



Western Australian Planning Commission

Minutes

Meeting No. 20
Thursday, 17 November, 2022

- Members:** David Caddy - Chairman WAPC
Anne Arnold - Professions Representative
Jane Bennett - Professions Representative
Helen Brookes - Coastal Planning and Management Representative
Emma Cole - Metropolitan Local Government Representative
Lynne Craigie - Nominee of the Regional Minister
Anthony Kannis - Director General, Department of Planning, Lands and Heritage
Caroline Knight - Local government representative – non-metropolitan
Justin McKirdy - Urban and Regional Planning Representative
- Observers:** Damien Hills - Department of Water and Environmental Regulation
- Apologies:** Michelle Andrews - Director General, Department of Water and Environmental Regulation.
Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation
Barry McGuire - Professions Representative
Mike Rowe - Director General, Department of Communities
Peter Woronzow - Director General, Department of Transport
- Others present:** Inga Butefisch - Principal Media Advisor, Communications
Alex Campbell - Senior Planning Officer, Reform, Design and State Assessment
Zoe Davidson – Commission Support Officer
Michael Daymond - Strategic Advisor WAPC
Paola Di Perna - Planning Director, State Development Assessment Unit, Reform, Design and State Assessment
Sam Fagan - Manager Commission Business
Michelle Sanfilippo – Team Leader, Commission Support
Rebecca Waghorne - Director Communications and Engagement
- Applicants and Submitters:** Mark Aronson - Maarch Architects
Dinu Ekanayake - Roshana Group
Nik Hidding - Hidding Urban Planning

There was one member of the public in attendance

1. Declaration of opening

The Chairman declared the meeting open at 2:01pm, acknowledged the peoples of the Noongar nation as the traditional owners and custodians of the land on which the meeting is taking place and welcomed members and members of the public. The Chairman paid respect to elders past and present, and extended solidarity and hope for a just and dignified future for us all.

The Chairman provided an introductory statement as follows:

This meeting of the Commission is to determine a request to amend an application previously considered and approved by the Commission as a significant development under Part 17 of the *Planning and Development Act 2005*.

The application under consideration today is a Form 17C application seeking to amend an aspect of the approval issued by the Commission on 25 March 2021.

Part 17 grants the Commission temporary decision-making powers to determine proposals that can generate investment in the State to assist with economic recovery as we respond to the global COVID-19 pandemic.

A major premise of Part 17 of the legislation is that it bestows upon the Commission a perceived unlimited level of discretion with respect to an application. I wish to point out that today, the Commission is not being asked to exercise a discretion that would not normally be available to a decision maker.

As with any planning application, the Commission has the option to:

- approve the application;
- defer determination pending further information; or
- refuse the application.

Town planning case law, including decisions by the State Administrative Tribunal (SAT), provides general guidance for the assessment of applications seeking to extend the substantial commencement period through a range of considerations

including:

1. whether modifications, regardless of the nature/extent, have occurred to the planning framework since the development approval was granted;
2. whether the development is capable of approval; and
3. whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

The SDAU has formed the view that the applicant has demonstrated that steps have been taken to progress the development, and as such addresses any potential concerns whether the developer was attempting to “warehouse” the approval which would be inconsistent with the intent of the Part 17

pathway. It is however up to the Commission to form a similar or contrary view in determining the application.

I wish to advise observers that Commission members may refer to technical devices, such as phones and laptops, throughout the meeting to assist them in considering the information before them.

This meeting is not being recorded and I advise all participants that you are not permitted to use any electronic, visual or audio recording device or instrument to record this meeting.

On behalf of the Commission, the Department of Planning, Lands and Heritage will respond to any media enquiries relating to this application, or the process, in consultation with the Minister for Planning's office.

2. Apologies

Michelle Andrews - Director General, Department of Water and Environmental Regulation. Damien Hills observing.

Rebecca Brown - Director General, Department of Jobs, Tourism, Science and Innovation

Barry McGuire - Professions Representative

Mike Rowe - Director General - Department of Communities

Peter Woronzow - Director General, Department of Transport

3. Disclosure of interests

Nil.

4. Declaration of due consideration

All members indicated that they had received and considered the agenda items prior to the Western Australian Planning Commission Part 17 meeting.

5. Deputations and presentations

5.1 16, 18 & 20 Duncan Street, Victoria Park - Application to amend a Development Approval (Form 17C) – Extension to Substantial Commencement (Item 7.1)

Presenters: Nik Hidding - Hidding Urban Planning, Mark Aronson - Maarch Architects and Dinu Ekanayake - Roshana Group

Mr Hidding presented to the Western Australian Planning Commission on behalf of Hidding Urban Planning, acting for Burswood Care Pty Ltd, the owner of the land at 16-20 Duncan Street, Victoria Park and the Roshana Care Group, the intended operator of the approved Residential Aged Care Facility, in support of the Application to amend a Development Approval (Form 17c) Extension to Substantial Commencement - 16,18 and 20 Duncan Street, Victoria Park.

Members queried when the Midland facility will be completed to house the mental health patients currently residing at the subject site Mr Hidding advised that it was scheduled to be completed earlier this year, however it is now expected to be completed in early 2023, at which

time mental health patients can be transferred, the buildings on the subject site can be demolished and construction can commence for this project.

6. Presentation of key issues by the Department of Planning, Lands and Heritage

Presenter: Paola Di Perna - Planning Director, State Development Assessment Unit

Ms Di Perna, Planning Director of the State Development Assessment Unit presented the key issues and considerations of the application at Item 7.1.

Ms Brookes joined the meeting at 2:13 pm.

7. Item/s for decision

7.1 16, 18 & 20 Duncan Street, Victoria Park - Application to amend a Development Approval (Form 17C) – Extension to Substantial Commencement

Members agreed to endorse the recommendation of the Department of Planning, Lands and Heritage.

Moved by Mr McKirdy
Seconded by Mayor Cole

That the Western Australian Planning Commission resolves to APPROVE an application to amend development approval reference SDAU-024-20 for a Residential Aged Care development at 16, 18 and 20 (Lots 177, 178 and 179) Duncan Street, Victoria Park, in accordance with s.279 of the Planning and Development Act 2005, with the following amended condition:

Amended Condition:

Condition 1 of the Approved of Form 17B Significant Development Application dated 8 April 2021 (SDAU-24-020) is amended to read:

- 1. This decision constitutes planning approval only. If the development is not substantially commenced on or before 30 November 2024, the approval shall lapse and be of no further effect.*

The motion was put and carried

8. State Administrative Tribunal applications

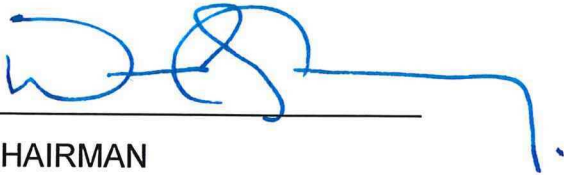
Nil.

9. General business

Nil.

10. Meeting closure

There being no further business before the Board, the Chairman thanked members for their attendance and declared the meeting closed at 2:14pm.

A handwritten signature in blue ink, consisting of a stylized 'W' followed by a large loop and a long horizontal stroke ending in a small hook.

CHAIRMAN

23.11.22

DATE