



Metro Outer Joint Development Assessment Panel Minutes

Meeting Date and Time: Thursday, 14 April 2022; 9:30am
Meeting Number: MOJDAP/165
Meeting Venue: Electronic Means

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

1 Table of Contents

1.	Opening of Meeting, Welcome and Acknowledgement.....	3
2.	Apologies.....	3
3.	Members on Leave of Absence	3
4.	Noting of Minutes.....	3
5.	Declaration of Due Consideration.....	3
6.	Disclosure of Interests.....	3
7.	Deputations and Presentations.....	4
8.	Form 1 – Responsible Authority Reports – DAP Applications.....	5
8.1	Lot 2 on SP18912, No 1 Lyell Grove, Woodvale	5
9.	Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval	10
9.1	Lot 649 (98) O’Mara Boulevard, Iluka	10
10.	State Administrative Tribunal Applications and Supreme Court Appeals ...	12
11.	General Business.....	12
12.	Meeting Closure	12



Attendance

DAP Members

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

Officers in attendance

Mr Chris Leigh (City of Joondalup)

Item 8.1

Mr Tim Thornton (City of Joondalup)

Item 9.1

Mr Jeremy Thompson (City of Joondalup)

Minute Secretary

Ms Samantha Hansen (DAP Secretariat)
Ms Megan Ventriss (DAP Secretariat)

Applicants and Submitters

Item 8.1

Mr Trent Will (Taylor Burrell Barnett)
Mr Jay Barr (Sagewood Early Learning)
Mr Gianni Da Rui (Meyer Shircore & Associates)
Mr Lachlan Gerrard (GM Property)
Mr David Wilkins (i3)
Ms Sue Fallon

Item 9.1

Mr Reegan Cake (Dynamic Planning and Developments)
Mr Ben Graham (AGEM Property Group)
Mr Chris Harman (AGEM Property Group)
Mr Wes D'Arcy (The Iluka)
Mr Julius Skinner (Thomson Geer Lawyers)
Mr George Watts (Herring Storer Acoustics)
Mr Scott Lambie (Cardno now Santec)
Ms Nannette Brammer
Ms Sam Turrell
Mr Brendan Mitchell

Members of the Public / Media

There were 13 members of the public in attendance.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:33am on 14 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.

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 23 March 2022 to 15 April 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 request for further information and responsible authority response in relation to Item 9.1, received on 12 and 13 April 2022.

All members declared that they had duly considered the documents.

6. Disclosure of Interests

Nil



7. Deputations and Presentations

- 7.1 Ms Sue Fallon addressed the DAP against the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.2 Mr Gianni Da Rui (Meyer Shircore & Associates) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.3 Mr Jay Barr (Sagewood Early Learning) addressed the DAP in support of the recommendation for the application at item 8.1 and responded to questions from the panel.
- 7.4 Mr Trent Will (Taylor Burrell Barnett) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.5 David Wilkins (i3) responded to questions from the panel in relation to item 8.1.
- 7.6 City of Joondalup officers addressed the panel in relation to Item 8.1 and responded to questions from the panel.

The presentations at Item 7.1 – 7.6 were heard prior to the application at Item 8.1.

- 7.7 Ms Nannette and Mr Jack Brammer addressed the DAP in support of the recommendation but against the application at Item 9.1.
- 7.8 Ms Sam Turrell presented on behalf of Ms Shailee Desai in support of the recommendation and against the application at Item 9.1.
- 7.9 Mr Brendan Mitchell (on behalf of Robyn and Stephen Morup) addressed the DAP in support the recommendation and against the application at Item 9.1 and responded to questions from the panel.
- 7.10 Mr Wes D'Arcy (The Iluka) addressed the DAP against the recommendation and in support of the application at Item 9.1 and responded to questions from the panel.
- 7.11 Mr Julius Skinner (Thomson Geer Lawyers) addressed the DAP against the recommendation and in support of the application at Item 9.1.
- 7.12 Mr George Watts (Herring Storer Acoustics) addressed the DAP against the recommendation and in support of the application at Item 9.1 and responded to questions from the panel.
- 7.13 Mr Scott Lambie (Cardno now Stantec) addressed the DAP against the recommendation and in support of the application at Item 9.1 and responded to questions from the panel.



7.14 Mr Reegan Cake (Dynamic Planning and Developments) addressed the DAP against the recommendation and in support of the application at Item 9.1 and responded to questions from the panel.

7.15 Mr Chris Leigh (City of Joondalup) addressed the DAP in relation to Item 9.1 and responded to questions from the panel.

The presentations at Items 7.7 – 7.15 were heard prior to the application at Item 9.1.

8. Form 1 – Responsible Authority Reports – DAP Applications

8.1 Lot 2 on SP18912, No 1 Lyell Grove, Woodvale

Development Description: Proposed Child Care Premises
Applicant: Taylor Burrell Barnett
Owner: Edward Gebert, Gillian Cameron, Mignon Smith and Stennes Pty Ltd
Responsible Authority: City of Joondalup
DAP File No: DAP/22/02166

REPORT RECOMMENDATION

Moved by: Mr Tony Arias

Seconded by: Cr Tom Mclean

With the agreement of the mover and seconder the following amendments to conditions requested by the applicant and accepted by City officers were made;

i) To delete Condition 8 and renumber the remaining conditions accordingly.

REASON: The condition was deleted due to this being a duplication of Conditions 6 and 7

ii) To amend Condition 6 to read as follows:

*An Operations Management Plan, addressing the impact of noise **and security considerations** on surrounding properties, including the timing of waste pickup, 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.*

REASON: To address concerns raised by local residents regarding the security of the premises and the effect this may have on their properties.



- iii) To amend Condition 14 (now Condition 13) to read as follows:

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.

REASON: The condition was amended as appropriate standards are required to be applied in the landscaping and reticulation plans in Condition 13 (now Condition 12) as part of the City's approval processes.

- iv) To amend Condition 19 (now Condition 18) and renumber sub-points accordingly to read as follows

The signage shall:

- ~~a. not be illuminated;~~
- ~~b.a. not include fluorescent, reflective or retro reflective colours;~~
- ~~c.b. be established and thereafter maintained of a high standard;~~
- c. use low level illumination and be adjusted so the brightness levels do not exceed those of static signs in typical ambient light conditions, especially after dusk;**
- d. The illumination signs must comply with relevant Australian Standards (AS 4282-1997) and any other relevant standards and guidelines.**

to the satisfaction of the City.

REASON: The City's signs policy allows for some illumination. Illuminated signage is not considered unreasonable in this case, given the location.

That the Metro-Outer JDAP resolves to:

1. **Approve** DAP Application reference DAP/22/02166 and accompanying plans (Attachment 2 refers) 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. A maximum of 71 children and 13 staff on the premises at any one time.
5. 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.
6. An Operations Management Plan, addressing the impact of noise and security considerations on surrounding properties, including the timing of waste pickup, 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.
7. A Noise Management Plan, addressing the impact of noise on surrounding properties and incorporating the recommendations of the Environmental Acoustic Assessment shall be submitted to, and approved by the City prior to commencement of development. The Noise 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 plan.
8. 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.
9. 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.
10. A full schedule of colours and materials for all exterior parts to the development (including 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.
11. 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.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



12. 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 details of the play equipment and shade structures within the outdoor play area, incorporating minimum concrete or brick paved areas;
 - c. Provide all details relating to paving and treatment of verges;
 - d. Be drawn at an appropriate scale of either 1:100, 1:200 or 1:500;
 - e. Show spot levels and/or contours of the site;
 - f. Be based on water sensitive urban design principles to the satisfaction of the City;
 - g. Be based on Designing out Crime principles to the satisfaction of the City;
 - h. Show all irrigation design details.
13. Landscaping and reticulation shall be established in accordance with the approved landscaping plans, prior to the development first being occupied and thereafter maintained to the satisfaction of the City.
14. 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. The car bay markings shall also address the parking allocation to staff and visitors as required under the *Child Care Premises Local Planning Policy*, to the satisfaction of the City. These bays are to be thereafter maintained to the satisfaction of the City.
15. 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.
16. All street fencing shall be visually permeable (as defined in the Residential Design Codes) above 1.2 metres from natural ground level.
17. 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.
18. The signage shall:
 - a. not include fluorescent, reflective or retro reflective colours;
 - b. be established and thereafter maintained of a high standard;
 - c. use low level illumination and be adjusted so the brightness levels do not exceed those of static signs in typical ambient light conditions, especially after dusk;
 - d. The illumination signs must comply with relevant Australian Standards (AS 4282-1997) and any other relevant standards and guidelines.

to the satisfaction of the City.



19. All stormwater shall be collected on-site and disposed of in a manner acceptable to the City.

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 Report Recommendation was put and CARRIED UNANIMOUSLY.

REASON: As outlined in the Responsible Authority Report, the subject site falls within a Mixed Use zone. The proposal is consistent with the zoning and local planning policy concerning Child Care Centres, meeting locational criteria and is assessed as satisfying relevant planning requirements and performance standards where discretion has been sought. The applicants have responded positively to matters raised by the City's Design Review Panel. Supporting technical reports have been reviewed and accepted by City officers. Measures to mitigate against amenity impacts on surrounding residents are adequately covered in the proposal as submitted, together with appropriate conditions.

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

9.1 Lot 649 (98) O'Mara Boulevard, Iluka

Development Description:	Mixed Commercial Centre (Iluka Plaza)
Proposed Amendments:	<ul style="list-style-type: none">• Modification to condition relating to hours of operation of the tavern use.• Modification to condition relating to the use of the first floor car park between 11.00pm and 5.30am.• Modifications to the approved development to allow removal of the barrier above the car parking access from Calis Avenue.• Modification of advice note regarding the playing of live music at the tavern use.
Applicant:	Dynamic Planning and Developments
Owner:	AGEM PG33 Pty Ltd
Responsible Authority:	City of Joondalup
DAP File No:	DAP/18/01543



REPORT RECOMMENDATION

Moved by: Cr Tom McLean

Seconded by: Mr Tony Arias

That the Metro Outer JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/18/01543 as detailed on the DAP Form 2 dated 24 December 2021 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Refuse** the DAP Application reference DAP/18/01543 as detailed on the DAP Form 2 date 24 December 2021 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*, the provisions of the City of Joondalup *Local Planning Scheme No. 3* and Iluka Structure Plan for the following reasons:

Reasons

1. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(a), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, extending hours from 11.00pm to 12.00am for the 'Tavern' use and modifications to the car park entrance to Calis Avenue will have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality and, therefore, does not meet the objectives under Table 2, 'Commercial' zone objectives of *Local Planning Scheme No. 3*.
2. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(h), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Specifically, the modifications do not meet the objectives under clause 6.1 of the Iluka Structure Plan as the proposal is considered to;
 - a. have a detrimental impact on the amenity of the adjoining owners and residential properties in the locality;
3. The proposed modifications do not satisfy the matters to be considered under clause 67(2)(n), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as the proposal will detrimentally impact the amenity of the locality, specifically in relation to the character of the location and the social impacts of the development.
4. The proposal does not satisfy the matters to be considered under clause 67(2)(m), Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposed hours of operation of the 'Tavern' between 11.00pm and midnight is not compatible with the setting of the locality, being a local centre, and with the specific objectives set out in the Iluka Structure Plan.

Mr Ian Birch
Presiding Member, Metro Outer JDAP



5. Insufficient information has been provided to support an amendment to Advice Note 9 to remove reference to the prohibition of play live music at the tavern use. The application has not demonstrated that the playing of live music can meet the relevant requirements of the *Environmental Protection (Noise) Regulations 1997*.

The Report Recommendation was put and CARRIED (4/1).

For: Mr Ian Birch
Mr Tony Arias
Mr Jason Hick
Cr Tom McLean

Against: Cr Nigel Jones

REASON: By majority, the panel was not convinced that there was sufficient evidence available to support the applicants' contention that the amendments to existing conditions of approval would not result in undue impact on the residential amenity of the local community. The panel accepted the recommendation in the Responsible Authority Report to refuse the application, for the reasons provided therein.

10. State Administrative Tribunal Applications and Supreme Court Appeals

10. Current SAT Applications				
File No. & SAT DR No.	LG Name	Property Location	Application Description	Date Lodged
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.

12. Meeting Closure

There being no further business, the Presiding Member declared the meeting closed at 12.21pm.