



# Metro Outer Joint Development Assessment Panel Minutes

**Meeting Date and Time:** Wednesday, 20 April 2022; 9:30am  
**Meeting Number:** MOJDAP/166  
**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

Mr Ian Birch (Presiding Member)  
Ms Sheryl Chaffer (Deputy Presiding Member)  
Ms Diana Goldswain (A/Third Specialist Member)  
Cr Rod Henderson (Local Government Member, City of Swan)  
Cr Mel Congerton (Local Government Member, City of Swan)

### Officers in attendance

Mr Phil Russell (City of Swan)  
Mr Chris Fudge (City of Swan)

### Minute Secretary

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

### Applicants and Submitters

#### *Item 8.1*

Mr Alessandro Stagno (Apex Planning)  
Mr Stefan Piruk (Jarra Property)

#### *Item 10.1*

Mr John Burgess (Burgess Design Group)  
Mr Alex McGlue (Lavan)  
Mr Abdullah Khan (Australian Islamic College)

### Members of the Public / Media

Nil

## 1. Opening of Meeting, Welcome and Acknowledgement

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

## 2. Apologies

Mr Jason Hick (Third Specialist Member)  
Cr Charlie Zannino (Local Government Member, City of Swan)

## 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 8.1, received on 19 April 2022.

All members declared that they had duly considered the documents.

## 6. Disclosure of Interests

DAP Member, Cr Mel Congerton, declared an Impartiality Interest in item 10.1. The applicant, Burgess Design Group has acted on behalf of one of Cr Congerton's companies in the past. There is currently no further involvement with Burgess Design Group.

In accordance with section 2.4.9 of the DAP Code of Conduct 2017, DAP Member, Cr Rod Henderson and Cr Mel Congerton, declared that they participated in a prior Council meeting in relation to the application at item 8.1 & 10.1. However, under section 2.1.2 of the DAP Code of Conduct 2017, they acknowledged that they are not bound by any previous decision or resolution of the local government and undertakes to exercise independent judgment in relation to any DAP application before them, which will be considered on its planning merits.



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

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 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.

## **7. Deputations and Presentations**

- 7.1** Mr Alessandro Stagno (Apex Planning) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.2** Mr Stefan Piruk (Jarra Property) responded to questions from the panel in relation to item 8.1.
- 7.3** Mr Phil Russell (City of Swan) addressed the DAP in relation to the application at Item 8.1 and responded to questions from the panel.

***The presentation at Item 7.1 – 7.3 were heard prior to the application at Item 8.1.***

- 7.4** Mr Alex McGlue (Lavan) addressed the DAP against the recommendation and in support of the application at Item 10.1 and responded to questions from the panel.
- 7.5** Mr John Burgess (Burgess Design Group) responded to questions from the panel in relation to item 10.1.
- 7.6** Mr Phil Russell (City of Swan) addressed the DAP in relation to the application at Item 10.1 and responded to questions from the panel.

***The presentations at Items 7.4 - 7.6 were heard prior to the application at Item 10.1.***

## **8. Form 1 – Responsible Authority Reports – DAP Applications**

### **8.1 Lot 301 (No.150) Amazon Drive, Beechboro**

Development Description:	Proposed Child Care Premises
Applicant:	Apex Planning
Owner:	Harrigan Pty Ltd
Responsible Authority:	City of Swan
DAP File No:	DAP/21/02137

## **REPORT RECOMMENDATION**

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



**Moved by:** Cr Mel Congerton

**Seconded by:** Cr Rod Henderson

*With the approval of the mover and seconder, the following amendments were made;*

- (i) That the preamble be amended to read as follows:

**Approve DAP Application reference DAP/21/02137 and Accompanying Plans in accordance with Clause 68 of Schedule No.2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, pursuant to Clause 26(1) of the Metropolitan Region Scheme, and the provisions of Clause 10.3 of the City of Swan Local Planning Scheme No.17, subject to the following conditions:**

**REASON:** To include reference to an approval under the Metropolitan Region Scheme

- (ii) That Condition No. 3 be amended to read as follows:

~~Prior to a building permit being issued, the landowner must contribute a sum of 1% of the total development construction value toward Public Art in accordance with the City of Swan Local Planning Policy for the Provision of Public Art (POL-LP-1.10), by either:~~

- a) ~~Payment to the City of a cash-in-lieu amount equal to the sum of the 1% contribution amount (currently estimated to be \$21,000). This must be paid to the City prior to the date specified in an invoice issued by the City, or prior to the issuance of a building permit for the approved development, whichever occurs first; or~~
- b) **Prior to occupation of any part of the development, install onsite in locations to the satisfaction of the City of Swan, provision of Public Art on-site to a minimum value of the 1% contribution amount (currently estimated to be \$21,000). The following is required for the provision of Public Art on-site:**
- i. ~~the landowner or applicant on behalf of the landowner must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work to the satisfaction of the City in accordance with POL-LP-1.10 and the Developers' Handbook for Public Art (as amended). The City may apply further conditions in regard to the proposed Public Art; and~~
- ii. ~~no part of the approved development may be occupied or used until the Public Art has been installed in accordance with the approval granted by the City; and,~~
- iii. ~~the approved Public Art must be maintained in compliance with the approval granted by the City and any conditions thereof, to the satisfaction of the City.~~

**REASON:** To clarify timing of delivery involved with the two options.



(iii) That Condition No. 4 be amended to read as follows:

*The 'Child Care Premises' is limited to a maximum number of 81 children and 14 staff at any given time, inclusive of centre support staff.*

**REASON:** The condition has been amended to allow the inclusion of part-time staff who attend the site for short periods of time, normally outside peak drop off and pick up periods, and mitigates potential licensing issues created with limiting the maximum number of staff to 14 onsite at any time. City officers accepted the revision.

**Approve** DAP Application reference DAP/21/02137 and Accompanying Plans in accordance with Clause 68 of Schedule No.2 (Deemed Provisions) of the Planning and Development (Local Planning Schemes) Regulations 2015, pursuant to Clause 26(1) of the Metropolitan Region Scheme, and the provisions of Clause 10.3 of the City of Swan Local Planning Scheme No.17, subject to the following conditions:

Conditions

1. This approval is for a 'Child Care Premises' as defined under the City's Local Planning Scheme No.17 and the subject land may not be used for any other use without prior approval of the City.
2. All building works to be carried out under this development approval are required to be contained within the boundaries of the subject lot.
3. The landowner must contribute a sum of 1% of the total development construction value toward Public Art in accordance with the City of Swan Local Planning Policy for the Provision of Public Art (POL-LP-1.10), by either:
  - a) Payment to the City of a cash-in-lieu amount equal to the sum of the 1% contribution amount (currently estimated to be \$21,000). This must be paid to the City prior to the date specified in an invoice issued by the City, or prior to the issuance of a building permit for the approved development, whichever occurs first; or
  - b) Prior to occupation of any part of the development, install onsite in locations to the satisfaction of the City of Swan, provision of Public Art to a minimum value of the 1% contribution amount (currently estimated to be \$21,000). The following is required for the provision of Public Art on-site:
    - i. the landowner or applicant on behalf of the landowner must seek approval from the City for a specific Public Art work including the artist proposed to undertake the work to the satisfaction of the City in accordance with POL-LP-1.10 and the Developers' Handbook for Public Art (as amended). The City may apply further conditions in regard to the proposed Public Art; and
    - ii. the approved Public Art must be maintained in compliance with the approval granted by the City and any conditions thereof, to the satisfaction of the City.
4. The 'Child Care Premises' is limited to a maximum number of 81 children and 18 staff at any given time, inclusive of centre support staff.

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



5. The hours of operation shall be limited to 6.30am to 6:30pm Monday to Friday.
6. A total of 21 on-site car parking bays, constructed in accordance with Australian Standard AS 2890, are to be provided.
7. Vehicle access onto the site shall be restricted to that shown on the approved site plan.
8. The new crossover and two (2) verge parking bays are to be constructed to the City of Swan's specifications.
9. The redundant crossover is to be removed and the verge reinstated prior to occupation. All construction works within the road reserve including crossovers, drainage infrastructure, service adjustment, landscaping and footpath placement or reinstatement, must be built and maintained in accordance with the City of Swan's specifications. Failure to do so may result in these works being removed and reinstated by the City of Swan at the applicant's expense.

At occupancy, the owner is responsible for the maintenance of the crossovers, landscaping and reticulation in the verge.

10. Vehicle parking areas, access and circulation areas must be sealed, kerbed, drained and maintained to the satisfaction of the City, in accordance with the approved plans.
11. Parking Bays No.1 - No.11 as shown on the approved site plan are to be marked for 'Staff Only' and staff shall use these bays before any other bay at the site.
12. That the applicant is to construct structurally suitable protective bollards for the length of the playground as it fronts Amazon Drive and Cherwell Avenue.
13. Prior to the operation of the Childcare Premises the applicant/owner is to install acoustic fencing to the site comprising:
  - a 1.8 metre high timber fence with a minimum 8kg/m<sup>2</sup> surface mass to the Cherwell Avenue and Amazon Drive frontages of the lot, as depicted on the approved plans; and
  - a 1.8 metre high metal fence with a minimum 8kg/m<sup>2</sup> surface mass to those sections of the northern side and eastern rear boundaries of the lot adjoining the car parking area as depicted on the approved plan.
14. An Operational Management Plan is to be prepared by a suitably qualified consultant and submitted to the City for approval prior to a building permit being lodged. The Operational Management Plan shall outline how all noise related recommendations and 'best practice' mitigation measures detailed by the Environmental Noise Assessment (Reference: 21106753-01A) prepared by Lloyd George Acoustics, dated 18 February 2022 will be implemented to achieve compliance with the *Environmental Protection (Noise) Regulations 1997*. This plan is to be to the satisfaction of the City of Swan and shall be maintained and complied with in perpetuity.



15. That a suitably engineered barrier be constructed along the car park wall and to the adjoining property No.1204.
16. There shall be no outdoor play before 7.00am.
17. A refuse bin area adequate to service the development and in compliance with the City of Swan Health Local Law 2002 (Part 4) shall be provided to the satisfaction of the City of Swan before the development is occupied or used.
18. The development must be connected to Water Corporation sewer.
19. The carrying on of the development must not cause dust nuisance to neighbours. Where appropriate such measures as installation of sprinklers, use of water tanks, mulching or other land management systems should be installed or implemented to prevent or control dust nuisance, and such measures shall be installed or implemented within the time and in the manner directed by the City of Swan if it is considered that a dust nuisance exists.
20. Provision must be made for access and facilities for use of people with disabilities in accordance with provisions of the Building Code of Australia and AS 1428.1.
21. No stormwater or deleterious matter shall be discharged from the property into or allowed onto other lands or reserves to the satisfaction of the City of Swan.
22. A detailed drainage plan and calculations is to be submitted for approval at building permit stage.
23. Prior to a building permit being issued, a detailed landscaping plan for the subject site and/or the road verge(s) prepared by a landscaping professional must be submitted to and approved by the City of Swan, and must include the following:
  - a) the location, number, size and species type of existing ground covers, shrubs and trees;
  - b) any existing landscape areas to be retained;
  - c) those areas to be updated, reticulated or irrigated; and
  - d) verge treatments.
24. All landscaping must be completed in accordance with the approved detailed landscaping plan, prior to the occupation of any building. All landscaping is to be maintained onsite to the satisfaction of the City of Swan.
25. Prior to a building permit being issued, an ecologically sustainable development strategy prepared by an ecologically sustainable development professional must be submitted to and approved by the City of Swan.





26. The landowner/developer is to ascertain the location and depth of any services that may interfere with this development. Any adjustment to these services required as part of this approval, must be arranged by the landowner/developer prior to works commencing on the site. Any adjustment must be approved by the relevant service authorities and will be at the landowner/developer's expense.
27. The minimum distance any part of the building can be to the centre of the sewer main running parallel along the inside of a portion of the northern boundary of the site is 0.6m with piling and 1.5m without piling.
28. Any additional development, which is not in accordance with the application (the subject of this approval) or any condition of approval, will require further approval of the City of Swan.

**The Report Recommendation was put and CARRIED UNANIMOUSLY.**

**REASON:** The proposed Child Care Centre meets the City's criteria for locating such uses in residential zoned areas. The plans have undergone amendments through a detailed design review against SPP built environment criteria and as outlined in the Responsible Authority Report, the development has been assessed as satisfying relevant planning requirements and performance standards where discretion is sought. Supporting technical reports concerning traffic impact, provision for onsite parking and noise management have been reviewed and accepted by City officers as satisfying relevant regulatory standards. Measures to mitigate against amenity impacts on surrounding residents are suitably covered in the proposal, as amended, together with appropriate conditions.

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

Nil

**10. State Administrative Tribunal Applications and Supreme Court Appeals**

**10.1 Lots 137 & 138 (238 & 230) and Lot 800 & 3235 (26 & 34) Asturian Drive, Henley Brook**

Development Description: Proposed Educational Establishment  
Summary of Modifications: - Modification to condition 5(b)  
- Deletion of condition 8(c)  
- Modification to condition 8(d)  
- Modification to condition 21  
Applicant: Australian Islamic College (Perth) Inc.  
Owner: Lot 137 and Lot 138 – Australian Islamic College (Perth) Inc – (Director: Hamza Amira)  
Lot 800 (Prev Lot 136) – Thomas Matthews: and  
Lot 3235 – State of Western Australia  
Responsible Authority: City of Swan  
DAP File No: DAP/21/02047



## REPORT RECOMMENDATION

**Moved by:** Ms Sheryl Chaffer

**Seconded by:** NIL

- 1) Recommend that the Metro-Outer Joint Development Assessment Panel (DAP), pursuant to section 31 of the *State Administrative Tribunal Act 2004*, resolve to:

**Reconsider** its decision dated 1 December 2021 and **VARY its** decision for DAP Application reference DAP/21/02047 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 10.3 of the City of Swan Local Planning Scheme No.17, by:

1. Modifying condition 5(b) to read:

*“The proposed bin storage area is to be roofed and constructed generally in accordance with Plan DWG No.20-440-DA15-1 by Marocchi Engineering Group issued 9-2-2022”.*

2. Deleting condition 8(c).

3. Modifying condition 8(d) to read:

*“Make a contribution to the City of Swan for provision of 1.5m wide sealed shoulders to either side of the section of Henley Street between Asturian Drive and Starflower Road through payment of the sum of \$177,239.49”.*

- 2) Not recommend that the Council recommend the Metro-Outer Joint Development Assessment Panel approve the applicant's art concept because it fails to comply with the requirements of the City of Swan Local Planning Policy POL-LP-1.10 Provision of Public Art.

**The Report Recommendation LAPSED for want of a seconder.**



## ALTERNATE MOTION

**Moved by:** Mr Ian Birch

**Seconded by:** Ms Diana Goldswain

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 257 of 2021, resolves to:

**Reconsider** its decision dated 1 December 2021 and **VARY its** decision for DAP Application reference DAP/21/02047 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 10.3 of the City of Swan Local Planning Scheme No.17, by:

1. Modifying condition 5(b) to read:

*“The proposed bin storage area is to be roofed and constructed generally in accordance with Plan DWG No.20-440-DA15-1 by Marocchi Engineering Group issued 9-2-2022”.*

2. Deleting condition 8(c).

3. Modifying condition 8(d) to read:

*“Make a contribution to the City of Swan for provision of 1.5m wide sealed shoulders to either side of the section of Henley Street between Asturian Drive and Starflower Road through payment of the sum of \$177,239.49”.*

4. Modifying condition 25 to read:

*“Prior to occupation of any part of the development the applicant/owner is to install onsite in locations to the satisfaction of the City of Swan, public art comprising three (3) aluminium panels of dimensions 6m x 2.2m and one (1) aluminium panel of dimension 10m x 1.8m each comprising a water jet cut motif in accordance with the concept theme detailed by Tusuf Ahmad in the Artwork concept documentation submitted 8 March 2022.”*

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

For: Mr Ian Birch  
Ms Diana Goldswain

Against: Ms Sheryl Chaffer  
Cr Rod Henderson  
Cr Mel Congerton

**Mr Ian Birch**  
Presiding Member, Metro Outer JDAP



## ALTERNATE MOTION 2

**Moved:** Ms Sheryl Chaffer

**Seconded:** Cr Mel Congerton

**Reconsider** its decision dated 1 December 2021 and **VARY its** decision for DAP Application reference DAP/21/02047 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 10.3 of the City of Swan Local Planning Scheme No.17, by:

1. Modifying condition 5(b) to read:

*“The proposed bin storage area is to be roofed and constructed generally in accordance with Plan DWG No.20-440-DA15-1 by Marocchi Engineering Group issued 9-2-2022”.*

2. Deleting condition 8(c).
3. Modifying condition 8(d) to read:

*“Make a contribution to the City of Swan for provision of 1.5m wide sealed shoulders to either side of the section of Henley Street between Asturian Drive and Starflower Road through payment of the sum of \$177,239.49”.*

### **The Alternate Recommendation 2 was put and CARRIED (3/2)**

For: Ms Sheryl Chaffer  
Cr Rod Henderson  
Cr Mel Congerton

Against: Mr Ian Birch  
Ms Diana Goldswain

**REASON:** While accepting certain revisions achieved through SAT mediation, by majority, the Panel was not satisfied that the requested amendment to Condition 25 adequately addressed Council’s policy LP 1.10 Provision of Public Art.

## 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 10:55am.