

**NO. 2C (LOT. 1) MATHESON ROAD, APPLECROSS WA 6153 –
PROPOSED CHILD CARE PREMISES**

**Form 1 – Responsible Authority Report
(Regulation 12)**

DAP Name:	Metro Inner South JDAP	
Local Government Area:	City of Melville	
Applicant:	Mr Alan Stewart, Stewart Urban Planning Pty Ltd	
Owner:	Love Investment WA Pty Ltd, Atkinson Investment WA Pty Ltd	
Value of Development:	\$2.2 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
Responsible Authority:	City of Melville	
Authorising Officer:	Steve Cope: Director Urban Planning	
LG Reference:	DAP-2020-8	
DAP File No:	DAP/20/01905	
Application Received Date:	24 November 2020	
Report Due Date:	17 February 2021	
Application Statutory Process Timeframe:	90 Days with an additional 8 days	
Attachment(s):	1. Planning Report (November 2020) 2. Additional Planning Comments (January 2021) 3. Development Plans (January 2021) 4. Traffic Impact Statement (January 2021) 5. Operational Management Plan (January 2021) 6. Environmental Acoustics Assessment (January 2021) 7. Landscaping Plan (November 2020) 8. Waste Management Plan (November 2020) 9. Main Roads Western Australia Referral Response (December 2020)	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> N/A	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner South JDAP resolves to:

1. **Refuse** DAP Application reference DAP/20/01905 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 Melville Local Planning Scheme No. 6, for the following reasons:

Reasons

1. The proposed development does not meet the requirements of Clause 3.1 and 8.0 of the City of Melville's *Local Planning Policy 1.12 Child Minding Centres and Family Day Care*, being within an unsuitable location.
2. The proposed development is not consistent with the objectives of City of Melville Local Planning Scheme No. 6 and the City of Melville Local Planning Strategy which generally promote increased intensity in and around existing centres and aim to limit the introduction of non-residential land uses in suburban residential settings.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban
Local Planning Scheme	City of Melville Local Planning Scheme No. 6
Local Planning Scheme - Zone/Reserve	Residential R40/Primary Regional Road
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Child Care Premises – 'A' Use
Lot Size:	1017.00m ²
Existing Land Use:	Single House (to be demolished)
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

Development Description:

Proposed Land Use	Child Care Centre
Proposed Net Lettable Area	730.61m ²
Proposed No. Storeys	2
Proposed No. Dwellings	N/A

The application proposes the redevelopment of the site to provide a two storey child care premises. The application site is located on the corner of Matheson Road, Cunningham Street and Canning Highway. The proposed development comprises:

- A building which is designed to accommodate 67 children and 15 staff members. It comprises of 257 square metres of indoor play areas, 473 square metres of outdoor play areas and the associated amenities spread over two storeys;
- 16 car bays will be provided on the ground floor to service the proposed child care centre;
- The facility is proposed to operate from 6:30am – 7pm Monday to Friday.

Background:

The application site, Lot 1 (No. 2C) Matheson Road, Applecross, is located at the intersection of Canning Highway, Cunningham Street, and Matheson Road. The property shares a boundary with another dwelling to the northeast, with other residential properties located to the northwest and southeast and Wireless Hill Park to the southwest. The subject site abuts Canning Highway which is designated as a Primary Regional Road Category 2. Canning Highway is a high frequency bus transport route. The closest centre, the Riseley Centre, is located approximately 340m away from the subject site to the northeast.

The built form surrounding the subject site is primarily residential comprising of one and two storey single houses and grouped dwellings, consistent with the Residential R40 zoning of the land.



Figure 1: Aerial Image of the subject site

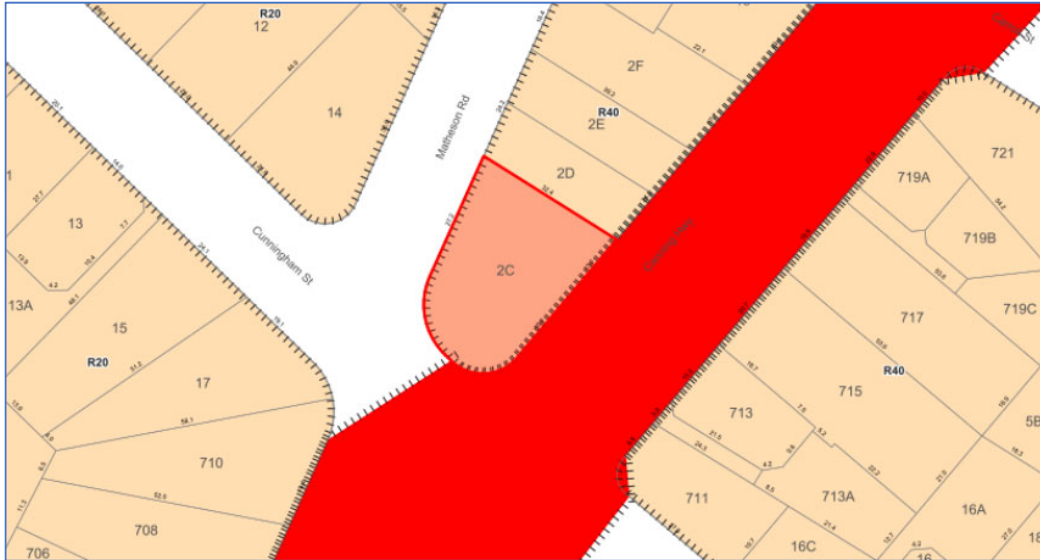


Figure.2: Local Planning Scheme No. 6 – Zoning – Beige represents the Residential Zone R40 represents the density coding of the area. The Canning Highway Road Reservation is represented in red.

Legislation and Policy:

Legislation

- Planning & Development Act 2005
- Metropolitan Region Scheme (MRS)
- Planning & Development (Local Planning Schemes) Regulations 2015
- City of Melville Local Planning Scheme No. 6

State Government Policies

- SPP5.4: Road and Rail Noise
- SPP7.0: Design of the Built Environment
- SPP7.3: Residential Design Codes Volume 1

Local Planning Policies

- LPP1.1: Planning Process and Decision Making;
- LPP1.3: Waste and Recyclables Collection for Multiple Dwellings, Mixed Use and Non-Residential Developments;
- LPP 1.6 Car Parking and Access;
- LPP1.9: Height of Buildings;
- LPP1.10: Amenity;
- LPP1.11 Canning Highway Precinct Design Guidelines;
- LPP1.12 Childcare Premises; and
- LPP2.1 Non Residential Development

Consultation:

Public Consultation

In accordance with *Local Planning Policy 1.1 - Planning Process and Decision Making* (LPP1.1), a 14 day advertising period is required for an application of this type however the application was advertised for a period of 26 days commencing 16 December 2020 and concluding 11 January 2021. The additional days were provided to account for public holidays over the Christmas and New Year period. Consultation was undertaken via written correspondence to the owners/occupiers of the adjoining properties, an advertising sign on site and publication of the development plans and supporting documents on the City's online engagement portal 'Melville Talks'.

Comment was sought on the proposed development in relation to:

- Land use of Child Care Premises which is an 'A' (discretionary) use in the Residential zone; and

A total of 35 individual submissions were received during the advertising period – all comments objecting to the proposal. Two separate petitions were received with a total of 121 unique signatures signed by residents against the proposal. This will be presented to the February 2021 Ordinary Meeting of the Council.

A summary of the concerns raised, along with the officer's comments, is tabled below:

Issue Raised	Officer comments
Inappropriate location which does not satisfy the provisions in LPP1.12 Child Minding Centres and Family Day Care and is not suitable in a residential context	Noted: This is discussed in detail with the Land Use section below in relation to LPS6 and LPP 1.12 <i>Child Minding Centres and Family Day Care</i>
Adverse traffic implications, specifically increasing the likelihood of accidents at the intersection and traffic congestion along surrounding roads	Noted: A Traffic Impact Statement and Parking Management Plan have been provided by the applicant. This is discussed in detail below under Traffic section.
Concerns that there is insufficient parking, and the tandem parking design is not practical. No drop off/pick up bays provided	Noted: The total number of car parking bays for this land use complies with the minimum amount required by Local Planning Policy 1.6 Car Parking and Access. The use of tandem bays is accepted in principle as an appropriate outcome in this case. If approved, the development will operate in accordance with a Parking Management Plan and Operational Management Plan which will highlight the correct operational procedures for the tandem bays. See the officer comments below for further detail.
Adverse noise implications to adjoining properties as a result of the children in open play areas	Noted: An Environmental Acoustics Assessment (EAA) and Parking Management Plan have been submitted in support of the development. The EAA has been reviewed by officers from the City's

	<p>Environmental Health Services and is considered satisfactory. If the decision maker chooses to approve the development a condition of development approval would be recommended to ensure the development operates in accordance with the recommendations of the EAA at all times.</p> <p>This will be discussed in detail in the internal referral section below.</p>
<p>Unsafe conditions for children being within close proximity to large volume of vehicles.</p>	<p>Noted: An Operational Management Plan has been provided by the applicant. The built form outcome is considered an appropriate outcome in this case. If approved, the development will operate in accordance with a Operational Management Plan which will highlight the correct operational procedures overseeing the children in attendance.</p>
<p>Concerns of odour from waste onto neighbouring properties</p>	<p>Noted: The proposed area of storage for waste has been reviewed by officers of the City's Waste Services team and has been deemed satisfactory.</p>

Main Roads WA

The application was referred to Main Roads WA (MRWA) for review and comment. MRWA has no objections to the application subject to a number of conditions being imposed relating to road widening, acoustic considerations and building management matters. Refer to Attachment for their comments.

City of Melville Internal Referrals

The assessment process undertaken included referrals to several internal departments for review of the technical information provided by the applicant. All City of Melville service areas have expressed that they are supportive of the development subject to the imposition of appropriate conditions.

Planning Assessment:

The table below details the matters which require a performance assessment, the applicable planning controls, a brief description of the proposal and an officer comment.

Development Requirement or Design Element	Deemed to Comply	Proposal	Officer Comment
<u>Building Design</u>			
<p><i>SPP 7.0</i></p> <p><i>LPP 1.11 Canning Highway Precinct Design Guidelines & LPP2.1 – Non-Residential Development</i></p> <p><i>LPP 1.12 Child Minding Centres and Family Day Care</i></p>	Orientated towards the corner	Building mass focused on the corner towards Cunningham Street away from the abutting residential	Recommended for support . See planning assessment below under 'Design' section for further details.
	Well-articulated	External appearance is articulated and finished with like materials and colours to the residential palette	
	Street level activation with passive surveillance Development responds appropriately to the surrounding residential context	Development is considered to meet the relevant deemed to comply, or design principles of the R-Codes	
<u>Land Uses</u>			
<p>Table 3 of LPS6</p> <p><i>LPP 1.12 Childcare Premises</i></p> <p><i>LPP 1.10 Amenity</i></p> <p><i>Local Planning Strategy</i></p>	<p>Preferred land uses are outlined within LPS6 These include a range of land uses expected in a residential zone</p> <p>Encourage activity and intensity in and around centres while ensuring minimal change to existing suburban areas.</p>	Child Care Premises – 'A' use	Not Recommended for support d. See planning assessment below under 'Land Use' section for further details.

Development Requirement or Design Element	Deemed to Comply	Proposal	Officer Comment
<u>Parking</u>			
<i>LPP1.6 Car Parking and Access (Non-Residential)</i>	Total Required car parking bays (14.2) 14 bays	17 bays	Recommended for support . Car parking is considered to meet with the relevant provisions of the City's Car Parking Policy. See planning assessment below under 'Parking' section for further details.
	One drop off/pick up area	Not provided	
	One service bay	Not provided	
<i>SPP7.3 Volume 1 – Clause 5.3.7 Site Works and Clause 5.3.8 Retaining Walls</i>	No more than 0.5 metres between the street and building, or within 3m of the street alignment, whichever is lesser	Maximum excavation of 1.38 metres on secondary street boundary	Recommended for support. The proposal is considered to meet the Design Principles of the R-Codes for the following reasons <ul style="list-style-type: none"> • The site works respond to the natural contours of the sit and allows for safe pedestrian and vehicle access; • The site works and retaining does not cause any visual privacy or overshadowing issues; • The site works reduce the bulk impact of the building when viewed from Canning Highway while the building maintains adequate levels of streetscape surveillance.

Development Requirement or Design Element	Deemed to Comply	Proposal	Officer Comment
<i>LPP 3.1 – 1. Street Setback Clause 2.2 (iii)</i>	<p>Secondary Street Setbacks for properties within a density coding of R30 or greater:</p> <p>Minimum – 1m Average – 1.5m</p>	<p>Ground Floor Minimum – 0m Average – 1.7m</p> <p>First Floor Minimum – 1.1m Average – 1.8m</p>	<p>Recommended for support . The proposal is considered to meet the Design Principles of the R-Codes for the following reasons;</p> <ul style="list-style-type: none"> • The building is well articulated, incorporating a range of materials, awnings and fenestration and will contribute positively to the street.
<i>LPP 1.12 Child Minding Centres and Family Day Care Clause 8.0 Hours of Operation</i>	<p>Where a Child Care Premise is located adjacent to a property used for residential purposes, the hours of operation of the premise are limited to 7am to 7pm Monday to Friday and 8am to 7pm during weekends.</p>	<p>The facility is proposed to operate from 6:30am – 7pm for staff and 7am – 6:30pm for customers Monday to Friday, excluding public holidays.</p> <p>The facility is not proposed to operate on weekends.</p>	<p>Not Recommended for support . See planning assessment below under 'Land Use' section for further details.</p>

Officer Comments:

Design

The subject site is zoned Residential with a density coding of R40. As noted above, the site is located within an established residential area generally comprising of single and two storey dwellings.

A range of development controls apply to the site, including the R-Codes, *Local Planning Policy 1.19 Height of Buildings* and *Local Planning Policy 1.11 Canning Highway Precinct Design Guidelines*. The latter policies acknowledge the intense character of Canning Highway and provide specific height controls and objectives to ensure future development is of a high quality and responds well to the street.

In accordance with the provisions of LPP1.12, where a child care premises is located within a Residential zone, the design and resultant built form is required to be assessed against the

relevant provisions of the R-Codes, particularly in terms of open space, lot boundary setbacks, visual privacy and overshadowing. It is the expectation of this policy that child care premises are designed to be compatible with the surrounding built form.

Due to the site characteristics, the shadow cast at midday on 21 June falls towards the street, primarily Canning Highway, and does not impact on any other properties. Open space and visual privacy meet the deemed-to-comply provisions of the R-Codes and the building is considered to have been setback appropriately from surrounding properties, meeting the relevant design principles. The surrounding dwellings include a number of two storey homes of varying styles. These buildings are generally constructed with minimal side setbacks as permitted by the R-Codes. The proposed development provides for good separation to the closest residential property, the impact of the car parking on the streetscape is minimised through built form elements and landscaping and the façade treatment is similar to that of a contemporary residential dwelling.

The proposed development is considered to be of a high quality, consistent with the relevant planning framework and is therefore supported in principle with respect to its design.

Car Parking

In accordance with Clause 7.1 of LPP 1.12 *Child Care Premises and Family Day Care*, parking for child care premise is required to be assessed having regard to LPP 1.6 *Car Parking and Access*, which requires 6.7 bays for 67 children and 7.5 bays for 15 staff, totalling at 14.2 (14) bays. In addition to the, LPP 1.6 requires a pick up drop off area to be provided to the satisfaction of the City. The applicant has identified that it is impractical to provide a pick up and drop off area for children as they need to be signed into the premises each morning. Rather than providing a pick up/ drop off space, an additional two car parking bays have been provided along with a parking management plan to detail how the spaces will be managed through the day.

The development provides a total of 16 bays – eight bays for visitors, eight bays for staff and one ACROD bay. The parking proposed is contained wholly within the lot boundaries. This parking provision is considered to meet the requirements of LPP 1.6 and is supported on that basis.

Contrary to the provisions under LPP1.6 Clause 8.1(a) which requires vehicle access via the secondary streets or right of ways where available, the main entrance is accessed from the designated primary street (Matheson Road). The proposed vehicle entrance location still is considered appropriate as Main Roads WA would not support a new crossover to Canning Highway and a crossover on Cunningham Road would be located too close to the intersection. The proposed crossover location maximises the distance to the intersection and is considered appropriate to maintain vehicle safety.

The City's technical officers have reviewed the Parking Management Plan and agree with the recommendations relating to the number of parking bays and the parking arrangement provided.

The proposed car parking is considered to be appropriate for the site. In terms of car parking, the proposed development is therefore supported in principle.

Traffic

As described above, the proposed parking and vehicle access is considered to meet the requirements of LPP 1.6

A traffic impact assessment was provided by the applicant in support of the proposed development. The findings of the TIS are summarised as follows:

- The development is expected to generate a maximum of 298 vehicular trips a day and 54 during peak periods;
- Matheson Road currently carries approximately 1660 vehicle movements per day, below the maximum desirable volume of 3000 vehicles per day for this type of road.
- The road will continue to operate below the maximum desirable volume once the child care premises is operational; and
- Vehicles are likely to disperse in a range of directions ensuring the impact of additional traffic is minimal.

The assessment process undertaken included a referral to the City's engineering department for review of the technical traffic information provided by the applicant. The City's traffic officers have expressed that they are supportive of the development subject to the imposition of appropriate conditions relating to traffic and its management during the construction stage and after the development's completion.

Land Use

Under the provisions of Table 3 – Zoning Table of the City of Melville's *Local Planning Scheme No 6* (LPS6), a 'Child Care Premises' is an 'A' use. An 'A' use means that the use is not permitted unless the decision maker exercises its discretion by granting approval after advertising in accordance with Cl.64 of the deemed provisions. In considering the discretionary nature of the uses proposed, it is necessary to take into consideration not just the land use table in LPS6, but also the aims of LPS6, zone objectives table of LPS6, the City of Melville Local Planning Strategy, and any relevant state and local planning policies. In this regard *LPP 1.12 Child Minding Centres and Family Day Care* (LPP 1.12) is particularly pertinent.

The aims of LPS No.6 as described in Clause 9 are wide ranging and are summarised as follows:

1. to maintain and improve the quality of life while implementing the aims of the Local Planning Strategy and any other relevant planning documents;
2. to encourage vibrant and diverse centres with a wide range of employment opportunities and a range of uses; and
3. to accommodate commercial development which encourages the reduction of private vehicle trips and to promote local trips being made on foot or by bicycle;

Furthermore in relation to point 1, one of the aims of the City of Melville's adopted Local Planning Strategy, is to, encourage the concentration of non-residential uses in and around activity centres while limiting change in residential areas.

While the proposed child day care centre can be supported in terms of design, parking and traffic, the location is not considered to meet the aims of the scheme or the local planning strategy. The proposed location in an existing residential area which is currently free from commercial development is considered inappropriate as it is likely to reduce the residential

amenity of this location and potentially encourage other commercial operators to pursue business opportunities along this stretch of Canning Highway. While other stretches of Canning Highway accommodate a mix of commercial and residential uses, the northern section from Dunkley Avenue to Conon Road is almost entirely residential. On the southern side of Canning Highway the situation is similar with Norma Street to Carroll Street almost entirely Residential, the presence of Wireless Hill in this southern section ensures that the area retains a strong residential character.

The colocation of commercial land uses as encouraged by LPP1.12, results in the potential for multiple activities to be undertaken in one location, meaning those in vehicles can park once and walk to a range of uses, reducing traffic congestion. The proposed location is away from other commercial activities or a local school and therefore the proposal is considered inconsistent with the objectives of Local Planning Scheme No. 6, and LPP 1.12.

As stated above, the objectives of the Residential Zone relevant to this development need to be taken into account when considering an ‘A’ use. These are as follows;

1. *To facilitate and encourage high quality design, built form and streetscapes throughout residential areas;*
2. *To provide for a range of non-residential uses, which are compatible with and complementary to residential development to promote sustainable residential development; and*
3. *To maintain the compatibility with the general streetscape, for all new buildings in terms of scale, height, style, materials, street alignment and design of facades.*

As detailed in the ‘Design’ section of the report above, the proposed development is of a high quality design having regard to the relevant provisions of the local planning framework and as such is considered consistent with Objectives 1 and 3 above. In relation to Objective 2, the City has had regard to Clause 3.1 and the policy objective of LPP 1.12.

The policy objective of LPP1.12 relevant to this development is as follows;

To provide for the establishment of child care and family day care premises within the City of Melville, whilst ensuring that their location, siting and design is compatible with the surrounding built form, and avoids significant adverse amenity impacts.

The surrounding built form the subject site is established residential, primarily comprising of one and two storey single dwellings, consistent with the Residential R40 zoning of the land.

The preferred locational characteristics for child care premises detailed in Clause 3.1 and officer comments are referenced in the table below.

Location Criteria	Comment
Corner sites – to improve the ability for access and to limit the impacts upon adjoining residential properties	The proposed development is located on the corner of Canning Highway, Cunningham Street and Matheson Road.
Located close to, or abutting shopping centres, workplaces, schools, community facilities, public open space and civic facilities	Whilst the application site is located in close proximity to Wireless Hill Park, it is however separated by Canning Highway. Wireless Hill is reserved as ‘Parks and recreation’ under the MRS and extends some 650m abutting Canning Highway on the southern side.

	<p>The existence of Wireless Hill ensures that the opportunity for new non-residential land uses to encroach within this residential zone on the north side is limited, thereby safeguarding the residential integrity of the locale.</p> <p>The proposed childcare centre is not located close to the land uses expected by the LPP, there being no centre, school, workplaces, community or civic facilities nearby. As stated the subject site is located approx. 340m from the closest centre (Riseley Centre).</p>
Well served by footpaths, dual access paths and public transport.	There is a footpath which runs along each street frontage. Canning Highway is a high frequency bus route with a stop located immediately outside the lot on Canning Highway.
Adequate size to provide suitable areas of play space and parking.	The open space provided by this centre is compliant as per the <i>Child Care Services Act 2007</i> . The amount of parking bays is considered satisfactory with the City LPP 1.6 Car Parking and Access parking requirements.
Located on Local Distributor and District Distributor Roads.	The proposed development is located on the corner of Canning Highway, Cunningham Street and Matheson Road. Canning Highway is a Primary Regional Road. Neither Matheson Road or Cunningham Street are distributor roads.

While the proposed development meets a number of the preferred locational characteristics outlined by LPP 1.12 the subject site does not abut nor is it, within close proximity, to any of the City's activity centres, shopping centres, workplaces, schools, community facilities or civic centres and this is considered to be the key factor in the assessment of this proposal.

As described above the City of Melville Local Planning Strategy, to be read in conjunction with LPS 6, encourages the concentration of non-residential uses in and around activity centres while limiting change in residential areas. The proposed development would introduce a non-residential land use into a residential locality that is absent of any existing commercial activity. For this reason, the use is considered to be incompatible with the established residential context, and is not supported. Approval of the proposed development is considered likely to set an undesirable precedent and encourage growth outside of activity centres which would undermine the principles of LPS No.6 and the Local Planning Strategy.

Given the aforementioned, City considers that the proposed development fails in respect of suitable locality and recommends that the development application is refused on these grounds.

Conclusion:

The proposal has been assessed against the requirements of SPP7.3 and the City's local planning policies. Whilst the applicant has demonstrated that the application meets the City's design requirements for child care premises, the proposed land use is not supported in this residential location.