



Metro Inner-North Joint Development Assessment Panel Minutes

Meeting Date and Time: Wednesday, 20 April 2022; 9.00am
Meeting Number: MINJDAP/134
Meeting Venue: Electronic Means

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

Ms Francesca Lefante (Presiding Member)
Ms Lee O'Donohue (Deputy Presiding Member)
Mr John Syme (Third Specialist Member)
Cr Suzanne Migdale (Local Government Member, City of Stirling)
Cr Felicity Farrelly (Local Government Member, City of Stirling)

Officers in attendance

Ms Giovanna Lumbaca (City of Stirling)
Mr Van Phan (City of Stirling)
Mr Cameron Howell (City of Stirling)
Mr Stevan Rodic (City of Stirling)
Ms Amanda Sheers (City of Stirling)
Mr Dean Williams (City of Stirling)

Minute Secretary

Ms Ashlee Kelly (DAP Secretariat)

Applicants and Submitters

Mr Mark Szabo (Burgess Design Group)
Mr Craig Wallace (Lavan)
Mr John Miller (Land Development)
Mr Daniel Richards
Mr Tony Hume

Members of the Public / Media

There was 1 member of the public in attendance.

Ms Tyler Brown from PerthNow was in attendance.

1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9.04am on 20 April 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*.



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.

The Presiding Member announced any DAP member or presenter attending a DAP meeting must not, either orally, in writing or by any other means –

- (a) Make a statement that a local government or public sector employee is incompetent or dishonest; or
- (b) Use offensive or objectionable expressions in reference to a local government, public sector employee or other presenters.

2. Apologies

Nil

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 19 April 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, Ms Francesca Lefante, declared that she 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, Ms Lefante acknowledged that she 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 her, which will be considered on its planning merits.



7. Deputations and Presentations

- 7.1 Mr Daniel Richards addressed the DAP in support of the recommendation for the application at Item 10.1.
- 7.2 Mr Tony Hume addressed the DAP in support of the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.3 Mr Craig Wallace (Lavan) addressed the DAP against the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.4 Ms Zarina MacDonald (Burgess Design Group) addressed the DAP against the recommendation for the application at Item 10.1.
- 7.5 Mr John Miller (Land Development) addressed the DAP against the recommendation for the application at Item 10.1 and responded to questions from the panel.
- 7.6 The City of Stirling Officers addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

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 3, (27) Pimlott Street, and Lot 4, (1) Greenacre Street Dianella

Development Description: Child Care Premises
Summary of Modifications: Submission of additional information and amended plans, modifying the ground and upper floors, and reducing the number of staff from 10 to eight (8) and children from 56 to 50.

Applicant: Burgess Design Group
Owner: Randazzo Pty Ltd
Responsible Authority: City of Stirling
DAP File No: DAP/21/02050



REPORT RECOMMENDATION

Moved by: Cr Felicity Farrelly

Seconded by: Cr Suzanne Migdale

That the Metro Inner-North Development Assessment Panel, pursuant to section 31 of the *State Administrative Tribunal Act 2004* in respect of SAT application DR 270 of 2022, resolves to:

Reconsider its decision dated 14 December 2021 and **AFFIRM its** decision to refuse DAP Application reference DAP/21/02050 and amended plans (in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of Clause 67 of the City of Stirling Local Planning Scheme No. 3 and pursuant to Clause 24(1) and 26 of the Metropolitan Region Scheme, for the following reasons:

Reasons

- a. Pursuant to Schedule 2, Part 9, Clause 67(2) (g) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed development does not satisfy:
 - i. The following objectives of Local Planning Policy 6.4 – Child Care Premises being:
 - a) To promote the establishment of Child Care Premises in proximity to activity centres and along activity corridors;
 - b) To avoid potential land use conflicts by ensuring the development of Child Care Premises integrates with its surrounding areas; and
 - c) To minimise the adverse impacts of the bulk and scale of Child Care premises on neighbouring properties and the streetscape, and that buildings are consistent with the built form of an area, including future character.
 - ii. The location criteria of Local Planning Policy 6.4 – Child Care Premises as the subject site is located on a lot less than 1,000m².
- b. Pursuant to Schedule 2, Part 9, Clause 67(2) (m) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed built form is not compatible with its setting and has a negative impact on the amenity of the locality.
- c. Pursuant to Schedule 2, Part 9, Clause 67(2) (n)(ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposed built form is not compatible with its setting and has a negative impact on the character of the locality.
- d. Pursuant to Schedule 2, Part 9, Clause 67(2) (y) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, submissions received in relation to the proposed development raise valid concerns surrounding the intensity and scale of the proposed development which will have an adverse impact on the amenity of the surrounding properties and local area.

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



For: Cr Felicity Farrelly
Cr Suzanne Migdale

Against: Ms Francesca Lefante
Ms Lee O'Donohue
Mr John Syme

ALTERNATE MOTION

Moved by: Ms Lee O'Donohue

Seconded by: Mr John Syme

Reconsider its decision dated 14 December 2021 and **VARY** its decision for DAP Application reference DAP/21/02050 as detailed on the DAP Form 1 dated 5 May 2021 and accompanying plans 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 Stirling 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. The development is to comply in all respects with the attached approved plans, as dated, marked and stamped, together with any requirements and annotations detailed thereon. The plans approved as part of this application form part of the development approval issued and are listed below:

Drawing Title	Date	Drawn By
Survey – Demolition Plan	1 November 2021	Motivo Design Studio
Site Plan	16 February 2022	Motivo Design Studio
Floor Plans	16 February 2022	Motivo Design Studio
Elevation Plans	2 March 2022	Motivo Design Studio
Landscaping Plan	7 February 2022	Millstream Landscapes Pty Ltd



Landscaping

4. Prior to the occupation of the development, all landscaped areas are to be planted, reticulated and mulched in accordance with the approved plans (Attachment 1) and the Millstream Landscaping Pty Ltd Proposed Landscaping Plan (Attachment 1e) (as amended), and maintained in accordance with the City of Stirling's Local Planning Policy 6.6 – Landscaping, to the satisfaction of the City of Stirling.
5. Three (3) Advanced Trees are to be planted and maintained within the proposed car parking area in accordance with the City of Stirling's Local Planning Policy 6.6 – Landscaping, to the satisfaction of the City of Stirling.
6. Prior to the commencement of any works, details of protection measures during the construction phase are to be provided for the street trees located along the Pimlott Street and Greenacre Street verges, in accordance with Australian Standards AS4970:2009, to the satisfaction of the City of Stirling.
7. Prior to the occupation of the development, four (4) Advanced Trees must be planted on-site in the area indicated on the development plans and be maintained thereafter.
8. Planting of two (2) new street trees at the landowner's cost will be scheduled to occur in the next available planting season after the completion of the development. The landowner shall pay the cost of planting of the new street trees prior to commencement of development as determined by the City in the City's Street and Reserve Trees Policy.

Lighting

9. Prior to the submission of a Building Permit, a lighting plan shall be submitted to the City with the provision of lighting to all public spaces, awning areas, parking areas, service areas, footpaths, ground floor entry and exit points, to the satisfaction of the City.
10. External lighting shall be positioned so as not to adversely affect the amenity of the locality in accordance with Australian Standard AS/NZ 4282-1997, to the satisfaction of the City of Stirling.

Operation

11. The operational measures identified in the conclusion of the Lloyd George Acoustics Environmental Noise Assessment (Attachment 6), which forms part of this approval, shall be implemented for the life of the development, to the satisfaction of the City of Stirling, specifically:
 - a. The outdoor playscape areas shall not be made available for use prior to 7:00am during operation of the Child Care Premises.
12. Prior to the occupation of the Child Care Premises, the acoustic wall on the southern boundary, as identified on the approved plans (Attachment 1), shall be installed to the satisfaction of the City.



13. Prior to the submission of a building permit, an Operation Plan is to be submitted to the satisfaction of the City and implemented throughout the lifetime of the development.
14. The operational details outlined in the Applicant's Planning Report (Attachment 7a), which forms part of this approval, shall be implemented for the life of the development, to the satisfaction of the City of Stirling, specifically:
 - a. The Child Care Premises shall be limited to a maximum number of 50 children and 8 staff at any one time.
 - b. Staff shall not be permitted to occupy the Child Care Premises prior to 6:30am, Monday to Friday.
 - c. The Child Care Premises shall not operate outside of the hours of 6:30am and 6:30pm, Monday to Friday.
 - d. The Child Care Premises shall not operate on Saturdays and Sundays or Public Holidays.

Parking and Access

15. The crossover shall be designed and constructed in accordance with the City of Stirling's Local Planning Policy 6.7 – Parking and Access, to the satisfaction of the City of Stirling. Crossovers are to be installed prior to occupation of the development.
16. All parking bays, manoeuvring and circulation areas are to comply with Australian Standards AS/NZS2890.1, AS2890.2, and AS2890.5. The number of ACROD car parking bays and their design and layout are to comply with Australian Standards AS/NZS2890.6:2009 (Off-street Parking for People with Disabilities) and the Building Code of Australia (Volume 1 section D3.5).
17. Pedestrian pathways providing wheelchair accessibility connecting all entries to buildings with the public footpath and car parking areas, to comply with Australian Standards AS/NZS1428.1-2009 (Design for access and mobility – General requirements for access – New building work).
18. Prior to the occupation of the development, the redundant crossovers shall be removed, and the kerbing and road reserve reinstated at the landowner's expense in accordance with the City's Local Planning Policy 6.7 – Parking and Access.
19. Prior to the occupation of the development, a turn-around bay is to be provided and sign-posted for the exclusive use as a reversing bay only to enable visitors to exit the car parking area in forward gear, to the satisfaction of the City.
20. Prior to the occupation of the development, a minimum of two (2) bicycle parking bays shall be provided on-site. The design and construction of the bicycle bays shall be in accordance with Australian Standards AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking, to the satisfaction of the City of Stirling.
21. Prior to the occupation of the development, a minimum 1.8m wide pedestrian footpath is to be installed at the landowner's expense, adjacent to the subject site within the Pimlott Street road reserve, connecting from the existing footpath on the eastern side of Greenacre Street to the new footpath, to the satisfaction of the City of Stirling.



22. Prior to the occupation of the development, the City of Stirling is to be provided with “as constructed” copies in ‘.dwg’ format, of all road and drainage modification works.

General

23. A Site Management Plan shall be submitted to the City of Stirling and approved prior to commencement of works. The Site Management Plan shall include, but not limited to, dust, noise, vibration, waste management, storage of materials, traffic, parking, on-site and street tree protection areas, and site safety/security. The Site Management Plan is to be complied with for the duration of the construction of the development, to the satisfaction of the City of Stirling.
24. The colours, materials and finishes of the development shall be in accordance with the details and annotations as indicated on the approved plans which forms part of this approval, to the satisfaction of the City of Stirling.
25. Air-conditioning units, ducts and other services shall be screened from view and are to be located away from the streets to the satisfaction of the City of Stirling.
26. Boundary walls shall not exceed the height shown on the approved plans. Prior to occupation, the external finish of the boundary walls shall be finished externally to the same standard as the rest of the development, to the satisfaction of the City of Stirling.
27. No walls, letterboxes, fences, or other structures above 0.75 metres in height to be constructed within 1.5 metres of where:
- vehicular access points adjoin the site, or
 - driveway meets a public street, or
 - two streets intersect, or
 - driveway meets a right of way, or
- unless further approval from the City of Stirling is obtained.
28. The development is to comply with the Waste Management Plan prepared by Burgess Design Group dated 23 July 2021, unless otherwise approved by the City of Stirling.
29. Stormwater from all roofed and paved areas shall be collected and contained on-site. Stormwater must not affect or be allowed to flow onto or into any other property or road reserve.
30. The development is required to be connected to sewer.
31. The open-style front fencing shall be visually permeable as defined in State Planning Policy 7.3 – Residential Design Codes Volume 1, to the satisfaction of the City of Stirling.



Advice Notes

1. If the development the subject of this approval is not substantially commenced within a period of four years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
2. If an applicant is aggrieved by this determination, there is a right of appeal under Part 14 of the *Planning and Development Act 2005*. An appeal must be lodged within 28 days of the determination with the State Administrative Tribunal.
3. This is a Development Approval under the City of Stirling Local Planning Scheme and related policies. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant to obtain any other necessary approvals, consents and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
4. This approval is not an authority to ignore any constraint to development on the land, which may exist through statute, regulation, contract or on title, such as an easement or restrictive covenant. It is the responsibility of the applicant and not the City to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the City's attention.
5. The applicant is responsible for ensuring that all lot boundaries as shown on the approved plans are correct.
6. Development is to comply in all respects with the attached approved plans which have been stamped accordingly.
7. Noisy Construction Work outside the period 7:00am to 7:00pm Monday to Saturday and at any time on Sundays and Public Holidays is not permitted unless a Noise Management Plan for the construction site has been approved in writing by the City of Stirling.
8. With respect to the Advanced Trees, an Advanced Tree is defined in Local Planning Policy 6.11 Trees and Development as: *a tree which requires planting in at least a 100 litre container or greater size and which is at least 2 metres in height and at least 2 years of age.*
9. The proposed crossover configuration is subject to the approval of the City's Verge Control Business Unit. A "Crossover Installation Application" is required to be submitted and approved prior to the commencement of the crossover installation.
10. Collection and disposal of waste shall be managed in accordance with the City of Stirling Waste Management Local Law 2010, to the satisfaction of the City of Stirling.



11. The City of Stirling's Environmental Health Business Unit provides the following advice:
 - a. The Child Care Premises is to comply with the requirements of the *Food Act 2008*. A food premises notification form is required to be completed and submitted to the City.
 - b. Compliance with Standard 3.3.1 – Food Safety Programs for Food Service to Vulnerable Persons is required. A food safety plan must be submitted to the City for assessment and approval prior to operation.
 - c. Full plans and specifications, including detailed kitchen fit out plans to be submitted to City's Environmental Health Business Unit for assessment. The following details will be required to support the application:
 - i. Two copies of scale floor plans showing the position of all fixtures and equipment (scale 1:50);
 - ii. Two copies of scaled sectional elevation plans showing the position of all fixtures and equipment;
 - iii. Finishes of every wall, floor and ceiling;
 - iv. Indication of hot and cold water supply and wastewater services;
 - v. Location of all sinks including hand washbasin; and
 - vi. Provide details of ventilation and exhaust system servicing the premises.
12. The associated contribution costs for the planting of two (2) new street trees are as follows:
 - i. Cost of each new tree: \$655.00 (current cost)
 - ii. Number of new trees required: two (2)
 - iii. Total for the associated works: \$1,310.00Tree species will be chosen by the City to reflect the surrounding streetscape. Costs include 2 years of watering and the provision that the City will replace the tree should it be damaged or die during that period.
13. All signage is to be in strict accordance with the City of Stirling Local Planning Policy 6.1 – Advertising Signs unless further approval is obtained.
14. The proposed on-street parking bays are not supported. All works within the road reserve require separate approval through the City of Stirling's Engineering Services Business Unit

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

For: Ms Francesca Lefante
Ms Lee O'Donohue
Mr John Syme

Against: Cr Felicity Farrelly
Cr Suzanne Migdale



REASON: The majority of Panel members considered the proposal and modified plans for the childcare against planning framework and Local Planning Scheme provisions.

Due regard was given to the local planning policy provisions. The changes to the scale of the proposal through reduction in childcare numbers, building design modifications, façade treatments, balcony design and screening are considered to improve the proposed development and compatibility with surrounding sites. The change to landscaping and fencing incorporating visually permeable materials was considered acceptable within the streetscape.

The Panel members were satisfied with the traffic movement, acoustic, building setbacks as noting the RAR technical assessment determined that the objective was met.

In considering this proposal the Panel took into account the type and amenity impacts of the changes in the area. In reaching a decision the majority of the members considered the current character and context of the area including the changes in intensity of the activities at the local centre opposite the site, parking and traffic movement and formed the view that the proposal is consistent with the planning framework and appropriate in the context of the area and zoning.

On balance the majority of Panel members were of the opinion that the proposed childcare use, design and scale is appropriate in its scale and context, and accordingly supported the proposal with conditions.

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/19/01651 DR160/2020	City of Nedlands	Lot 1 (80) Stirling Highway, Lots 21-23 (2, 4 & 6) Florence Road and Lots 33 & 33 (9&7) Stanley Street, Nedlands	Shopping Centre	21/07/2020
DAP/21/02084 DR9/2022	City of Nedlands	Lot 541 (99) Broadway, Nedlands	Mixed use development comprising 21 units and a cafe	14/01/2022
DAP/21/02136 DR60/2022	City of Nedlands	No. 43 Esplanade, Nedlands	Proposed Mixed Use Development - One consulting room and three multiple dwellings	01/04/2022


Ms Francesca Lefante
Presiding Member, Metro Inner-North JDAP



Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
DAP/18/01491 DR61/2022	City of Vincent	No. 636-640 Newcastle Street, Leederville	Mixed Use Development comprising of 32 Multiple Dwellings, 10 Offices, One Restaurant/Café and One Shop	04/04/2022

The Presiding Member noted the following Supreme Court Appeals -

Current Supreme Court Appeals				
File No.	LG Name	Property Location	Application Description	Date Lodged
DAP/19/01722 CIV 2311 of 2021	City of Stirling	Lot 1 (331) West Coast Drive, Trigg	Mixed Use Development – Six (6) Multiple Dwellings and One (1) Commercial Tenancy	7 April 2022

Finalised Supreme Court Appeals*				
File No.	LG Name	Property Location	Application Description	Date Finalised
DAP/20/01884 CIV 1791 of 2021	City of Stirling	Lot 100 Field Street, Mount Lawley	24 multiple dwellings and six (6) grouped dwellings	11 February 2021

* Matters finalised during the last meeting cycle.

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 11.11am.