amended Condition 33.**

**Moved by:** Mr Ian Birch      **Seconded by:** Mr Luigi D'Alessandro

33. The validity of this approval shall cease if construction is not substantially commenced within 36 months of the date of planning approval. The date of planning approval is 17 April 2015.

**The Motion was put and LOST (2/3)**

**For:**                    Mr Ian Birch  
                              Mr Luigi D'Alessandro

**Against:**            Mr Charles Johnson  
                              Cr Glen Cridland  
                              Cr Colin Cala

The Presiding Member noted that Condition 33. **remain as contained in the approval** dated 17 April 2015 as follows:

33. *The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of planning approval. The date of planning approval is 17 April 2015.*

**REASON: On majority vote the DAP felt that 24 months was appropriate acknowledging that some planning guidelines may change in the future and that the applicant has the right and avenues to apply for an extension of time through the DAP.**

**PRIMARY MOTION (AS AMENDED)**

That the Metro Central Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 305 of 2014, resolves to:

**Reconsider** its decision dated 17 April 2015 and **approve** DAP Application reference DAP/14/00542 and accompanying plans 42663 SD100 Revision L (Site Plan), SD201 Revision C (Proposed Como Hotel Ground Floor Plan), SD202 Revision H (Dan Murphy's Floor Plans), SD400 Revision D (Streetscape Elevation - Canning Highway and Proposed Dan Murphy's 3D Perspective Views), SD401 Revision D (Proposed Dan Murphy's Elevations - Sheet 1), SD402 Revision D (Proposed Dan Murphy's Elevations - Sheet 2) and B0866/SK/L101 (EPCAD Landscaping Planting Plan) in accordance with Clause 7.9 of the City of South Perth Town Planning Scheme No. 6, subject to the following conditions:

32. *The Australian Leisure and Hospitality Group Pty Ltd Management Plan and Operational Management Plan for the Como Hotel and Dan Murphy Outlet dated March 2015 shall be implemented, unless otherwise approved by the City.*

All other conditions and requirements detailed on the previous approval dated 17 April 2015 shall remain unless altered by this application.

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