



Metro Outer Joint Development Assessment Panel Minutes

Meeting Date and Time: Monday, 28 February 2022; 9:30am
Meeting Number: MOJDAP/155
Meeting Venue: 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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Attendance

DAP Members

Mr Ian Birch (Presiding Member)
Mr Tony Arias (Deputy Presiding Member)
Mr Jason Hick (Third Specialist Member)
Cr Nige Jones (Local Government Member, City of Joondalup)
Cr Tom McLean (Local Government Member, (City of Joondalup)

Officers in attendance

Mr Tim Thornton (City of Joondalup)
Mr Chris Leigh (City of Joondalup)

Minute Secretary

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

Applicants and Submitters

Mr Michael Willcock (Taylor Burrell Barnett)
Mr Trent Fleskens (Strategic Property Group)
Ms Bianca Sandri (Urbanista Town Planning)
Mr Brett Dorney
Ms Anna Holloway (Insite Architecture)
Mr Tim Reynolds (Herring Storer)
Mr Walt Coulston (CK Group)
Mr Craig Wallace (Lavan)
Mr Trent Will (Taylor Burrell Barnett)
Mr David Wilkins (i3 Consulting)
Mr Chris Lawrence (Nature Play Solutions)
Mr Eddie Legg
Mr Drew Templar
Ms Suzanne Apps

Members of the Public / Media

There were 18 members of the public in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:38am on 28 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, Metro Outer 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.

This meeting was convened via electronic means (Zoom). Members were reminded to announce their name and title prior to speaking.

2. Apologies

Ms Sheryl Chaffer, Deputy Presiding Member

3. Members on Leave of Absence

DAP Member, Ms Sheryl Chaffer has been granted leave of absence by the Director General for the period of 16 February 2022 to 2 March 2022 inclusive.

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 23 February 2022.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

DAP Member, Cr Tom McLean (Local Government Member, City of Joondalup), declared an Impartiality Interest in item 10.1. Cr McLean declared that Mr Tony Arias, A/Deputy Presiding Member is known to him as he was the CEO of the Tamala Park Regional Council when Cr McLean was the City of Joondalup representative on the same council.

In accordance with section 6.2 and 6.3 of the DAP Standing Orders 2020, the Presiding Member determined that the member listed above, who had disclosed an Impartiality Interest, was permitted to participate in the discussion and voting on the item.



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.

In accordance with section 2.4.6 of the DAP Code of Conduct 2017, DAP members participated in a site visit for the application at item 10.1 prior to the DAP Meeting.

7. Deputations and Presentations

- 7.1** Mr Eddie Legg addressed the DAP in support of the recommendation and against the application at Item 10.1.
- 7.2** Mr Drew Templar addressed the DAP in support of the recommendation and against the application at Item 10.1 and responded to questions from the panel.
- 7.3** Mr Brett Dorney addressed the DAP in support of the recommendation and against the application at Item 10.1 and responded to questions from the panel.
- 7.4** Ms Suzanne Apps addressed the DAP in support of the recommendation and against the application at Item 10.1 and responded to questions from the panel.
- 7.5** Mr Trent Fleskens (Strategic Property Group) 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** Ms Bianca Sandri (Urbanista Town Planning) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.
- 7.7** Ms Anna Holloway (Insite Architects) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.
- 7.8** Mr Tim Reynolds (Herring Storer) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.
- 7.9** Mr Walt Coulston (CK Group) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.
- 7.10** Mr Craig Wallace (Lavan) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



7.11 Mr Trent Will (Taylor Burrell Barnett) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.

7.12 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: Cr Tom McLean

Seconded by: Mr Tony Arias

That the meeting be adjourned for a period of 10 minutes.

The meeting was adjourned at 12:13.

The meeting was reconvened at 12:20.

The Procedural Motion was put and CARRIED UNANIMOUSLY.

REASON: To allow members a comfort break.

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 667 (73) Kingsley Drive & Lot 666 (22) Woodford Wells Way, Kingsley

Development Description: Child Care Premises

- Summary of Modifications:
- Removal of the roof over the carpark resulting in a seven metre reduction in the length of the building facing Kingsley Drive.
 - Change from a flat roof design to a pitched roof, incorporating two roof pitches.
 - Modification of solid panelling on the upper floor northern elevation, to translucent panelling.
 - Reduction in the wall height from 7.6 metres to a maximum of 7.3 metres.
 - Relocation of the bin store to the southern side of the carpark, incorporated into the main building.
 - A reduction of children capacity onsite to 78 children (from 82 children).
 - Increase to the fence height abutting the northern and western sides of the carpark to 2.1 metres (from 1.8 metres).
 - Hours of operation reduced to 7.00am - 6.30pm Monday to Friday (from 6.30am – 6.30pm Monday to Friday).
 - Reduction in the number of tandem parking bays from three to two.
 - Updated technical reports

Applicant:

Taylor Burrell Barnett

Owner:

Regina Michelle Fisher and Sharon Leanne Reid

Responsible Authority:

City of Joondalup

DAP File No:

DAP/21/02016

REPORT RECOMMENDATION

Moved by: Cr Tom McLean

Seconded by: NIL

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 14 September 2021 and **VARY its** decision to refuse DAP Application reference DAP/21/02016 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 reasons:

Mr Ian Birch
Presiding Member, Metro Outer JDAP



Reasons

1. In accordance with Schedule 2, Clause 67(2)(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 does not directly adjoin a non-residential use on at least one boundary;
 - b. the proposed child care premises is for 78 children;
 - c. the car parking for the development is located such that it is likely to have a noise impact on surrounding residential properties;
 - d. the proposed hours of operation are likely to result in a noise impact on the amenity of adjoining residential properties.
2. The proposed development does not satisfy the matters to be considered under clause 67(2)(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 will have an adverse impact on the amenity of adjoining residential properties due to the noise associated with the number of children proposed, the location of car parking and hours of operation.
3. The proposed development does not satisfy the matters to be considered under clause 67(2)(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.

The Report Recommendation LAPSED for want of a seconder.

ALTERNATE MOTION

Moved by: Mr Tony Arias

Seconded by: Mr Jason Hick

That the Metro Outer JDAP, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR207 of 2021, resolves to:

Reconsider its decision dated 14 September 2021 and **SET ASIDE the decision and substitute a new** decision to approve DAP Application reference DAP/21/02016 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 78 children and 13 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, and 8:00am to 1:00pm Saturdays. Staff are permitted on site up to 30 minutes before and after these operating hours.
7. Any parking prior to 7.00am shall be restricted to staff parking bays 14, 16, 22 and 23 in accordance with the recommendations of the Environmental Acoustic Assessment to the satisfaction of the City.
8. An 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 operation of the Child Care Premises shall then be carried out in accordance with the approved 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 retaining walls and fencing) 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.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



12. Any proposed building plant and equipment, including the 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. Include a tree within the landscaping strip between car bay 23 and the verge;
 - c. Provide details of the play equipment and shade structures within the outdoor play area, incorporating minimum 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 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.
16. Car bays 5, 6 and 7 (or others as approved by the City) shall be signposted as 'loading zones' between the hours of 10.00am and 2.00pm for the purpose of providing manoeuvring space for waste collection vehicles.
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. All street fencing shall be visually permeable (as defined in the Residential Design Codes) above 1.2 metres from natural ground level.
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.

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. 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.
4. The Construction Management Plan shall be prepared using the City's Construction Management Plan template which can be provided upon request.
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. 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.
7. 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.
8. 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.
9. Ventilation to toilets and any other room which contains a w/c must comply with the *Sewerage (Lighting, Ventilation and Construction) Regulations 1971*.
10. Development to be set up and run 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.
11. 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*.

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

For: Mr Ian Birch
Mr Tony Arias
Mr Jason Hick
Cr Nigel Jones

Against: Cr Tom McLean

REASON: The site is zoned 'Residential' under the City's Local Planning Scheme No. 3, 'Child Care Premises' is a discretionary ("D") use within the 'Residential' zone under LPS3 and must be given due consideration. It is acknowledged that Child Care Centres are an important and necessary facility, serving local communities. The City's adopted Child Care Policy provides a guide in the exercise of discretion.

The site is on a corner, located opposite Kingsley Park, close to a school and shopping centre, which is considered an appropriate location for the use proposed.

The bulk and scale of the development is compatible with the surrounding area; set back from all boundaries and the two storey component together with selection of materials would be consistent with modern contemporary housing and generally reflects what could be approved under the R-Codes across the site. The modified plans have responded in large part to the issues/recommendations of the City's Design Review Panel.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



The Environmental Acoustic Assessment demonstrates that the proposal meets the *Environmental Protection (Noise) Regulations 1997, with revisions to the refused proposal further reducing noise impact*. The revised design will significantly mitigate impacts on amenity of surrounding residences by relocating noise generating activities; siting outdoor play areas and plant equipment away from residences, increasing fence height on the northern and western boundaries, providing greater separation of buildings on the northern boundary and reducing the finished floor level and height of building.

Car parking provision meets the requirements of the City’s Child Care Policy and is assessed in the RAR as adequate.

The RAR concludes that the additional traffic generated by the development, as provided in the submitted Transport Impact Assessment and reviewed by City engineers, will not have a material impact on the existing road network which will continue to operate within capacity.

In the exercise of discretion relating to variations to the provisions contained in the City’s adopted Child Care Policy, having regard for all relevant factors outlined above, the site is considered an appropriate location for the use proposed and the proposal will not result in undue adverse impacts on the amenity of surrounding residential properties. It was the view of the majority of panel members that the application, as amended, meets the requirements for locating in a residential zone and, with appropriate conditions, is worthy of approval.

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/21/02000 DR203.2021	City of Joondalup	Lot 642 (104) Mullaloo Drive & Lot 643 (20) Stanford Road, Kallaroo	Proposed Child Care Centre	28/09/2021
DAP/21/2047 DR257/2021	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.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 12:40pm.

A handwritten signature in black ink, appearing to read 'Ian Birch', enclosed in a thin black rectangular box.

Mr Ian Birch
Presiding Member, Metro Outer JDAP