



Metro Outer Joint Development Assessment Panel Minutes

Meeting Date and Time: Friday, 11 February 2022; 10:00am
Meeting Number: MOJDAP/152
Meeting Venue: Electronic Means – Via Zoom

This DAP meeting was conducted by electronic means (Zoom) open to the public rather than requiring attendance in person

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Mr Ian Birch
Presiding Member, JDAP



Attendance

DAP Members

Mr Ian Birch (Presiding Member)
Ms Sheryl Chaffer (Deputy Presiding Member)
Mr John Syme (A/Third Specialist Member)
Cr Nigel Jones (Local Government Member, City of Joondalup)
Cr Tom McLean (Local Government Member, City of Joondalup)

Officers in attendance

Mr Chris Leigh (City of Joondalup)

Minute Secretary

Ms Samantha Hansen (DAP Secretariat)
Ms Adele McMahon (DAP Secretariat)

Applicants and Submitters

Mr Alessandro Stagno (Apex Planning)
Ms Orielle Pearce (SPH Architecture and Interiors)
Ms Sam Morrell (Keiki Early Learning)
Mr Craig Wallace (Lavan)
Ms Jacqueline Ferreira
Ms Suzanne Apps
Mr Andrew Jones
Mr Brent Patroni
Ms Fay Gilbert

Members of the Public / Media

There were 8 members of the public in attendance.

Ms Tyler Brown from Perth Now was in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 10:03am on 11 February 2022 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2020 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

Mr Ian Birch
Presiding Member, JDAP



1.1 Announcements by Presiding Member

The Presiding Member advised that in accordance with Section 5.16 of the DAP Standing Orders 2020 which states '*A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.*', the meeting would not be recorded.

In response to the COVID-19 situation, this meeting was convened via electronic means (Zoom). Members were reminded to announce their name and title prior to speaking.

2. Apologies

Mr Jason Hick (Third Specialist Member)

3. Members on Leave of Absence

Nil

4. Noting of Minutes

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

5. Declaration of Due Consideration

The Presiding Member noted that an addendum to the agenda was published to include details of a DAP direction for further information and responsible authority response in relation to Item 10.1, received on 10 February 2022.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

In accordance with section 2.4.10 of the DAP Code of Conduct 2017, DAP Member, Mr Ian Birch, declared that he participated in a State Administrative Tribunal process in relation to the application at item 10.1. However, under section 2.1.3 of the DAP Code of Conduct 2017, Mr Ian Birch acknowledged that he is not bound by any confidential discussions that occurred as part of the mediation process and undertakes to exercise independent judgment in relation to any DAP applications before him, which will be considered on its planning merits.

Mr Ian Birch
Presiding Member, JDAP



7. Deputations and Presentations

- 7.1 Mr Brent Patroni addressed the DAP in support of the recommendation but against the application at Item 10.1.
- 7.2 Ms Jacqueline Ferrira addressed the DAP in support of the recommendation but against the application at Item 10.1.
- 7.3 Ms Suzanne Apps on behalf of Ms Faye Gilbert addressed the DAP in support of the recommendation but against the application at Item 10.1 and responded to questions from the panel.
- 7.4 Mr Andrew Jones addressed the DAP in support of the recommendation but against the application at Item 10.1 and responded to questions from the panel.
- 7.5 Ms Sam Morrell (Keiki Early Learning) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.6 Mr Craig Wallace (Lavan) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.7 Ms Orielle Pearce (SPH Architecture) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.8 Mr Alessandro Stagno (Apex Planning) addressed the DAP against the recommendation but in support of the application at Item 10.1 and responded to questions from the panel.
- 7.9 Mr Chris Leigh (City of Joondalup) addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

PROCEDURAL MOTION

Moved by: Mr John Syme

Seconded by: Cr Nige Jones

That the meeting be adjourned for a period of 5 minutes.

The meeting was adjourned at 12:27pm.

The meeting was reconvened at 12:32pm.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To allow the members to have a comfort Break

Mr Ian Birch
Presiding Member, JDAP



8. Form 1 – Responsible Authority Reports – DAP Applications

Nil

9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval

Nil

10. State Administrative Tribunal Applications and Supreme Court Appeals

10.1 Lot 642 (104) Mullaloo Drive, Kallaroo & Lot 643 (20 Standford Road, Kallaroo

Development Description: Removal of existing dwelling and replacement with Child Care Premises, including landscaping, parking access and signage

- Summary of Modifications:
- A reduction of children and staff capacity onsite to 75 children and 15 staff (from 80 children and 16 staff).
 - Hours of operation reduced to 7.00am - 6.00pm Monday to Friday (from 6.30am – 6.30pm Monday to Friday).
 - An increased building setback to the upper floor southern elevation.
 - An increase in car parking to 27 bays (from 26 bays) with the inclusion of two tandem car parking bays and one turn around bay.
 - The bin store relocated to the western side of the development.
 - A solid wall included to the southern side of the service compound to enclose it on three sides.
 - Updated technical reports.

Applicant: Alessandro Stagno (Apex Planning)
Owner: Anthony McNamara, Lynette Elliott and Wendy Jane Pearce
Responsible Authority: City of Joondalup
DAP File No: DAP/21/02000



REPORT RECOMMENDATION

Moved by: Cr Tom McLean

Seconded by: Cr Nige Jones

With the agreement of the mover and seconder the following amendment was made to the preamble:

Reconsider its decision dated 8 September 2021 and ~~VARY~~ **AFFIRM** its decision to **REFUSE** DAP Application reference DAP/21/02000 and amended 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 the City of Joondalup Local Planning Scheme No. 3, for the following **amended** reasons:

REASON: For clarity, the recommendation is that the previous decision to REFUSE the application by affirmed, with variations to reasons by way of additions and amended wording.

That the Metro Outer Joint Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 203 of 2021, resolves to:

Reconsider its decision dated 8 September 2021 and **AFFIRM** its decision to **REFUSE** DAP Application reference DAP/21/02000 and amended 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 the City of Joondalup Local Planning Scheme No. 3, for the following amended reasons:

Reasons

1. In accordance with Schedule 2, Clause 67(g) of the *Planning and Development (Local Planning Scheme) Regulations 2015* the proposed development does not comply with the provisions of the City's *Child Care Premises Local Planning Policy* as:
 - a. the proposed development is not located adjacent to non-residential uses;
 - b. the access for the proposed development is not located from a Local Distributor Road and in such a manner that discourages the use of nearby Access Roads, in this instance being Stanford Road, for turning movements; and
 - c. there do not appear to be any exceptional circumstances which would warrant the use of the Access Road, in this instance being Stanford Road, for vehicle access.
2. The proposed development does not satisfy the matters to be considered under clause 67(g), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, the development does not comply with the City's *Child Care Premises Local Planning Policy* as the proposed development is not located adjacent to non-residential uses and will have an undue impact on residential amenity.

Mr Ian Birch
Presiding Member, JDAP



3. The proposed development does not satisfy the matters to be considered under clause 67(m), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the scale of the development is not compatible with the adjoining residential land.
4. The proposed development does not satisfy the matters to be considered under clause 67(zc), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposed development does not adequately consider the advice of the Joondalup Design Review Panel in relation to the setback to Mullaloo Drive, street fencing and treatment to the pedestrian entry from Stanford Road.
5. The proposed development does not satisfy the matters to be considered under clause 67(b), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as giving consideration to the draft amendments to the *Child Care Premises Local Planning Policy*, the proposed development does not satisfy the requirements as:
 - a. The proposed child care premises is for 75 children;
 - b. The child care premises does not directly adjoin a non-residential land use;
 - c. Building site cover is 67.42%; and
 - d. Vehicle access is taken from Stanford Road.

This results in the child care premises having an adverse impact on residential amenity in terms of building scale, location of parking and increased traffic on Stanford Road.

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

For: Cr Tom McLean
Cr Nige Jones

Against: Mr Ian Birch
Ms Sheryl Chaffer
Mr John Syme

ALTERNATE MOTION

Moved by: Ms Sheryl Chaffer

Seconded by: Mr John Syme

With approval of the mover and seconder the following amendment was made;

- i) Delete Condition No. 23 and add as an Advice Note No. 13

REASON: This is controlled by the City of Joondalup under separate powers, it is not considered to be a valid planning condition.

Mr Ian Birch
Presiding Member, JDAP



That the Metro Outer JDAP, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR203 of 2021, resolves to:

Reconsider its decision dated 8 September 2021 and **SET ASIDE the decision and substitute a new decision to APPROVE** DAP Application reference DAP/21/02000 and amended 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 the City of Joondalup *Local Planning Scheme No. 3*, 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 four (4) years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
3. This approval relates to the Child Care Premises and associated works only and development shall be in accordance with the approved plan(s), any other supporting information and conditions of approval. It does not relate to any other development on the lot.
4. The lots included shall be amalgamated prior to occupancy certification.
5. A maximum of 75 children and 15 staff on the premises at any one time.
6. The hours of operation for the centre shall be between 7:00am to 6.00pm Monday to Friday. Child Care Centre staff shall not arrive at the centre before 6:30am and be off site by 6:30pm.
7. The recommendations of the Noise Management Plan shall be implemented to the satisfaction of the City. Plans and details shall be submitted to and approved by the City prior to the commencement of development demonstrating:
 - a. The fence and gates of the development being free of gaps and of a material with a minimum surface mass of 8 kg/m².
 - b. The carpark ceiling (underside of slab) being lined with acoustically absorptive soffit lining to reduce reverberation.
 - c. The carpark floor:
 - i. being constructed so that there are no significant gaps in construction or where these exist, are to be filled with non-hardening mastic.
 - ii. having drainage grates that are plastic or metal with rubber gaskets and secured to avoid excess banging.
 - iii. having a brushed concrete finish to avoid tyre squeal. Where the concrete is to be sealed, a product such as Aquaron 1000 by Markham (or equivalent) is to be used.
 - d. Kitchen exhaust fans are to be designed as inline type fans, installed with attenuators or diverted ducting, rather than externally mounted plant.

Mr Ian Birch
Presiding Member, JDAP



Development shall be in accordance with the approved plans and details.

8. A Noise and Operations Management Plan, addressing the impact of noise on surrounding properties is to be submitted to, and approved by the City prior to occupation of the development. The Noise and Operations Management Plan is to ensure that the Child Care Premises' operations meet the requirements of the *Environmental Protection (Noise) Regulations 1997*. The operation of the Child Care Premises shall then be carried out in accordance with the approved Noise and Operations Management Plan.
9. A Waste Management Plan indicating the method of rubbish collection is to be submitted prior to the commencement of development and approved by the City prior to the development first being occupied and thereafter implemented to the satisfaction of the City.
10. A Construction Management Plan shall be submitted to and approved by the City prior to the commencement of development. The management plan shall include details regarding mitigation measures to address impacts associated with construction works and shall be prepared to the specification and satisfaction of the City. The construction works shall be undertaken in accordance with the approved Construction Management Plan.
11. A full schedule of colours and materials for all exterior parts to the development (including any retaining walls) shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with the approved schedule and all external materials and finishes shall be maintained to a high standard, including being free of vandalism, to the satisfaction of the City.
12. Any proposed building plant and equipment, including air conditioning units, piping, ducting and water tanks shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with these approved details.
13. Detailed landscaping plans shall be submitted to the City for approval prior to the commencement of development. These landscaping plans are to indicate the proposed landscaping treatment(s) of the subject site and the adjoining road verge(s), and shall:
 - a. Provide landscaping that discourages the parking of vehicles within the verge;
 - b. Provide landscaping screening along the southern boundary, of a sufficient height and density to soften the impact of the building as viewed from the adjoining property;
 - c. Provide details of the play equipment and shade structures within the outdoor play area, incorporating soft finishes to minimise the impact of noise and minimal concrete or brick paved areas;
 - d. Provide all details relating to paving and treatment of verges;
 - e. Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500;
 - f. Show spot levels and/or contours of the site;



- g. Be based on water sensitive urban design principles to the satisfaction of the City;
 - h. Be based on Designing out Crime principles to the satisfaction of the City;
 - i. Show all irrigation design details.
14. Landscaping and reticulation shall be established in accordance with the approved landscaping plans, Australian Standards and best trade practice prior to the development first being occupied and thereafter maintained to the satisfaction of the City.
15. The applicant shall remove the existing crossover to Mullaloo Drive, including any concrete apron, and reinstate any kerbing, footpath and/or other infrastructure to the satisfaction of the City. These works shall be completed prior to the development first being occupied.
16. The car parking bays, driveways and access points shown on the approved plans are to be designed, constructed, drained and marked in accordance with the Australian Standards (AS2890), prior to the occupation of the development. These bays are to be thereafter maintained to the satisfaction of the City.
17. Two (2) bicycle parking spaces shall be designed and installed in accordance with the Australian Standard for Off-street Car parking – Bicycles (AS2890.3-1993), prior to occupation of the development and thereafter maintained to the satisfaction of the City.
18. The timber-look aluminium slatted fence indicated on the approved plans shall be visually permeable (as defined in the Residential Design Codes).
19. No solid walls, fences or other structures higher than 0.75 metres shall be constructed within 1.5 metres of where the driveway meets the street boundary.
20. The signage shall:
 - a. not be illuminated;
 - b. not include fluorescent, reflective or retro reflective colours;
 - c. be established and thereafter maintained of a high standardto the satisfaction of the City.
21. All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.
22. All development shall be contained within the property boundaries.

Mr Ian Birch
Presiding Member, JDAP



Advice Notes:

1. The City of Joondalup *Local Planning Scheme No. 3* defines 'Child Care Premises' as:

"premises where:

- a. *an education and care service as defined in the Education and Care Services National Law (Western Australia) section 5(1), other than a family day care service as defined in that section, is provided; or*
 - b. *a child care service as defined in the Child Services Act 2007 section 4 is provided."*
2. The City encourages the applicant/owner to incorporate materials and colours to the external surface of the development, including roofing, that have low reflective characteristics to minimise potential glare from the development impacting the amenity of the adjoining or nearby neighbours.
 3. The Construction Management Plan shall be prepared using the City's Construction Management Plan template which can be provided upon request.
 4. Unless set out in the conditions, any existing infrastructure/assets within the road reserve are to be retained and protected during construction of the development and are not to be removed or altered. Should any infrastructure or assets be damaged during the construction of the development, it is required to be reinstated to the satisfaction of the City.
 5. The Residential Design Codes define visually permeable as:

In reference to a wall, gate, door or fence that the vertical surface when viewed directly from the street or other public space has:
 - a. *continuous vertical or horizontal gaps of 50mm or greater width occupying not less than one third of the total surface area;*
 - b. *continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or*
 - c. *a surface offering equal or lesser obstruction to view.*
 6. There is an obligation to design and construct the development to meet compliance with the requirements of the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*.
 7. In regard to condition 8, the Operation and Noise Management Plan submitted 1 December 2021 shall be updated to include external doors and windows being closed during indoor activity / play.
 8. Any lighting to the centre is to be designed to minimise light spillage onto the surrounding residential properties and be in accordance with the requirements of Australian Standard AS1158.
 9. Bin store and wash down area to be provided with a hose cock and have a concrete floor graded to an industrial floor waste connected to sewer.



10. The laundry is to be provided with a floor waste in accordance with the City's Local Laws. In addition to having mechanical ventilation, it is recommended that laundry areas be provided with condensation dryers to minimise the likelihood of mould occurring.
11. Ventilation to toilets and any other room which contains a w/c must comply with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971*.
12. Development to be set up and operated in compliance with the *Food Act 2008* and the *Australia New Zealand Food Standards Code*. Consideration should be given to having adequate number of sinks in the main kitchen including a dedicated food preparation sink. The applicant is encouraged to send detailed kitchen fit out plans to the City's Health Services for comment prior to lodging a certified building permit. For further information please contact Health & Environmental Services on 9400 4933.
13. No on-street or verge parking is permitted for customers or employees and all parking is to be made available and maintained on-site in accordance with the approved plans.

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

For: Mr Ian Birch
Ms Sheryl Chaffer
Mr John Syme

Against: Cr Tom McLean
Cr Nige Jones

REASON: The proposal is consistent with the land use objectives of the residential zone which allows for compatible non-residential land uses. Childcare premises are a discretionary land use and must be given due consideration, subject to amenity constraints. In considering this application, the Panel took into account the city's local planning policies, including the draft, advertised amendments to the City's Childcare Centre Premises policy. Where variations were sought to these policy provisions, consideration was given to whether these variations could be accepted in terms of amenity and orderly and proper planning; as per the policy objectives and as set out in clause 67 of the deemed provisions of the Planning Regulations. As outlined below, it was the view of the majority of panel members that the development proposal, as amended, and subject to attached conditions, satisfies all of the measures required to be suitably located within the residential zone and is worthy of approval.

Potential noise impacts are mitigated through the design of the building and site fencing and an operational management plan which was reviewed and accepted by city officers as being acceptable. The submitted acoustic report and management plan demonstrated that noise generated by the childcare centre will be able to meet Environmental Protection Noise regulations. Noise mitigation measures will be implemented and enforced via conditions of approval.

Mr Ian Birch
Presiding Member, JDAP



The applicant's submitted Traffic Impact Statement demonstrated that traffic generated by the development, including traffic at the intersection of Stanford Road and Mullaloo Road, can be adequately accommodated within the surrounding local traffic network without impacting safety and convenience. The report was reviewed and accepted by the city traffic engineers.

Access to the proposed development off Stanford Rd, a local access road, was considered by the majority of Panel members as acceptable in this case as it affords a superior overall design by using the natural topography to locate the parking beneath the building and given the moderate peak traffic flows generated by the development during the morning drop off and afternoon pick up times, the traffic impact is minimal.

Car parking spaces on site are in excess of policy requirements and day to day use of the spaces by staff and parents will be subject to the operations and noise management plan to address amenity impacts.

The Panel was very mindful of the likely impact of the building and childcare centre on adjoining and nearby residential properties, those in particular, immediately adjacent. Modifications made to the plans and additional landscaping detail demonstrated that impacts on adjoining residential properties are acceptable. Overshadowing of the adjoining southern property extends to a minor degree beyond the deemed to comply provisions of the residential design code, due partly to the topography of the land, however, it was considered that this small variation would not result in any discernible added amenity impact.

The Panel, in majority, considered that design issues raised by the City's Design Review Panel (JDRP) had been satisfactorily addressed in the revised plans and that the reduced setback from Mullaloo Drive for part of the building was not unduly obtrusive in the context of the presentation of the development to the street and having regard for the number of existing variations to front setbacks for residential properties along Mullaloo Drive. It was noted that overall the JDRP commended the quality of the design.

By majority, the Panel felt that the proposed childcare centre is a land use that will provide a beneficial service in the local community. The development presents a positive response to the site, is functional, aesthetically pleasing and is complemented by attractive landscaping, fencing and site features. The building form, rooflines, materials and colour selection fit comfortably within the local context.

Mr Ian Birch
Presiding Member, JDAP



The Presiding Member noted the following SAT Applications -

Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP.21/02016 DR207/2021	City of Joondalup	Centre Lot 667 (73) Kingsley Drive & Kit 666 (22) Woodford Wells Way, Kingsley	Child care Centre	28/09/2021
DAP/21/2047 DR	City of Swan	Lots 136 (26) & 3235 (34) Asturian Drive and Lots 137 (238) & 138 (230) Henley Street, Henley Brook	Proposed education facility	03/12/2021

11. General Business

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the operations or determinations of a DAP and other DAP members should not be approached to make comment.

12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 1:19pm.