

13 February 2024

State Administrative Tribunal
GPO Box U1991
PERTH WA 6845

Attention: Member Rochelle Lavery

Dear Rochelle

**APPLICATION FOR REVIEW OF DECISION (AMENDED PLANS – RECONSIDERATION)
ADDITIONS & ALTERATIONS TO EXISTING RESTAURANT/CAFÉ (LITTLE H CAFÉ)
LOT 702 (No.24/34) MARRI ROAD, DUNCRAIG
CITY OF JOONDALUP
(REF: DR153/2023)**

Reference is made to the outcome of the Mediation Hearing held on 19 December 2023 and subsequent Orders issued by the State Administrative Tribunal regarding the abovementioned application wherein it:

- 1. The applicant is to provide additional information as discussed at mediation to the respondent by 5 February 2024.*
- 2. Pursuant to s 31(1) of the State Administrative Tribunal Act 2004 (WA) the respondent is invited to reconsider the decision on or before 6 May 2024.*
- 3. The matter is listed to a directions hearing to be conducted by teleconference at 9.30am on 10 May 2024.*

Having due regard for the above Orders, additional information (including revised patronage numbers and floor plan) and a car parking survey have been prepared in support of the application for the Tribunal and City of Joondalup's consideration (see copy attached herewith). It is contended that the revised proposal has followed the direction of the discussions held between the parties at the Mediation Hearing on 19 December 2023 in that it addresses the key concerns raised by the City in regard to car parking demand generated by the existing café on the subject land.

In light of the above, the following information is provided in support of the application for consideration by the Tribunal and the City of Joondalup:

BACKGROUND

The subject land is located on the south-eastern corner of the intersection of Marri Road and Cassinia Road, within the Duncraig Activity Centre. The Activity Centre contains a wide range of services including retail uses, entertainment uses, a primary school and private recreation uses. It should be noted that the activity centre does not comprise any public car parking that is typically found within similar centres throughout the Perth Metropolitan Area.

The subject land has been developed to accommodate a three (3) storey mixed use development, with non-residential uses on the ground level ('Educational Establishment' 'Restaurant/Café' & 'Private Recreation'), twenty (20) multiple dwellings on the upper levels and an undercroft/basement level comprising on-site car parking. This application relates to Unit 24, which has been approved for 'Restaurant/Cafe' purposes and is operated by 'Little H Café'.

The subject land is classified 'Commercial' zone under the City of Joondalup's current operative Local Planning Scheme No.3 (LPS No.3). Under the terms of the City's LPS No.3 the use of land classified 'Commercial' zone for 'Restaurant/Cafe' purposes is identified as a permitted ("P") use.

The application lodged with the City of Joondalup on 2 May 2023 (Ref: DA23/0281) seeking City's retrospective approval to:

1. Increase the maximum allowable seating numbers for the approved restaurant/cafe from forty (40) to eight (80) seats at any one given time; and
2. Increase the approved dining area from 60.34m² to 101m².

At its meeting held on 22 August 2023, the Joondalup City Council considered the development application for the subject land and resolved the following:

1 **APPROVES** under clause 68(2)(c) of Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 an aspect of the application for development approval to amend DA17/1226, dated 2 May 2023 submitted by CF Town Planning, the applicant, for the RESTAURANT/CAFÉ (modifications to DA17/1226 – retrospective) at Lot 702 (24/34) Marri Road, DUNCRAIG:

1.1 This approval only relates to the following elements of the proposal:

- 1.1.1 modification to the approved landscaping onsite to accommodate a fixed bar-style table as shown on the approved plans;
- 1.1.2 modification to condition 1 of DA17/1226 to remove the restriction relating to the permitted dining area; It does not relate to the proposed increase in customer seating from 40 to 80 persons.

1.2 DA17/1226 approved on 17 November 2018 remains a valid approval and all conditions and advice notes of that approval remain applicable with exception to condition 1 which is modified to:

"A maximum of 40 dining seats are permitted within the internal and external floor space."

2 **NOTES** that the City will implement a trial of 15 minute parking restrictions for the two on-street bays on Cassinia Road.

OVERVIEW OF CAFE OPERATIONS

The following is a brief overview of the operation of the café:

- The operating hours of Little H Café are between 6am to 3pm daily (seven days per week);
- The kitchen closes at 2.30pm daily, with no meal orders taken after this time. The kitchen tends to take orders and commence from 7.00am daily;

- The café provides a dine-in and take-away service;
- The café provide a service to the local community (i.e. meeting spot) and adds to the vibrancy of the Duncraig Activity Centre;
- Whilst the café does attract traffic from outside of the immediate area, it does have a large walkable catchment and clientele from the surrounding residential area, the adjoining commercial development (shopping centre) and the residents within the complex above the café;
- Peak periods are during the weekends between 8.30am and 11.30am (breakfast for Saturday and lunch for Sunday); and
- The café is located within a mixed used development that contains a number of other commercial uses that operate at different times.

AMENDED PROPOSAL

Following discussion between the parties at the Mediation Hearing held on 19 December 2023, the following revised proposal is provided for the operation of the existing café on the subject land for consideration by the City of Joondalup and the Tribunal:

1. Increase the seating numbers for the approved restaurant/cafe from forty (40) to the following maximum seating (i.e. staggered seating arrangements):
 - i) Monday to Thursday: Fifty (50) seats at any one given time; and
 - ii) Friday to Sunday: Sixty (60) seats at any one given time.

Appendix 1 contains a copy of the revised plans illustrating the abovementioned seating numbers.

2. Construction of two (2) on-street car parking bays within the Marri Road road reserve abutting Lot 2 (No.50) Marri Road, Duncraig in accordance with the indicative plans prepared by the City of Joondalup (see Appendix 2).
3. Request the City of Joondalup to allow for a payment plan for the on-street car parking construction to assist financially with the café operator. This will allow for the café operator to pay for the construction of one (1) car parking bay immediately and the cost of the second car parking being paid over a 2 year period.

Additional information

In addition to the above proposal, the Café has already undertaken the following tasks to address the City of Joondalup's concerns:

- i) Contacted suppliers and waste collection services to provide instructions to drivers to attend the premises on-site or along the southern side of Marri Road road reserve and not along the northern side of the Marri Road road reserve abutting the residential properties. The purpose of this is to reduce any impacts on local residents along Marri Road;
- ii) Control/monitor bookings and patron arrival/departure times to ensure a smooth transition of customers and avoid cues;
- iii) Improve communications and notices to customers to be mindful of local residents;
- iv) Since Council decision in August 2023, the seating numbers of the café have been reduced from

the previous unauthorized numbers of eight (80) at any one given time to sixty (60) at any one given time to reflect this revised proposal. Since adopting this approach, the operator of the café has observed a decline in the City's Ranger Services attending the area; and

- v) Appoint Donald Veal Consultants (DVC) to undertake a car parking survey during the peak period of the café (i.e. Saturday morning). A copy of the car parking survey is attached for the City and Tribunal's review. It should be noted that DVC reviewed the Marri Road verge area abutting Lot 2 (No.50) Marri Road, Duncraig and identified that seven (7) on-street car parking bays could be constructed in lieu of the two (2) car parking bays identified by the City of Joondalup. This provides an opportunity for the City of Joondalup to provide some public parking within the Activity Centre.

JUSTIFICATION IN SUPPORT OF PROPOSAL

The following general comments are provided in support of the café operating under the revised numbers (i.e. increase from 40 seats to 50 and 60 seats);

- i) Little H Café is a successful business that has become an iconic venue within the Duncraig Activity Centre and provides for a vital community venue, allowing for people to socially interact (i.e. provide a meeting spot for the local community);
- ii) The café provides activation and adds to the vibrancy to the Duncraig Activity Centre and surrounding public open space reserves;
- iii) The café has been operating at sixty (60) seats at any one given time since August 2023 and has reduced its previous activity of operating with eighty (80) seats at any one given time;
- iv) The peak periods of the café are during the weekend. As previously outlined to the City of Joondalup, one of tenancies within the mixed use development on the subject land (Kip McGrath – 'Educational Establishment') does not operate on the weekends and is closed during school holidays and weekends. Furthermore, the business does not operate until after the café is closed (i.e. after 3pm). As such, the two (2) businesses do not clash during their individual operating hours. This reduces the on-site car parking usage/demand for the site over the weekend period and therefore makes those bays allocated to the educational establishment being made available for the café. The landowner has provided a letter confirming that the hours of operation for Kip McGrath and the allowance to utilise the surplus bays during the period when Kip McGrath is not operating (see Appendix 3);
- v) In addition, the 'Best Body' business ('Recreation-Private') on the subject land operates during the week between 6.00am and 11.30am and then between 4.00pm to 8.00pm, Saturdays between 7.00am and 12.00 noon and on Sunday between 8.00am to 12.00 noon. The recreational use operates on a booking system for each class during the opening period of the venue and if a class does not have sufficient patrons, it does not proceed. Whilst 'Best Body' and the café may share some periods of identical operating hours, the recreational use is not always operating (given empty/cancelled classes) and therefore allows for less usage/demand of on-site car parking. This further assists the café;
- vi) In light of the above two (2) points, the commercial uses on the subject land have little clashes with the operating hours of the café and therefore allows for greater sharing of bays;
- vii) Based on our weekly staggered seating approach proposed as part of this application (50/50/50/50/60/60/60), the café has achieved an average weekly seating capacity of 54.28 seats;
- viii) Through discussions with the City of Joondalup, the number of resident complaints to the City's Ranger Services since August 2023 has been only four (4) which represents a 92% fall in

complaints (previously totalling 50 with the bulk appearing to have come during the advertising period of the application). It could be assumed that any complaints received by the City since August 2023 could have stemmed from the car parking works associated with the adjoining shopping centre; and

ix) The applicant has attempted on a number of occasions to engage the Hawaiian Property Group.

Car Parking Calculation

The existing development on the land currently provides thirteen (13) on-site car parking bays for the commercial tenancies and two (2) on-street bays constructed as part of the previous approval granted for the café in November 2018. The development also comprises twenty (20) on-site car parking bays within the undercroft level for the multiple dwellings.

As previously mentioned, this application proposes to construct two (2) additional on-street car parking bays within the Marri Road road reserve abutting Lot 2 (No.50) Marri Road, Duncraig in accordance with the indicative plan prepared by the City of Joondalup (see Appendix 2). As such, a total of seventeen (17) bays will be available for the commercial uses on the land and a total of thirty seven (37) for the entire development (including the residential component).

This application proposes to change the maximum allowable seating numbers from the approved maximum of forty (40) at any one given time to a staggered approach to reflect the following:

- Monday to Thursday: Fifty (50) seats at any one given time; and
- Friday to Sunday: Sixty (60) seats at any one given time.

The following car parking calculations are provided for the entire development to assist the City’s assessment and reconsideration of its previous decision. It should be noted that the private recreational use operating on the subject land has not been included (provided with an allocation of parking), as it does not operate at the same time as the café and therefore the two (2) uses do not compete for parking:

Table 1 – Car Parking Calculation (Monday to Friday)

LAND USE	PRESCRIBED PARKING STANDARD	No. DWELLINGS, PERSONS OR FLOOR AREA	PARKING BAYS REQUIRED
Residential dwellings	One (1) bay per dwelling	20 dwellings	20 bays
Residential visitor bays	0.25 bays per dwelling	20 dwellings	5 bays
Recreation-Private	1 bay per 4 patrons	10 people	2.5 bays
Educational establishment	1 bay per 3 students	Not open	Nil
Restaurant/cafe	1 bay per 4 seats	50 seats	12.5 bays
Total number of on-site parking bays required			40 bays
Total number of on-site bays provided, plus two (2) on-street bays			37 bays
Total on-site shortfall			3 bays

Table 2 – Car Parking Calculation (Friday, Saturday & Sunday)

LAND USE	PRESCRIBED PARKING STANDARD	No. DWELLINGS, PERSONS OR FLOOR AREA	PARKING BAYS REQUIRED
Residential dwellings	One (1) bay per dwelling	20 dwellings	20 bays
Residential visitor bays	0.25 bays per dwelling	20 dwellings	5 bays
Recreation-Private	1 bay per 4 patrons	10 people	2.5 bays
Educational establishment	1 bay per 3 students	Not open	Nil
Restaurant/cafe	1 bay per 4 seats	60 seats	15 bays
Total number of on-site parking bays required			43 bays
Total number of on-site bays provided, plus two (2) on-street bays			37 bays
Total on-site shortfall			6 bays

As outlined within the above tables, the maximum shortfall in car parking is six (6) on Friday, Saturday and Sunday.

In addition to the above, the previous development approval granted by the City in November 2018 accepted an on-site car parking shortfall of eight (8) bays for forty (40) seats at any one given time. The construction of the two (2) new on-street car parking bays and the non-operation of the educational establishment on the subject land has resulted in the shortfall car parking being reduced on the weekend peak period, which is a good planning outcome for the site/area.

The period comprising an increase in car parking shortfall is on Friday only, with the period between Monday to Thursday maintaining the current approved shortfall for the site granted in November 2018.

Car Parking Survey

A car parking survey has been undertaken by Donald Veal Consultants (DVC) in support of this application to review the car parking demand and behaviour within the vicinity of the café on Saturday 13 January 2024 from 8:30 am until 10:30 am (during the peak period of the café). It should be noted that a similar survey was undertaken by DVC on Saturday 18 March 2023. It should be noted that the 2023 survey was based on the café having eighty (80) seats at the time.

Following the survey, DVC concludes the following:

- i) *The 2024 survey results show parking for the Duncraig Shopping Centre (Zones C to G) start the period at about 56% capacity, climbing to 94% by the last beat period. However, parking adjacent to the café (Zone A) was at its peak at the start of the survey (92%) and fell to 77% by the end. This suggests that as demand is gaining for parking at the shopping centre over the survey period, it is easing off for the café.*
- ii) *The two on street bays on Cassinia Road (Zone B) proved popular and verge parking on the north side of Marri Road (Zone I) was largely practiced by residents.*

- iii) *The main changes from 2023 are the loss of verge bays in Zone H along Marri Road, which were previously well used with all 12 parking spaces used from 9am onwards. As verge parking has since been banned, this parking demand has been absorbed by the remaining bays in the vicinity. Peak parking demand overall has reduced from 162 in 2023 to 154 in 2024.*
- iv) *We understand that consideration is being given by the City of Joondalup to provide two parallel bays along Marri Road (Zone H) and indeed, has developed a concept design. These bays will add to the overall parking supply.*

Further to the above findings from DVC, we conclude the following:

- i) It is noted that the car parking survey clearly illustrates that there is available car parking bays in Areas A & B (associated with the commercial use on the subject land) and that the bays are not 100% occupied throughout the peak period of the café. In most intervals between 8.30am to 10.15am, there are between one (1) and four (4) bays available;
- ii) Occupancy rate of the verge bays in Area B range from 50% to 100% (peaking during the mid-morning);
- iii) Occupancy rate for the on-site commercial bays in Area A ranges from 77% to a maximum occupancy rate of 92% during this peak period;
- iv) Given the above point, there is availability or a surplus of bays during this peak period;
- v) The provision of two (2) additional on-street car parking bays will further increase the availability and surplus of car parking bays being made available for customers of the café;
- vi) The occupancy rate of the verge bays in Area B has decreased since the March 2023 survey. It is viewed that the occupancy rate of these bays will decrease further once the City has implemented/erected signage restricting parking times of these bays; and
- vii) The occupancy rate of the on-site commercial bays in Area A has slightly increased as a result of the City of Joondalup introducing parking restrictions along the adjoining road verges.

In light of the above, the survey clearly indicates that during the period of the café on a Saturday, there is available bays for customers of the café and that not all bays technically available for the café are occupied. This demonstrates that the maximum number of sixty (60) seats at any one given time for the café can be accommodated without having an adverse impact on car parking and vehicle movements throughout the area. As such, it could be supported by the City of Joondalup.

Justification for Car Parking Shortfall

As outlined above, this application proposes the following car parking shortfalls, as a result of the proposal to change the seating numbers for the café:

- Monday – Thursday: 3 bay shortfall (less than the current approved shortfall)
- Friday, Saturday – Sunday: 6 bay shortfall (reduces the current approved shortfall for the site)

The following justification is provided in support of the on-site car parking shortfall

- i) Generally, the proposed change in the seating numbers has resulted in little change to the current approved on-site car parking shortfall on the land (with the exception of Friday). As such, the construction of the new on-street bays along Marri Road will facilitate the increase in customer

numbers of the café without adversely impacting the amenity of the area or vehicle movements along the local road network;

- ii) The café has been operating at sixty (60) seats at any one given time since August 2023, without resulting in any key concerns being raised. As previously mentioned within this report, the number of complaints received by the City has decreased and the ranger activity within and around the café has notably reduced. As such, it could be concluded that the revised operations of the café has addressed the car parking concerns within the immediate area;
- iii) The café serves breakfast and lunch, not a dinner service (the café closes at 3pm, with a peak period in the morning/midday period). It is viewed that the proposed tavern and the shopping centre have a peak period in the afternoon and evening (i.e. the peak periods do not clash with the café);
- iv) It is viewed that the peak period of the Activity Centre would be during weekdays (i.e. office, educational establishment and a number of the shops). As such, the café is proposing a seating number during the week to reflect the increased movements within the Activity Centre (i.e. a lower seating number). Furthermore, the peak period of the café is during the morning of the weekend, where the Activity Centre would experience less movements/patronage;
- v) Whilst it is recognized that the Duncraig Activity Centre does not comprise any public parking or reciprocal rights of access/parking easements over individual lots. In addition the Activity Centre contains a number of various commercial and mixed use developments. As such, the precinct would experience an informal reciprocal parking usage as patrons undertake multi-task trips (i.e. attend the café and the shopping centre on the adjoining lot as one trip). This will reduce the overall car parking demand. This is typical within an Activity Centre;
- vi) The educational establishment on the subject land does not operate before 3pm and does not operate on the weekends. This allows for the car parking bays calculated for that use to be made available to the café;
- vii) The café is a valuable community venue within the immediate location that provides a 'meeting spot' for local residents and business owners. The use contributes to providing a diversity of uses and vibrancy within the Duncraig Activity Centre. As such the additional seating is required to cater for the needs/demands of the local community;
- viii) Staggered maximum seating numbers throughout the week allows the café (which is successful and well recognized) to continue operating and be economically viable given the ever increasing operating costs;
- ix) The café enjoys a good local walkable catchment, with a number of customers walking, riding and using e-scooters attend the venue;
- x) The development includes nine (9) bicycle bays, which is used by patrons of the restaurant/café; and
- xi) There appears to be a number of local residents using the on-street car parking for longer term purposes and/or for visitor parking. In addition, it is contended that the largest contributor to the local parking issues within the area may be associated with the apartments, which only provide 1 bay per dwelling and have enclosed parking bays. The following can be drawn in regard to the apartments of the subject land (20 units):
 - If we look the twenty (20) apartments on the subject land, if 20% of the apartment occupants have more than 1 car (which is likely), then four (4) cars are being parked on the road;
 - Then there are visitors associated with the apartments. Only five (5) visitor bays are provided. If 50% of the apartments have one (1) visitor throughout the day or a ride share/food delivery

service (which is likely), then there are another five (5) additional cars that will be placed on the streets; and

- The above can be applied to the existing apartment development on adjoining No.22 Cassinia Road (another 21 units, which could add another 9-10 cars parking along the street).

In light of the above, the City must note that the car parking issues within the Activity Centre have not solely emerged from Little H Café.

CONCLUSION

The operators of Little H Café are conscious of the local residents within the area, which are customers of the café. As such, the operators have been willing to work with the City of Joondalup to resolve the issues raised by a small number of local residents (one in particular) to ensure the café remains operating without adversely impacting the surrounding area but remains viable. Furthermore, it should be recognised that Little H Café provides a positive outcome for the area and the Duncraig Activity Centre by providing a venue for the local community to socialise, whilst providing activation of the Activity Centre. As the same time, the Café utilises local businesses for supplies (i.e. the IGA on the adjoining shopping centre site) and therefore allows for local businesses to thrive.

This application proposes to stagger the customer numbers for the café throughout the week and weekend which will result in less conflicts with the high movements/patronage experienced within the Activity Centre. Given this, the proposal outlined within this submission addresses the car parking concerns raised by the City of Joondalup and would not result in any adverse impact on the local residents and/or the local road network. Furthermore, the amended plans and information prepared in support of this application addresses the concerns and requests made by the City of Joondalup and reflects those discussions undertaken at the Mediation Hearing held on 19 December 2023.

In light of the above information and justification, we respectfully request the City of Joondalup and Tribunal's favourable consideration of the application at its earliest possible convenience.

Should you have any queries or require any additional information regarding any of the matters raised above please do not hesitate to contact me on 0407384140 or carlof@people.net.au.

Yours faithfully,



Carlo Famiano
Town Planner
CF Town Planning & Development

cc – Mr Carmello Cirillo (Little H Café)
City of Joondalup