

## Addendum

Responsible Officer:	Acting Manager Statutory Planning, Mark Scarfone
Date of Meeting:	19 April 2022
Meeting of the:	Ordinary Meeting of Council
Item:	P22-3977 Adoption of Amendment No.13 to Local Planning Scheme No.6 – Childcare Premises

### DETAIL

Amendment No.13 to Local Planning Scheme No.6 was advertised via the City's engagement portal 'Melville Talks' as well as via newspaper ads from 13 January 2022 – 25 February 2022. In this time a number of comments in support of the amendment were received by the City. On 6 April 2022, a late submission from a planning consultant acting on the behalf of a childcare provider was received. Citing Clause 50(2)(a) from the *Planning and Development (Local Planning Scheme Regulation 2015)*, the consultant has requested that their submission be reviewed as part of the Scheme Amendment. Clause 50(2)(a) allows for the local government to consider late submissions for scheme amendments within 60 days of the advertising period concluding.

The submission is as follows and is provided in this addendum for your consideration:

We act for:

- Kintail Partners Pty Ltd, who own the land situated at Lot 125 (No.488) Canning Highway, Attadale ('Attadale Site'); and
- Land Holding Three Pty Ltd, who own the land situated at Lot 300 (No.3) Worley Street, Willagee ('Willagee Site').

These entities own and operate Child Care Centres.

#### Attadale Site

In November 2021, the Development Assessment Panel ('DAP') granted Development Approval for a Child Care Centre on the Attadale Site.

This Application was supported by technical reports demonstrating that the proposed development would not have any adverse impacts on the area and / or site users as a result of traffic fumes, excessive noise levels and road safety risks.

The Application was recommended for approval by the officers of the City and despite the Elected Members subsequently recommending refusal, the DAP granted the Development Approval having regard to all relevant considerations.

### Willagee Site

An Application for Development Approval for a Child Care Centre on the Willagee Site is scheduled to be determined by the Development Assessment Panel on Thursday 13 April 2022.

This Application is also supported by technical reports demonstrating that the proposed development will not have any adverse impacts on the area and / or site users as a result of traffic fumes, excessive noise levels and road safety risks.

This Application was also recommended for approval by the officers of the City, however, at the Special Council meeting held on Monday 4 April 2022, the Elected Members resolved to recommend that the DAP refuse the Application for the reason that Amendment 13 to the City's Local Planning Scheme proposes that Child Care Centres be designated as 'X' uses within the Residential zone where abutting Primary Regional Roads under the Metropolitan Region Scheme.

### Amendment 13

We note Amendment 13 was advertised for comment from 13 January 2022 to 25 February 2022.

Our client would have lodged an objection during advertising if they had known that Amendment 13 was being advertised at that time. We understand the Amendment was advertised on the City's website in accordance with the Planning and Development (Local Planning Scheme) Regulations ('Regulations') but no consultation was undertaken with representatives of the Child Care industry. Whilst there is no requirement to do this under the Regulations, it may have provided the City with a more balanced view of the Amendment.

We note the reasoning behind the Amendment is explained on the City's website as follows:

*This amendment is in response to community and Council concerns on the impact to children's health and safety when childcare centres are located on busy roads.*

Our client objects to the Amendment for the following reasons:

- The reason behind the Amendment is flawed. The Amendment does not seek to protect the amenity of residential areas but is based on a "*concern*" that Child Care Centres located on busy roads will impact children's health and safety. The Amendment is not supported by any technical data to back-up this "*concern*". The Amendment will totally prohibit Child Care Centres from being established on major roads and prevents a decision-maker from even being able to consider the merits of an individual development proposal.
- The City recently amended its Child Care Centres Local Planning Policy to require that consideration be given to child health and safety issues where sites abut Primary Regional Roads. For both of our client's sites, technical data is provided to demonstrate that the developments will not have any adverse impacts with respect to traffic, noise and health. This approach allows for a merits-based assessment of each development proposal, with child health and safety impacts weighed up against residential amenity impacts.
- The Amendment will severely restrict the availability of land for the establishment of Child Care Centres in close proximity to the residential areas that they are designed to serve. Child Care is an important activity that allows parents to return to work. Severely restricting the supply of land for the establishment of Child Care Centres will simply reduce accessibility to, and the affordability of, child care services.



- The Amendment will result in greater pressures to establish Child Care Centres in other locations, including in the 'core' of the residential neighbourhoods rather than on the 'periphery'. This will potentially result in greater impacts on the amenity of those neighbourhoods, thereby reducing the likelihood of child care centres being approved in such locations.
- In turn, this will force Child Care Centres to locate in the various Centre zones under the Local Planning Scheme, where land values are higher and limited land is available for the establishment of Child Care Centres. This will further reduce accessibility and affordability of child care services.
- The majority of these Centres are located on the same Primary Regional Roads that are the subject of Amendment 13, and where Child Care Centres are actually designated as Permitted or Discretionary uses under the Local Planning Scheme (C3 and C4 Centres) or the adopted Centre Structure Plans (C2 Centres). This is another reason why we say that Amendment 13 is flawed.
- Amendment 13 is inconsistent with the City's Local Planning Strategy, which seeks to maximise development along activity corridors and public transport corridors.
- Amendment 13 is inconsistent with the Objective of the Residential zone to "*provide for a range of non-residential uses, which are compatible with and complementary to residential development to promote sustainable residential development.*"

In accordance with Regulation 50 of the Regulations, the local authority may, at its discretion, consider submissions lodged on an Amendment after the end of the Submission Period (25 February 2022) but before the end of the Consideration Period (26 April 2022), being 60 days after the end of the Submission Period.

We hereby request the City to consider this Submission lodged during the Consideration Period.