

CANNING HIGHWAY, NO. 532 (LOT NO. 101) ATTADALE – ADDITIONS & ALTERATIONS TO MOTOR VEHICLE SALES & MOTOR VEHICLE REPAIR PREMISES

Form 1 – Responsible Authority Report (Regulation 12)

DAP Name:	Metro Inner-South Joint Development Assessment Panel	
Local Government Area:	City of Melville	
Applicant:	Planning Solutions (Aust) Pty Ltd	
Owner:	Regalsea Investments Pty Ltd	
Value of Development:	\$6.2 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
Responsible Authority:	City of Melville	
Authorising Officer:	Tom Geddes	
LG Reference:	DAP-2022-7	
DAP File No:	DAP/22/02314	
Application Received Date:	2 September 2022	
Report Due Date:	23 November 2022	
Application Statutory Process Timeframe:	90 Days	
Attachment(s):	<ol style="list-style-type: none"> 1. Location Plan 2. Amended development plans and elevations 3. MRWA Comments 4. Design Review Panel Report 5. Applicant's supporting report 6. Updated Transport impact statement 7. Environmental noise Assessment 8. Legal Advice 9. JDAP Decisions (2021 & 2022) 10. Council Minutes 	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> N/A	
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner-South Joint Development Assessment Panel resolves to:

Refuse DAP Application reference DAP/22/02314 and accompanying plans (S2-A3, S2-A4, S2-A5, S2-A6, S2-A7 dated October 2022) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clauses 23 and No. 24 of the City of Melville Local Planning Scheme No. 6, for the following reasons:

Reasons

1. The proposed development is inconsistent with the 'Zone Objectives' of the Centre C4, (Neighbourhood and Local Centres) contained within Clause 16 of Local Planning Scheme No. 6 as it does not provide for an active use at street level and nor does it provide for the main daily to weekly household shopping and community needs of residents.
2. The proposed development is inconsistent with the 'Additional Site and Development Requirements' contained within Clause 32 of Local Planning Scheme No. 6, as the development has not been designed according to 'Main Street' Design Principles.
3. The proposed development is inconsistent with Clause 3.3.4 of the City of Melville Local Planning Strategy (Neighbourhood and Local Centres), as it intensifies and entrenches the existing land use, which is motor vehicle dominant, with little to no consideration to improve or provide for a pedestrian friendly environment. In addition to the above, the proposal does not provide any diversification of land uses on site, and therefore, does not allow for an increased development intensity and land use mix.
4. The proposed development does not meet the policy requirements of Local Planning Policy 2.1 Non-Residential Development or the 'Additional Site and Development Requirements' under Clause 32 of Local Planning Scheme No. 6, given the portion of the building with the most has not been designed to respond to the requirement for nil setbacks to the building from Hislop Road and Canning Highway.
5. The proposed development fails to meet the following matters under Schedule 2, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 with particular reference to:
 - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
 - (b) the requirements of orderly and proper planning;
 - (c) any approved State planning policy;
 - (fa) any local planning strategy for this Scheme endorsed by the Commission;
 - (g) any local planning policy for the Scheme area;
 - (m) The compatibility of the development with its setting, including –
 - (i) the compatibility of the development with the desired future character of its setting;
 - (n) The amenity of the locality including the following –
 - (ii) the character of the locality; and
 - (p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban
Local Planning Scheme	Local Planning Scheme No. 6
Local Planning Scheme - Zone/Reserve	Centre C4, Hislop Road Neighbourhood Centre
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Motor Vehicle, Boat or Caravan Sales 'X' use – Not permitted Motor Vehicle Repairs 'X' use – Not permitted
Lot Size:	11,641m ²
Existing Land Use:	- Motor Vehicle, Boat or Caravan Sales - Motor Vehicle Repairs
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

The proposed development comprises the following:

- Demolition of the existing workshop and its replacement with:
 - Undercroft/servicing area
 - Ground floor workshop, storerooms and offices
 - Mezzanine with storage and staff amenities.
- Expansion of the existing showroom to the west of the new workshop.
- The addition of a new canopy up to the western site boundary.
- The construction of a parking deck to the north-east portion of the site.
- External amendments including alterations to the parking areas around the building and additional landscaping across the site.

Note: The existing site and ground floor plan (S2-A4) shows the showroom additions and alterations approved under the earlier application as existing, however these works have yet to be constructed.

On 26 October, the applicant provided amended plans in response to matters raised by the Design Review Panel and the City’s Traffic Engineers comprising the following:

- Amendment to the paving material for the vehicle pick-up area off Hislop Road.
- The inclusion of additional planting zones along the northern and eastern boundaries of the parking deck.
- The inclusion of paved crossovers in lieu of asphalt.
- The width of the northern crossover onto Hislop Road increased to 6m in accordance with advice from the City’s traffic engineer.

The applicant provided further amended plans on 3 November 2022 detailing the provision of 22 staff parking bays across the site.

The applicant also provided an amended Traffic Impact Statement which is provided as Attachment 6.

Proposed Land Use	Motor Vehicle Sales Motor Vehicle, Boat or Caravan Sales
Proposed Net Lettable Area	2580m ² (Showroom, mezzanine & workshop less stairs)
Proposed No. Storeys	2
Proposed No. Dwellings	N/A

Background:

A motor vehicle sales & repair premises has been operating on this site since the 1960’s and has been the subject of several additions and alterations since that time. In 2021, an application was made for additions and alterations to the existing showroom buildings on site, which was approved by the Joint Development Assessment Panel at its meeting on 7 December 2021, subject to conditions, contrary to the recommendation of the Responsible Authority who recommended that the development application be refused. In 2022 an application was made to amend the 2021 approval. This sought to make multiple amendments to the approved showroom redevelopment. This amendment application was also approved by the JDAP contrary to the recommendation of the Responsible Authority.

Site Characteristics

Lot 101 (532) Canning Highway, Attadale (subject site) is zoned Centre C4 under the provisions of City of Melville Local Planning Scheme No. 6. The subject site sits on the north-eastern corner of Hislop Road and Canning Highway and is situated within the Hislop Road Neighbourhood Centre. The development controls for the subject site are largely contained in Local Planning Policy 2.1 – Non-Residential Development (LPP2.1) and LPS6.

The subject site is surrounded by Mixed Use (R50) zoned land, a pedestrian walkway, and a small portion of Mick John Reserve to the north, residential strata units to the northeast with office, consulting and medical based uses situated to the south-east. The subject site has a frontage to Hislop Road opposite to a Petrol Station and smaller scale land uses typically found within a Neighbourhood Centre such as hairdressers, café/restaurants and a liquor store. The land to the south of Canning Highway is zoned R50 Mixed use and includes uses such as child minding services, consulting rooms and private residences.

The subject site is the largest land parcel within the Hislop Road Activity Centre measuring at 11,641m² in area, underlying its significance as a key development site and catalyst for future redevelopment of the centre. The site has good access to the regional road network including direct access off Canning Highway. It is well connected to public transport as Canning Highway is designated as a high frequency bus route with several bus stops within a 250m catchment of the site.



Figure 1 – Aerial photograph of subject site.

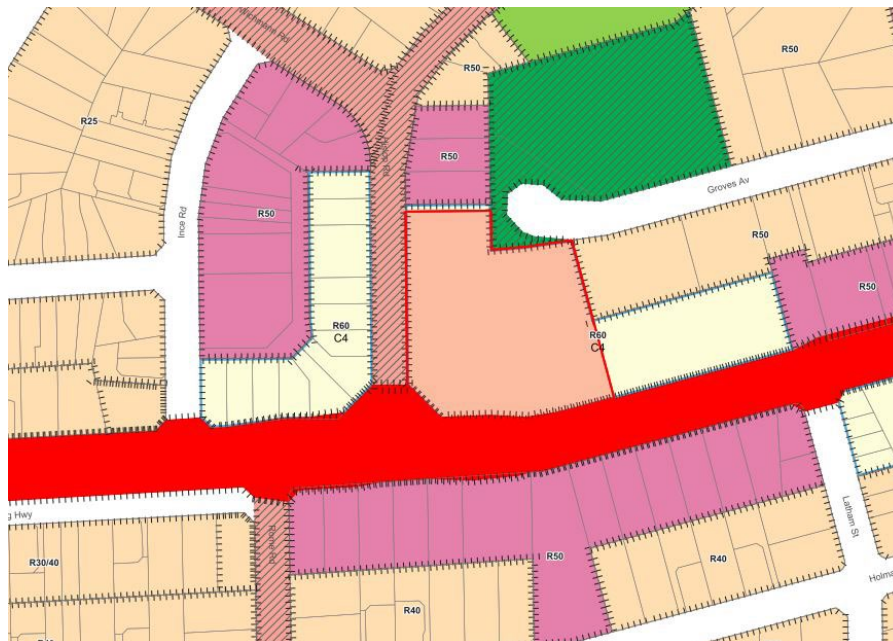


Figure 2 – Local Planning Scheme No. 6

Legislation and Policy:

Legislation

- Planning & Development Act 2005
- Metropolitan Region Scheme
- Planning & Development (Local Planning Schemes) Regulations 2015
- City of Melville Local Planning Scheme No. 6
- City of Melville Local Planning Strategy

State Government Policies

- SPP3.0: Urban Growth and Settlement
- SPP4.2: Activity Centres for Perth and Peel
- SPP7.0: Design of the Built Environment

Local Policies

- CP-029: Street Tree Policy
- LPP1.1: Planning Process and Decision Making
- LPP1.2: Architectural and Urban Design Advisory Panel
- LPP1.3: Waste and Recyclables Collection for Multiple Dwellings, Mixed Use and Non-Residential Developments
- LPP1.4: Provision of Public Art in Development Proposals
- LPP1.5: Energy Efficiency in Building Design
- LPP1.6: Car Parking and Access
- LPP1.8: Crime Prevention Through Environmental Design of Buildings Policy
- LPP1.16: Flood and Security Lighting
- LPP2.1: Non-Residential Development
- LPP2.2: Outdoor Advertising and Signage Policy

Consultation:

Public Consultation

In accordance with *Local Planning Policy 1.1 - Planning Process and Decision Making* (LPP1.1), the application was advertised for a period of 21 days commencing 19 September 2022 and concluding 10 October 2022. Consultation was undertaken via two signs on site facing Canning Highway and Hislop Road, written correspondence to the owners/occupiers and publication of the development plans with supporting documents on the City's online engagement portal 'Melville Talks'.

The City received two responses relating to the development application during this consultation period:

- One submission raised concerns in relation to the height of a new boundary wall to the eastern boundary. It is noted however, that the proposal does not include a new 8m high boundary wall to the eastern boundary.

- The other submission is a multi-signature letter from 28 residents raising the following concerns:
 - The walkway between Groves Avenue and Hislop Road is in poor repair and it was requested that the applicant consider replacing their fibre cement fence along the northern property boundary with one more aesthetically pleasing. In addition more lighting is sought.
 - The public car parking on Groves Avenue is unsafe and in need of lighting upgrades and security signage.

The concern in relation to the material for the northern fence of 532 Canning Highway has been raised with the applicant but is otherwise not of material relevance to the determination of the current DA.

The remainder of the concerns were sent to the City's internal departments as the managing body for the laneway and the Groves Avenue parking bays, noting that these too are not material for the current DA.

Referrals/consultation with Government/Service Agencies

The application was referred to Main Roads WA (MRWA) on 9 September 2022 for review and general comment on the proposal. It should be noted there is an area set aside for road widening on the southern-most portion of the subject site, in which the existing and previously approved monolith signs are situated within. The proposed works sit outside the Primary Regional Road Reservation.

MRWA requested an extension to provide comment on the proposal until 28 October 2022. On 1 November 2022, MRWA responded recommending support for the proposal, subject to various conditions of approval (refer Attachment 3 for a copy of the recommendation letter from MRWA). These conditions are included in the alternative recommendation for approval, should the JDAP seek to approve the development.

City of Melville Internal Referrals

The original assessment process undertaken included referrals to several internal departments for review of the technical information provided by the applicant. No concerns are raised subject to the imposition of appropriate conditions.

It is noted that on 26 October 2022 the applicant provided an updated TIS (provided as attachment 6). The updated TIS was reviewed and generally supported by the City's Traffic Engineers, noting however that the GFA calculations for the development in the TIS for the showroom portion were not calculated to take into account the existing showroom area. Rather the TIS calculated trip generation for the showroom in relation to the 36m² increase in floor area between the original 2021 approval and approved amendment. The engineering team were otherwise supportive of the TIS.

Design Review Panel Advice

The application was presented to the City of Melville Design Review Panel (DRP) on 5 September 2022. Following its meeting, the DRP recommended that elements of the proposal be reviewed for improvement including the landscaping treatments to the exterior of the building and how the development presents to neighbouring properties. The DRP concluded that it was not able to support the initial development proposal.

The DRP recommendations are provided as attachment 5, and the applicant's response to the DRP is provided as a part of attachment 5. The following table summarises the DRP comments and the City's assessment of the applicant's response.

DRP Comment & Recommendation (summarised)	Officer comment
<p><i>Principle – Context & Character</i> For a car showroom and associated uses to fit within a local centre and to respond to the LPS No. 6 it would need to address the street, public domain and footpath directly with a built form edge that brings activity and surveillance to the pedestrian experience.</p>	<p>The applicant considers that the redevelopment addresses the street with glazing to Hislop Road and Canning Highway frontages, with the car pick up area providing for surveillance and activity along Hislop Road.</p> <p>It is considered that the most active portion of the building which remains set back 15m from Hislop Road, with a car dominant vehicle pick up area separating the shopfront from the streetscape does not address the DRP concern nor the LPS6 requirements.</p>
<p><i>Principle – Landscape Quality</i> Consider appointing a landscape professional to develop a coherent and impressive design narrative</p> <p>This may include greater emphasis on mature tree planting and the adjacent boundaries where they will form a buffer with adjoining owners and not obstruct sightlines into the showroom</p> <p>Consider a hard and soft landscape proposal for the entry road and parking in front of the new showroom. This space could function as an entry plaza. It could include varied paving in lieu of asphalt to cue the entry forecourt as a pedestrian zone through which cars move rather than the other way around.</p> <p>It may include soft landscape and seating.</p>	<p>The DRP provided a number of opportunities for the applicant to provide a more comprehensive response to landscaping across the site to ameliorate the impact of hard stand car parking across the property. In response the applicant contended that a landscaping plan could be made a condition of development approval. The submitted plans indicate additional landscaping along the northern and eastern boundaries but no details of this have been specified to date.</p> <p>It is considered that this response did not address the concerns of the DRP in providing a more comprehensive landscaping strategy for the site.</p>

<p>Develop a landscape narrative that might include rainwater capture and reuse, permeable paving and structural soils where trees are being established.</p> <p>Consider a landscape narrative that can become a benchmark for a car showroom. In this way it can become something the City and community can engage with in a more positive manner.</p>	
<p><i>Principle – Sustainability</i> Consider appointing an ESD professional to produce a pathway report to achieving and exceed NCC compliance and describing how the project will deliver exemplary ESD outcomes.</p> <p>It is understood that the operation will have an ambitious solar PV array, but this is not described in the submission.</p> <p>Consider an ESD narrative, including landscape initiatives already described and EV chargers that can become a benchmark for a showroom and workshop project and therefore become something the City and community can engage with and understand in a more positive manner.</p>	<p>The applicant advised that an ESD professional has been engaged for the development but provided no further details in this regard.</p> <p>In relation to the solar array, the applicant noted that while the proponent may consider the inclusion of a solar array at the detailed design phase, there is no requirement under the planning framework for its provision. It is considered that this response did not address the DRP recommendations.</p>
<p><i>Principle – Safety</i> The proposal includes large areas to the northeast which are publicly accessible and do not benefit from any passive surveillance. Describe how all areas around the workshop will be made safe, including out of hours.</p>	<p>The development provides for separation of pedestrian and vehicle movements. The applicant considers that the glazing to the existing showroom provides for streetscape surveillance while safety outside business hours will be addressed through CCTV & security patrols.</p> <p>It is considered that the development does not provide passive surveillance of the area to the rear of the site and the basement area.</p>
<p><i>Principle – Community</i> This area of Melville constitutes a local and neighbourhood centre with the expectation that streets will be pedestrian friendly and edged with active and engaged street fronts. While the business has been operating since 1961, it is considered that the way the project addresses its public domain is not consistent with community expectations.</p>	<p>The applicant considers that a landscaping plan can be addressed as a condition of any approval, and an ESD report is not warranted for the proposed development. The applicant did not provide further detail in relation to the colours or materiality of the development beyond that shown on the proposal plans.</p>

<p>In mitigation of this, consider developing a detailed landscape design and ESD narrative which seeks to provide an exemplary outcome.</p> <p>The panel also looked forward to receiving more detail regarding materials, textures, colours and landscaping.</p>	<p>It is considered that the proposal does little to demonstrate how a development of this nature will align with the future vision for the centre.</p>
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Due to the limited scope of the amendments made by the applicant, the application was not referred back to the DRP for further consideration. Further discussion of the overall building design is contained within the officer comment section. A copy of the DRP Report is included as Attachment four.

Planning Assessment:

The table below details the matters which require a performance assessment, the applicable planning controls, a brief description of the proposal and an officer comment.

Provision	Requirement	Proposal	Assessment
<u>Land Use</u>			
Table 3 of LPS6	Preferred land uses are outlined within LPS6.	<ul style="list-style-type: none"> - Motor Vehicle, Boat or Caravan Sales - Motor Vehicle Repairs Non-Permitted 'X' uses 	Not supported. Discussed further in the officer comment section below.
<u>Building Design</u>			
<p><i>SPP7.0 – Design of the Built Environment</i></p> <p><i>LPP2.1 – Non-Residential Development</i></p> <p>Table 7 of LPS6</p>	<p><u>Setbacks</u> Building setbacks for corner lots should be based on 'main-street' design principles (nil street setbacks)</p> <p>Well-articulated elements (varying setbacks, alternating materials)</p>	<p>Whilst a canopy is provided at the Hislop Road frontage with a nil setback, the remainder of the building, including the showroom is set back 15m from the primary street. The canopy does not extend over the footpath to provide any improved pedestrian amenity as expected in a main street design. It serves to provide shade for car parking and reinforces the car dominated aspect of</p>	Not supported. See planning assessment below under 'Building Design' section for further details.

		this use when viewed from the street.	
<i>LPP2.1 – Non-Residential Development</i>	<u>Front Facades</u> Enhance pedestrian scale (use of windows, doors, awnings and art)	The building has not been designed to enhance the pedestrian scale or provide opportunities for public art.	Not supported. See planning assessment below under 'Building Design' section for further details.
<i>LPP2.1 – Non-Residential Development</i>	<u>Lot boundary setbacks</u> 1.8m setback from adjoining residential building required for car parking deck	3.5m setback between deck and eastern property boundary	Supported
<u>Parking</u>			
<i>LPP1.6 – Car and Access</i>	Parking for vehicles Motor vehicle sales – 1 bay per 100m ² of display or sale area, plus 0.5 bays per staff member 2029m ² = 20 bays		
<i>LPP2.1 – Non-Residential Development</i>	Motor vehicle repair – 3 bays per service bay and 0.5 bays per staff member	Total customer and service parking bays = 111 (24 bay shortfall) *	Not supported This is discussed further in the officer comment section below
<i>LPP2.1 – Non-Residential Development</i>	30 service bays = 90 bays 50 employees = 25 bays <u>Total = 135 bays</u>		
<i>LPP1.6 – Car and Access</i>	<u>Bicycle Parking Facilities</u> One bicycle bay per 10 car parking bays (14 required)	No bicycle bays or end of trip facilities proposed beyond those approved through the 2021 application.	Supported Discussed further in the officer comment section below.
<i>LPP2.1 – Non-Residential Development</i>	One locker for each bicycle bay (14 required)		

	One unisex shower and change room		
Public Art			
<i>LPP 1.4 – Public Art</i>	Development over \$2million to provide 1% of the cost of development as a public art contribution	The applicant has contended that there is no need for the public art contribution.	Not supported Discussed further in officer comment section below.

*Note: the applicant has contended that the area of showroom off Hislop Road proposed through this application should not be included in car parking calculations as this is for vehicle pickup rather than sales, however it is considered that this is an element of vehicle sales and has been included for this reason.

Land use

Lot 101 (No. 532) Canning Highway, Attadale is zoned Centre 'C4' with a density code of 'R60' under LPS6. The proposed development is defined as 'Motor Vehicle Repairs' and 'Motor Vehicle, Boat or Caravan Sales' under LPS6. These land uses are 'X' uses, which are not permitted by the Scheme and require assessment as non-conforming uses in accordance with the relevant requirements of the City's Local Planning Scheme No. 6 (LPS6).

The applicant is seeking approval to alter and extend the existing non-conforming use, which can be considered in accordance with Clause 23(1) of LPS6.

An assessment of the proposed development against the City's Local Planning Strategy and zone objectives of LPS6 is contained within the following section of this report. The assessment against the Local Planning Strategy and LPS6 concludes that the proposed development is inconsistent with these objectives and should not be supported on that basis.

Local Planning Strategy

The City's Local Planning Strategy (Strategy) was adopted in February 2016 and sets out the vision for the City's key strategic areas, with a strong focus on the delivery of key activity centres in line with the guiding principles of *SPP4.2 Activity Centres for Perth and Peel*.

The City of Melville has over 35 activity centres, which range from larger district centres to smaller neighbourhood and local centres. This site is situated within the Hislop Road Neighbourhood Centre. Lot 101 is unique as it forms the largest land parcel within the Neighbourhood Centre at 11,641m² and is situated at the corner of Hislop Road and Canning Highway. The site is considered to have strategic significance when viewed in the context of the Strategy as the redevelopment of the site would be a catalyst for future redevelopment of other sites within the centre. It should be noted that the lot area of this site alone is comparable to other activity centres within the City's jurisdiction including the Marmion Street Local Centre (~16,250m²), North Lake Road Local Centre (~13,400m²) and Parry Avenue Neighbourhood Centre (~6,800m²). This demonstrates the strategic importance of the site in this context.

Clause 3.3.4 (Neighbourhood and Local Centres) of the Strategy identified that these existing centres under the previous Community Planning Scheme No. 5 were in need of redevelopment however this was not possible due to their zoning. LPS6 was gazetted in May 2016 which resulted in these neighbourhood and local centres (inclusive of Hislop Road) being zoned Centre C4 to encourage redevelopment. The redevelopment will allow these sites to better service the local area and to facilitate walking and cycling opportunities for residents and employees. consistent with a one key principle of the Strategy which is to maximise the access to activity centres by walking, cycling and public transport whilst reducing private car trips. This is supported through the consolidation of the built form towards the street to achieve 'Main Street' design principles.

The land uses at the subject site, being car sales and service/repair, are not ones that fit well within a neighbourhood centre such as this, The services offered by the existing non-conforming land uses are of a high threshold low order nature, meaning that customer catchment would be significant, and the associated turnover of goods would be low given the demand for vehicles is low. Services within a neighbourhood centre such as this are generally low threshold high order, reflective of a small catchment, more walkable, and less reliant on the car. It is for this reason that land uses such as this are classed as an X use within such neighbourhood centre settings.

Given this and acknowledging the ongoing use rights associated with the existing uses, the proposed extension and redevelopment of the existing non-conforming land uses is considered to be at odds with the objectives of the Strategy. The short or medium term opportunity for the redevelopment of the subject site to align with the expectations of the centre can be seen to be compromised when redevelopment proposals which consolidate and perpetuate non- conforming uses are endorsed.

The development now proposed, combined with those previously approved, will result in the upgrade/redevelopment of the majority of buildings on site. This will entrench the land use beyond the lifespan of the existing development.

In view of this, the City considers the development should not be supported

Zone Objectives

The objectives of the Centre 'C4' zone under Clause 16 of LPS6 is as follows:

- *"To designate land for future development as a city centre or activity centre.*
- *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme or the Activity Centres State Planning policy.*
- *To provide for a wide variety of active uses on street level which are compatible with residential and other non-active uses on upper levels.*
- *To allow for the development of a mix of varied but compatible land uses such as housing, offices, showrooms, shops, amusement centres, and eating establishments which do not generate nuisances detrimental to the amenity of the district or to the health, welfare and safety of its residents.*
- *C4 – All Neighbourhood and Local Centres: to provide for Neighbourhood and Local Centres to focus on the main daily to weekly household shopping and community needs and focus for medium density housing.*
- *To ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality.*

- *To ensure the design and landscaping of development provides a high standard of safety, convenience and amenity and contributes towards a sense of place and community.”*

The proposal is not considered to meet any of the objectives stipulated above. It is considered that the subject site is capable of redevelopment to provide a mix of land uses which are complementary to residential land uses, and which will support the viability and vitality of the centre into the future.

Motor vehicles sales and repair businesses are not suitable within activity centres where the Strategy intends to promote vibrant and pedestrian friendly environment. These issues are heightened particularly when the development has not been designed to provide an active frontage to Hislop Road and Canning Highway, for the purpose of creating a ‘Main Street’ environment (as detailed within the Setbacks section of the report). Whilst the awning structure addition is noted, the substantial setback of the remainder of the building behind at grade vehicle parking fails to deliver a ‘Main Street’ outcome.

Considering the objectives, the proposed development is not considered to satisfy the objectives of the Centre ‘C4’ Zone, as the redevelopment of the subject land uses are not ‘active uses’ at street level and have not been designed according to ‘Main Street’ Design Principles.

Non-Conforming Use

Clause 22 and Clause 23 of LPS6 provides the ability for a development application to be lodged to alter and/or extend a non-conforming use of land.

The City has assessed the proposed development against the purpose and objectives of LPS6 and with consideration of the impact on amenity that the proposed extension will have. In summary, it is considered that the development fails to demonstrate that there will be a less detrimental impact for the amenity of the locality, nor are the proposed expansion works to the unauthorised use aligned to the intended purposes of the zone.

Impact on Amenity

In the original application for redevelopment of the showroom to the site, the City recommended that the development be refused for the reason that this redevelopment would inhibit the site’s ability to redevelop to contribute to a more active and vibrant centre. The City expressed concern that the approval of the development would consolidate and perpetuate the non-conforming land use for multiple decades. The current application seeks redevelopment of the remainder of the largest building on site, representing a further entrenchment and expansion of the existing non-conforming use which will have a greater impact upon the activity centre and surrounding properties.

The proposed building remains well set back from the Hislop Road frontage of the site and the inclusion of a large awning over the vehicle entry to the site is not considered to enhance the pedestrian realm, nor achieve the desired 'Main Street' design principles. This is considered to contribute to the inappropriateness of the land use. The proposal includes at grade car parking directly adjacent to the pedestrian footpath for the length of the Hislop Road frontage, which in itself is considered to detract from a pedestrian friendly local activity centre environment.

The use and overall built form of the development is designed to promote motor vehicle sales and accommodate enhanced vehicle repair activities. It is considered that the subject development could have readily accommodated an alternative development which incorporated 'Main Street' design principles such as the site at 385 Canning Highway, Attadale which was redeveloped with 0mm setbacks on Canning Highway and Waddell Road (images provided below). Consolidating built form towards the street boundaries provides a higher level of amenity for pedestrians and future proofing the use of the building.





Figures 3 & 4: View of Melville Mazda, 385 Canning Highway Attadale (before and after) with nil building setbacks from the street boundaries.

Purpose of the Centre Zone

The proposed development is not considered to meet the purpose or objectives of the Centre zone for the following reasons:

- Centre zones are intended to provide for high levels of concentrated retail and commercial activities to co-exist with a mix of medium to high density housing typologies. The City's Strategy has identified several key activity centres due to their existing commercial nature and their access to public transport and road networks. A motor vehicles salesroom and repair/workshop contravenes the intent of the Centre zone particularly, as a land use that relies heavily on vehicle patronage.
- It is envisaged that the subject site has the potential to make a significant contribution to the development of this centre, adding to its vibrancy and vitality. As proposed however, the development fails to capitalise on this opportunity there being a limited and at best non activated interface with the adjoining streets. It is acknowledged that activation of the type envisaged for a local centre such as this is difficult to achieve from a land use as proposed, and this is the key reason why a land use of that nature is classed as an X use in a local centre context. The consolidation and expansion of the use as proposed is at odds with this objective. and
- Motor vehicle salesrooms and workshops are only permitted within the Service Commercial and Light Industry zones of LPS6. These zones are designed to cater for the larger format retail and non-residential land uses which are seen as incompatible local and neighbourhood centre zones.

Legal Advice

The City has sought legal advice as to the appropriateness of the subject application in the context of its non-conforming use status. In this advice (provided as an attachment to this report), the following matters were noted:

- The 2021 approval and current application will result in the destruction of 75% or more of the buildings used for the existing non-conforming uses. The destruction of more than 75% of the buildings does not preclude the approval of the development but is one of the triggers for development approval to be required, and discretion to be exercised by the decisionmaker in electing to allow for the redevelopment of the buildings associated with the non-conforming use.
- The combined redevelopment of the Motor Vehicle Sales and Motor Vehicle Repair portions of the development will result in an intensification and extension of the existing non-conforming land uses on site. This intensification and extension likewise does not necessarily preclude the approval of the development by the decision maker, but the decision-maker must exercise discretion as to whether approval should be given.
- In considering exercising this discretion in approving the intensification, extension and entrenchment of the non-conforming land use, the decision-maker would need to be satisfied that the development is consistent with the principles of:
 - The aims and provisions of LPS6;
 - The requirements of orderly and proper planning;
 - The compatibility of the development with the desired future character of its setting;
 - The amenity and character of the locality; and
 - Any other planning consideration the decision-maker considers appropriate.
- The legal advice outlined several matters which would be appropriate for the decision-maker to consider in exercising discretion, being that proposals to perpetuate, extend or entrench non-conforming uses should not be readily supported as these uses should be phased out and ultimately eliminated to result in sites operating consistently with the intended future character envisaged by the Scheme. Non-conforming uses which have exhausted their viability should relocate to a more appropriate site.

For the reasons discussed above, the redevelopment of the site for the purpose of perpetuating the non-conforming uses is inconsistent with the principles listed above. The proposal will be contrary to the aims and provisions of LPS6 and it fails to enhance and bolster the desired future character of the locality, contrary to orderly and proper planning.

In summary

It is considered that the proposed redevelopment of the existing Motor Vehicle Repair workshop will have a detrimental impact upon the amenity of the locality. The development will not bring the land use closer to the intended purpose of the zone, as per the requirement of Clause 23 of LPS6, and for this reason, as well as those previously stated, the proposed development is not supported by the City.

Setbacks

The proposal includes an awning/canopy up to the Hislop Road property boundary, but the remainder of the building, including the portion of the showroom wrapped around the workshop is set back 15m from the street, with the street setback taken up by at grade car parking. In accordance with the planning policy framework for the site, the building should be designed to provide nil setbacks to the active portion of the development, providing for activity and streetscape interaction in accordance with 'Main Street' design principles. The subject development retains the existing poor streetscape presence of the existing building, and continues to provide un-sleeved, at grade parking directly adjacent to the pedestrian pathway.

The applicant contends that the provision of the canopy over the Hislop Road entrance provides a main street outcome, however in comparison to the examples provided as figures 3 and 4 above, the canopy acts as a shade over a vehicle pickup area, rather than a design which could potentially be adapted to another more suitable use in the future. It is considered that the design of the proposed development retains and enhances the existing car dominant nature of the business and should not be supported on that basis.

Parking

Despite the large number of parking bays provided across the site, the development proposes a shortfall in parking bays against the requirements listed in LPP 1.6. This is due to the large number of bays taken up by new car storage and vehicle display areas. The applicant contends that the shortfall can be supported for the following reasons (summarised):

- The provision of parking is based on 60 years' experience with the subject use and associated parking demands.
- Minimum parking requirements are geared towards smaller land uses, and as land use activities expand shared uses and increased parking turnover leads to greater efficiency in parking allocation and usage, leading to an oversupply of parking if minimum requirements are strictly adhered to.
- The shortfall is considered by the applicant to be negligible in the context of the overall site, with bays for up to 237 cars provided across the site.
- The City of Melville's parking requirement for Motor Vehicle Repair uses is greater than that imposed by other local governments.

These considerations are noted, however it is considered that the shortfall in parking for the development should not be supported for the following reasons:

- The shortfall across the site for the development may result in overflow parking from the facility impacting public parking bays in the locality such as the bays in Groves Avenue.
- This overflow parking would have an adverse amenity impact upon the immediate locality, using bays associated with the City's park off Groves Avenue and bays associated with other uses such as cafes and shops located within the local centre.
- Whilst a total of 237 bays are provided across the site, the majority of them are utilised for the parking of vehicles for sale rather than accommodating the parking demand generated by customers and employees.

- The subject use is one which is unlikely to attract customers via public transport or as pedestrians, and the high threshold nature of the goods for sale means that customers are likely to travel significant distances to access the site and as such are more likely to require parking.

Bicycle parking

Whilst a total of 26 bicycle parking bays would be required for a use of this scale, it is considered that should the JDAP see fit to approve the subject development, that the bicycle parking requirement not be imposed. Considering the nature of the subject use, being a Motor Vehicle Repair service and sales, it is unlikely that customers or staff would use bicycles to access the premises, and if they did the bicycle parking facilities and EOT facilities required through the 2021 approval would provide for appropriate facilities for the site as a whole.

Landscaping

The applicant has not submitted a detailed landscaping plan for the development, despite the submitted development plans illustrating the provision of landscaping across the site. This is considered to be a shortfall of the current submission, however, in the event that the JDAP determined to approve the development, it is considered that the provision of a detailed landscaping plan should be made a condition of any approval.

Managing the impact of noise

The proposed redevelopment of the existing Motor Vehicle Repair use on the subject site retains an existing noise generating land use in the centre zone, however the subject application was supported by a report prepared by Lloyd George and Associates (attachment 7) which concluded that the use is predicted to comply with assigned noise levels per the *Environmental protection (Noise) Regulations 1997*. Despite this conclusion, the report noted a number of noise control measures that are recommended to be applied. Given the use can operate within the confines of the Noise Regulations, the measures identified are not required to be imposed.

LPP1.4 Provision of Public Art

In accordance with the City's LPP1.4, development applications such as this with a value in excess of \$2 million are required to provide public art to the value of 1% of the cost of the development.

The applicant has provided justification to not require a public art contribution for this development citing the following reasons:

- LPP1.4 does not link the requirement to provide public art with identification of how any given development creates the need for such art;
- The State Administrative Tribunal (SAT) has previously determined that where a policy arbitrarily imposes a requirement to provide public art (or cash in lieu) by way of the cost of the development, it is more about the funding of public art than the underlying planning purpose of providing public art. This is not a planning purpose; and
- The proposed additions and alterations to the existing use, which has operated from the subject site for approximately 60 years, are not considered to generate

the need for public art on the site or in the surrounding locality. It is considered by the applicant that no nexus exists between the proposed development and any desire for public art, and no public art is proposed as part of this application.

Notwithstanding the applicant's comments in this respect, the City contends that the requirement for public art in association with its Local Planning Policy should be a made a condition of approval in the event that the DA is recommended for approval. This is included in the suggested conditions of approval provided in the alternative recommendation to approve.

It is noted that a condition of development approval was included by the JDAP in its 2021 determination, and the provision of a public art component combining the contribution from the Workshop and Showroom redevelopment would provide for a more substantial outcome.

Conclusion:

The proposed redevelopment of the existing building has been considered against the objectives of the City's Local Planning Strategy, Local Planning Scheme No. 6 and the City's local planning policies. In accordance with the above considerations, the development will contribute to the entrenchment and intensification of the existing non-conforming land uses and in the context of the redevelopment of the majority of the buildings on the site through the subject application and the 2021 approval, the development should not be supported, being contrary to the Local Planning Strategy, Local Planning Scheme, and the principles of orderly and proper planning.

Alternatives

Officer Recommendation

It is recommended that the Metro Inner-South Joint Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/22/02314 and accompanying plans (Attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clauses No. 23 and No. 24 of the City of Melville Local Planning Scheme No. 6, subject to the following conditions:

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City of Melville or the Joint Development Assessment Panel.

4. All stormwater generated on site is to be retained on site to the satisfaction of the City. Prior to the commencement of development, a stormwater design plan, prepared by a suitably qualified civil engineer, is to be submitted demonstrating the development can accommodate an ARI of 1 in 100 year for a 24 hour storm duration for the written approval of the City.
5. In accordance with City of Melville Local Planning Policy LPP 2.1 - Non-Residential Development, the removal of, or permanent covering of shopfront windows and openings and the use of reflective or heavily tinted glazing at ground floor level is not permitted.
6. An area is to be set aside for a shopfront display or, alternatively the shopfront windows are to allow a view across the sales floor area to the satisfaction of the City. The installation of shop fittings and fixtures on the inside of shopfront windows is not permitted.
7. Prior to the initial occupation of the development, all vehicle parking bays, manoeuvring areas and points of ingress and egress shall be provided in accordance with the approved plans and AS/NZS 2890.1:2004, to the satisfaction of the City and shall be retained for the life of the development.
8. The exterior colours, materials and finishes of the development shall align with the details shown on the approved Development Plans unless otherwise approved in writing by the City.
9. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding streets prior to the initial occupation of the development to the satisfaction of the City.
10. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 8.7 of Local Planning Policy *LPP2.1 Non-Residential Development*, to the satisfaction of the City.
11. A Construction Management Plan is to be prepared by the applicant and submitted to the City for approval at least 30 days prior to lodging a Building Application. The Construction Management Plan shall detail how the construction of the development will be managed including the following:
 - public safety and site security;
 - hours of operation;
 - noise and vibration controls;
 - air and dust management;
 - stormwater, groundwater and sediment control;
 - waste and material disposal;
 - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;
 - the parking arrangements for employees, contractors and sub-contractors;
 - on-site delivery times and access arrangements;
 - the storage of materials and equipment on site (no storage of materials on the verge will be permitted);

- the contact details of the site supervisor and details of the complaints handling process to be put in place; and
- any other matters likely to impact upon the surrounding properties or road reserve.

The applicant should have regard to the provisions of Draft Local Planning Policy 1.22 Construction Management Plans to assist in preparing this document. Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City. The approved Construction Management Plan may be made publicly available on the City of Melville website

11. In accordance with Local Planning Policy LPP1.4 Provision of Art in Development Proposals, prior to the commencement of development, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City. In lieu of provision of art on site, a cash in lieu contribution may be made as per LPP 1.4.
12. Unless otherwise approved in writing by the City, all trees located on the verge adjacent to the land on which the development is to take place shall be protected throughout construction of the development via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria:
 - A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
 - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius of the TPZ, the TPZ fencing shall be located the minimum distance from the approved works that is required to complete the works.
 - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
 - The following actions shall not be undertaken within any TPZ:
 - Storage of materials, equipment, fuel, oil dumps or chemicals;
 - Servicing or refuelling of equipment or vehicles;
 - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device);
 - Open-cut trenching or excavation works (whether or not for laying of services);
 - Changes to the natural ground level of the verge;
 - Location of any temporary buildings including portable toilets; or
 - The parking of vehicles or machinery.

13. Prior to the commencement of development, a signage strategy shall be submitted to and approved in writing by the City. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.
14. Prior to commencement of development, a detailed landscaping and reticulation plan for the subject site and the road verge(s) adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include proposed details of (but is not limited to):
 - (a) The location, number and type of proposed trees and shrubs including planter size and planting density;
 - (b) Any lawns to be established;
 - (c) Any existing vegetation and/or landscaped areas to be retained; and
 - (d) Any verge treatments

The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter, to the satisfaction of the City.

15. Prior to the initial occupation of the development, a Waste Management Plan shall be prepared in accordance with the City's Waste Management Guideline for New Developments and submitted in writing for the approval of the City. Once approved, the development is to be constructed and operated in accordance with the Waste Management Plan, to the satisfaction of the City.
16. Prior to the commencement of construction for the development hereby approved, an outdoor lighting plan shall be submitted and approved by the City of Melville. The outdoor lighting is to be provided to all car parking areas in accordance with Australian Standard AS 1158.3.1 (Cat. P). The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
17. Unless otherwise agreed, temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed within 60 days of the full occupation of the development.

Main Roads WA Conditions

18. The land required for the widening of Canning Highway, as shown on the attached extract from Land Requirement Plan 1.5105/2, is to be set aside as a separate lot for acquisition pending future road widening requirements.
19. No development or car parking, other than landscaping and signage is permitted on the land required for future road purposes, as depicted on the attached extract from Land Requirement Plan 1.5105/2.

20. In the event where private infrastructure, including any signs and existing vehicle crossovers, is contained within the widened road reservation/land requirement as detailed in the attached extracted from Land Requirement Plan 1.5105/2, upon receipt of a notice from Main Roads the infrastructure is to be removed and the verge made good at the applicant's expense.
21. The redundant vehicle crossover on Hislop Road must be removed and the kerbing, verge, and footpath reinstated to the satisfaction and specifications of the City of Melville.
22. Stormwater must not be discharged into the Canning Highway reservation or the widened road reservation.
23. No waste collection is permitted from the Canning Highway road reservation.
24. No works are permitted within the Canning Highway road reservation unless Main Roads has issued a Working on Roads permit.

Main Roads WA Advice Notes

- a) In reference to Condition Nos 1, 2, and 3, the landowner/applicant is advised that signage and any other private infrastructure, including vehicle crossovers affected by Land Requirement Plan 1.5101/2 will need to be removed at the landowner/applicant's cost when the land is acquired.
- b) The applicant is required to submit an Application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.
- c) The upgrading/widening of Canning Highway is not in Main Roads current four-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.