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Minutes of the Ordinary Council Meeting held in the Council Chambers, 6 Paterson Street, Mundijong on Monday 7 December 2015. The Shire President declared the meeting open at 7.01pm and welcomed Councillors, staff and members of the gallery.

## 1. Attendances and apologies (including leave of absence):

#### In Attendance:

Councillors: J Erren ......Presiding Member

S Piipponen D Atwell K Ellis D Gossage S Hawkins M Rich J See B Urban

Mr A Hart .......Director Corporate and Community
Mr G Allan .......Director Engineering
Mr D van der Linde .......Acting Director Planning
Ms K Peddie .......Executive Assistant to the CEO (Minute Taker)

Leave of Absence: Nil Apologies: Nil Observers: Nil

Members of the Public – 47 Members of the Press – Nil

## 2. Response to previous public questions taken on notice:

No questions were taken on notice at Ordinary Council Meeting 23 November 2015.

## 3. Public question time:

Public question and statement time commenced at 7.02pm

Ms V Bell, 19 Blytheswood Avenue, Byford, WA, 6122

#### Question 1

Is it correct that Council will be claiming 2.5m of land that runs along (existing) service laneways in the old section of Byford, and if so, that land holders are going to be charged a fee for the upgrade of the laneway?

#### Response:

When an owner of property that abuts a laneways submits an application for subdivision the Western Australian Planning Commission may put on a condition that a strip of land is to be ceded for the road widening. This happens in situations where the laneways are too narrow to become streets and land owners request an increase in density through subdivision.

#### Question 2

How can SJ Shire change the classification of land effectively devaluing it without prior approval of the owner? (i.e. my property was sold to me and the Agent said it was zoned as R60; Shire changed to R30, now apparently going to be reclassified as R10) *Response:* 



Planning legislation does not provide for a change of land use rights without public and landowner consultation unless in really exceptional circumstances. Please get in contact with the helpful planning staff at the Shire offices and discuss the matter with a person who is qualified to provide the correct information taking into consideration any current planning projects. They will allay your fears, give you the facts as they stand and demystify some of the terminology that can be confusing.

#### Mr D Fenton, 13 Elmhurst Way, Greenwood, WA, 6024

#### Question 1

A similar situation happened in Margaret River recently on Bussell Highway. Residents were concerned that a 24 hour service station would have a detrimental effect on residential amenity and create potential for unruly behaviour. As a result of the submission the proposal had 26 conditions attached. My question is what conditions will the Shire of Serpentine Jarrahdale Council consider putting on the Kardan boulevard service station proposal?

#### Response:

The conditions to be put on the application are as per the Council item a-q.

#### Question 2

The entrance to the proposed service station is show to be off Kalyang Loop, which is also an entrance to many new residential homes belonging to new families moving into the area. Will the Council consider building a wall to reduce residential traffic, sound, light and fume pollution along Kalyang loop to keep our neighbourhood family friendly? Response:

No specific condition has been put on the applicant to provide a wall as the assessed noise report did not require a wall to be constructed.

#### Question 3

The World Health organisation states that petrol stations should be built at least 50 metres from residential areas as spilt petrol causes large quantities of the carcinogenic compound benzene to be released in the surrounding area in unhealthy quantities. What does the Council propose to do to minimise harm of new families in the area if they go ahead with allowing this service station to be built? Response:

The conditions to be put on the application are as per the Council item a-q. These include safety measures as indicated in condition f, screening, landscaping and waste management over and above the standard legislative conditions that filling stations are required to conform to in terms of health and public safety for spillage.

#### Mr WJ Kirkpatrick, 77 Mead Street, Byford, WA, 6122

Considering that the Byford and Districts Country Club is a private club for the benefit of its members only could you answer the following

#### Question 1

When did the Council by resolution agree to construct the new facilities for this group and what was the resolution and when?

#### Response:

The tender for the construction of the new facility has not yet closed. The tender closes on the 11<sup>th</sup> December 2015

#### Question 2

In reply to a previous question you replied that you did not break down the allocation of monies from various grants when you paid the accounts. The how do you explain the acquittal of the grant monies to the various sources of the funding?

#### Response:

All acquittals are completed in accordance with the conditions of the grant.



#### Question 3

How much money has been collected in total since the year 2000 as cash in Lieu for Public Open Space in the old section of Byford that is East of the Railway line and North of Nettleton Road. How much has the Shire from this in reserve funds and how much has been spent on purchasing Public Open Space in the old section of Byford? *Response:* 

There are no records showing any funds being received. There are no funds in reserve for this purpose.

#### Ms N Scade, 141 King Road, Oakford, WA, 6121

#### Question 1

What are "Development Applications - Consultation and Referral"? Is this a proper Development Application or just a way of assisting a Developer to 'fine tune', with Shire assistance, his final development application to ensure success? This is in regard to two such applications for large hydroponic tunnel houses on #121 King Road and #162 King Road, Oakford. Why are these two applications just for Nutrient Management Plans, is nutrient planning the only requirement for this type of development? Response:

The Shire is required in terms of planning legislation to ensure that the public is made aware of any development applications. Changes that a proponent is requesting on an application are dealt with in the same manner. This is especially important if it has previously been advertised and received submissions or when the changes may impact neighbouring properties. Sometimes there is just one aspect that is the main focus of the revision and therefore will be the change that officers need comment on. Officers generally err on the side of caution and refer any aspects that may have an impact on neighbours to ensure that the community is aware of any applications or changes.

#### Question 2

So far there have been 3 amendments to the initial application for #162 King Road and one amendment to the initial application for #121 King Road, by the same advisor to the two developers. Neighbours have received Submission Forms from the Shire to complete if we object to the developments. The amendments have been small in size but nonetheless significant to the application. How many times do neighbours have to receive Submission Forms from the Shire advising us that if we do not respond by a certain date it will be assumed that there is no objection to the proposal? What about the objections that we made to the earlier applications? Is this a case of the Shire assisting the developer to make the neighbours tire of the situation and just 'give up'? Response:

As indicated in question 1 the Shire has an obligation to advertise significant modifications. Officers refer applications and make recommendations based on planning legislation, professional expertise, experience and knowledge and do not side with either one of the parties. A specific response from previous submitters is usually required (even if it is the second or third time) as the matters may have been addressed, and if not, officers will again be alerted to the matters raised in the submission.

#### Question 3

When neighbours do object, as some of us neighbours have, in the case of these two "Development Applications - Consultation and Referral", does the Shire inform the Developer that there have been objections and give details of the objections by neighbours before the final Council decision?

#### Response:

Council officers have to be objective and transparent in their dealing with all the stakeholders concerned whether State agencies, proponents or neighbouring property owners. Objections and submissions are generally summarised and presented to the proponent in a Schedule of Submissions as per for example tonight's attachment OCM281.6/12/15. The applicant may respond to this table as indicated in this instance.



The matters raised in the table usually will then be addressed in the item with an appropriate officer's response.

#### Mr B Williamson, 95 Pony Place, Oakford, WA, 6121

#### Question 1

Has the sale of the Byford and District Country Club property been finalised and does the Shire have the funds from the sale or will they be held by the Byford and District Country Club until required?

#### Response:

It is the Shires understanding that settlement will occur in the near future.

#### Question 2

Can the Shire confirm that the new Byford and District Country Club complex will be completed by the 30<sup>th</sup> June as stated in the advertisements placed in the examiner during the election, as Council was aware of any and all delays before they put the advertisements in and that the new Byford and District Country Club complex will be completed before the existing club is required to be vacated as the members were informed before agreeing to the sale?

#### Response:

The construction timetable will be finalised after the tender is awarded to the successful builder.

#### Question 3

Can Council confirm the stage that the various Home and Community Care components of the development are and if all the Home and Community Care funding contribution has been received by Council and if not when?

#### Response:

The Home and Community Care components of the building have been finalised and funding will be received by Council once the construction of those components commence.

#### 4. Public statement time:

#### Mr I Bowman, Albany Developments (WA)

Statement in relation to OCM281/12/15

The proposed development's positive contribution to the Redgum Brook Estate and wider Byford area, for example, the convenience store and fast food outlet will provide local employment opportunities.

The proposed development's local economic and social benefits, the convenience store and fast food will keep spending local and provide a place for families of the wider Byford community to socialise and share meals.

The proposed developments conveniences for the Redgum Brook Estate and wider Byford area, the proposed development will provide retail fuel, convenience goods and takeaway food to the local community and wider Byford community, without the need to travel outside the Shire.

#### Mr J Carr, Harley Dykstra Planning and Survey Solutions

Statement in relation to OCM275/12/15

Harley Dykstra, on behalf of the owners of Lots 102-106 Rudall Street on the western edge of the Serpentine Townsite Local Structure Plan, wish to express our support for the proposed officer recommendation to approve the LSP with modifications, including the rationalisation of public open space. We also wish to commend the Shire's officers for their progression of the LSP following the conclusion of public advertising and the



incorporation of a series of proposed modifications that we believe will result in an all-round better development outcome.

Harley Dykstra made a submission during public advertising of the LSP which requested that the Shire consider the rationalisation of open space on our client's land, given the apparent inequitable and inefficient distribution of open space across the whole of the LSP area. We subsequently arranged for specialist technical drainage investigations to be undertaken by Bayley Environmental Services to determine the necessary drainage requirements for our client's land. These investigations established that there was a significant overprovision of public open space (i.e. greater than 6 ha) identified on the advertised LSP.

We subsequently provided this information to the Shire along with a conceptual subdivision plan demonstrating how the open space identified on the advertised LSP could be rationalised whilst ensuring that sufficient space for drainage and recreation could be provided. We identified that the provision of open space could be reduced by approximately 4ha, which would have the impact of substantially reducing the Shire's ongoing maintenance burden. The Shire's officers have reviewed this information and advised of its a suitability from a technical perspective.

We note that our client is committed to ensuring that sufficient open space is provided in the development of their land and ensuring that the minimum 10% requirement is achieved across the whole of the LSP area. We also note that our client is very eager to commence development of their land in the short-term. Doing so will help to facilitate the vision of the LSP be realised and will see the provision of a new open space and amenity area being provided in the Serpentine Townsite, for enjoyment by both existing and future residents.

Once again, we express our support for the officer recommendation to approve the Serpentine Townsite LSP with modifications, including the rationalisation of open space on Lot 102-106 Rudall Street.

#### Mr WJ Kirkpatrick, 77 Mead Street, Byford, WA, 6122

There seems to be a double standard of the application of planning regulations in this Shire. It would appear relative to the Councillor or Councillors that you might have as friends or associated or have that may have influence from within.

I will give you three examples of the same regulations being applied very differently. This is under clause 7.13.3 of the Town Planning Act:

- 1. Darling Downs residents clear vegetation from the reserve within 100 meters of the watercourse (Berriga Drain) without a permit. What happens, nothing, the friendly Councillor is none other that Councillor Ellis, the then Shire President who happened to be the President of the offending group.
- 2. The owners of a number 4 South West Highway clear vegetation along the creek line and turn it into a car park in spite of numerous complains, what happens, nothing again, this time three friendly Councillors that have declared their association with the offender.
- 3. The residents of 215 Masters Road are threatened with prosecution for removing litter that was a fire hazard along the creek line of the defunct Beriga Drain. No friendly Councillor. In fact I am led to believe that this investigation was initiated by Councillor Hawkins reading the issue of illegal gatherings at this property that were investigated and found to be untrue. As they were all found to be private parties. In fact has the officers spoken to the residents they would have found that the only live vegetation that was removed was in fact two small branches that were threatening the water tanks.



These were removed to stop potential damage to the tanks. The only thing these people did was not get the fire control officers for the area to declare it a fire risk.

It shows how selective this Council is in how it deals with the ratepayers and resident. You will also not that the regulations does not state if the tree has to be a native, but just a tree.

#### Mr P Kotsoglo, Planning Solutions

Statement in relation to OCM281/12/15

The proposed development is consistent with the established local planning framework and Redbrook Gum Estate North Structure Plan. The proposed land-uses are capable of approval and the subject site was identified as a mixed-use site at the time of the original structure planning in 2009/2010.

The proposed developments positive contribution to the amenity of the area. The proposed convenience store and fast food outlet will provide services to landowners within the Redgum Brook Estate area and will also service the wider Byford community.

The proposed developments consistence with the mixed-use intent for the subject site. A preliminary indicative design for the subject site from the local structure plan showed amongst other things a service station and fast food outlet. The proposed development is broadly consistent with this, is consistent with the Shire's requirements for the mixed-us zone and should be approved accordingly.

#### Mr B O'Neil, 127 King Road, Oakford, WA, 6121

Statement in relation to OCM273/12/15

Council will be asked at this meeting to consider an amendment to TPS 2 for the removal hydroponics from the zoning table and replace it with floriculture (extensive) thus allowing it to be advertised and opened for public comment.

It has been mentioned in the latest Planning Assessment that floriculture is considered to be an appropriate use class to such applications involving the growing of flowers, fruits and vegetables on the Priority 2 area of the Jandakot Water Mound. Any decent person would not allow potential contamination activities over the P-2 Water Mound Protection areas unless they do not give hoot about the environment.

If these commercial floriculture (extensive) activities, the growing of flowers, fruit and vegetables are allowed to take place within the P-2 Water Mound Protection areas it would become the Shire of Serpentine Jarrahdale responsibility (an expensive exercise) to carry out audits, site inspections, testing and monitoring for contamination etc, or adopt the self-regulation method and end up with more contamination dramas in the area which in the past and currently has resulted in being costly to the Shire and residents.

The Western Australia Department of Water – Water Quality Protection notes, hydroponic plant growing gives an outline of what can go wrong with Closed Loop Systems (known as the fertigation and dump system). This is why previous planners and Councillors would not entertain this activity over the Jandakot P-2 Water Mound Protection areas. For those who do not know 90% of landowners over the Jandakot Water Mound are not on scheme water and rely on bore water. We must accept this availability of water is limited, the benefits of Ground Water Protection exceed the cost of constraining development.

Floriculture (Extensive) for everyones information, according to the Webster's Dictionary, floriculture is the cultivation of flowers, not fruit and vegetables. The Department of Environment's definition of extensive means the limited additional inputs



beyond those supplied by nature required to support the land use only during the seasonal dry periods.

Our water resources sustain ecosystems, aquatic recreation as well as providing drinking, industry and irrigation supplies. Along with breathable air, uncontaminated water is essential for viable communities. Natural water resources should remain within defined quality limits to retain their ecological, social and economic values. Hence they require appropriate measures to minimise contamination risks.

This proposed amendment requires careful consideration and judgment.

#### Mr B Williamson, 95 Pony Place, Oakford, WA, 6121

Firebreaks are something extremely necessary in Shires such as ours and it is important that they be installed as well as practicable.

It is also important that firebreak inspection be carried out with the aim to achieve the desired outcome without unnecessarily antagonising ratepayers or you will create more people like me, law abiding citizens that through being treated badly by Council, its CEO and some management come to believe the only way to fix the problems in the Shire is to sack the Council and its CEO.

In the past although firebreaks are required to be installed by the end of November it was understood that things don't always go to plan, a firebreak contractor can be late and inspections did not commence for a few days after the due date to allow for this.

When I received a fine for not installing firebreaks dated the 1 December I contacted the Shire office and discovered that 43 people were already sent out improvement notices where they had done a fire break and the inspector required additional works, 7 people had been fined, 6 of which were for not doing firebreaks and 1, me, that had firebreaks installed on time and by the contractor that I have used for many years and had done them the same way he always did.

From this it would be easy to come to the conclusion that this was a deliberate action by a vindictive Council and CEO misusing its compliance staff, as I am a reasonable person I will assume that it was done in error and will be corrected and the fine removed.

What does concern me is that fines were being sent out from firebreak inspections carried out that could be seen to be not much more than a few hours after they were due. This is not in keeping with the spirit of assisting residents but would be seen as an overzealous Council and CEO just wishing to persecute and prosecute.

More than 1 staff member used an analogy that compared the Shire to the police; this is disturbing as you are not the police. They went:

1. If you speed down the same road everyday for 20 years and one day you are caught and fined would you expect the police officer to let you off because you had got away with it for 20 years.

This is not a good comparison as if you speed everyday you do it with intent and know one day you will be caught, the other thing is the police don't fine you if you are only just over the limit, where as if you are fined after 20 years of installing your firebreaks the same way every year, there is no intent as you were trying to comply and it is reasonable to believed you must comply as they are inspected every year.

2. The other was, getting a fine from the Shire was the same as getting one from the police.



This is ridiculous, the Shire is not a police force and should not be seen by ratepayers as only there to penalise them, fines should be a last resort not the first.

I think it would be a good idea if you had your staff read the information you put out on your own web site and literature. I was told by the firebreak inspector to remove many over twenty year old trees that stop me from having a fire break on my boundary as it is required to be on the boundary, instead of allowing the driveway that is adjacent to the trees being the firebreak, as it has been for many years, when your own literature states that there is no need to remove trees but to go around them, it also does not state that you will require a variation for multiple trees only that you may require one, this implies the land owner should make a judgement call on whether the deviation is minor or major as there is no requirement to seek clarification.

Public question and statement time concluded at 7.35pm

### 5. Petitions and deputations:

5.1 Mr Clayton Plug from Harley Dykstra presented a deputation in relation to item OCM266/12/15 – Lot 801 Thomas Road, Oakford – Proposed Extension to Planning Approval for Rural Travel Stop.

Tonight I am presenting to you in support of the application for an Extension to the existing Development Approval for a Rural Travellers Stop at Lot 801 Thomas Road, Oakford. This matter represents item OCM266 on tonight's agenda.

I would like to begin by noting that we are appreciative of the officer's recommendation that Council resolve to approve an extension to the Development Approval by a period of 1 year. As you are aware, approval for the proposed development was granted in May 2014. Since that time the landowner has been conducting negotiations with Main Roads WA and this Shire's engineering department to redesign the intersection of Kargotich Road and Thomas Road. This work has been undertaken in accordance with Conditions 1 and 2 of the existing Development Approval. This process has involved significant time and cost given the need to employ a traffic engineer to prepare numerous design alternatives for the intersection.

Additionally, the landowner has been very committed to establishing a high standard of development on the subject land in accordance with the planning approval that has been given, and for this reason, time has been needed to make good preparations for a good standard of development.

Therefore, the developer is seeking a time extension to the existing Development Approval in order to ensure that time, money and effort spent in the design process is not wasted by the lapsing of an approval for development.

Councillors, on the basis of the above we request that the Shire resolve to adopt the officers recommendation to grant an extension to the timeframe of the existing Development Approval. I would like to reiterate that no changes to the development approved in May 2014 are proposed by this application, ensuring that should Council resolve to approve this matter, they will not be altering the Development outcome that was supported by this Council in 2014.

5.2 Mr Vince Alteri and Ms Linda Balfour presented a deputation in relation to item OCM268/12/15 - Lot 322 (#23) Fieldview Chase, Oakford - Reconsideration of (Retrospective) Three (3) Outbuildings and a Water Tank.

We would firstly like to thank the planning department for coming to the site on 17 November 2015 and discussing our application and updating their report to show we have complied with their requests.



We appreciate the Officer Recommendation that our application be approved subject to conditions, but we would like to request condition (c) be removed as we would like to have a truck (our smallest see photo) on the property for personal use. We need to plant a lot of trees and plants as this property didn't have any, which will help with the winter flooding. We will also need to bring in good soil and mulch. This will be an ongoing project.

We don't feel we can stand in front of you all and say we won't have a truck on our property in the future as this is unrealistic when you have a 5 acres. We have been advised by the Shire that if we apply for truck parking it would be rejected because of the Rural B zoning.

We feel this is very unfair as there are many trucks parked within a few hundred metres of ours, which are also in the same zoning. As you can see there are no number plates visible in any photos as we do not want our neighbours to be penalised in any way.

We have also been advised that it is up to the Councils discretion whether or not to approve commercial vehicle parking. As shown by Agenda item OCM27I/12/1,5 for tonights meeting. If we were able to have a truck parked on our property it would be parked behind our original shed and not visible from the road or the property to our right. See photo showing obstructed view from next door.

Thank you for your time and we hope you will consider approving our application and removing condition (c).

5.3 Mr John Kirkpatrick presented a deputation in relation to item OCM269/12/15 – Lot 4 (#829) South Western Highway – Proposed Byford Town Centre Structure Plan Modification.

This deputation was not provided for inclusion in the minutes.

5.4 Mr Tim Houweling from Cornerstone Legal presented a deputation in relation to item OCM269/12/15 – Lot 4 (#829) South Western Highway – Proposed Byford Town Centre Structure Plan Modification.

Due regard to the Structure Plan

Insufficient existing POS areas in the SP

Change to Structure Plan POS calculations

No POS east of Rail

POS not within a walkable catchment;

SP takes the amount of POS outside of Liveable Neighbourhoods;

This will be a variation of Liveable Neighbourhoods

Change to pracsys study – floor space requirements with SP Area.

Incremental creep undermining integrity of Structure Plan.

No power - SP not a zoning document.

Structure Plan must respect underlying TPS zoning.

Town Planning Scheme provisions re SP not consistent with TP Reg 1967 and could not have been given effect.

Deemed to Apply provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

5.5 Mr Nigel Oakey from DOME and Mr Ray Haeren from Urbis presented a deputation in relation to item OCM269/12/15 – Lot 4 (#829) South Western Highway – Proposed Byford Town Centre Structure Plan Modification.



The proposal seeks to change the designation of a portion of the subject site, at 829 South Western Highway from 'Public Open Space' to 'Town Centre'. This proposal aims to align the zoning of the site with that to the north and south to allow for a contagious commercial zoning, the commercial development of the subject site and an overall benefit to the Byford Town Centre. The amendment has been initiated by the Shire under the appropriate mechanisms within the Town Planning Scheme and has accordingly been advertised.

Consideration of the site has been based on discussions with Shire officers and stakeholders over an extended period of time and the ability to meet technical and strategic objectives of the Structure Plan with reduced financial burden of the Shire.

Information relating to the intended development of the site has been provided in support of the amendment in order to demonstrate the ability of the site to support a feasible commercial development. The applicant and Dome Australia Pty Ltd are committed to establishing the intended development on the site, being a Dome café. The applicant, Dome Australia Pty Ltd and the design team have progressed detailed design to the point where a Development Application will be lodged following deliberation of this matter. Whilst the rezoning shall be considered on its merits it is considered appropriate to provide confirmation that the site can be suitably developed for commercial purposes whilst respecting the key drainage and amenity characteristics of the site.

Even including the proposed rezoning, Public Open Space within the Byford Town Centre would remain at 14.6%, significantly in excess of the 10% minimum agreed to by the Shire and WAPC in the local structure plan document. Additionally, it is noted that the land immediately adjacent to, and including the stream is to continue to provide the required drainage function in addition to passive recreation functions. The area between the stream and the car park is to be grassed to provide for additional recreational opportunities. It is considered this outcome is superior to the current POS potential of the site which is highly limited by a number of factors.

Flooding and Drainage have been a key consideration of the rezoning of the subject site. The applicant and project team are well aware of the unique drainage characteristics of Byford and the part this site plays in the catchment. As such, an environmental consultant was brought on board from the beginning of the process to ensure development of the site for commercial purposes could be undertaken without any negative impacts upstream or downstream. This has been clarified through the provision on an addendum to the local water management strategy which has been signed off by Shire officers and will be further detailed as part of urban water management plan associated with the proposed development application.

The retention of the vegetation on site is an objective of the applicant in order to enhance the amenity of the site. Much of the vegetation on site is to be retained, with a significant portion of this being contained within the creek line.

It is considered the proposed modifications are consistent with the overall intentions and objectives of the Byford Town Centre Local Structure Plan Planning principles and rational. In summary the proposed amendment would allow a high quality outcome for Byford, ensuring the strategic objectives for the area are achieved and the local population is provided with additional high quality spaces whilst reducing the land acquisition and maintenance burden on Council. On this basis we respectfully request that Council support the local structure plan amendment. I would be more than happy to answer any questions the Councillors may have on the proposal.

Built Environment: Urban design with rural charm. Appropriate connecting infrastructure.



Local Economy: Sustainable industries, tourism, regional collaboration.

Natural Environment: responsible resource management, excellence in environmental management, environmentally active community.

Community Wellbeing: Engaged community. Active and Connected People.

# 5.6 Mr Vince Dodin to present a deputation in relation to item OCM283/12/15 relating to Lot 14 (#51) Holstein Court, Oakford – Proposed Land Fill (retrospective), soak wells and retaining wall

All the actions put forward by Craig Wansbrough since June 2015 and the planning officer's report for Council meeting December 07 December 2015 on Lot 14 Holstein Court have now been completed and supporting documents and pictures have been provided. Surplus fill has been removed as requested and trucked out. Note that clean fill was initially brought on Lot 14 Holstein Court because adjoining properties constantly drain storm water on our property.

Furthermore, it has been raised as a complaint by one of the next door neighbours to the Shire that the culvert inside Lot 14 Holstein Court needs to be extended to the fence line. No Culvert infrastructures or drain infrastructure exist within any lots on Holstein court. We have contacted the Water Corporation and they have confirmed that there are no registered culvert infrastructure or drain within our property or on any other lots on the same side of the street and so has Craig Wansbrough in a letter sent to us. As per Craig, the preferred and recommended method to manage and contain storm water on these lots is to dig spoon drains on the fence line to manage the property's storm water. We have welcomed the idea and have completed this activity in August 2015; however the same type of infrastructure still does not exist on adjoining properties.

During the last storm in September 2015 we observed that adjoining properties were still draining their unwanted storm water on our side of the fence which filled up our spoon drains rapidly and flooding part of our drive way and as well as on neighbour side of the fence. This resulted in this adjoining property owner to jump our fence without permission and dug a trench across the front yard in an attempt to get rid of his accumulating storm water. In this instance, police was not called in and no charges were pressed against the individual who admitted digging the trench, however this current situation is unsustainable and cannot continue. We find it unfair that we have been advised to dig spoon drains on our side of the fence to manage our storm water while adjoining properties simply get away by pointing a drain pipe within meters of the fence line and use our drain on our side of the fence to get rid of their storm water.

Since this is likely to be an ongoing issue if left in its current state, we believe that the Shire should interfere. We have accepted the fact that there was excess fill on the property and have rectified accordingly. An email with pictures has been sent to the planning department to that effect and the Shire is encouraged to send down a Council officer to check the job completed onsite. However, the root cause leading to clean fill being trucked on site has not been resolved yet – referring to the drain pipes on adjoining properties.

Back in 2012, we consulted a property developer privately and after a site visit he advised us that those drain pipes should not be in their current spot, were ineffective and should be removed as soon as possible from those adjoining properties as they will continuously lead to flood issues on our side of the fence. Craig Wansbrough (SJ Shire) was of the same opinion after his site visit in June 2015

It is to be noted that this matter has already been reported to the SJ Shire and a case was opened this year. The outcome of the investigation was that we (as owners of lot 14 Holstein Court) had to dig spoon drains to contain and manage our storm water. We believe though that this solution will be effective if those drain pipes are completely



removed and adjoining properties were directed to dig spoon drains on their side. To this day, there are no indications that any actions were directed to those adjoining property owners since their drain pipes infrastructure is still in place on both sides. Please refer to picture supplied.

Since we have now completed the list of actions from the Council, We would like to know what plan of action does the Shire intend to put in place to stop adjoining properties to Lot 14 Holstein court from draining their unwanted storm water on our side of the fence and flooding our property because both adjoining property owners have been advised on numerous occasions since 2012 about the unacceptable high volume of storm water being drained from their storm water pipes on our property but they have simply turned a blind eye on the matter.

## 6. President's report:

On the 24<sup>th</sup> of November it was my pleasure to officiate the Citizenship Ceremony where we welcomed 19 new Australians to our Shire.

On the 1<sup>st</sup> of December, together with Councillor See, I attended the Switched on School Awards Ceremony at Jarrahdale Primary School. The students and staff have been working hard for the past five years to make their school sustainable with a number of key initiatives including students assisting in looking after chickens and edible gardens.

On the 23<sup>rd</sup> of December from 11am to 2pm the Briggs Park Youth Room will be officially opened. Run by the YMCA WA, this will be a great space for our young people to socialise. I encourage you to come along and participate in this celebration.

Nominations for the Premier's Australia Day Active Citizenship Awards have been extended until the 4<sup>th</sup> of January. Please consider nominating a person, group or event making a significant contribution to our Shire. This is your opportunity to nominate someone in our community you think deserves recognition for their good work.

Today Councillor Piipponen thanked our community volunteers to our annual Thank a Volunteer lunch.

Announced today we received \$5.688 million Federal funding National Stronger Regions Fund to upgrade Abernethy Road to a dual carriage way to facilitate the expansion of the Byford Town Centre and to improve safety of vehicles, pedestrians and cyclists. As a result the Council will proceed with Stage 2 in conjunction with Stage 1. I would like to thank the Director of Corporate and Community and Project Coordinator - Development Contributions for the successful grant application.

The Shire offices and Mundijong Public Library will be closed from Friday the 25<sup>th</sup> of December 2015 and will reopen on Monday the 4<sup>th</sup> of January 2016.

I would personally like to wish you all a very merry Christmas and a happy New Year. Please drive safe and remain bush fire alert these holidays.

#### 7. Declaration of Councillors and officers interest:

Councillor Erren declared a closely associated persons interest in item OCM269/12/15 as he has a close association with the owner of the land relating to the items and will leave the meeting while this item is discussed.

Councillor See declared a closely associated persons interest in item OCM269/12/15 as she has acted and continues to act in her capacity as solicitor of the Byford and District Country Club and will leave the meeting while this item is discussed.



Councillor Hawkins declared a closely associated persons interest in item OCM269/12/15 as she has a close financial association with the owner of the land relating to the items and will leave the meeting while this item is discussed.

## 8. Receipt of minutes or reports and consideration for recommendations:

#### 8.1 Ordinary Council Meeting – 23 November 2015

#### Corrections:

Minutes changed to reflect the correct time Councillor See returned to the meeting: Councillor See returned to the meeting at 7.38pm

Minutes changed to reflect the amendment to the officers recommendation for item OCM246/11/15 with the insertion of lot 404 Scott Road to be included in officers recommendation (b)(aa)(iv) and in (ae)(d).

#### **COUNCIL DECISION**

Moved Cr Hawkins, seconded Cr Rich

That the minutes of the Ordinary Council Meeting held on 23 November 2015 be confirmed (E15/6225).

**CARRIED UNANIMOUSLY** 

## 8.2 Special Council Meeting – 25 November 2015 COUNCIL DECISION

Moved Cr See, seconded Cr Hawkins

That the minutes of the Special Council Meeting held on 25 November 2015 be confirmed (E15/6244).

**CARRIED UNANIMOUSLY** 



## 9. Motions of which notice has been given:

OCM265/12/15	Lot 200 (#1089) Thomas Road, Oakford – Floriculture (Extensive) -
	Proposed Stall-wayside & Display Mobile Flower Cart (P07652/03)
Author:	Marcel Bridge - Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	9 November 2015
Disclosure of	The second of the property of the second of
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent: Altus Planning & Appeals

Owner: Dejan Draca
Date of Receipt: 27 October 2015
Lot Area: 27,584m²

Town Planning Scheme No 2 Zoning: 'Rural Groundwater Protection' Metropolitan Region Scheme Zoning: 'Rural – water protection'

#### Introduction:

The purpose of the report is to consider the development application for a Stall-wayside & Display Mobile Flower Cart on Lot 200 (#1089) Thomas Road, Oakford.

The proposal is being presented to Council as Shire officers do not have delegation to consider amendments to an application approved by Council.



Locality Plan

#### **Background:**

#### Existing Development:

The subject property zoned 'Rural Groundwater Protection' is 27,584m² in size and features an approved 'single dwelling', 'patio', 'swimming pool' and 'floriculture-extensive' operation. The proposed application is to allow for a 'wayside-stall' to permit retail sales on the property, and a mobile flower cart display in addition to the approved floriculture (extensive), approved on the 28 April 2015.

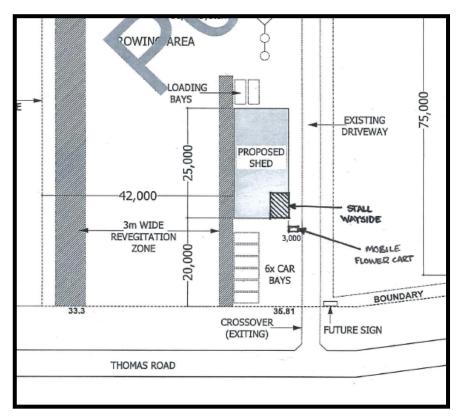


The current approval for the 'floriculture' only allows for the production of vegetables, flowers, exotic and native plants. The previously approval issued on the 28 April 2015 contained, inter alia the following condition:

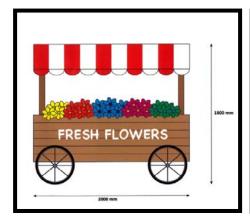
"Retail Sales are not permitted, in accordance with the Applicants submission and with the Town Planning Scheme No. 2 definition of Floriculture (Extensive) which only allows for production of vegetables, flowers, exotic and native plants".

#### Proposed Development:

The proposed 'stall wayside' will consist of two (2) components, a retail component which will occupy a  $6m \times 4m$  ( $24m^2$ ) portion in the south-east corner of the approved shed. The second component will consist of a small mobile flower cart will be wheeled out during the opening hours.



Component 1 - Site Plan.





Component 2 - Side Elevations



#### **Relevant Previous Decisions of Council:**

OCM046/04/15 – Council resolved to approve the Floriculture (Extensive), Shed and Patio at Lot 200 (#1089) Thomas Road, Oakford, subject to conditions.

#### Community / Stakeholder Consultation:

#### Consultation:

No consultation is required for this application.

#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The site is zoned Rural Water Protection under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The site is zoned Rural Groundwater Protection under the Town Planning Scheme
- Local Planning Policy 05 Advertising Signs (LPP 05)
- State Planning Policy 2.3 Jandakot Groundwater Protection Policy.

#### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

#### **Alignment with our Strategic Community Plan:**

Objective 4.1	Sustainable Industries
Key Action 3.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and businesses.

#### **Planning Assessment:**

#### Compliance with relevant legislation:

The application has been assessed against the relevant legislation and has been found to be compliant, and can be considered.

#### Impact on surrounding Area:

It is acknowledged that following a desktop study of the property, that the land owner had been operating retail, with the advertising of 'fresh flowers'. As this has not resulted in any complaints or issues, it is considered that the proposal would not have an impact with regard to the amenity, character of the area or traffic movements along Thomas Road.

The current approval has six (6) car bays adjacent to where the 'stallway-side' and mobile flower cart is to be located. This ensures customers will be able to park on the property without any impact on traffic movements along Thomas Road.

## Signage:

The proposed mobile flower cart has been assessed against the LPP 05 Advertising Signs Policy and was found to be compliant with the definition, standards and provisions.

#### **Options and Implications:**

With regard to the determination of the application for planning approval under TPS 2, Council has the following options:

Option1: Council may resolve to approve the application subject to conditions.



The approval of the application will not result in a negative impact on the amenity or character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to the SAT which may not be able to be successfully argued

Option 1 is recommended.

#### Conclusion:

Shire officers consider that the proposed addition 'stall-wayside' and display mobile flower cart is incidental to the 'floriculture (extensive)' use and complies with the objectives of the zone.

The proposed development will allow for the retail sales from the approved business resulting in a positive commercial viability for the Serpentine – Jarrahdale locality.

#### **Attachments:**

• OCM265.1/12/15 - Locality Plan, Floor Plan and Side Elevations (E15/5932)

Voting Requirements: Simple Majority

#### OCM265/12/15 COUNCIL DECISION Officer Recommendation:

Moved Cr Urban, seconded Cr Gossage

That Council approves the application submitted by Altus Planning & Appeals on behalf of the landowner(s) Dejan Draca for a 'Stall-wayside and Display Mobile Flower Cart' as indicated on the approved plans and does not relate to any other development on Lot 200 (#1089) Thomas Road, Oakford, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. Operating hours are restricted to 7:00am to 5:00pm Monday to Friday and 8.00am to 5.00pm on a Saturday and are not permitted to occur on Sundays and Public Holidays.
- c. Prior to the commencement of the use a Fire and Emergency Management Plan shall be submitted and approved by the Director Planning.
- d. No additional vehicle access shall be permitted to or from Thomas Road reserve from Lot 200 except at the existing crossover point.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 



OCM266/12/15	Lot 801 Thomas Road, Oakford – Proposed Extension to Planning
	Approval for Rural Travel Stop – (P08235/01)
Author:	Marcel Bridge – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	3 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Harley Dykstra Pty Ltd.

Owner: Vincenzo and Terrisa and Diana Borrello

Date of Receipt: 22 April 2013
Lot Area: (15.54ha)
Town Planning Scheme No 2 Zoning: 'Rural'
Metropolitan Region Scheme Zoning: 'Rural'

#### Introduction:

The purpose of this report is to consider the extension of time to an existing development approval for a Rural Travel-Stop on Lot 801 Thomas Road, Oakford.

The proposal is presented to Council as Shire officers do not have delegation to extend the approval timeframe for an application previously approved by Council.



Locality Plan



#### **Background:**

Previously a development application was approved by Council on the 21 May 2014 for a development that comprised of a 'Service Station', '2x Stockfeed outlets and 'Veterinary Establishment'.

#### **Relevant Previous Decisions of Council:**

OCM100/12/13 – Council resolved to determine that the application for a Service Station, Veterinary Establishment and Produce Store at Lot 801 Thomas Road, Oakford be approved under the Town Planning Scheme No. 2 (TPS 2), subject to conditions as determined by the Director Planning.

OCM175/05/14 — Council resolved to grant planning approval for a Service Station, Veterinary Establishment and Produce Store Travel Stop on Lot 801 Thomas Road, Oakford subject to conditions.

#### **Community / Stakeholder Consultation:**

Community Consultation is not required for the proposed extension of timeframe application.

#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Rural' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The lot is zoned 'Rural' under the TPS 2.

#### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

#### Alignment with our Strategic Community Plan:

Objective 4.1	Sustainable Industries
Key Action 3.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and businesses.

#### **Planning Assessment:**

#### Compliance with Relevant Legislation

Pursuant to clause 6.9.2 under the TPS 2 a written request may be made to the Council for an extension of the term of planning approval at any time prior to the expiry of the approval period in sub-clause 6.9.1(a).

#### Extension of Planning Approval

The applicant has requested Council to grant a 12 month extension to the existing planning approval. The applicant provided justification that there has been significant work undertaken in consultation with Main Roads and the Shire Engineers to address the intersection upgrading condition on the planning approval.

The consulting engineers for the applicant have prepared several intersection upgrade options that have been previously presented to Shire officers and Main Roads and also subject to preliminary costings. However, Main Roads have subsequently taken the intersection upgrade matter in hand and are currently working on several options.



For this purpose the applicant seeks a request for a 12 month extension on the existing approval to ensure adequate time is available to resolve the issues round the intersection of Kargotich Road and Thomas Road.

This justification is considered sufficient to support the request.

#### **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application for extension of time.

Approval of the application will provide the landowner the opportunity to resolve issues surrounding the intersection upgrade.

Option 2: Council may resolve to refuse the application for extension of time.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### Conclusion:

It is recommended that Council resolve to approve the extension of time as the proposed rural travel-stop was previously assessed in accordance with Shire policies and was found to be consistent with the objectives and intent of these provisions. The additional time will allow for the applicant to continue ongoing discussions with Main Roads and the Shire to ensure the successful development of the site.

#### Attachments:

- OCM266.1/12/15 Letter of Request for Extension (IN15/23366)
- OCM266.2/12/15 Form 2 Approval (OC14/7915)

Voting Requirements: Simple Majority

#### OCM266/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Piipponen

#### **That Council:**

Approves the application for the extension of time submitted by Harley Dysktra Pty Ltd. on behalf of the landowner(s) Vincenzo and Terrisa and Diana Borrello on Lot 801 Thomas Road, Oakford for a 12 month period to be calculated from 12/05/2016, subject to:

a. The development be subject to the existing conditions on the current Form 2 Approval dated 21 May 2014, as per attachment *OCM266.2/12/15*.

CARRIED 8/1

OCM267/12/15	Lot 211 (#42) Windrow Grove, Whitby - Proposed Land Sales
	Office (P12205/01)
Author:	Marcel Bridge – Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	18 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent: Roberts Day

Owner: Gold Fusion Pty Ltd Date of Receipt: 19<sup>th</sup> October 2015

Lot Area: 2300m<sup>2</sup>

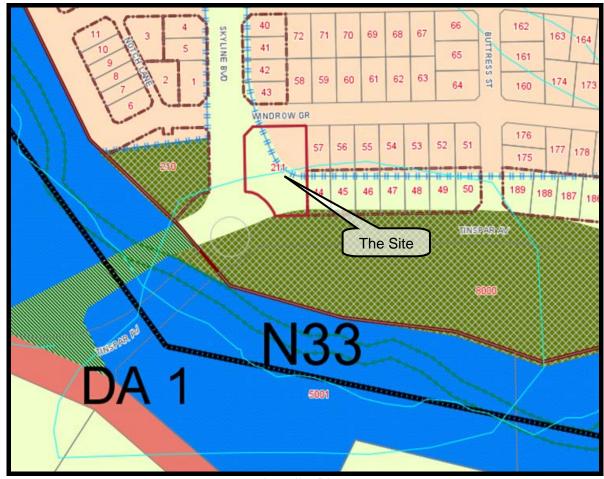
Town Planning Scheme No. 2 Zoning: 'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

#### Introduction:

The purpose of this report is for Council to consider the development application for a 'use not listed' - Land Sales Office at Lot 211 (#42) Windrow Grove, Whitby.

The proposal is presented to Council as Shire officers do not have delegation to determine applications for a 'use not listed' within the Shire's Town Planning Scheme No. 2 (TPS 2).



Locality Plan



#### **Background:**

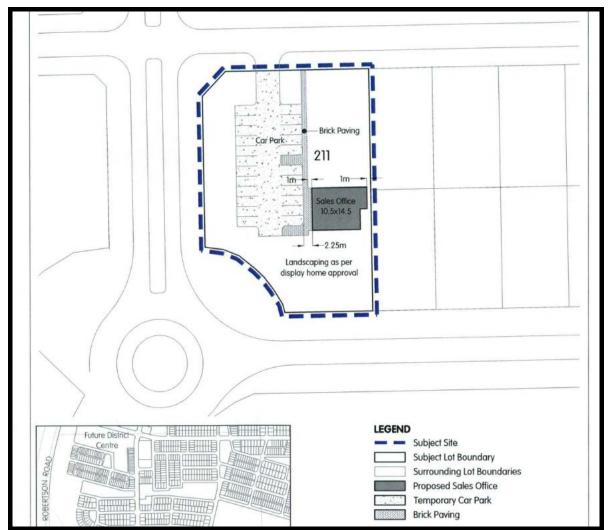
#### Existing Development:

The Shire has previously issued an approval to commence development for a display village application, which created car parking associated with the display village on Lot 211 (# 42) Windrow Grove.

#### **Proposed Development:**

The proposed 'Land Sales Office' office will feature the following:

- The Land Sales Office will be occupied by a maximum of two (2) sales personnel
- Operating hours (8am to 6pm, daily) The applicant has advised that the majority of activity and sales will take place on Saturdays and Sundays, with the Sales office likely to be closed at quieter times throughout the working week.
- Landscaping will occur in accordance with the approval issued for the display village.



Site Plan

#### **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application / issue.

#### Community / Stakeholder Consultation:

The application has been advertised as per clause 6.3 of TPS 2, and one (1) objection has been received and is summarised as follows.



• Building not being built to comply with the same conditions that we have to build to, i.e.: Roof Lines, Street Frontages, and Construction Methods etc.

#### Shire officers comment:

Shire officers acknowledge the concerns of the submissioner. Whilst the concerns are noted, the applicant has demonstrated that developer covenants are not applicable to the subject lot, due to its intention to be used as a temporary sales office. It is also noted that developer covenants are not a planning matter, as they are independent of Shire involvement and are applied and controlled by land developers through contracts of sale. It is also noted that the development is not permanent and will be replaced with a building more typical of the remainder of the estate.

#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Urban Development' under the TPS 2.
- Local Planning Policy No.37 Land Sales Office (LPP 37)

#### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

#### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

#### **Planning Assessment:**

#### Locality:

The lot is located on the corner of Windrow Grove and Skyline Boulevard in Whitby, and measures 2300m<sup>2</sup>.

#### Compliance with Relevant Legislation:

The application has been assessed against the relevant legislation and found to comply and is able to be considered.

#### Location:

In accordance with LPP 37 the 'Land Sales Office' is to be located within the estate it promotes, located adjacent to a primary entrance of the residential estate and located on neighbourhood connector, Access Street, small town Centre Street. The proposed location is located within the Whitby Estate it promotes. It is located on Skyline Boulevard / Windrow Grove / Tinspar Avenue at the primary entrance of the estate from Keirnan Street.

#### Building Design and Appearance:

The land sales office is to reflect and respond to the future character and intended vision and design of the estate.

The proposed overall design is considered to be complying with the vision of the new 'Whitby' Estate.

### Operation:

The operation of the land sales office is to entail of no more than two (2) employees permanently engaged in operation of the use at any one time. The land sales office is only



to operate between the hours of 8am and 6pm on any given day. The applicant has provided details that the operating hours (8am to 6pm, daily), in addition the applicant has advised that the majority of activity and sales will take place on Saturdays and Sundays, with the Sales office likely to be closed at quieter times throughout the working week. These operating hours are considered consistent with the operating hours.

#### Facilities:

A minimum of one (1) unisex and universally accessible toilet facility being provided in accordance with the building code of Australia, Health Act and the Occupational Safety and Health Regulations 1988. The proposed facility contains one (1) toilet will have to be connected to a sewer.

#### Signage:

There is no signage proposed as part of this application. Any future signage proposed on the subject lot must comply with the Local Planning Policy No. 5 – Advertising Signs.

#### Parking and Access:

LPP 37 states that car parking shall be provided at a minimum of four (4) parking bays, including one (1) space signed and maintained as a disabled car parking bay. The applicant provided details that the subject site will have a total of 24 temporary bays, including two (2) disabled bays, as such the provision of car parking is considered appropriate.

#### Landscaping and Screening:

Appropriate landscaping and planting should complement the surrounding locality, in addition it should be suitably screen or buffered to protect the amenity and privacy of residents if necessary. The applicant has provided information that the landscape will incorporate reticulated landscaping to screen from adjoining properties, this is considered satisfactory.

#### Fencing:

No fencing is proposed, the landscaping is considered to be appropriate in protecting the amenity and privacy of residents in neighbouring properties. Any future fencing proposed is to be in accordance compliance with Shire's Fencing Local Law.

#### Reinstatement:

LPP 37 states that the removal of the 'Land Sales Office' and any bitumen / hardstand areas within a time period of two (2) years from the date of approval, or upon sale of all lots within the subdivision, whichever is lesser. Shire officers recommend a condition be added in this regard.

#### **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### **Conclusion:**

That the proposed 'land sales office' be recommended for approval as the provisions of LPP 37 have been considered and the proposal is generally consistent with the objectives of the sales office policy LPP 37.



#### Attachments:

• OCM267.1/12/15 – Site Plan, Floor Plan and Side Elevations (IN15/21933)

**Voting Requirements:** Simple Majority

#### OCM267/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Ellis, seconded Cr Hawkins

That Council approves the application submitted by Roberts Day on behalf of Gold Fusion Pty Ltd for a 'use not listed' (land sales office) as indicated on the approved plans and does not relate to any other development on Lot 211 (#42) Windrow Grove, Whitby, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. At the expiry of this approval, and in the absence of any renewal of approval in writing by the Shire, the site is required to revert to residential purposes.
- c. A minimum of four (4) car parking bays and one (1) space signed and maintained as a disabled car parking bay shall be provided.
- d. Prior to the commencement of the use, the car parking shall be designed, constructed (sealed, drained & line marked) in accordance with the approved plan to the satisfaction of the Director Engineering.
- e. Prior to the commencement of the use, a crossover shall be designed and constructed to the specification of the Director Engineering.
- f. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- g. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- h. The landowner shall ensure all activities related to the construction of the development (such as, but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- Any proposed signage requires a separate application for planning approval.
- j. A maximum of two (2) employees are permitted to be permanently engaged in the operation of the use at any one time.
- k. The hours of operation of the business are restricted from 8.00am to 6.00pm on any given day.

#### **Advice Notes:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

CARRIED 6/3

OCM268/12/15	Lot 322 (#23) Fieldview Chase, Oakford – Reconsideration of (Retrospective) Three (3) Outbuildings and a Water Tank (P04630/04)
Author:	Marcel Bridge – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	17 November 2015
Disclosure of	No officer involved in the preparation of this report is required to
Officers Interest:	declare an interest in accordance with the provisions of the Local
	Government Act

Proponent / Owner: Vincenzo Alteri / Linda Balfour

Date of Receipt: 21 May 2015
Lot Area: 21104m²
Town Planning Scheme No. 2 Zoning: Rural Living B

Metropolitan Region Scheme Rural

#### Introduction:

The purpose of this report is to reconsider the retrospective development application for three (3) 'outbuildings' (machinery shed, chook shed, studio) and a water tank on Lot 322 (#23) Fieldview Chase, Oakford.

Council deferred the application to a future meeting to allow officers to further investigate the retrospective application.



Locality Plan

#### **Background:**

#### **Existing Development:**

The site currently features an approved residential dwelling, swimming pool and a single 'outbuilding' measuring 163.8m<sup>2</sup>.

#### **Proposed Development:**

The retrospective proposal is for the following:



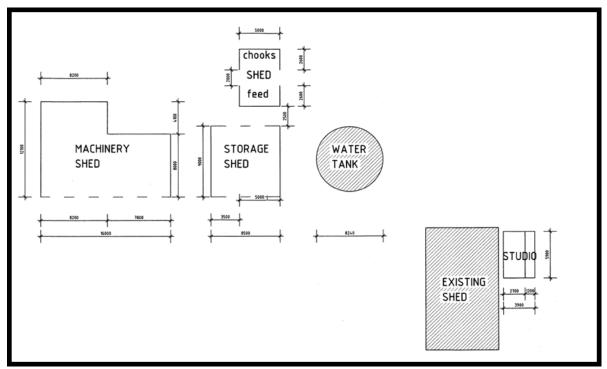
Outbuilding (machinery shed: 192m²) (Wall height - 3.7m) + (Ridge height: 4.750m)

Outbuilding (storage shed: 76.5m<sup>2</sup>) (Overall Height of 2.9m)

Outbuilding (studio: 23m²)

Outbuilding (Chook Shed: 26m²)

Water Tank: Diameter of 8.240m (O/A height of 2.4m)



Existing and Proposed outbuildings

#### **Relevant Previous Decisions of Council:**

OCM224/11/15 – Council deferred the item to allow further investigation of the retrospective application.

#### **Community / Stakeholder Consultation:**

The application has been advertised as per Local Planning Policy – Residential and Incidental Development (LPP 17), one (1) objection was received and is summarised as follows:

- The machinery shed will be used to park four (4) of six (6) trucks owned by the landowner:
- The studio will be used as an office;
- The approval of the machinery shed and office will result in the landowner conducting a trucking business from the site.

#### Shire officers comment:

The applicant was requested to further justify the use of the outbuildings and studio and has advised as follows:

- The sheds shown on the plan are to be used for machinery and equipment storage;
- The smaller one is for a wood shed and possibly in the future maybe a chook pen; and
- The studio will be used as a filing room and on occasion a meeting room.

Following a site visit on the 17<sup>th</sup> November 2015, Shire officers were advised by the applicant that the retrospective studio would only be used for domestic purposes and that the Armadale site was now used for the operation of the business.



#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The site is zoned Rural under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The site is zoned Rural Living B under the Town Planning Scheme
- Local Planning Policy 17 Residential and Incidental Development (LPP 17)

#### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

#### Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

#### **Planning Assessment:**

#### Use of the Outbuildings:

In response to the applicant's deputation at the Ordinary Council Meeting on the 9<sup>th</sup> November 2015, Shire officers reviewed the service response details provided by compliance officers and a site visit was undertaken on the property.

The applicant provided details at the Council Meeting that the 'Commercial Vehicle Parking' had been relocated to a property located in Armadale. The applicant also provided details that they have addressed all points as per the Council letter dated 5<sup>th</sup> August 2015:

- a) We have trucks parked at Units 2 and 3, 10 Dickens Road, Armadale.
- b) We have cleared all introduced fill on the property.
- c) Have ceased screening any soil.
- d) We have not proceeded with any other development apart from planting trees and having mulch delivered.

The applicant provided details that the machinery shed would be used to hold a mini excavator and a bob cat which both are to be used for landscaping purposes and to undertake clearing for firebreaks. In addition the applicant provided details on the water tank being used to collect water from their existing outbuilding to be used on the gardens on the property.

A site visit was undertaken by technical officers on the 17th November. As per the applicants details from the Ordinary Council Meeting Agenda held on the 9<sup>th</sup> November 2015, there was found to be no 'commercial vehicles' parked on the property, fill on the property had been removed and no other forms of development or business activities were seen operating onsite.

#### Potential impact on the streetscape or visual amenity:

In regards to the size (total floor area) of the retrospective 'outbuildings' (sheds), location and scale, the proposed 'outbuildings' and water tank are well clustered together and located behind the existing 'single dwelling'. Given the scale of the lot, the proposed structures are unlikely to impact on the amenity of the area or onto adjoining land owners along Fieldview Chase.

Further, considering the lot is over 2ha in area, the retrospective outbuildings are situated within the setback requirements of LPP 17.



#### **Options and Implications:**

With regard to the determination of the application for planning approval under TPS 2, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of the character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended

#### **Conclusion:**

Following a site meeting with the applicant Shire officers consider that the approval of the retrospective 'outbuildings' (sheds), water tank and studio will not result in any negative impact on the amenity or character of the area.

Further, the applicant has indicated that all the remaining material on the lot is for his own use on the property. The landowner also indicated that the material will be relocated into the outbuilding to ensure there is no impact on the amenity of the area.

It is recommended that the development application be approved subject to suitable conditions.

#### Attachments:

- OCM268.1/12/15 Schedule of Materials, Site Plan and Side Elevations (E15/6031)
- **Confidential OCM268.2/12/15** Service Request Response Details (E15/2017)

Voting Requirements: Simple Majority

#### Officer Recommendation:

That Council approves the application submitted by Vincenzo Alteri & Linda Balfour for three (3) 'outbuildings' (machinery shed, chook shed, studio) and a Water Tank as indicated on the approved plans and does not relate to any other development on Lot 322 (#23) Fieldview Chase, Oakford, subject to the following conditions:

- a. The 'Outbuilding' (shed) and Studio shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The lot shall not be used for the parking of commercial vehicles without the prior approval of the Shire being obtained.
- d. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### **Advice Notes:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.



Councillor Urban foreshadowed he would move an alternate motion that included the specific quantity of vehicles that would be allowed to park within the property, if the motion under debate is lost.

#### OCM268/12/15 Amended Recommendation:

Moved Cr Ellis, seconded Cr Piipponen

That Council approves the application submitted by Vincenzo Alteri & Linda Balfour for three (3) 'outbuildings' (machinery shed, chook shed, studio) and a Water Tank as indicated on the approved plans and does not relate to any other development on Lot 322 (#23) Fieldview Chase, Oakford, subject to the following conditions:

- a. The 'Outbuilding' (shed) and Studio shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### **Advice Notes:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**LOST 2/7** 

Council Note: the Officers recommendation was amended to remove condition c as Council considered that a single truck should be permitted to park.

Councillor See foreshadowed she would move the Officers Recommendation if the motion under debate is lost.

#### OCM268/12/15 Foreshadowed Motion:

Moved Cr Urban, seconded Cr Ellis

That Council approves the application submitted by Vincenzo Alteri & Linda Balfour for three (3) 'outbuildings' (machinery shed, chook shed, studio) and a Water Tank as indicated on the approved plans and does not relate to any other development on Lot 322 (#23) Fieldview Chase, Oakford, subject to the following conditions:

- a. The 'Outbuilding' (shed) and Studio shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. Approve the parking of one (1) commercial vehicle only.
- d. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### **Advice Notes:**



a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**LOST 4/5** 

Council Note: Council added condition c to state the specific quantity of vehicles that could be parked within the property.

#### OCM268/12/15 COUNCIL DECISION / Officers Recommendation:

Moved Cr See, seconded Cr Rich

That Council approves the application submitted by Vincenzo Alteri & Linda Balfour for three (3) 'outbuildings' (machinery shed, chook shed, studio) and a Water Tank as indicated on the approved plans and does not relate to any other development on Lot 322 (#23) Fieldview Chase, Oakford, subject to the following conditions:

- a. The 'Outbuilding' (shed) and Studio shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The lot shall not be used for the parking of commercial vehicles without the prior approval of the Shire being obtained.
- d. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### **Advice Notes:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

CARRIED 7/2



Councillor Erren declared a closely associated person interest, Councillor Hawkins declared a closely associated person interest and Councillor See declared a closely associated person interest in item OCM269/12/15 and all left the meeting at 8.51pm while the item was discussed.

The Presiding Member vacated the chair and Deputy President Piipponen assumed the chair at 8.51pm

OCM269/12/15	Lot 4 (#829) South Western Highway - Proposed Byford Town
	Centre Structure Plan Modification (SJ1032-03)
Author:	Heather Carline – Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	18 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent:

Owner:

Date of Receipt:

Lot Area:

Town Planning Scheme No. 2 Zoning:

Urbis Pty Ltd
R and C Borich
18 June 2015
2934m² (0.29ha)

'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

#### Introduction:

The purpose of this report is for Council to consider recommending that the Western Australian Planning Commission (WAPC) adopt the modification to the Byford Town Centre Local Structure Plan (LSP).

The proposal is presented to Council as Shire officers do not have delegation to recommend the adoption of the modified LSP.



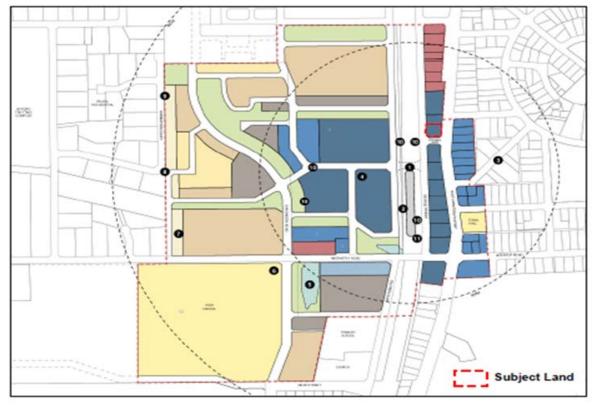
Locality Plan

#### Background:

At OCM201/10/15 Council resolved to approve the advertising request for the modification of the Byford Town Centre LSP in relation to the rezoning of Lot 4 (#829) South Western Highway, Byford.

#### **Proposed Development:**

The proposal seeks approval to rezone Lot 4 (#829) South Western Highway in Byford from 'Public Open Space and Drainage' to 'Town Centre'. The purpose of which is to facilitate a development of a café.



Site Plan

#### **Relevant Previous Decisions of Council:**

OCM152/02/13 - Byford Town Centre Local Structure Plan - Proceedings before the SAT OCM123/02/14 - Byford Town Centre Local Structure Plan - Final Adoption OCM201/10/15 - Byford Town Centre Local Structure Plan modification - Approved for advertising

#### **Community / Stakeholder Consultation:**

The proposal has been advertised in accordance with Clause 6.3 of Town Planning Scheme No. 2 (TPS 2), 21 submission have been received six (6) of which objected to the proposal. The objections have been summarised as follows:

#### Community objections:

- Loss of Public Open Space
- Drainage issues
- Amenity and loss of vegetation
- Future development
- Principle of rezoning

#### Loss of Open Space:

It has been commented that the lot should remain as 'public open space' and that this is the only open space that is located in the nearby vicinity and its removal would affect the recreation of many people. Another submission reiterates the importance of providing for open space and has made suggestions to include only utilising half of the block for commercial purposes and for part of it to remain as 'public open space'. It is also stated that there is no proposal to compensate for the loss of open space and suggested that the proponent could provide another area for open space or contribute to the amenity of other existing areas of 'public open space'.



One (1) submission refers to the application of the open space calculations using the 10% requirement applied by the WAPC. It is not considered relevant in the same way that might apply in a residential subdivision context and this does not abrogate the importance of providing open space within town centres. It is commented that there are no other locations along this commercial strip providing open space and the importance of preserving this use of land. The opportunity to provide a high amenity open space at the site will be lost if rezoned.

# Applicant response:

The applicant has commented that currently the subject site is in private ownership and is not utilised for public open space uses. As such, the zoning change will not reduce the ability of the public to recreate on the site. Furthermore, as noted within the proposal the amount of public open space will remain in excess of 10% should this site be removed.

The subject site falls within the Town Centre LSP area. This area is sufficiently serviced by public open space. Whilst it is acknowledged that the Old Quarter is under serviced, these matters will required to be dealt with by the Shire should they decide to up-zone this area.

The incorporation of the 10% public open space (as per Liveable Neighbourhoods) has been accepted as part of the approved / endorsed LSP. As such, the calculations provided with the amendment documentation are consistent with the agreed approach to Public Open Space within the Byford Town Centre.

The LSP incorporated public open space in this location in response to drainage attenuation and amenity aspects relating to retention of the vegetation. The LSP was prepared at a district level and it should be recognised that at detailed design additional engineering solutions have been implemented to ensure the critical drainage factors are met in addition to ensuring the amenity on the site is retained and enhanced.

The intended development on the site aims to provide a high amenity destination for Byford which not only incorporates the café but areas of public open space.

The intended development will incorporate significant areas of publically accessible land in the vicinity of the stream. Additionally, it is understood that the Shire is not currently in a position to acquire the site for the purposes of public open space.

# Shire officers comment:

It is acknowledged that the rezoning of the land would result in loss of 'public open space' within the LSP area. As stated by the applicant, this area of land is currently privately owned and not currently utilised as such. The original intent of this land use was to facilitate drainage requirements and although there isn't another designated area for 'public open space' on the eastern side of South Western Highway, the LSP area provides for more than the required 10% of 'public open space'. The Shire considers that the loss of this area of open space would not be to the detriment of the town or its residents, subject to the drainage requirements being met.

#### Drainage:

Concerns have been raised in relation to the lack of technical detail provided to determine the impact of the proposal on land to the west of the site. Further information has been requested prior to the modification proceeding. The submission includes a summary of a review of the addendum to the Local Water Management Strategy (LWMS). Comments include that the culverts under George Street have not been included in the hydraulic model. The version of the LWMS is an outdated version. It has also been commented that should the land be filled, this would remove floodplain storage and in turn the flow rate downstream of George Street will increase. It is suggested that detailed modelling should be provided to show how flow rates will be maintained within the allowable levels. It is not considered that



this information should be deferred and should be provided prior to the modification being approved.

Further concerns have been raised in relation to flooding and drainage management and it should be ensured that drainage can be properly accommodated on site as well as the capability of the land being development without impact on downstream land uses. It is considered that the proposal should not be considered prior to further information being provided.

# Applicant response:

The land immediately adjacent to, and including the stream is to continue to provide the required drainage function in addition to passive recreation functions. The area between the stream and the car park is to be grassed to provide for additional recreational opportunities.

As noted within the addendum to the LWMS provided to the Shire, the proposed change in zoning will not impact the upstream or downstream water flows. An Urban Water Management Plan (UWMP) will be provided with the development application to support the development and confirm the engineering solutions to be implemented to meet drainage requirements of the LWMS.

The proposal does not affect downstream flows as established within the existing framework and the objector could have requested additional information during the submissions period if required.

As noted within the LWMS addendum provided to the Shire, the proposed rezoning will not have any impacts on the up-stream or down-stream flows, nor will it impact the site's function as part of the drainage network, in particular stormwater storage in large events.

It is recognised that the drainage requirements are a critical aspect of the development of the site, and Byford as a whole. As such, a UWMP will be provided in association with the development application to highlight that the intended development can be appropriately constructed in respect of the drainage requirements given the engineering solutions to be implemented.

As the UWMP is directly related to the final detailed design for the site it is not considered to be pre-emptive and not appropriate to be provided at this point in time. Should further commentary be required prior to the lodgement of the provision of the UWMP (associated with the development application) this can be obtained from Helen Brooks of Essential Environmental.

# Shire officers comment:

The intent of this area of land to serve drainage requirements in the area is a significant consideration in the determination of the rezoning. The applicant has provided an addendum to the LWMS that has been assessed by the Shire. It is considered that at this stage the level of information provided in the hydrological assessment is appropriate to inform a modification to the LSP with further detail to be provided within an UWMP to support future subdivision and / or a development application.

### Amenity and loss of vegetation:

It has been commented that this area of land is the only significant stand of vegetation left in the town centre. Concerns have also been raised that there is no guarantee that the vegetation on site would be retained and loss of this vegetation would impact detrimentally on the amenity of the area.

#### Applicant response:



The retention of the vegetation on site is an objective of the proponent in order to enhance the amenity of the site. Much of the vegetation is contained within the creek line.

#### Shire officers comment:

The Shire acknowledges that the vegetation on site contributes towards the visual amenity of the area. Vegetation management will be a consideration at the development stage.

### Future Development:

It has been commented that the proposed rezoning should be considered alone and that the future development on the site should not be part of the consideration at this stage.

It has been stated that there is no guarantee as to the development that would be proposed following the rezoning.

One (1) submission raises concerns that it has already been announced that the Dome Café is going on the site prior to the approval of the rezoning. It is questioned whether the Council already has a position on the proposal and the legality of this.

It is commented on that no information has been provided to ascertain the sufficiency of car parking for the Dome nor is it possible to calculate floor areas. It is considered that the rezoning is proposed to facilitate a specific development and therefore the ability to undertake that development with respect to car parking, traffic management and drainage which are relevant planning considerations that ought to be considered as part of the rezoning process.

# Applicant's response:

It is not unusual for concepts and intended form to be included in rezoning documents. A development application could be lodged for consideration on its merits (including reserved land); however the proponents have elected to await consideration of this matter prior to lodgement. A development application would enable either consideration or triggering of acquisition / compensation. Information pertaining to the intended development of the site was provided in support of the zoning given the unique characteristics of the site. The intended development demonstrates the retention of the drainage requirements, stream and the vegetation on site, factors which are considered of importance to the proponent. In this instance it is considered appropriate to give consideration to the intended use of the site to ensure the overarching objectives of the LSP are met once the site is developed.

The proponent and Dome Australia Pty Ltd. are committed to establishing the intended development on the site, having progressed detailed design to the point where a development application will be lodged following deliberation of this matter.

The proposal needs to be considered on its merits and no change has effect until deliberation by the Council and WAPC.

Factors such as car parking are not considered critical factors in demonstrating the ability of the site to be developed in context of the drainage and amenity. As such, these matters will be addressed within the development application.

# <u>Shires officer</u> comment:

The modification, as proposed, relates solely to the rezoning of the land and does not include any development of the site. The applicant has provided indicative information as to the intended use and development of the site however this has not been assessed as part of the modification to the LSP. Any development of the land will be subject to a development application assessment.

It is acknowledged that the applicant has an intended use and proposal for development of the site and that the drainage, car parking and traffic management will be considered



material considerations when the detailed planning application is assessed. At this stage the applicant will be required to demonstrate the sites ability to facilitate a development proposal. The Shire cannot consider these matters where the modification seeks solely for the rezoning of the land. The Shires engineering department has confirmed that the submitted information is sufficient at this stage to satisfy drainage requirements.

# Principle of rezoning:

It has been commented that the existing LSP was subject to an appeal and the LSP as endorsed should stand. It is stated that the proponent of the proposed rezoning was also the proponent for the original LSP and it is questioned as to why their viewpoint has changed in relation to the zoning of the land.

One (1) submission has been received commenting generally on rezoning and coding of lots under the Residential Design Codes and the impact this has on land value.

### Applicant's response:

The proponent is currently following the due process as provided within the WA Planning regulations and the Shire of Serpentine Jarrahdale TPS 2 to amend the LSP.

Refinements and modification of LSPs are not uncommon and are considered on their merits. The LSP incorporated public open space in this location in response to drainage attenuation and amenity aspects relating to retention of the vegetation.

The proposal enables the vegetation and drainage to be retained without acquisition. The subject site (and its designation) was not a direct area of contention within the SAT review.

The LSP highlighted an acquisition plan was required to acquire public open space, including the subject site. Such a plan has not been implemented and it is understood that the Shire is currently not in a position to acquire the land.

The designation of the land has no impact on the density of others sites in Byford. The submission is considered irrelevant to the proposal.

# Shires officer comment:

The Shire acknowledges the process that the original LSP has undergone, however land uses are subject to change and the applicant has the opportunity through the planning process to propose change.

The Shire cannot comment on the density of other areas of land that do not relate to the land subject to the LSP modification.

#### Agency / Government Objections / Submissions:

Comments have been received from 9 Government Agencies:-

# Main Roads:

Main Roads has confirmed that the rezoning is considered acceptable and provided conditions that will be applicable at the time of redevelopment.

# Department of Water (DoW):

The DoW has commented that the level of information provided in the accompanying hydrological assessment is considered appropriate to inform a modification to the Byford Town Centre LSP, with further detail to be provided within an UWMP to support the future development application.

The following Government Agencies had either no objections or comments on the proposal:-



- Department of Mines and Petroleum
- State Heritage Office
- Department of Education
- Telstra
- Department of Parks and Wildlife
- Atco Gas Australia Pty Ltd
- Department of Aboriginal Affairs

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The lot is zoned 'Urban Development' under the TPS 2.
- Byford Town Centre Local Structure Plan.
   The lot is zoned 'Public Open Space and Drainage' under the LSP.

# **Financial Implications:**

Should Council resolve to refuse the modification, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

# Alignment with our Strategic Community Plan:

Objective 4	Sustainable Industries
Key Action 4.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and businesses.

#### **Planning Assessment:**

Lot 4 (#829) South Western Highway lies within the centre of Byford. South Western Highway runs along the eastern boundary with George Street to the west and Pitman Way to the South.

The site is currently vacant and comprises of established vegetation.

The proposed rezoning of the land would facilitate an extension to the existing Town Centre of Byford in line with the objectives of the original LSP. It would contribute to providing a mixed use, well defined Town Centre offering facilities of local and district value.

Although the proposed modification would result in the loss of public open space, the proposal would integrate the site within the existing main street and facilitate future development consistent with local needs.

It is considered that rezoning of the land can be achieved whilst addressing issues in relation to drainage which was the original intended purpose of the zoning.

# **Options and Implications:**

With regard to the determination of the modification to the Byford Town Centre LSP, Council has the following options:

Option 1: Council may resolve to approve the modification to the Byford Town Centre LSP and forward to the WAPC for approval / endorsement.

The approval of the modification will not result in a negative impact on the amenity of character of the area.



Option 2: Council may resolve to refuse the modification to the Byford Town Centre LSP.

Refusal of the modification may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### Conclusion:

The proposed modification of the Byford Town Centre LSP would provide for an acceptable extension to the 'Town Centre' of Byford consistent with local needs and the objectives of the original LSP.

#### Attachments:

• <u>OCM269.1/12/15</u> – Summary of Submissions (E15/6062)

**Voting Requirements:** Simple Majority

OCM269/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Ellis, seconded Cr Gossage

That Council approves the modification to the zoning of Lot 4 (#829) South Western Highway from 'Public Open Space' to 'Town Centre' as indicated on the Byford Town Centre Local Structure Plan submitted by Urbis.

a. Forwards the modified Byford Town Centre Local Structure Plan to the Western Australian Planning Commission for final approval / endorsement.

CARRIED 4/2

Councillors Erren, Hawkins and See returned to Chambers at 9.00pm

Councillor Erren resumed chairing the meeting at 9.01pm



OCM270/12/15	Lot 85 (#87) Nettleton Road, Byford – Proposed Home Business (P01627/04)
Author:	Heather Carline – Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	18 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent:

Date of Receipt:

Lot Area:

Town Planning Scheme No. 2 Zoning:

N Neethling
8 October 2015
2151m² (0.2ha)

'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

#### Introduction:

The purpose of this report is for Council to consider the development application for a 'Home Business' swim school at Lot 85 (#87) Nettleton Road, Byford.

The proposal is being presented to Council as the application has received a submission during the advertising period.



Locality Plan

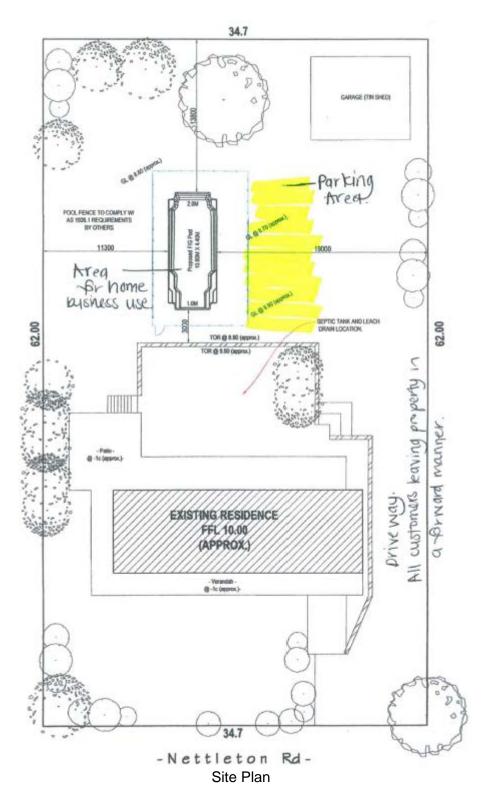
#### Background:

# **Existing Development:**

The lot is currently developed with a single dwelling, 'outbuilding' and swimming pool.

# **Proposed Development:**

The application seeks approval for a proposed 'home business' (swim school). The swim school will utilise the existing pool and no operational development is proposed as part of the application.



#### **Relevant Previous Decisions of Council:**

The development application for the swimming pool was approved under delegation on 14 August 2013 (P01627/01).

The swim school was given temporary approval on 25 September 2013 for a period of two years.

# **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the Town Planning Scheme No. 2 (TPS 2), one (1) submission has been received and is summarised as follows:



• The resident has requested a fence to be constructed along the eastern lot boundary to maintain privacy and to reduce noise from vehicles accessing the swim school.

# Applicant response:

The applicant has been advised of the request from the neighbouring resident and has agreed that a fence will be constructed.

### Shire officers comment:

Whilst the applicant has indicated that they are willing to construct a fence, Shire officers are of the opinion that the proposed swim school will not have a significant impact on the adjoining property.

Further, the requested fence is considered a dividing fence which is covered under the *Dividing Fences Act 1961*, as such Shire officers do not recommend imposing a condition requiring the fence.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Urban Development' under the TPS 2.

### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

#### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage
	social interaction

#### **Planning Assessment:**

#### Locality:

The lot is located to the south east of Byford Town Centre on Nettleton Road, and measures 2154m<sup>2</sup>.

# Compliance with Relevant Legislation:

TPS 2 defines a 'home business' as a business, service, trade or similar activity carried on in a dwelling or on land around a dwelling which may employ, in addition to the resident of the dwelling, no more than two persons but which does not entail the retail sale, display or hire of goods of any nature; does not entail employment of any person not a member of the occupier's household; does not occupy an area greater than 50m²; will not result in traffic difficulties as a result of the inadequacy of on-site and off-site parking and does not entail the presence, parking and garaging of a vehicle of more than 3.5 tonne tare weight.

TPS 2 also states that a 'home business' is a SA use within the 'urban development' zone. This means that the Council may, at its discretion, permit the use after notice of the application has been given in accordance with Clause 6.3 of TPS 2.

The proposed 'home business' (swim school) complies with all these listed requirements under TPS 2.



# Impact on Character and Amenity:

TPS 2 states that a 'home business shall not cause injury to or prejudicially affect the amenity of the neighbourhood; does not detract from the residential appearance of the dwelling house or domestic outbuilding; and will not result in a substantial increase in the amount of vehicular traffic in the vicinity;

The 'home business' (swim school) has been operating since the last approval was granted in 2013. The current application has been advertised to surrounding landowners and no objections have been received other than the request for the construction of a lot boundary fence. This request has been accepted by the applicant.

Approval is essentially sought for the continuation of this 'home business' (swim school) following the expiry of the approval.

The applicant has provided information as part of the planning application stating that the number of customers attending the site per day would be up to 30 with a maximum of four (4) customers on the premises at any one time. It is considered that up 30 customers attending the site per day is significant however a maximum of four (4) at any one time would limit the impact on residential amenity in terms of noise.

With regard to vehicles entering and leaving the site, the applicant has provided suitable onsite parking facilities and as there would be a maximum of four (4) customers at any one time it is considered that the proposal would not result in an unduly amount of increased vehicular traffic in the vicinity.

The proposal is a use previously approved by the Shire. It is considered that the impact on neighbouring residents would not be so significant as to warrant a refusal of the application and it is considered that the concerns of the neighbouring resident have been addressed.

# **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

### **Conclusion:**

The proposed 'home business' (swim school) would not harm the amenity of adjacent landowners and the use of land is compliant with the requirements of TPS 2.

#### Attachments:

There are no attachment related to this report

Voting Requirements: Simple Majority

#### OCM270/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Urban, seconded Cr Hawkins

That Council approves the application submitted by N Neethling for a 'home business' (swim school) as indicated on the approved plans and does not relate to any other



development on Lot 85 (#87) Nettleton Road, Byford, subject to the following conditions:

- a. The approval is personal to the applicant and cannot be transferred to or assigned to any other person, nor does it run with the land in respect of which it was granted.
- b. The person to whom approval is granted by the Council to carry on a 'home business' shall not carry on that 'home business' at any premises other than the land in respect of which the Council's approval is granted.
- c. The hours of operation of the business are restricted to between 8:30am and 5:00pm Monday to Friday. Operation of the business on Saturdays, Sundays and Public Holidays is not permitted.
- d. A maximum of 30 customers are permitted to attend the premises per day with a maximum of 4 customers at any one time.
- e. All vehicles associated with the 'home business' are to be parked within the boundaries of the subject property and shall not be parked on the adjacent road or verge at any time.
- f. The activities approved are restricted to the use and activities associated with the swimming pool only.
- g. Not more than 50m<sup>2</sup> of the dwelling or land associated with the dwelling is permitted to be used for the purpose of the 'home business'.
- h. Prior to the continuation of the 'home business' the applicant shall obtain a Compliance Certificate and a Permit to Operate from the Executive Director of Public Health.

### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 



OCM271/12/15	Lot 61 (#6) Gloaming Way, Darling Downs - Retrospective
	Commercial Vehicle Parking (P00657/03)
Author:	Heather Carline – Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	13 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government</i>
	Act

Proponent/Owner: S and K Treble
Date of Receipt: 28 July 2015
Lot Area: 20022m² (2ha)
Town Planning Scheme No. 2 Zoning: 'Special Rural'

Metropolitan Region Scheme Zoning: 'Rural'

#### Introduction:

The purpose of this report is to consider the development application for 'commercial vehicle parking' on Lot 61 (#6) Gloaming Way, Darling Downs.

The site is zone Special Rural under the Shire's TPS 2. In this zone commercial vehicle parking is a discretionary use. Due to the application being for the parking of multiple commercial vehicles the application is being presented to Council for consideration.



Locality Plan

# **Background:**

# **Existing Development:**

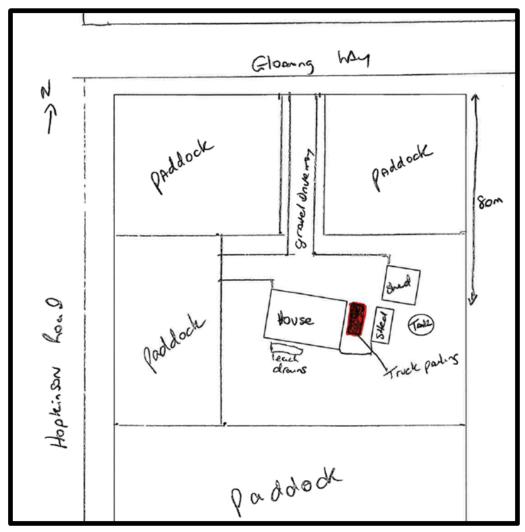
The site currently comprises of a single dwelling with associated outbuildings and a water tank.

### Proposed Development:

The application seeks retrospective planning approval for 'commercial vehicle parking'. The applicant has stated within the application that this includes an Isuzu truck, caterpillar side



loader and 2 caterpillar excavators. As indicated below, the vehicles would be parked to the east of the existing dwelling between the house and the existing outbuildings.



Site Plan

# **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application.

# **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the TPS 2, no objections have been received.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Rural' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Special Rural' under the TPS 2.

# **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and



may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

### Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

# **Planning Assessment:**

# Compliance with Relevant Legislation:

The Shire's TPS 2 defines 'commercial vehicle parking' as 'the parking of one (1) or more commercial vehicles on any land within the Scheme Area. A vehicle shall be parked for the purpose of this definition if it is present on the subject land for more than two (2) hours and is not in that time being used to load or unload anything, or in connection with building or development work carried out with all necessary Council approvals'.

The site is zoned Special Rural under the Shire's TPS 2. In this zone, 'commercial vehicle parking' is a discretionary use that is subject to notice being given in accordance with Clause 6.3 of the TPS 2.

Clause 5.5.4 of the Shire's TPS 2 sets out required standards that must be met for commercial vehicle parking to be considered acceptable. It states that a vehicle must be housed in a garage, or behind the building line; it should not prejudicially affect the amenity of the neighbourhood due to emission of light, noise, vibration, smell, fumes, smoke or dust; the vehicle must be predominantly used by a person who is an occupier of a dwelling on the lot where the vehicle is parked.

The TPS 2 also sets out maximum dimensions and loading capacity of vehicles. The vehicles, in this case, comply with this criteria.

#### Impact on Character and Amenity:

It is acknowledged that the vehicle/s will be parked on the property between 4.00pm and 6.30am and the standards in relation to noise state that a commercial vehicle should not be started or leave the property before 6.30am or return to the property after 6.30pm Monday to Friday. In this case the neighbouring residents and the Shire's Environmental Health Department has raised no objections to the parking times and as the use is retrospective, it is considered that this variation to the parking times is not causing a noise nuisance. In any event, the applicant will be required to comply with any health / noise legislation / regulations.

It is considered that the proposal complies with the requirements of the Shire's TPS 2. The proposed 'commercial vehicle parking' would not detrimentally impact on the visual amenity of the area or the amenity of neighbouring residents.

### **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will be compliant with the Shire's TPS 2 requirements and would not result in a negative impact on the amenity of the area or surrounding landowners.

Option 2: Council may resolve to refuse the application.



Refusal of the application may result in an appeal to the SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### **Conclusion:**

The proposed 'commercial vehicle parking' complies with the requirements as set out in the Shire's TPS 2 and would not impact detrimentally on the amenity of the area or neighbouring residents.

#### Attachments:

• OCM271.1/12/15 - Site Plan (E15/5756)

**Voting Requirements:** Simple Majority

#### Officer Recommendation:

That Council approves the application submitted by S and K Treble for 'Commercial Vehicle Parking' as indicated on the approved plans and does not relate to any other development on Lot 61 (#6) Gloaming Way, Darling Downs, subject to the following conditions:

- a. Approval is for the parking of four (4) commercial vehicles only.
- b. The parking of the commercial vehicles shall be restricted to the area coloured red on the approved site plan.
- c. Approval is specific to the applicant only and does not run with the land.
- d. The owner of the commercial vehicles must reside on the property.
- e. No mechanical servicing of the commercial vehicles, panel repairs, painting, wash-down or degreasing, shall occur on site.
- f. The commercial vehicles shall not be started / operated before 6:30am or after 6:30pm Monday to Friday and shall not be started / operated on Saturdays, Sundays and / or Public Holidays.
- g. Crossovers shall be located and constructed to the satisfaction of Director of Engineering.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

Councillor Gossage foreshadowed he would move an alternative motion that would remove the specific brands from condition (a) if the motion under debate is lost.

#### OCM271/12/15 Amended Recommendation:

Moved Cr Urban, seconded Cr Hawkins

That Council approves the application submitted by S and K Treble for 'Commercial Vehicle Parking' as indicated on the approved plans and does not relate to any other development on Lot 61 (#6) Gloaming Way, Darling Downs, subject to the following conditions:

- a. Approval is for the parking of four (4) commercial vehicles only (a isuzu truck, caterpillar side loader and two (2) caterpillar excavators).
- b. The parking of the commercial vehicles shall be restricted to the area coloured red on the approved site plan.



- c. Approval is specific to the applicant only and does not run with the land.
- d. The owner of the commercial vehicles must reside on the property.
- e. No mechanical servicing of the commercial vehicles, panel repairs, painting, wash-down or degreasing, shall occur on site.
- f. The commercial vehicles shall not be started / operated before 6:30am or after 6:30pm Monday to Friday and shall not be started / operated on Saturdays, Sundays and / or Public Holidays.
- g. Crossovers shall be located and constructed to the satisfaction of Director of Engineering.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

LOST 0/9

Council Note: Council believe that the change to condition (a) was too specific and did not allow the owner the option to purchase different branded vehicles in the future.

Councillor Urban foreshadowed that he would move the Officers Recommendation if the motion under debate is lost.

#### OCM271/12/15 Foreshadowed Recommendation:

Moved Cr Gossage, seconded Cr Hawkins

That Council approves the application submitted by S and K Treble for 'Commercial Vehicle Parking' as indicated on the approved plans and does not relate to any other development on Lot 61 (#6) Gloaming Way, Darling Downs, subject to the following conditions:

- a. Approval is for the parking of four (4) commercial vehicles only (one (1) truck, one (1) side loader and two (2) excavators).
- b. The parking of the commercial vehicles shall be restricted to the area coloured red on the approved site plan.
- c. Approval is specific to the applicant only and does not run with the land.
- d. The owner of the commercial vehicles must reside on the property.
- e. No mechanical servicing of the commercial vehicles, panel repairs, painting, wash-down or degreasing, shall occur on site.
- f. The commercial vehicles shall not be started / operated before 6:30am or after 6:30pm Monday to Friday and shall not be started / operated on Saturdays, Sundays and / or Public Holidays.
- g. Crossovers shall be located and constructed to the satisfaction of Director of Engineering.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**LOST 4/5** 



Council Note: Council considered that condition (a) was not specific enough as to the sizing of the truck.

Councillor Urban foreshadowed that he would move a New Motion to defer the item to seek clarification on terminology in relation to truck sizing, if the motion under debate is lost.

#### OCM271/12/15 Officers Recommendation:

Moved Cr Urban, seconded Cr See

That Council approves the application submitted by S and K Treble for 'Commercial Vehicle Parking' as indicated on the approved plans and does not relate to any other development on Lot 61 (#6) Gloaming Way, Darling Downs, subject to the following conditions:

- a. Approval is for the parking of four (4) commercial vehicles.
- b. The parking of the commercial vehicles shall be restricted to the area coloured red on the approved site plan.
- c. Approval is specific to the applicant only and does not run with the land.
- d. The owner of the commercial vehicles must reside on the property.
- e. No mechanical servicing of the commercial vehicles, panel repairs, painting, wash-down or degreasing, shall occur on site.
- f. The commercial vehicles shall not be started / operated before 6:30am or after 6:30pm Monday to Friday and shall not be started / operated on Saturdays, Sundays and / or Public Holidays.
- g. Crossovers shall be located and constructed to the satisfaction of Director of Engineering.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**LOST 0/9** 

### OCM271/12/15 COUNCIL DECISION / Foreshadowed Recommendation:

Moved Cr Urban, seconded Cr See

That Council defer the item to the first Ordinary Council Meeting in March 2016 to provide clarification of the correct terminology to be presented in the recommendation.

**CARRIED 9/0** 



OCM272/12/15	Revoke previous decision on Scheme Amendment No. 192 –and proceed with Basic Amendment No 192 - Text Amendment to Reflect the Deemed Provisions contained within the Planning and Development (Local Planning Schemes) Regulations 2015 (SJ1872)
Author:	Rob Casella – Senior Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	19 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the <i>Local Government Act</i>

#### Introduction:

The purpose of this report is for Council to consider revoking Council decision OCM213/10/15 and to also consider adopting to proceed with a basic amendment to the Shire's Town Planning Scheme No. 2, to reflect the Deemed Provisions contained within the Planning and Development (Local Planning Schemes) Regulations 2015.

On 26 October 2015, Council resolved to adopt Scheme Amendment No. 192, however due to the scheme amendment being one of the first to be submitted to the Western Australian Planning Commission (WAPC) under the new *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regs), the WAPC has requested certain changes to Council resolution (OCM213/10/15).

In addition, advice from the WAPC that the request to amend TPS 2 with the inclusion of 'hydroponics' as an 'AA' use will result in the scheme amendment having to be processed as a 'Standard' scheme amendment. This would result in significant delays for Scheme Amendment No. 192.

After further consultation with the WAPC it was agreed that it would be appropriate to modify Scheme Amendment No. 192 so as to ensure its speedy resolution and undertake a separate amendment for the modification to the zoning table to remove 'hydroponics' as a use within the land use table.

#### Background:

As part of the Western Australia's planning reform, the Department of Planning (DoP) have released the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) which were gazetted on the 25 August and take effect as of the 19 October 2015, replacing the Town Planning Regulations 1967.

Contained within the Regulations under Schedule 2 is the Deemed Provisions. The Deemed Provisions now form part of the Shire's Town Planning Scheme (the Scheme) with any inconsistencies between the Scheme and the Deemed Provisions, the Deemed Provisions prevail.

Subsequently, the Shire has undertaken a review of TPS 2, to remove or modify provisions, that have been addressed by the provisions contained within the 'deemed provisions'. Therefore, it is considered that this Scheme Amendment is classed as a 'basic amendment' as determined under clause 34 of the regulations.

#### **Relevant Previous Decisions of Council:**

OCM213/10/15 – Council resolved to adopt Scheme Amendment No.192



# Community / Stakeholder Consultation:

Under the new regulations, a scheme amendment that is to delete provisions that have been superseded by the deemed provisions in Schedule 2, or an amendment to correct an administrative error, does not require advertisement to the public or servicing authorities.

# **Statutory Environment:**

- Planning and Development Act 2005 (P&D Act)
- Planning and Development (Local Planning Schemes) Regulations 2015 (LSP Regs)

### **Financial Implications:**

The financial implication of the proposed scheme amendment will be minor, as there is no need for advertising of the administrative changes.

### **Alignment with our Strategic Community Plan:**

Objective 1.2	Progressive Organisation
Key Action 1.2.6	Comply with all legislative and statutory requirements.

#### **Planning Assessment:**

The changes made to the Shire's scheme are to remove or amend any provisions that are addressed in the recently introduced deemed provisions of the gazetted regulations.

As a result of the LSP Regs, the changes made to the process for scheme amendments has reduced the time and resources required to undertake a basic scheme amendment, meaning a less onerous and time consuming process is achieved.

Subsequently, as a result of the Scheme review, the majority of changes made are a result of the deemed provision, however a number of minor amendments have been made to correct existing administrative errors.

A copy of the revised Scheme Amendment document can be found in the attachments, along with a table of explanations for the proposed changes.

# **Options and Implications:**

Council has the following options when considering the request:

Option1: Council may resolve to adopt the Scheme Amendment, without modification.

Council acknowledge the need to modify the Scheme as a matter of priority to reflect the deemed provisions of the *Regulations* to prevent any inconsistencies and confusion between the Shire's Scheme provisions and the *Regulations*.

Option 2: Council may resolve to adopt the Scheme Amendment, with modifications.

If Council determine that further modifications are required, it may delay the process to amend the Scheme to reflect the recently gazetted *Regulations* and subsequently may result in the amendment falling within a standard amendment, which will be required to undertake community consultation.

Option 1 is recommended.

#### Conclusion:

The proposal to adopt the list of modified textual changes to the Scheme is to reflect the recently introduced deemed provisions contained within the regulations. This is to ensure



there is no inconsistencies or confusion when referring to planning documents in the local context of the Shire.

Additionally, a number of additional changes have been made to ensure consistency with the state planning legislation.

#### Attachments:

- OCM272.1/12/15 Scheme Amendment Document (OC15/19264)
- OCM272.2/12/15 List of major textual changes (E15/5074)

Voting Requirements: Simple Majority

#### Officer Recommendation 1:

That Council seek to revoke Council decision OCM213/10/15 from the Ordinary Council Meeting held on 26 October 2015, in accordance with regulation 10(2) of the Local Government (Administration) Regulation 1996.

**Voting Requirements:** Absolute Majority

#### Officer Recommendation 2:

That Council decision OCM213/10/15, from the Ordinary Council Meeting held on 26 October 2015 be revoked.

**Voting Requirements:** Simple Majority

### Officer Recommendation 3:

That Council pursuant to Section 75 of the *Planning and Development Act (2005) (as amended)* and *Regulation 58 of the Planning and Development (Local Planning Schemes) Regulations 2015* adopt Amendment No. 192 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 by;

- a. Acknowledging that the amendment is basic for the reason that it is an amendment relating to the correction of administrative errors and deleting provisions that have been superseded by the deemed provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.
- b. Authorise the Shire President and the Chief Executive Officer to execute the Amendment No. 192 documentation pursuant to Regulation 31(3) of the Planning and Development (Local Planning Schemes) Regulations 2015.
- c. Request the Western Australian Planning Commission and the Honourable Minister for Planning to grant approval to Amendment No. 192 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.
- d. Authorise the Director of Planning to make any such modifications requested by the WAPC to ensure the amendment is determined as a basic amendment, if required.

# OCM272/12/15 COUNCIL DECISION / New Motion

Moved Cr See, seconded Cr Rich

### **That Council**

- 1. Withdraw this item pending further advice from the Western Australian Planning Commission.
- 2. Have the matter be brought before Council at the first Ordinary Council Meeting in March 2016.

CARRIED UNANIMOUSLY



OCM273/12/15	Scheme Amendment No. 194 – Textual Amendment – Removal of
	Hydroponics from Zoning Table (SJ1908)
Author:	Rob Casella – Senior Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	13 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

#### Introduction:

The purpose of the report is for Council to consider a textual change to the Shire of Serpentine Jarrahdale's (the Shire) Town Planning Scheme No. 2 (the Scheme or TPS 2) for the removal of a specific use class identified under the Scheme's zoning table.

Section 75 of the *Planning and Development Act 2005* (the Act) provides for local government to amend a Local Planning Scheme as set out in the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regs).* Under Regulation 35 of the Regs, Council must resolve to adopt or refuse to adopt a Scheme Amendment in accordance with the Act, notifying the Western Australian Planning Commission (WAPC) in writing of the resolution.

# **Background:**

In 2006, a Scheme Amendment was finally adopted for the inclusion of provisions reflecting the Policy position contained within State Planning Policy 2.3 – Jandakot Groundwater Protection (SPP 2.3 or the Policy) by rezoning land from 'Rural' to 'Rural Groundwater Protection' to ensure that land use changes that are likely to cause detrimental effects to the groundwater are brought under planning control and prevented or managed.

Of the changes made to the Scheme in reflection of SPP 2.3, it was decided that 'hydroponics' would be included as a land use under Table 1 – Zoning Table, of the Scheme, however 'hydroponics' is not contained in the table of land use suitability contained within the Policy, although is identified within Appendix 2 of the Policy – Land Use Interpretations.

# **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application / issue.

#### **Community / Stakeholder Consultation:**

Should Council resolve to proceed with the proposed Scheme amendment, public comment will need to be invited for a period of not less than 42 days in accordance with the requirements set out in r.47(4) of the *Planning and Development (Local Planning Schemes)* Regulations 2015.

Regulation 47(2) of the Regs provides mandatory requirements of the Local Authority for advertising Scheme Amendments, which include:

- (a) Publish a notice in a newspaper circulation in the Scheme area;
- (b) Display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
- (c) Give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
- (d) Publish a copy of the notice and the amendment on the website of the local government;
- (e) Advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.



# **Statutory Environment:**

- Metropolitan Regional Scheme
   The site is zoned Rural- Water Protection under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
  The site is zoned Rural Groundwater Protection under the Town Planning Scheme
- State Planning Policy 2.3 Jandakot Groundwater Protection

### **Financial Implications:**

The Shire has made allocations for funds in the 2015 / 2016 budget to accommodate such administration and advertising costs applicable.

### Alignment with our Strategic Community Plan:

Objective 4.1	Sustainable Industries
Key Action 4.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and businesses

### **Planning Assessment:**

The proposal to amend the Scheme's zoning table to remove the use class 'hydroponics' is a decision supported by comments received from the Department of Water (DoW) and Department of Agriculture (DoA) and Food WA, which have advised the use of closed loop (non-discharge) hydroponic systems could be supported within the Rural Groundwater Protection zone, as the systems does not discharge any excess nutrients into the ground surface, and subsequent ground water resource.

Traditionally, the use of a 'hydroponic' system is for the growing of plants (generally fruit and vegetables) using mineral nutrient solutions in water, without the use of soil.

A use class contained within the Scheme's zoning table, floriculture, is considered to be the appropriate use class applied to such applications involving the growing of fruit and vegetables.

The Schemes definitions for the two use classes are as follows:

Floriculture (Extensive) – means the production of vegetables, flowers, exotic and native plants.

Hydroponics – means the production of vegetables, flowers, exotic and native plants, fruit and nuts using hydroponic systems for the delivery of water and nutrients to the plans.

Given the above, it is determined that the use of 'hydroponics' is a method of application, as the land use is consistent with the floriculture use class, in that it's for the growing of plants, in general.

# **Options and Implications:**

With regard to the determination of the application for planning approval under TPS 2, Council has the following options:

Option1: Council may resolve to adopt the amendment to the Scheme for advertising.

Greater flexibility can be applied to land uses proposing food production measures within the Rural Groundwater Protection zone, which will ensure the protection of the natural ground water resource, which is consistent with the intent of the SPP 2.3



Option 2: Council may resolve not to adopt the amendment to the Scheme for advertising.

Further applications for the use of 'hydroponics' or closed loop nutrient application measures of growing plant and food crops will be further jeopardised within the Rural Groundwater Protection zone.

Option 1 is recommended.

### **Conclusion:**

The Shire is seeking to amend the Scheme's zoning table to remove the use class 'hydroponics' as it is considered the use is more associated with a method of application in undertaking a floriculture (extensive) land use, which will allow for such applications to have greater flexibility and innovation in the production of food within the Shire, specifically, within in the Rural Groundwater Protection zone, subject to compliance SPP 2.3.

#### **Attachments:**

• OCM273.1/12/15 – Scheme Amendment Document (OC15/22301)

**Voting Requirements:** Simple Majority

#### Officer Recommendation:

That Council pursuant to Section 75 of the *Planning and Development Act 2005 (as amended)* and regulation 35(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* proceed to advertise Amendment No.194 without modifications, to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 by:

- a. Acknowledging that the amendment is standard for the reason that it is an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve as per r34(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015.*
- b. Amend the zoning table by removing the following use class: "Hydroponics"
- c. Subject to forward the modified Amendment No 194 to Town Planning Scheme No. 2 to the Environmental Protection Authority for comment, pursuant to Section 81 of the Planning and Development Act (2005) and the Western Australian Planning Commission for information and, subject to no objections being received from the Environmental Protection Authority and acknowledgement being received from the Western Australian Planning Commission, the amendment be advertised for public comment pursuant to Regulation 47(2) of the Planning and Development (Local Planning Schemes) Regulations 2015 for a period of 42 days, to the satisfaction of the Shire.

### OCM273/12/15 COUNCIL DECISION / New Motion

Moved Cr Rich, seconded Cr Ellis

That Council defer the item to the first meeting in Ordinary Council Meeting in March 2016 to enable further clarification regarding the comments from the State agencies in this regard

**CARRIED UNANIMOUSLY** 



OCM274/12/15	Comments on State Planning Policy 2.5 – Rural Planning Policy (SJ198)
Author:	Rob Casella – Senior Strategic Planning
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	22 October 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

#### Introduction:

This report is presented to Council to confirm support of the Shire's technical officers submission to the Western Australian Planning Commission (WAPC) on the revised State Planning Policy (SPP 2.5).

### **Background:**

The WAPC is seeking public comment on proposed amendments to SPP 2.5, formally known as 'Land Use Planning in Rural Areas'.

In April 2011, Council previously provided comment on the revised SPP 2.5, stating general support for the document, however, requested that one modification be made, being that land use conflicts should be demonstrated in the context of any proposed rural living land use areas, as well as (2) two amendments to specific text.

The proposed changes to SPP 2.5 are virtually unchanged in its intent and policy position since its 2013 review, although it has made inclusions to the policy that provide for further detailed policy guidance for development issues on rural land and has also absorbed the policy intent of *State Planning Policy 4.3: Poultry Farms* in addition to policy measures for basic raw materials outside of the Perth and Peel planning regions.

#### **Relevant Previous Decisions of Council:**

There is no previous Council decision relation to this issue.

### Community / Stakeholder Consultation:

SPP 2.5 has been released for public comment from 25 September 2015 with the closing date being 19 January 2016.

#### **Statutory Environment:**

Planning and Development Act 2005 (as amended)
 Part 3 – State Planning Policies

# **Financial Implications:**

There are no financial implications relevant to this item.

# Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction



# **Planning Assessment:**

# State Planning Policy 2.5

The Shire of Serpentine Jarrahdale is located on the fringe of the Perth Metropolitan area. As a result there is extensive urban development in the Shire, however, there is also significant rural land that should be protected for rural purposes for future generations. With increasing pressures associated with population growth and subsequent food demands, the continuing demand to subdivide rural land that has the potential to be agriculturally productive and the increasing status of existing rural land becoming unproductive due to significantly changing environmental and ground soil conditions, draft SPP 2.5 provides objectives and policy measures which provide greater control and direction in relation to how State and Local Authorities are to determine the development of rural zoned land.

The objectives of SPP 2.5 are to:

- a) Support existing and future primary production through the protection of rural land, particularly prioritise agricultural land and land required for animal premises;
- b) Provide investment security for existing and future primary production and promote economic growth and regional development on rural land for rural land uses;
- c) Outside of the Perth and Peel planning regions, secure regionally significant basic raw material resources and provide for their extraction;
- d) Provide a planning framework that considers rural land and land uses comprehensively, and facilities consistent and timely decision making;
- e) Avoid and minimise land use conflicts;
- f) Promote sustainable settlement in, and adjacent to existing urban areas;
- g) Protect and improve environmental landscape assets.

The Department of Planning (DoP) stipulates that this priority agricultural land should be retained for food production purposes and has identified the parameters. The DoP is of the view that there is an existing supply of suitably sized lots and located lots to cater for intensive and emerging primary production land uses.

The key policy measures in SPP 2.5 are as follows:

- a) Requiring that land use change from rural to all other uses be planned and provided for in a planning strategy or Scheme
- b) Retaining land identified as priority agricultural land in a planning strategy or scheme for that purpose;
- c) Ensuring retention and protection of rural land for biodiversity protection, natural resource management and protection of valued landscapes and views;
- d) Protecting land, resources and / or primary production activities through the State's land use planning framework;
- e) Creating new rural lots only in accordance with the circumstances under which rural subdivision is intended in *Development Control Policy 3.4: Subdivision of rural land;*
- f) Preventing the creation of new or smaller rural lots on an unplanned or ad-hoc basis, particularly for intensive or emerging primary production land uses;
- g) Seeking to limit the introduction of sensitive land uses that may compromise existing, future and potential primary production on rural land;
- h) Accepting the impacts of well-managed primary production on rural amenity.

SPP 2.5 provides policy statements and controls in relation to the protection of rural land and agricultural land uses; restrictions and circumstances surrounding the favorable determination of Rural living style lots; policy statements encouraging the local planning framework to provide flexibility to cater for a wide range of land uses that provide support to primary rural land uses and functions and establish areas of rural enterprises (i.e. primary production, small-scale tourism, regional facilities, environmental protection and cultural pursuits); tree farming for both harvesting and carbon sequestration; considerations for the



location and controls applied to rural land for the production of live produce (animals); basic raw materials outside of the Perth and Peel regions; managing and improving environmental and landscape attributes; identifying suitable locations for regional and sub-regional facilities; mitigation for land use conflicts through the implementation of buffers / separation distances, however ensuring flexibility is applied through local planning schemes, given that each municipality has differing circumstances in which land use conflicts may arise.

The Shire's *Rural Strategy* is a planning strategy that is applicable to inform assessment and decision making in these instances.

SPP 2.5 also encourages opportunities for diversification in economic activity and local employment related to primary production.

#### Shire's comments:

Upon review of the draft SPP 2.5 it is considered that the policy has elaborated further from its 2013 review to provide further clarity on control measures for the development of rural zoned land and revised the format of the content to make it easy to digest.

The Shire has identified a number of concerns which are detailed in its draft response to the DoP, suggesting minor changes to the Policy to ensure suitable controls are incorporated that covers all the Shire's concerns, specifically:

- a) Ensuring consistency between statements contained within SPP2.5 and the Department of Environment Regulations (DER) draft Guidance Statement.
- b) To include a statement requiring developers to provide a noise and / or odour reports in the first instance, where required.
- c) Informing the DoP that the policy will likely need modification if and when the Public Health Act is gazetted.
- d) By introducing a statement to require developers to demonstrate what measures will be implemented to treat and facilitate the long-term disposal of effluent waste, up front in the scheme amendment process for rural living lots.
- e) Raising concerns regarding the lack of recognition of local and State significant natural areas and biodiversity features to ensure greater planning controls are applied to protect such landscapes.

The new approach that SPP 2.5 proposes provides considerable potential in the Shire, which facilitates the means of allowing diversified business pursuits relating to agricultural activities and rural industries that would not normally be allowed to operate on lot sizes in the order of 1 - 4Ha.

On the other hand, the policy also provides greater controls on the use of rural land for industries associated with agricultural pursuits, which will ensure greater measures and scrutiny is applied to applications for pseudo industries taking advantage of cheaper priced rural land within the Shire.

#### **Options and Implications:**

Council has the following options:

Option1: Council may resolve to endorse the draft submission.

By endorsing the draft submission, Council acknowledge the Shire's technical concerns regarding the draft SPP 2.5.

Option 2: Council may resolve to not endorse the draft submission.



By not endorsing the draft submission, Council will lose the opportunity to comment on the draft SPP 2.5 as the submission period closes on the 19 January 2016, as the next Council meeting will not be until early February 2016.

Option 1 is recommended.

#### Conclusion:

The draft SPP 2.5 is generally consistent with the earlier policies, however has provided further elaboration on guiding planning controls and approaches State and Local Planning frameworks should take, which the Shire generally supports.

#### Attachments:

- OCM274.1/12/15 State Planning Policy 2.5 (Draft) (E15/6002)
- OCM274.2/12/15 State Planning Policy 2.5 Submission to DoP (OC15/22458)

**Voting Requirements:** Simple Majority

#### OCM274/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Urban, seconded Cr Hawkins

That Council endorses the submission on State Planning Policy 2.5 – Rural Planning Policy, as contained within attachment OCM274.2/12/15, advising the Department of Planning accordingly.

**CARRIED UNANIMOUSLY** 



OCM275/12/15	Serpentine Townsite Local Structure Plan (SJ993-02)
Author:	Lauren Dujmovic – Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	20 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Shire of Serpentine Jarrahdale

Owner: Various

Town Planning Scheme No. 2 Zoning: Urban Development

Metropolitan Region Scheme Zoning: Urban

#### Introduction:

The purpose of this report is to consider the submissions received on the draft Serpentine Townsite Local Structure Plan (LSP) and make a recommendation to the Western Australian Planning Commission (WAPC) on whether the LSP should be approved.

Under Clause 20 (2) (e) Part 4 Schedule 2, a recommendation from the local government on whether the proposed structure plan should be approved by the WAPC including a recommendation on any modifications if required. This report is presented to Council for a recommendation to be submitted to the WAPC.

### **Background:**

The long term planning for the Serpentine Townsite dates back to the original version of the Metropolitan Region Scheme (MRS) published in 1963 which zoned a portion of land within the Serpentine locality as 'Urban' for the Serpentine Townsite. In the Shire's Rural Strategy 1994, the Serpentine locality was identified as being subject to future structure planning. In September 2008, Council resolved to initiate Amendment No. 162 to the Shire's Town Planning Scheme No. 2 (TPS 2) to rezone the Serpentine Townsite as Urban Development. Amendment No. 162 was initiated to align the zoning under TPS 2 with the MRS zoning and facilitate the progression of the LSP. Final approval of Amendment No. 162 was granted by the Minister for Planning on 12 May 2014.

The LSP will provide a planning framework to guide the development of the Serpentine Townsite, facilitating subdivision and development. The LSP covers approximately 119 hectares in area and has the potential to accommodate approximately 406 lots if developed to capacity. The LSP proposes residential lots zoned Residential R5 and R10 to accommodate 2000m² and 1000m² lot sizes. The land zoned Residential R10 is focussed around the local centre uses situated on Wellard Street, the community and educational facilities and the public open space at the core of the Townsite. Land zoned Residential R5 is located at the outer areas of the LSP. Serpentine is a designated neighbourhood centre in the Shire's Activity Centres Strategy and is identified to provide retail facilities to service local demand. The LSP proposes neighbourhood centre uses to be located on Wellard Street and partially extending north along Richardson Street between Lefroy Street and Richardson Street.

#### **Relevant Previous Decisions of Council:**

OCM126/02/14 - Draft Serpentine Townsite Local Structure Plan – Adoption for the purposes of advertising

# **Community / Stakeholder Consultation:**

On the 9 April 2013 a community information and consultation session was conducted by the Shire at the Eric Senior Pavilion in Serpentine in regards to the drafting of the LSP. Local



residents were notified of the session and were given the opportunity to provide feedback to the Shire regarding the LSP. Pursuant to Clause 5.18.3.5 of TPS 2, the draft LSP was publicly advertised between the 13 March 2014 and 4 April 2014.

A total of 29 submissions were received by the Shire during the advertising period. This included 5 objection submissions to the proposal. The key issues raised during the submission period are discussed in detail below.

# **Government Agencies / Departments:**

- Department of Parks and Wildlife (DPAW)
- Department of Environment Regulation Land Use Planning Advice Coordinator
- Department of Water Peel Region
- Department of Education
- Alinta Gas
- Telstra
- Western Power
- Water Corporation
- Department of Health (DoH)
- Department of Aboriginal Affairs
- Public Transport Authority
- ATCO Gas Australia
- Department of Planning (DoP)
- Department of Planning Resource Protection and Management Branch
- Department of Agriculture and Food
- Peel Police District Office
- Main Roads WA
- Heritage Council of WA
- Department of Fire and Emergency Services
- Department of Mines and Petroleum
- Department of Transport

#### Community and Stakeholders:

All landowners within the LSP area as well as landowners within a 500 metre radius of the LSP boundary were notified.

#### Comment:

#### Wastewater Management:

The DoH provided a submission in objection to the LSP as the residential development proposed at a density of R10 (allowing 1000m² lot subdivision) within the LSP area exceeds the maximum density allowed for unsewered development under the Government Sewerage Policy - Perth Metropolitan Region. The DoH also raised concerns with the suitability of onsite effluent disposal systems in residential areas with a proposed density of R5 (allowing 2000m<sup>2</sup> lot subdivision). Shire officers have attended several meetings with the DoH and DoP to discuss wastewater management options within the Serpentine Townsite area. Following such discussions, the Shire engaged consultants to undertake a Wastewater Management Strategy to assess the options for the management of wastewater in the LSP area. Options were considered for R5 and R10 lot sizes under the current policy framework and the feasibility of wastewater management options at lot, cluster and village scale were investigated. Further discussions with the DoH and DoP were undertaken with regard to the Wastewater Management Strategy. Given the existing policy framework, current technology and the geotechnical characteristics of the site, it was considered that enabling R10 subdivision and development in unsewered areas was not appropriate at this point in time. It is proposed that the LSP is modified to state this.



Subdivision can be approved at a density of R5 (minimum 2000m² lots) in unsewered areas under the current Government Sewerage Policy – Perth Metropolitan Region. Alternative wastewater management systems are considered appropriate at this density, provided that certain requirements are achieved. Such requirements include:

- A wastewater management plan is submitted to the Shire as part of the subdivision application.
- The waste water management plan should be informed by the urban water management plan and include the following:
  - A site feature plan depicting land and environmental features and areas subject to greater than 1 in 10 year ARI flooding and inundation;
  - A land capability assessment with relevant geotechnical information and indicative lot layout plan/s;
  - o Proposals for non-residential subdivision;
  - o An investigation of local soils phosphorus retention potential;
  - Demonstrate compliance with the Australian/New Zealand Standard On-site domestic wastewater management (AS/NZS 1547:2012);
  - Demonstrate compliance with the Government Sewerage Policy Perth Metropolitan Region.

The above requirements will also be applicable to future applications for subdivision at a density of R10, should the current policy framework be reviewed and updated to allow the consideration of subdivision at a density of R10 in unsewered areas.

#### Wetlands:

The DPAW provided a submission which recommended that the Shire undertake a wetland assessment prior to the finalisation of the LSP as development is proposed over Resource Enhancement Wetlands. The DPAW also recommended that a site specific wetland buffer assessment be prepared to determine the necessary buffer to protect the Conservation Category Wetland at Lambkin Nature Reserve. The Shire engaged the consultants who prepared the Environmental Assessment for the LSP to consider the DPAW's submission and recommendations. The Environmental Assessment indicated that the Resource Enhancement Wetlands had obviously been cleared in the past and that of the only Resource Enhancement Wetland which was identified to have any native vegetation, most would be retained as public open space. The application of a minimum 50 metre buffer is standard practice around Conservation Category Wetlands. Public open space has been located to provide a 50 metre buffer to the east of the Conservation Category Wetland in Lambkin Nature Reserve. To the north and west of Lambkin Nature Reserve are also Bush Forever sites in which no new development is proposed. There are already existing dwellings present to the south of Lambkin Nature Reserve. The LSP does not propose any further subdivision of these lots.

#### Public Open Space:

The Shire received a submission from Harley Dykstra on behalf of the landowners of Lots 102-106 Rudall Street, Serpentine which form the eastern boundary of the LSP. The submission objected to the amount of public open space identified on this portion of land considering it to be inefficient and unequitable. The submission provides that only a corridor of public open space is required for drainage purposes, while the land to the east of Hardey's Creek Main Drain could be utilised for residential purposes. Given the oversupply of unrestricted public open space, the submission requested that the LSP be amended to reduce the amount of open space on this land and provide residential development to the east of Hardey's Creek Main Drain.

It is recommended that the LSP map be amended to include a road reserve on the eastern side of Hardey's Creek Main Drain which would facilitate the inclusion of Residential R5 development between the eastern boundary of the LSP and this road reserve.



### Rural Lifestyle:

Some landowners within the LSP area expressed concern or were in objection to the LSP as they considered the further subdivision potential enabled by the LSP may compromise the rural lifestyle and amenity. The Serpentine Townsite has been zoned Urban under the MRS since the original version of the MRS was published in 1963. As such, the LSP area has been identified for further urban development since 1963. The LSP has been prepared in accordance with the boundary of the land zoned Urban under the MRS and Urban Development under TPS 2. Further subdivision potential within the Serpentine Townsite will consolidate the existing urban structure and ensure that the neighbourhood centre remains viable from both an economic and community perspective. The Serpentine Townsite is intended to maintain its rural character and lifestyle with low urban densities of R5 and R10 proposed.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The site is zoned Urban under the Metropolitan Regional Scheme.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The site is zoned Urban Development under the Town Planning Scheme.

### **Financial Implications:**

Urbanisation and development within the Shire will result in direct financial cost implications for Council. The implementation of the LSP will result in increased demand in the future for the provision of services provided by the Shire.

# Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

#### **Planning Assessment:**

### Discussion and Recommendations:

The following provides a summary of the main modifications to the LSP which are recommended following the public advertising period. Further details are provided within the Schedule of Modifications.

### LSP Map:

Amend the LSP map to include a road reserve on the eastern side of Hardey's Creek Main Drain and to include Residential R5 between the eastern boundary of the LSP and this road reserve.

#### Design Principles:

Include the following design principles:

- o The LSP is to facilitate a well-connected, highly legible movement network which encourages permeability and the development of a walkable neighbourhood.
- Lots should be configured to maximise street frontage, opportunities for passive surveillance and to reinforce the movement network identified by the LSP.
- The neighbourhood centre is intended to function as a 'main street' form of development which generates activity towards the street. The LSP requires that development proposals demonstrate this objective.

### Investigations and Management Plans:

Include the requirement that all studies, investigations and management plans are to be prepared in accordance with relevant legislation and State and local policies and guidelines. Include a Wastewater Management Plan as a requirement at subdivision stage.



#### Site Area and Lot Yield:

Modify to state that the LSP covers an area of approximately 119 hectares of land and provide amended residential lot yield approximations if the LSP was developed to potential.

### Heritage:

Amend to clarify that the Serpentine General Store is on the State Register of Heritage Places and the Old Serpentine Inn, Serpentine Butcher Shop and Saint Kevin's Church are included on other heritage listings.

### Public Open Space:

Include an amended and revised public open space schedule to reflect the modified public open space provision and to include the revised 1 year drainage figures.

### Drainage:

Include that an urban water management plan, in accordance with Better Urban Water Management (WAPC 2008), will be required to be submitted as a part of all subdivision applications within the LSP area. The urban water management plan is to be prepared in conjunction with the wastewater management plan. Update the Local Water Management Strategy to include revised 1 year drainage areas.

#### Scheme Water:

Modify to state that the area within the LSP which is currently undeveloped and not connected to scheme water will be connected to scheme water prior to subdivision and development.

### Wastewater Management:

All subdivision applications will require a wastewater management plan (prepared in conjunction with the urban water management plan) which demonstrates the following:

- A site feature plan depicting land and environmental features and areas subject to greater than 1 in 10 year ARI flooding and inundation.
- A land capability assessment with relevant geotechnical information and indicative lot layout plan/s.
- o Proposals for non-residential subdivision.
- o An investigation of local soils phosphorus retention potential.
- Demonstrate compliance with the Australian/New Zealand Standard On-site domestic wastewater management (AS/NZS 1547:2012);
- Demonstrate compliance with the Government Sewerage Policy Perth Metropolitan Region.

The following will be stated in regards to R10 subdivision and development within the LSP area:

Subdivision and development at a density of R10 (average 1000m² lots) is not supported in unsewered areas under the current Government Sewerage Policy – Perth Metropolitan Region. It is stated that subdivision and development in unsewered areas is not appropriate at densities which exceed R5 (minimum 2000m² lots). Given the existing policy framework, current technology and the geotechnical characters of the site, enabling R10 subdivision and development in unsewered areas is not considered appropriate at this point in time. Subdivision and development at a density of R10 utilising alternate treatment systems in this area may be considered in the future, should the current policy framework be reviewed and updated to allow the consideration of subdivision and development at a density of R10 in unsewered areas.

# Gas Services:

Modify to state that gas services are not available within the LSP area.



# Development contribution arrangement:

Modify the requirement for a development contribution plan to reference current provisions under TPS 2 and to state that the Shire will prepare a development contribution plan for the area.

#### Laneways:

There are existing rear laneways within the LSP area which travel north south between Richardson Street and Maxwell Street and Maxwell Street and Lefroy Street between Karnup Road to the north and Tonkin Street to the south. These laneways are 5 metres in width. The WAPC's Development Control Policy 2.6 - Residential Road Planning states that the minimum width for rear access laneways is 6 metres. The Shire considers it appropriate to widen the existing laneways to be 6 metres in width at the time of any further subdivision under the LSP. The LSP will be modified to require all lots abutting a laneway to cede 0.5 metres in width to enable the existing laneways to be widened to 6 metres at the time of subdivision.

### **Options and Implications:**

In making a recommendation to the WAPC pursuant to Clause 20 (2) (e) Part 4 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council has the following options:

- Option 1: Council may resolve to recommend approval of the LSP with modifications.
- Option 2: Council may resolve to recommend approval of the LSP.
- Option 3: Council may resolve to recommend refusal of the LSP.

Option 1 is recommended.

#### **Conclusion:**

It is recommended that Council resolve to recommend approval of the LSP subject to the modifications contained within **OCM275.2/12/15**.

#### Attachments:

- OCM275.1/12/15 Serpentine Townsite Local Structure Plan Schedule of Submissions (E14/1249)
- OCM275.2/12/15 Serpentine Townsite Local Structure Plan Schedule of Modifications (E14/3011)
- OCM275.3/12/15 Serpentine Townsite Local Structure Plan draft for the purposes of advertising (IN14/3788)

**Voting Requirements:** Simple Majority

# Officer Recommendation:

That Council pursuant to Clause 20 (2) (e) Part 4 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, recommend approval of the Serpentine Townsite Local Structure Plan with modifications as outlined in the Schedule of Modifications contained within attachment OCM275.2/12/15.

- a. Pursuant to Clause 20 (1) Part 4 Schedule 2 of the *Planning and Development* (Local Planning Schemes) Regulations 2015, submit a report to the Western Australian Planning Commission on the Serpentine Townsite Local Structure Plan which includes the following:
  - i. A list of the submissions considered by the local government;



- ii. Any comments by the local government in respect of those submissions;
- iii. A schedule of any proposed modifications to address issues raised in the submissions;
- iv. The local government's assessment of the proposal based on appropriate planning principles;
- v. A recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

#### OCM275/12/15 COUNCIL DECISION / Amended Motion:

Moved Cr Gossage, seconded Cr Rich

That Council pursuant to Clause 20 (2) (e) Part 4 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, recommend approval of the Serpentine Townsite Local Structure Plan with modifications as outlined in the Schedule of Modifications contained within attachment OCM275.2/12/15. Include a condition that the volume of public open space that is provided in the Serpentine Townsite Local Structure Plan be equivalent to the original advertised version to ensure that the waterways do not end up being deep channels.

- a. Pursuant to Clause 20 (1) Part 4 Schedule 2 of the *Planning and Development* (Local Planning Schemes) Regulations 2015, submit a report to the Western Australian Planning Commission on the Serpentine Townsite Local Structure Plan which includes the following:
  - i. A list of the submissions considered by the local government;
  - ii. Any comments by the local government in respect of those submissions;
  - iii. A schedule of any proposed modifications to address issues raised in the submissions:
  - iv. The local government's assessment of the proposal based on appropriate planning principles;
  - v. A recommendation by the local government on whether the proposed structure plan should be approved by the Commission, including a recommendation on any proposed modifications.

**CARRIED UNANIMOUSLY** 

Councillor Note: the officers recommendation was amended to include provision to ensure that the waterways do not end up being deep channels.

OCM276/12/15	Lot 150 Hicks Street, Mundijong – proposed 'Outbuilding and
	Patio' (P01962/01)
Author:	Rosalie McDonald – Assistant Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	18 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent: Darren Bushby

Owner: Brett and Lorene Soltoggio

Date of Receipt: 8 October 2015 Lot Area: 20000m² (2ha)

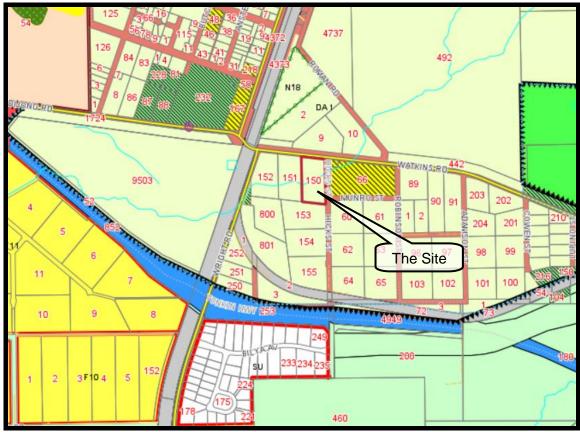
Town Planning Scheme No. 2 Zoning: 'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

#### Introduction:

The purpose of this report is to consider the development application for an oversize outbuilding and patio on Lot 150 Hicks Street, Mundijong.

The proposal is presented to Council as Shire officers do not have delegation to determine applications that exceed the policy provisions of Local Planning Policy 17 – Residential and Incidental Development (LPP 17).



Locality Plan

# **Background:**

#### Existing Development:

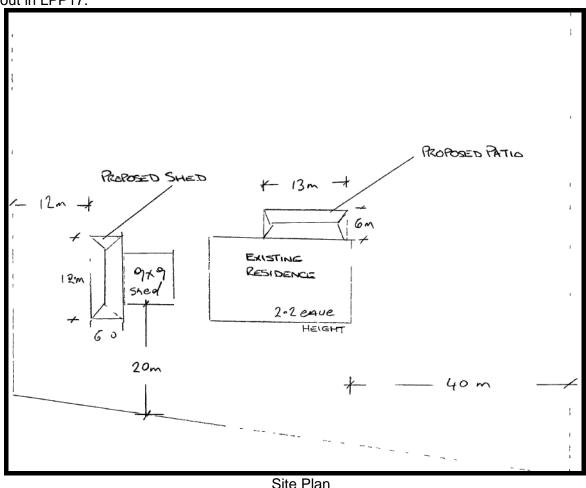
Existing development consists of a single dwelling and an 'outbuilding' (shed) measuring 81m<sup>2</sup>. Both are located in the southern end of the block and are screened from the road by vegetation.



# Proposed Development:

The proposed development seeks approval for an 'outbuilding' measuring 72m² with a wall height of 3m and a roof ridge height of 3.64m. The combined outbuilding area and wall height exceed the allowable limits as set out in LPP 17.

It also seeks approval of a 'patio', attached to the northern side of the single dwelling, which has a wall height of 2.2m and roof ridge height of 2.7m, and is compliant to the limits as set out in LPP17.



#### **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application / issue.

### Community / Stakeholder Consultation:

The application has been advertised as per clause 6.3 of the TPS 2, no objections have been received.

### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The lot is zoned 'Urban Development' under the TPS 2.
- Local Planning Policy 17 Residential and Incidental Development (LPP 17)
- State Planning Policy 3.1 Residential Design Codes (R- Codes).

#### **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact



on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

## **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

## **Planning Assessment:**

## Locality:

The lot is located at Lot 150 Hicks Street, Mundijong, and measures 20000m<sup>2</sup>.

## Compliance with Relevant Legislation:

Local Planning Policy 17 – Residential and Incidental Development (LPP17)

Outbuilding	Area	Wall Height	Apex
LPP17 - Maximum	72m <sup>2 (+20%)</sup>	2.88m (+20%)	4.2m
Existing	81m <sup>2</sup>	3m	3.64m
Proposed	72m <sup>2</sup>	3m	3.64m
Variation	81m <sup>2</sup>	0.12m	0

Patio	Area	Wall Height	Apex
LPP17 – Maximum	N/A	2.4m	4.2m
Proposed	N/A	2.2m	2.7m
Variation	N/A	0	0

## Impact on Character and Amenity:

The proposed 'patio' is located behind the building and is well screened from the street by vegetation, it is compliant to LPP 17 and is not considered to detract from the amenity or character of the area.

The proposed 'outbuilding' is oversize and has an over height wall. The applicant has provided acceptable justification for these variations. While the 'outbuilding' is contrary to the requirements of LPP 17 it is not considered to negatively impact the character and amenity of the area. The 'outbuilding' is well screened by vegetation and the dwelling from the street view and is well setback within the lot boundary. The surrounding properties generally have existing oversized 'outbuildings' that include storage sheds consistent with the current proposal. It is also considered to be in keeping with the character and amenity of the surrounding area and is proportional to the size of the block.

## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.



#### Conclusion:

Although the proposed 'outbuilding' does not meet all the development requirements of LPP17, the scale of the development is generally consistent with the surrounding area and it would not detract from the amenity of the surrounding land owners and is therefore supported.

#### Attachments:

• **OCM276.1/12/15** – Elevations of Outbuilding and Patio (E15/6074)

**Voting Requirements:** Simple Majority

#### OCM276/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Ellis, seconded Cr Hawkins

That Council approves the application submitted by Darren Bushby on behalf of Brett and Lorene Soltoggio for an 'Outbuilding and Patio' as indicated on the approved plans and does not relate to any other development on Lot 150 Hicks Street, Mundijong, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- d. The 'Outbuilding' (shed) shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- e. The development shall be in accordance with Australian Standards AS3959.

## **Advice Notes:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 

OCM277/12/15	Lot 11 (#625) Nettleton Road, Karrakup – Amendment to Approved
	Plans - Place of Public Worship & Retreat Facility (P03740/12)
Author:	Haydn Ruse – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	9 December 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act 1995</i>

Proponent: Varghese Parackal

Owner: Vincentian Congregation Inc.

Date of Receipt: 17 November 2015

Lot Area: 11.14ha
Town Planning Scheme No 2 Zoning: 'Rural'
Metropolitan Region Scheme Zoning: 'Rural'

## Introduction:

The purpose of this report is for Council to consider amendments to the approved 'place of public worship' and 'retreat facility' at Lot 11 (#625) Nettleton Road, Karrakup.

The proposal is being presented to Council as Shire officers do not have delegation to consider amendments to an application approved by Council.



Locality Plan

# **Background:**

# **Existing Development**:

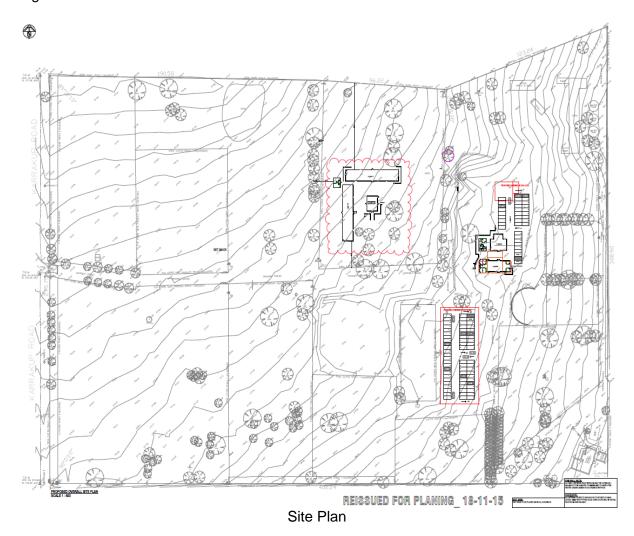
The lot is currently developed with a meeting hall, kitchen and dining hall, three (3) rainwater tanks and an existing residence. There is also an existing approval for a meeting hall,



kitchen and dining hall, 2 x 10 bedroom dormitory halls, 2 x ablution blocks, a prayer room and a sealed car parking area.

## Proposed Development:

The applicant is seeking to make minor alterations to the elevations of the approved buildings to improve their visual appeal and relocate the buildings to retain existing vegetation.



## **Relevant Previous Decisions of Council:**

OCM184/09/15 - An application for a meeting hall, kitchen and dining hall, 2 x 10 bedroom dormitory halls, 2 x ablution blocks, a prayer room and a sealed car parking area was approved by the Shire in February 2015.

## **Community / Stakeholder Consultation:**

Shire officers do not believe the amended proposal will have any impact on the surrounding properties or the character / amenity of the area, and as such have not advertised the amended application.

## **Statutory Environment:**

- Metropolitan Region Scheme (MRS)
   The site is zoned 'Rural' under the MRS
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS)
   The site is zoned 'Rural' under the TPS
- Local Planning Policy 8 Landscape Protection Policy (LPP8)
- Local Planning Policy 17 Residential and Incidental Development (LPP 17)



## **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

## Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm	
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments	
	and provide facilities that serve the community's needs and encourage	
	social interaction	

## **Planning Assessment:**

## Locality:

The lot is located at lot 11 (#625) Nettleton Road, Karrakup, and measures 111,400m².

## Compliance with Relevant Legislation:

The application will still comply with the TPS 2 and policies, as the proposed relocation of the buildings provides adequate setbacks. The closest lot boundary is the northern side boundary, which is 58m from the proposed location. The required setbacks under LPP 17 requires 20m from the front and rear and 10m from the side boundaries.

## <u>Impact on Character and Amenity:</u>

The proposed amendments are to improve the design of the buildings and the relocation will allow vegetation to be retained. The changes are considered minor and will not impact the amenity of the area.

## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### **Conclusion:**

The architectural amendments to the additional structures of the existing 'place of worship' and 'retreat facility' are not considered to have a negative impact on the amenity of the locality. The relocation of the dormitories and ablution blocks, while moved closer to the street, will be screened from the street by trees and will not have a negative impact on the amenity of the locality.

#### Attachments:

OCM277.1/12/15 – Amended Plans (E15/6050)

**Voting Requirements:** Simple Majority



## OCM277/12/15 COUNCIL DECISION / Officer Recommendation

Moved Cr Urban, seconded Cr Hawkins

That Council, approves the amended plans from Varghese Parackal on behalf of the landowner Vincentian Congregation Inc, for eight (8) additional structures to 'Place of Public Worship' and retreat facility at Lot 11 (#625) Nettleton Road, Karrakup subject to the following conditions:

- a. This approval relates only to the proposed 'Place of Public Worship' and retreat facility, as indicated on the approved plans. It does not relate to any other development on this lot.
- b. If the development referred to above is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- c. Only the colours and materials identified on the Schedule of Materials and Finishes, attached to and forming part of this approval, shall be used.
- d. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless separate planning approval is sought.
- e. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- f. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- g. Prior to the use / occupation of the development, the landowner shall submit an application to construct and install an apparatus for the treatment of sewage to the satisfaction of the Director Planning and the Department of Health.
- h. Prior to the use / occupation of the development, the landowner shall submit an application for registration of a lodging house.
- i. Prior to the use / occupation of the approved structures, the landowner shall submit and have approved by the Director Engineering a revised Fire Management Plan.

#### **Advice Notes:**

- a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant building, health and engineering requirements.
- b. The landowner / occupier is required to submit a Certificate of Electrical Compliance (Form 5) as per the Health (Public Buildings) Regulations 1992 prior to occupancy.
- c. If the landowner / occupier is to supply food as part of the overall package of visiting the retreat, the landowner is required to submit an Application to Construct or alter a Food Business together with plans showing;
  - The proposed floor plans, elevation plans and use of each room;



- The structural finishes of every wall, floor and ceiling;
- The position and type of every fitting and fixture;
- · If provided, number of chairs for patrons;
- Details of proposed sinks for hand washing, food preparation and dish washing or dishwasher specifications;
- All sanitary conveniences provided for staff and patrons, change rooms,
- storerooms, ventilating systems, drains, grease traps and provision for waste disposal; and,
- Details of the mechanical exhaust system, if cooking is to take place in the food premises.
- d. The landowner / occupier is advised that the use of brush or fern fencing is not permitted in the Shire due to the extreme bush fire danger of the locality as per Shire's Fencing Local Laws.
- e. The landowner / occupier shall be required to comply with Council's annual Firebreak Notice and Fuel Hazard Reduction Notice.
- f. The landowner / occupier is to be advised that the Department of Parks and Wildlife will undertake prescribed burning for conservation and / or fire hazard reduction purposes; application of chemicals for weed and plant disease control.
- g. The landowner / occupier is required to submit an application for Certificate of Approval (Form 2) as per the Health (Public Buildings) Regulations 1992 prior to occupancy.
- h. All food premises shall comply with the Food Act 2008, Food Regulations 2009 and Australia New Zealand Food Standards Code.

**CARRIED UNANIMOUSLY** 



OCM278/12/15	Lots 400 - 409 on Deposited Plan 3644, Byford - Road Naming -
	(SJ500-03)
Author:	Haydn Ruse – Planning Officer
Senior Officer/s:	Deon Van Der Linde – Acting Director Planning
Date of Report:	20 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent / Owner: The Shire of Serpentine Jarrahdale

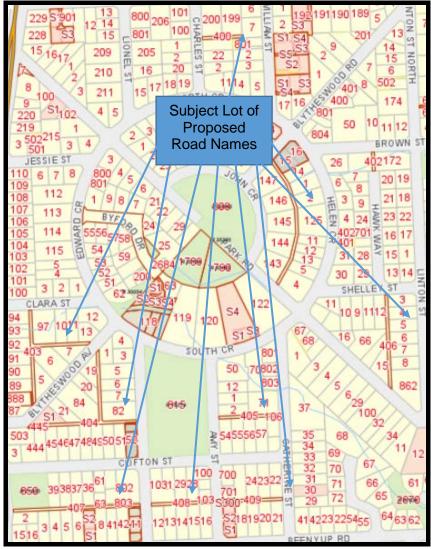
Date of Receipt: 12 November 2015
Town Planning Scheme No 2 Zoning: 'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

# Introduction:

The purpose of this report is to consider new road names for recently dedicated laneways in the Byford Town Centre.

The proposal is presented to Council as Shire officers do not have delegation to consider road names.



Locality Plan



## **Background:**

The proposal is for the naming of laneways that have recently been dedicated from private land to public roads. As public roads the laneways will be able to accommodate vehicle access for future subdivision. Names need to be provided in accordance with the Shires and Geographic Names Committee policies to allow subdivided lots to be given an address to the laneways.

#### **Relevant Previous Decisions of Council:**

OCM166/04/14 – The Shire resolved to dedicate the laneways as public roads.

## **Community / Stakeholder Consultation:**

The Shires and Geographic Names Committee policy does not require community consultation to be undertaken.

## **Statutory Environment:**

- Geographic Names Committee Policies and Standards for Geographical Naming in Western Australia (GNC)
- Local Planning Policy No. 38 Road Naming (LPP 38)

## **Financial Implications:**

If Council resolves to approve the proposed road name there will be costs associated with road name signage.

## **Planning Assessment:**

An initial assessment in accordance with GNC and the LPP38 has shown the proposed names are available and comply with the relevant provisions. The existing naming theme of the area appears to be first names, however GNC policy no longer supports the use of first names. In recognition of the history of Byford as a town established to support the brick works industry, a brick terms theme is proposed.

## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option1: Council may resolve to approve the application.

Option 2: Council may resolve to refuse the application.

Should Council resolve to refuse the request, Council will be required to provide alternative road names to what has been proposed.

Option 1 is recommended.

## **Conclusion:**

It is considered that the proposed road names are appropriate for the locality and approval is recommended.

#### **Attachments:**

There are no attachments required for this application.

## Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction



Voting Requirements: Simple Majority

# OCM278/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Ellis

That Council approves the following proposed road names for Lots 400-409 on Deposited plan 3644, Byford.

a. Forwards the approved names to the Geographic Names Committee for final approval.

Propo	osed Name	Background/Origin
a.	Brick	A solid masonry unit of clay or shale, formed
		into a rectangular prism while plastic and
		burned or fired in
_		a kiln.
b.	Coping	The material or masonry units forming a cap
		or finish on top of a wall, pier, pilaster,
		chimney, etc. It protects masonry below from penetration of water from above.
C.	Corbel	A shelf or ledge formed by projecting
C.	Corper	successive courses of masonry out from the
		face of the wall.
d.	Quoin	Term given to the interlacing brickwork at the
		corner of a wall
e.	Wythe	Term given to a cavity wall, generally used in
		brick construction
f.	Leaf	Term given to a cavity wall, generally used in
		brick construction
g.	Raggle	A groove in a joint or special unit to receive
h.	Monk	roofing or flashing.  A type of bond used in bricklaying
i.	Soffit	The underside of a beam, lintel or arch.
_ = =	native / Reserved names	The underside of a beam, linter of arch.
a.	Sussex	A type of bond used in brick laying
b.	Header	A brick laid flat with its width at the face of the
D.	i leauei	wall, or parallel to the face of the wall
C.	Spall	A small fragment removed from the face of a
	•	masonry unit by a blow or by action of the
		elements.
d.	Course	A row of bricks
e.	Sailor	A brick laid vertically with the broad face of
		the brick exposed
f.	Chase	A continuous recess built into a wall to receive
		pipes, ducts, etc.

**CARRIED UNANIMOUSLY** 



OCM279/12/15	Lot 16 (#36) Helen Crescent, Byford - Proposed 'Outbuilding'	
	(Shed) (P04346/07)	
Author:	Haydn Ruse – Planning Officer	
Senior Officer/s:	Deon van der Linde – Acting Director Planning	
Date of Report:	19 October 2015	
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government</i>	
Officers interest.	Act	

Proponent: Kellie Richter

Date of Receipt: 16 September 2015

Lot Area: 850m<sup>2</sup>

Town Planning Scheme No 2 Zoning: 'Urban Development'

Metropolitan Region Scheme Zoning: 'Urban'

## Introduction:

The purpose of this report is for Council to consider the development application for an 'outbuilding' (shed) at Lot 16 (#36) Helen Crescent, Byford.

The proposal is presented to Council as Shire officers do not have delegation to determine applications that exceed the policy provisions of Local Planning Policy 17 – Residential and Incidental Development (LPP 17). In addition the proposal does not meet the 'deemed to comply' provisions of State Planning Policy 3.1 – Residential Design Codes.



Locality Plan

# **Background:**

# **Existing Development:**

The site is currently developed with a single dwelling.



# **Proposed Development:**

The proposal is for a 12m long and 6m wide outbuilding, with a 4m long and 6m wide open bay at the rear. The wall height is 3.7m and the ridge height is 4.23m. (see figures below)

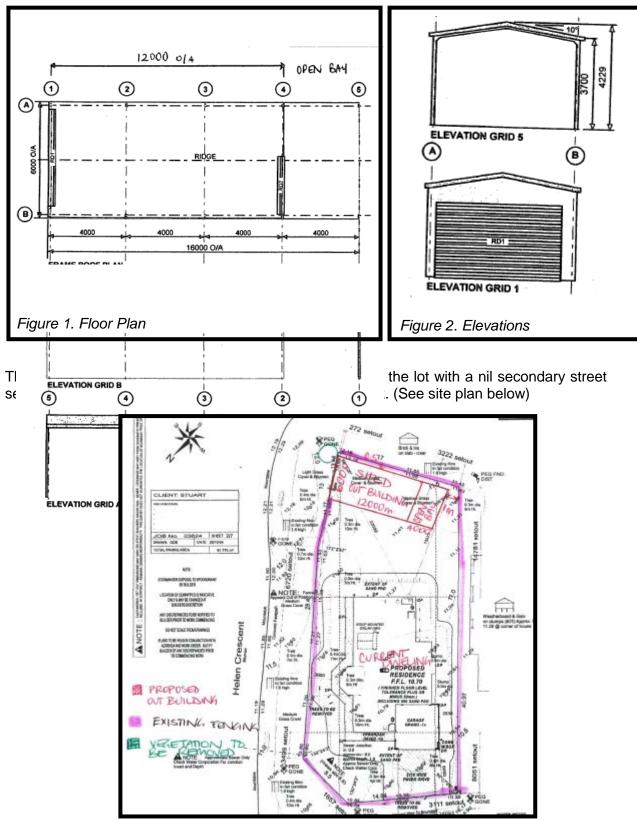


Figure 3. Site Plans



#### **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application.

# Community / Stakeholder Consultation:

The application has been advertised as per clause 6.3 of the Town Planning Scheme No. 2 (TPS 2), no objections were received.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The lot is zoned 'Urban Development' under the TPS 2.
- Local Planning Policy 17 Residential and Incidental Development (LPP 17)
- State Planning Policy 3.1 Residential Design Codes (R- Codes).

## **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and will require the appointment of a planning consultant and potential legal counsel to represent the Council throughout the SAT proceedings.

# **Alignment with our Strategic Community Plan:**

Objectiv	/e 3.1	Urban Design with Rural Charm
Key	Action	Maintain the area's distinct rural character, create village environments
3.1.1		and provide facilities that serve the community's needs and encourage
		social interaction

## **Planning Assessment:**

#### Locality:

The lot is located at #36 (Lot 16) Helen Crescent, Byford and measures 850m<sup>2</sup>.

## Compliance with Relevant Legislation:

As a consequence of the zoning being 'Urban Development', a local structure plan should be approved by Council prior to any development. In this regard, the development is considered incidental to the existing single dwelling and will not have a negative impact on the ability to prepare a local structure plan over the area.

In terms of LPP 17, the maximum floor area should not exceed 10% of the area of the lot or 60m², whichever is the smallest. The proposed 'outbuilding' (shed) (72m²) exceeds the maximum floor area requirements by 12m².

The proposed 'outbuilding' (shed) has a wall height of 3.7m and ridge height of 4.3m, which exceeds the 2.4m wall and 4.2m ridge height maximum under LPP 17. There is an allowance for 20% variation under LPP 17, which the ridge height complies with but the wall height does not.

The 'outbuilding' (shed) is also proposed with a reduction to the secondary street and rear setback requirements of the Residential Design Codes. The setbacks are proposed to be reduced as follows:

Setback	Required	Proposed
Secondary street	3m	0m
Rear boundary	6m	0.5m



## Impact on Character and Amenity:

A site visit was undertaken by Shire officers to determine the impact that the additional height, reduced setback 'outbuilding' (shed) would have on the character of the surrounding area.

The location of the 'outbuilding' (shed), close to the rear and secondary street allows the residence to retain and maximise outdoor living area with adequate solar access. There are also sheds in the surrounding area with similar reduced setbacks that do not have an impact on the streetscape of the area. The proposed 'outbuilding' (shed) will have a larger wall and roof height, however it will also be largely screened from the street by trees on the road reserve. The screening will soften the visual impact of the shed and prevent the loss of amenity for the streetscape.

## Removal of Council tree:

There are two (2) Council trees on the road reserve between the proposed 'outbuilding' (shed) and the street. One (1) of these trees will need to be removed in order for a crossover to be constructed to allow access to the 'outbuilding' (shed). A site visit has been undertaken to assess the value of the tree proposed to be removed and any potential impact on surrounding Council trees.

The tree to be removed as part of this application was identified as a 'Flame tree', native to the East coast of Australia. The other tree that may be impacted by the proposal is a 'Marri Tree', a local native species with environmental significance. The 'Flame tree' has a low level of environmental significance and will need to be removed to minimise any impact to the 'Marri tree' which has a high environmental value.

Following the site inspection, Shire officers are of the opinion that the application will not have a negative impact on the amenity of the surrounding area.

## **Options and Implications:**

With regards to the determination of the application for planning approval under TPS 2, Council has the following options:

Option1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity or character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

## **Conclusion:**

It is considered that the proposed development will not result in a negative impact on the amenity or character of the area. The removal of a tree within the road reserve, included in this application, does not have any environmental significance, its removal will minimise the impact on the existing 'Marri Tree'.

#### **Attachments:**

- <u>OCM279.1/12/15</u> Application Plans (E15/6008)
- OCM279.2/12/15 Site Visit Attachments (E15/6009)



Voting Requirements: Simple Majority

#### Officer Recommendation:

That Council approves the application submitted by Kellie Richter for an 'outbuilding' (shed) as indicated on the approved plans and does not relate to any other development on Lot 16 (#36) Helen Crescent, Byford, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- d. This approval relates only to the proposed (shed), as indicated on the approved plans. It does not relate to any other development on this lot.
- e. The 'outbuilding' (shed) shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- f. The removal of the tree as indicated in the approved plans shall be removed by a qualified contractor to the satisfaction of the Director of Engineering.
- g. No excavation or fill shall occur within 1.5m of any tree within the road reserve, unless part of this or a separate planning approval.
- h. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### Advice Notes:

- a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.
- b. In regards to condition (f) the Shire is liable for activities occurring within the road reserve. A contractor with liability insurance will give the Shire security if any accidents occur during the removal of the tree.

## OCM279/12/15 COUNCIL DECISION / Amended motion

Moved Cr Rich, seconded Cr See

That Council approves the application submitted by Kellie Richter for an 'outbuilding' (shed) as indicated on the approved plans and does not relate to any other development on Lot 16 (#36) Helen Crescent, Byford, subject to the following conditions:

a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.



- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- d. This approval relates only to the proposed (shed), as indicated on the approved plans. It does not relate to any other development on this lot.
- e. The 'outbuilding' (shed) shall not be used for human habitation, commercial or industrial purposes (including home occupation), the parking of a commercial vehicle or the stabling of horses or other livestock.
- f. That the shed be repositioned in such a way to ensure that all trees on the Council verge are retained.
- g. No excavation or fill shall occur within 1.5m of any tree within the road reserve, unless part of this or a separate planning approval.
- h. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

#### **Advice Notes:**

- a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.
- b. In regards to condition (f) the Shire is liable for activities occurring within the road reserve. A contractor with liability insurance will give the Shire security if any accidents occur during the removal of the tree.

**CARRIED UNANIMOUSLY** 

Council Note: Condition f of the Officers Recommendation was amended to provide the retention of trees on the Council verge.

OCM280/12/15	Lot 50 South Western Highway, Cardup – Additions to Existing Special Use (Limestone Scrubber) (P06650/06)	
Author:	Regan Travers – Senior Planning Officer	
Senior Officer:	Deon van der Linde – Acting Director Planning	
Date of Report:	18 November 2015	
Disclosure of Officers Interest:	an interest in accordance with the provisions of the Local Government	
	Act	

Proponent: Bristile Holdings T/A Austral Bricks (WA)

Date of Receipt: 13 October 2015 Lot Area: 377,501m² (37.7ha)

Town Planning Scheme No. 2 Zoning: 'Special Use' (Extraction and Storage of Shale and

Clay and manufacture, storage and distribution of

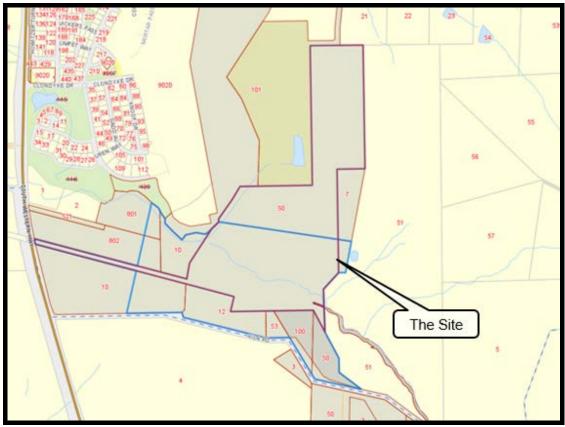
Masonry and related products)

Metropolitan Region Scheme Zoning: 'Urban Deferred' 'Rural'

## Introduction:

The purpose of this report is for Council to consider the development application for 'additions to existing special use' at Lot 50 South Western Highway, Cardup.

The proposal is being presented to Council as the application has received one submission during the advertising period.



Locality Plan

# **Background:**

## **Existing Development:**

The lot is currently developed in accordance with the 'special use' zoning, with extraction and storage of shale and clay as well as manufacture, storage and distribution of masonry



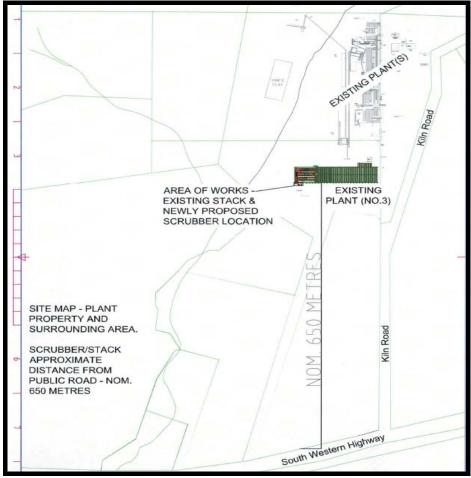
and related products permitted from the site. Currently the site is primarily used for the storage of products.

#### Proposed Development:

The proposed 'additions to special use' can be summarised as follows:-

- New Hellmich Flourine Cascade Absorber (scrubber) to be installed on the site.
- The proposed addition has a cream Colorbond casing.
- Proposed height of 15.9 metres (existing stack is 29.5 metres).

The 'scrubber' is designed to remove fluorine from the kiln exhaust, enabling the operator to meet air quality standards.



Site Plan

## **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application.

# **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the Town Planning Scheme No. 2 (TPS 2), one (1) submission was received which provided support for the application, provided that due regard is given to the 'urban' zoning and intent for land on the north side of Kiln Road.

Shire officers consider that the proposed development is consistent with the zoning of the site, therefore can be considered. It is acknowledged that the operation of the facility may delay urban development to the north, which is affected by existing buffers to the operations on the subject site.



# Agency / Government Objections / Submissions:

The Department of Environment Regulation (DER) provided a submission of no objection to the proposed development, however noted that its response was primarily in regard to existing contamination of the site.

## **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban deferred' and 'Rural' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The lot is zoned 'Special Use' under the TPS 2.
- State Planning Policy 2.5 Land Use Planning in Rural Areas

## **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.

## Alignment with our Strategic Community Plan:

Objective 4.1	Sustainable Industries	
Key Action 4.1.1	Target and engage sustainable, environmental and socially responsible	
	industries and businesses.	

## **Planning Assessment:**

## Impact on Character and Amenity:

Shire officers consider the proposed addition to have minimal impact on the character and amenity of the area. The character of the area has been historically set by the brickworks which has existed on the site prior to development on surrounding sites. It is noted that of recent times, the function of the brickworks has not been in manufacturing, however the special use and DER licences to operate remain valid. It is noted that the related quarry is no longer operational.

The proposed development is well contained within the boundaries of the site and it is not expected to have a visual impact due to being co-located with an existing tower and having a moderate colour.

# Consistency with TPS 2:

Shire officers consider the addition to be of small scale, when looking holistically at the subject site. The proposed additions are considered to be incidental to the special use of the site and are described by the applicant as being able to facilitate the re-commencement of the manufacturing component of the permitted special use.

## Impact on future development

Shire officers acknowledge that like the subject site, land to the north is moving towards a stage of being suitable for urban development to occur. Shire officers also acknowledge that areas within brickworks buffer zones will not be able to develop until brickworks ceases operations and a consequence of approving the proposed development is the development of nearby 'urban development' zoned lots being pushed into the future. Whilst of a concern to landowners with aspirations to develop their land, Shire officers are not concerned that an approval will result in a shortage of 'urban development' land within Byford, or the Shire in general. Byford, Whitby and Mundijong have significant areas of land which are yet to be developed and many are yet to have local structure plans (LSP) approved to facilitate subdivision.



## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity or character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

## **Conclusion:**

Shire officers are satisfied that the proposed development is consistent with the 'special use' zoning of the site and is incidental to the Brickworks. The proposed development does not raise amenity concerns and is not considered to be inconsistent with the established character of the area. The proposed development is recommended for approval, subject to relevant planning conditions.

#### **Attachments:**

- OCM280.1/12/15 Development Plans (IN15/24358)
- OCM280.2/12/15 Scrubber Information Sheet (IN15/24359)
- OCM280.3/12/15 Photos of proposed scrubber (IN15/24360)

**Voting Requirements:** Simple Majority

#### OCM280/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Piipponen

That Council approves the application submitted by Bristile Holdings Ltd. for 'additions (scrubber addition to existing plant No 3) to Extraction and Storage of Shale and Clay and manufacture, storage and distribution of Masonry and related products' as indicated on the approved plans and does not relate to any other development on Lot 50 South Western Highway, Cardup, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.

## **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 



OCM281/12/15	Lot 857 Thomas Road, Byford – Proposed Fast Food and Service Station (P11554/01)
Author:	Regan Travers – Senior Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	11 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Albany Developments (WA) Pty Ltd

Date of Receipt: 4 September 2015 Lot Area: 4687m² (0.46ha)

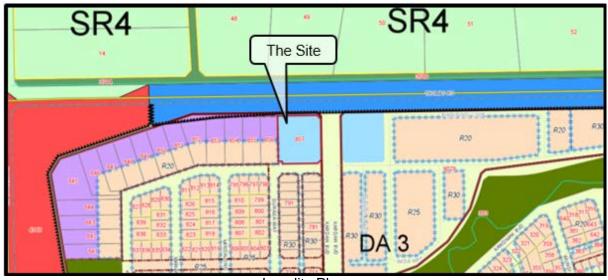
Town Planning Scheme No. 2 Zoning: 'Urban Development' ('mixed use')

Metropolitan Region Scheme Zoning: 'Urban'

## Introduction:

The purpose of this report is for Council to consider the development application for 'fast food' and 'service station' at Lot 857 Thomas Road, Byford.

The proposal is being presented to Council as the application has received nine (9) objections during the advertising period.



Locality Plan

## **Background:**

## Existing Development:

The lot is currently vacant.

## **Proposed Development:**

The proposed development can be considered in two parts:-

## Service Station:

The 'Service Station' component of the development consists of:-

- 97m² Net Leasable Area (overall 187m²)
- 4 Fuel Pumps, with eight (8) refuelling bays;
- Operating Hours of twenty-four (24) hours per day, seven (7) days per week

## Fast Food:

The Fast Food component of the development consists of:-

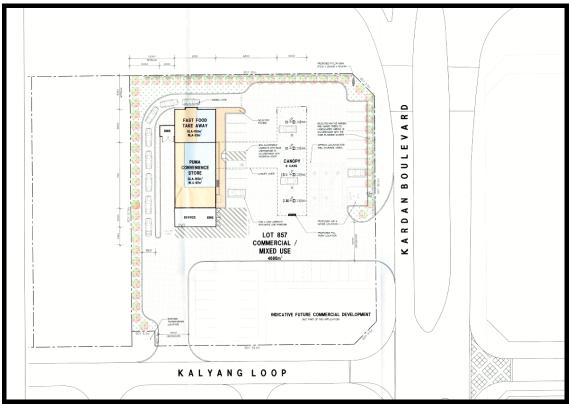
- Net Leasable Area (NLA) of 53m<sup>2</sup>, Gross Leasable Area (GLA) of 100m<sup>2</sup>;



Drive Through Access

The following is also proposed to service the proposed development:-

- Thirty-four (34) car parking bays;
- A nine (9) metre high monolith pylon sign.



Site Plan

## **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application / issue.

## Community / Stakeholder Consultation:

The application has been advertised as per clause 6.3 of the TPS 2, nine (9) objections (one (1) resident provided two (2) submissions) have been received and concerns are summarised as follows:

# Community objections:

- Noise associated with 24 hour operation
- Chemicals and fumes impact on residents' health
- Traffic and parking impacts
- Increased light pollution
- Soil Pollution
- Security and anti-social behaviour / crime
- Property Values
- Not aware of proposed 'mixed use' development when buying nearby residential property
- Earthworks on the opposite side of Kardan Boulevard have created noise deflection
- Affect family friendly amenity
- Fast Food does not promote healthy living
- Not orderly and proper planning
- Signage should not be flashing or illuminated after 10.00pm
- Liquid Petroleum Gas (LPG) must be located well away from the residential area



## Noise - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan (LSP), which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Noise - Shire officers comment:

Shire officers acknowledge submissioners concerns regarding noise impacts of the proposed development. The applicant has provided an acoustic assessment which demonstrated compliance with the Health (Noise) Regulations 1997. Shire officers have considered the noise assessment and agree that subject to operating as described in the assessment, the proposed development will be compliant and unlikely to cause adverse impacts to nearby residential properties. In addition, Shire officers note that the site has been identified on the Local Structure Plan (LSP) as 'mixed use', upon which various land uses can be considered.

## Chemicals and fumes impact on residents' health - Applicant response:

Management of potential pollutants is a statutory requirement for all Petrol Filling Stations and Service Stations under the Dangerous Goods Safety Regulations 2004.

Odour management is undertaken through a Stage 1 Vapour Recovery System, which is implemented as a minimum across Australia. The Stage 1 Vapour Recovery System is considered a best management practice.

In simplistic terms, when fuel is transferred from the fuel tanker to the underground fuel tank, vapour is displaced into a hose connected from the underground tank to the tanker via underground pipework. The tanker draws the vapours into its tank as fuel is displaced. There is no vapour leaked as the fittings to and from the underground tank are air tight.

Odour management is also addressed when a licence under the Dangerous Goods Safety Regulations 2004 is applied for. This will also be a requirement for this proposal.

Odour management has been contemplated and precautions are appropriately taken in line with statutory requirements. Further, a best management practice will be utilised and will have no impact on adjoining properties.

## Chemicals and fumes impact on residents' health - Shire officers comment:

Shire officers acknowledge submissioners concerns regarding the potential adverse impacts associated with service stations with specific consideration given to odour. Shire officers are satisfied that the proposed vapour recovery system will be effective to reduce odour impacts on nearby residents.

## <u>Traffic and parking impacts - Applicant response:</u>

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Traffic and parking impacts - Shire officers comment:

Shire officers acknowledge submissioners concerns regarding traffic impacts. The applicant has sufficiently demonstrated that both visitors to the site and servicing vehicles can circulate the site appropriately, with sufficient car parking bays provided on-site. It is also acknowledged that the proposed development will generate vehicle trips, however this is consistent with the activity envisaged through the LSP process and is within the trip capacity of the adjoining roads and intersections.



## Increased light pollution - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## <u>Increased light pollution - Shire officers comment:</u>

Shire officers acknowledge concerns raised regarding light pollution. While spill from vehicle headlights is not able to be influenced by a planning approval, light spill from floodlighting and signage can be addressed via conditions of planning approval. Shire officers recommend a condition to manage floodlighting and illuminated signage to restrict light spill to the subject site. Shire officers also note that a future commercial building is likely to act as a barrier between residences and the proposed fuel filling area.

## Soil Pollution - Applicant response:

The proposed development will appropriately utilise industry best practice measures for stormwater treatment and hydrocarbon capture. This consists of:

- An oil capture and containment tank located beneath the refuelling bays, which captures runoff from paved surfaces. The tank is a glass reinforced plastic vessel, which is made in accordance with Australian Standards 2634-1983 Tank Design.
- The tank is composed of a preliminary oil retention chamber which separates oil from stormwater. The stormwater then runs through a secondary separation chamber which separates and contains the remainder of hydrocarbons.
- The stormwater then runs into drains as per usual stormwater management.
- The contained waste (oils, fuels, hydrocarbons) are regularly removed by a vacuum loading truck and taken away off site for treatment.

Having regard to the above, an industry best management practice will be implemented, having no impacts on the surrounding area.

## Soil Pollution - Shire officers comment:

Shire officers acknowledge concerns raised regarding soil pollution related to the operation of the service station. Shire officers are satisfied that subject to compliance with recommended conditions of planning approval, the development will be able to operate without injuriously affecting nearby and adjoining landowners.

# Security and anti-social behaviour / crime - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

# Security and anti-social behaviour / crime - Shire officers comment:

Shire officers acknowledge concerns raised regarding the potential for anti-social behaviour and crime to occur as a result of the proposed development. The Shire officers assessment of the proposed development did not raise any design concerns directly related to site layout or building design. Operating for 24 Hours per day will mean the site is always occupied by staff which will provide active and passive surveillance not only of the development site, but also vehicles entering and exiting the subdivision area. The site is also proposed to be well lit, reducing the potential for anti-social behaviour to occur in dark hidden spaces.



## Property Values - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Property Values - Shire officers comment:

Shire officers note submissions raising concerns about property values, however; property prices are outside the scope of a planning application and are subject primarily to market conditions. As the LSP indicated 'mixed use' development on the subject site, the development intention was established prior to any surrounding residential lots being created.

# Not aware of proposed 'mixed use' development when buying nearby residential property – Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

# Not aware of proposed 'mixed use' development when buying nearby residential property – Shire officers comment:

The LSP indicated 'mixed use' development on the subject site, the development intention was established prior to any surrounding residential lots being created. LSP, including an interactive map are available for public view on the Shire's website.

# <u>Earthworks on the opposite side of Kardan Boulevard have created noise deflection –</u> Applicant response:

Any works undertaken outside the boundaries of the subject site are not under the control or responsibility of the applicant.

# <u>Earthworks on the opposite side of Kardan Boulevard have created noise deflection – Shire officers comment:</u>

Shire officers acknowledge concerns regarding earthworks nearby the site, however those works have no relationship to the proposed development. This concern has been forwarded to the Shires Engineering services to investigate further.

#### Affect family friendly amenity - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Affect family friendly amenity - Shire officers comment:

Shire officers acknowledge concerns regarding the affect the proposed development will have on the family friendly amenity of the area. Shire officers do not agree that the proposed development is likely to have an adverse impact on the family amenity of the area. Whilst service stations and fast food do have a significant component of vehicle traffic, they are



providing services within easy walking distance of the local residential community and have the opportunity to provide employment opportunities for local teenagers.

## Fast Food does not promote healthy living - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Fast Food does not promote healthy living - Shire officers comment:

Shire officers acknowledge submissioners concerns regarding healthy living and that fast food is typically associated with negative personal health impacts. It is difficult for the Shire to regulate the particular tenant of a site, especially due to the application not identifying the type of fast food which is intended to be sold. The Shire does note that the provision of services within 400 metre and 800 metre walkable catchments is considered to be urban design promoting healthy living and sustainable development, as residents will be able to walk and cycle to the service station and fast food restaurant.

## Not orderly and proper planning - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

## Not orderly and proper planning - Shire officers comment:

Shire officers acknowledge concerns regarding orderly and proper planning, however believe there is insufficient justification to support this concern. The proposed development is consistent with the approved LSP, which is a key element of orderly planning. The consideration of both the approved LSP and this development application have been carefully considered through the required metropolitan and local planning schemes in accordance with required processes.

# Signage should not be flashing or illuminated after 10.00pm - Applicant response:

The subject site was identified as a 'mixed use' site at the time of the original structure planning in 2009/10. Refer, for example, to preliminary (indicative) design for the 'mixed use' sites included in Figure 12 of the Local Structure Plan, which showed amongst other things a service station and fast food outlets on the 'mixed use' sites. The proposed development is broadly consistent with the indicative designs presented at the original structure planning stage, is consistent with the Shire's requirements for the 'mixed use' zone, and warrants approval accordingly.

# Signage should not be flashing or illuminated after 10.00pm - Shire officers comment:

Shire officers acknowledge submissioner concerns regarding illuminated and flashing signage. The Shires policy for signage allows for signage to be illuminated, but does not allow for flashing or running lights. There is no time limit on signage being illuminated, however illuminated signs are not permitted to cause a nuisance, by way of light spillage to abutting sites. While Shire officers are satisfied that the proposed signage will meet policy requirements, a condition is recommended to ensure ongoing compliance with regard to illumination impacts. Due to other tenants of the site being unknown, the Shire officers also recommend a condition for a signage strategy to be submitted to account for the remaining development on the site.



# <u>Liquid Petroleum Gas (LPG) must be located well away from the residential area – Applicant response:</u>

No comment provided.

# <u>Liquid Petroleum Gas (LPG) must be located well away from the residential area – Shire officers comment:</u>

Shire officers acknowledge the submission, however no storage of liquid petroleum gas (LPG) has been proposed as part of the application. If the applicant intends to incorporate an LGP storage tank at a later date an amended planning application will be required.

# Agency / Government Objections / Submissions:

## Main Roads Western Australia

Main Roads provided a submission stating acceptance of the proposed development subject to the following conditions:-

- No vehicle access shall be permitted to or from Thomas Road from Lot 857. This is not an issue for the proposed development as the plans do not indicate any proposed access directly from Thomas Road.
- The developer shall be responsible for a contribution of costs involved in the land acquisition, design and construction of a roundabout treatment at the intersection of Kalyang Loop/Kardan Boulevard. Shire officers do not support this recommended condition because Main Roads is not responsible for the intersection in question and Main Roads has not demonstrated a sufficient nexus between the proposed development and the need for an upgraded intersection.
- No earthworks shall encroach onto the Thomas Road reserve. Shire officers have no concerns with this proposed condition.
- No stormwater drainage shall be discharged onto the Thomas Road reserve. *The Shire's standard conditions require stormwater to be retained on-site.*
- The sign and sign structure is to be placed on private property and shall not overhang or encroach upon the Thomas Road reserve. *The plans do not indicate overhanging.*
- Main Roads agreement is to be obtained prior to any modifications. This request is acknowledged, and any future changes to the plan will be forwarded to Main Roads for review. The applicant has noted that all illumination of signage will comply with Australian Standards AS 4282-1997.
- If illuminated (signage) must be of low-level not exceeding 300cd/m², not flash, pulsate or chase. Shire officers note that Local Planning Policy No.5 does not permit flashing or 'chase' illumination and this is recommended as a condition of planning approval.
- The device shall not contain fluorescent, reflective or retro reflective colours or materials. Shire officers note that no colours like this are proposed, however it is appropriate as a condition of planning approval.
- The type of sign and location must comply with all relevant by-laws and planning scheme made by Council. Shire officers acknowledge this recommended condition and note that the signage is considered acceptable.
- No other unauthorised signing is to be displayed. Shire officers note that signage for specific tenants will need approval via a signage strategy for the remainder of the site.

## Department of Planning

Shire officers acknowledge the Department of Planning's general assessment of the proposed development and no objection to the proposal on regional transport planning grounds. Shire officers acknowledge the advice that the Kardan Boulevard / Kalyang Loop intersection be managed by a roundabout. As per the Shire officers comments regarding Main Roads similar request, Shire officers – while supportive of a roundabout in this location, are not satisfied that either Main Roads or the Department of Planning have demonstrated sufficient nexus between the proposed development and the requirement for a roundabout intersection treatment of which a portion of the costs are proposed to be borne by the applicant.



## **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Urban' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Urban Development ('mixed use')' under the TPS 2.
- Local Planning Policy 5 Advertising Signs (LPP 17)

## **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potential legal counsel to represent Council throughout the SAT proceedings.

## Alignment with our Strategic Community Plan:

Objective 4.1	Sustainable Industries
Key Action 4.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and businesses.

## **Planning Assessment:**

## Site Operation:

Shire officers noted that the initial application did not fully explore the potential impacts of 24/7 operation of the site on nearby sensitive receptors (residences). The applicant provided an Environmental Acoustic Assessment prepared by Herring Storer which concluded that based on the analysis of noise emissions from the proposed site, noise emissions will comply with the requirements of the Environmental Protection (Noise) Regulations 1997 at all times. Shire officers reviewed the document and agree that the applicant has sufficiently demonstrated that the proposed development will be compliant. To ensure noise compliance is ongoing, Shire officers recommend a condition of planning approval.

## **Dust Management:**

Shire officers noted that dust nuisance during the construction phase of the development should be given consideration due to high winds experienced in Byford, particularly in summer months. The applicant has acknowledged the potential dust issues for the site and has suggested that dust management be addressed as a condition of planning approval. Shire officers agree that dust management is appropriate as a condition of planning approval, and recommend a condition for a Dust Management Plan be submitted to the satisfaction of the Shire.

# Odour Management:

Shire officers noted that the initial application did not fully explore the potential impacts of odour generated by the proposed development on the site. The applicant advised that the management of potential pollutants is a statutory requirement for all petrol filling stations and service stations under the Dangerous Goods Safety Regulations 2004. The applicant also advised that odour management would be undertaken through a Stage 1 Vapour Recovery System, which is implemented as a minimum across Australia. The applicant has advised that best management practice will be applied beyond minimum statutory requirements and the development will have no impact on adjoining properties. Shire officers accept the above explanation and recommend conditions on any planning approval to ensure ongoing odour management.

## Waste Water Management:

Shire officers acknowledge that service stations pose potential contamination risk to land and water resources. The initial application did not discuss how waste water runoff from any



paved or impervious surface will be captured and diverted into mains sewer. The applicant advised that the proposed development will utilise industry best practice consisting of:-

- An oil capture and containment tank located beneath the refuelling bays, which captures runoff from paved surfaces. The tank is a glass reinforced plastic vessel.
- The tank includes an oil retention chamber and a secondary chamber separating any remaining hydrocarbons.
- Storm water runs into drains
- The contained waste are regularly removed by a vacuum loading truck and taken away off-site for treatment.

Shire officers acknowledge the intended best practice, and recommend a condition of planning approval to ensure ongoing management of waste water to the satisfaction of the Director Planning.

## Waste Management:

Shire officers note its expectation that adequate bin storage locations will be provided for the proposed development and that bin storage must meet the provisions of the Serpentine Jarrahdale Health Local Laws. The applicant advised that the bin storage area indicated on the plans is approximately 11.5m², serviced by a four (4) metre wide access way. The applicant has advised that the bin store will feature minimum wall height of 1.5 metres, self-closing gate, smooth impervious floor and access to a liquid disposal system. While Shire officers have no concerns with these details, it is recommended a standard condition be added to any planning approval to ensure satisfactory construction and ongoing management.

#### Landscaping:

Shire officers note that a Landscape and Vegetation Management Plan is recommended to be prepared for the site. Shire officers recommend a condition be added to any approval in this regard.

#### Bicycle Parking:

Shire officers note that the requirement for bicycle parking in accordance with Local Planning Policy No. 58 Bicycle Facilities. Shire officers assessment of the application notes that the proposed development demonstrates demand for two (2) long term bicycle parking spaces and one (1) short term parking space. Shire officers consider that the long term facilities are likely to be underutilised given the nature of the proposed businesses. Shire officers recommend the provision of three (3) short term bicycle parking spaces to facilitate multimodal transport to the proposed development and a condition be added in this regard.

#### Public Art Contribution:

Shire officers note that the value of the proposed development triggers a requirement for public art contribution in accordance with Local Planning Policy No. 59 Public Art Policy for Major Developments. Shire officers recommend a condition of planning approval in this regard.

## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.



#### Conclusion:

Shire officers are satisfied that the applicant has sufficiently addressed Shire officer concerns and concerns raised by submissioners. Shire officers consider the application to be consistent with the approved LSP and subsequent 'mixed use' zoning, providing a range of land uses to service the immediate and also wider community. Due to consistency with the TPS 2 Shire officers recommend the application be approved subject to conditions:

#### Attachments:

- OCM281.1/12/15 Development Plan Elevations (IN15/24253)
- **OCM281.2/12/15** Development Plan Site Plan IN15/24254)
- OCM281.3/12/15 Development Plan Service Vehicle Movement (IN15/24255)
- OCM281.4/12/15 Traffic Report (IN15/24256)
- OCM281.5/12/15 Acoustic Assessment (IN15/24257)
- OCM281.6/12/15 Schedule of Submissions (IN15/24258)

Voting Requirements: Simple Majority

#### OCM281/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Ellis, seconded Cr Piipponen

That Council approves the application submitted by Albany Developments (WA) Pty Ltd for 'Fast Food' and 'Service Station' as indicated on the approved plans and does not relate to any other development on Lot 857 Thomas Road, Byford, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- c. The location of external fans, air conditioners and the like shall be to the satisfaction of the Director Planning and installed to prevent loss of amenity to the area by its appearance, noise, emission or otherwise.
- d. The access way(s), right of way and crossover shall be designed, constructed, sealed, kerbed, drained, line marked and thereafter maintained in accordance with the approved plan and specification to the satisfaction of the Director Engineering prior to the occupation of the development for the use hereby permitted.
- e. No car parking bays shall be obstructed in any way or used for any other purpose than car parking.
- f. Prior to the occupation of the development, a petrol and oil trap must be installed to contain spillages from the fuel bowsers.
- g. All stormwater must shall be disposed of within the property, direct disposal of storm water onto road, neighbouring properties, watercourses and drainage lines is not permitted.
- h. All lighting must be confined to the land in accordance with the requirements of Australian Standard AS4282-1997, Control of the obtrusive affects of outdoor lighting, at all times.

- i. No signs are permitted to be displayed in the road reserve of Thomas Road at any time.
- j. Prior to commencement of works a Waste Management Plan shall be submitted and approved by the Director Engineering.
- k. Prior to the commencement of works, the landowner shall submit and have approved by the Director Engineering a landscaping plan, such landscaping plan shall include all the adjoining verges.
- I. Prior to the commencement of works the landowner shall submit and have approved by the Director Engineering a Dust Management Plan.
- m. Prior to occupation of the development all landscaping shall be implemented as per the approved landscape plan to the satisfaction of the Director Engineering.
- n. Prior to the occupation of the development the carpark must:-
  - (i) be designed and constructed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking;
  - (ii) include a minimum of 34 car parking spaces on-site;
  - (iii) include one car parking spaces dedicated to people with disability designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
  - (iv) be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;
  - (v) have lighting installed, prior to the occupation of the development;
  - (vi) confine all illumination to the land in accordance with the requirements of Australian Standard AS 4282—1997, Control of the obtrusive effects of outdoor lighting, at all times.
- o. Prior to the occupation of the development three (3) short-term bicycle parking spaces must be designed in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities.
- p. Prior to the occupation of the development a monetary contribution shall be paid to Council for the establishment of public art or, alternatively, the provision of public art being provided on-site in accordance with Council's Local Planning Policy No. 59 - Public Art Policy for Major Developments to the satisfaction of the Shire.
- q. Prior to the occupation of the development a Sign Strategy must be submitted and approved by the Shire.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 

OCM282/12/15	Lot 366 (#567) Utley Road, Hopeland – Extension to Existing Pig Farming (P00208/03)
Author:	Regan Travers – Senior Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	12 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

Proponent: Westpork Pty Ltd Date of Receipt: 13 July 2015

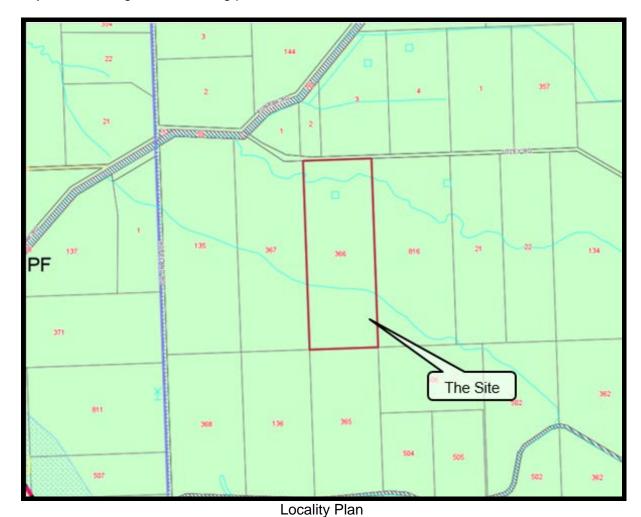
Lot Area: 445,291.787m<sup>2</sup> (44.5ha)

Town Planning Scheme No. 2 Zoning: 'Rural' Metropolitan Region Scheme Zoning: 'Rural'

## Introduction:

The purpose of this report is for Council to consider the development application for an extension to existing 'Pig Farming' at Lot 366 (#567) Utley Road, Hopeland.

The proposal is being presented to Council as the application has received three (3) objections during the advertising period.



# Background:

# **Existing Development:**

The lot is currently developed with a residence, associate outbuildings and a Pig Farm.



# **Proposed Development:**

The proposed development can be summarised as the following:-

- Application proposes a new farrowing (birthing) shed measuring 97 metres x 30 metres (2,910m2)
- Farrowing shed will accommodate 384 sows;
- Operating hours of the facility are proposed to remain unchanged at:-

Summer Hours		Winter Hours	
Start	Finish	Start	Finish
5.00am	7.00pm	6.00am	6.00pm

- Increase of two staff members, from 10 to 12 (three (3) are residents of the site);
- Two new limestone turnaround areas are proposed.



Site Plan

## **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application.



## **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the TPS 2, three (3) objections have been received and are summarised as follows:

## Community objections (summarised):

- Odour:
- Poultry Farm marked incorrectly within document;
- Punrak, Hopeland, Karnup and Utley Roads require upgrade;
- Leakages from trucks; and
- Groundwater contamination.

## Odour - Applicant response:

It is important to recognise in the first instance that Westpork are proposing to reduce significantly the number of pigs housed at the property from approximately 9,000 pigs to 4980.

As noted in the submission, the complaint record from historical operations at the piggery show that odour is not an ongoing issue at the piggery as complaints only arise during desludging of the ponds. In this respect, Westpork has committed to a number of measures aimed at reducing the generation of odour during desludging and the significant destocking of the site will also reduce the frequency of de-sludging.

Westpork recognise that odour is an issue which requires management at the piggery and has prepared an Odour Management Plan (OMP) for implementation.

## Odour - Shire officers comment:

The submissioners concerns are acknowledged as valid planning concerns, given the nature of the existing and proposed development. The information provided by the applicant sufficiently addresses Shire officers technical expectations with regards to odour management related to activities undertaken on the subject site. The proponent has calculated the odour separation distance as 775m. It is noted that two (2) sensitive receptors are located less than 775m, however, they have submitted a site and industry specific odour management plan, which adequately justifies a reduction in the separation distance. Ongoing implementation of the OMP will ensure that the expansion of the pig farm is able to operate without adversely affecting the amenity of adjoining and nearby landowners.

## Poultry Farm Marked Incorrectly – Applicant response:

The applicant acknowledged that the Poultry Farm should be shown on 149 Punrak Road, not 542 Utley Road.

## Poultry Farm Marked Incorrectly – Shire officers comment:

Shire officers acknowledge the mistake, however it does not affect the Shire's ability to consider and determine the application

## Punrak, Hopeland, Karnup and Utley Roads require upgrade – Applicant response:

No comment. Need for Council to upgrade roads to current rural standards is noted in the applicant's submission.

## Punrak, Hopeland, Karnup and Utley Roads require upgrade – Shire officers comment:

Shire officers acknowledge the submissioners concerns regarding the current standard of surrounding roads which service the subject and surrounding sites. It is noted in the applicants submission that feed deliveries to the site will remain the same at two (2) per week, while outbound stock movements will reduce to one (1) semi-trailer per week due to the reduction in size of animals. Shire officers are satisfied that while the proposed development is increasing size, traffic impacts of large vehicle movements are reduced. As a result of reduced large vehicle trips, the Shire is satisfied that the existing road networks are able to suitably service the proposed development.



## Leakages from Trucks – Applicant response:

The applicant acknowledged that the covering of loads may have not been satisfactorily undertaken previously, but with the implementation of the OMP such issues are considered unlikely to occur.

## <u>Leakages from Trucks – Shire officers comment:</u>

Shire officers acknowledge the submissioners concerns regarding wastes being contained during transport. Shire officers will be in a position to ensure ongoing compliance with the OMP if it is added as a condition on any planning approval. Operation in accordance with the OMP will ensure the submissioners concerns are addressed into the future.

## <u>Groundwater Contamination – Applicant response:</u>

There is no evidence to suggest groundwater has been impacted by the piggery. The wastewater treatment system is closed with no discharge to land or water and is lined with clayey sand material which has a permeability of less than 2.5 x 10-11 m/s which is sufficient to meet the liner requirements specified in Water Quality Protection Note 27: Liners for containing pollutants, using engineered soils (DoW, 2013) which specified a minimum permeability of 10-9m/s.

Westpork cannot comment on the request for the DER to test groundwater.

# <u>Groundwater Contamination – Shire officers comment:</u>

The applicant has submitted a report from Aurora Environmental suggesting that the wastewater treatment system meets current best practice guidelines. Some issues arise however with the high groundwater which is a feature of the area. Discussion with officers from Department of Environment and Regulation (DER) indicated that DER are satisfied with the works application and the proposal which ultimately, significantly reduces the overall pig numbers at the facility. DER advised that they have been discussing with the operator the potential for further upgrades to the existing facultative ponds. Further upgrades to the existing ponds will require a further works application to DER. Shire officers are satisfied with the information provided.

## Agency / Government Submissions:

The application was forwarded to the following government departments / agencies, no objections were received.

- Department of Aboriginal Affairs
- Department of Agriculture and Food
- Department of Parks and Wildlife
- Department of Health
- Department of Water
- Department of Environment and Regulation (DER)

## **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Rural' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Rural' under the TPS 2.

## **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT). This will have a financial impact on the Shire as refusal will be contrary to what has been recommended by Shire officers and may require the appointment of planning consultants and potentially legal counsel to represent Council throughout the SAT proceedings.



# Alignment with our Strategic Community Plan:

Objective 4.1	Sustainable Industries
Key Action 4.1.1	Target and engage sustainable, environmentally and socially responsible
	industries and business.

## **Planning Assessment:**

## Odour:

Shire officers note that the initial application contained insufficient information regarding odour impacts of the proposed development. The application provided an odour management plan which indicated the proposed development is satisfactory, and justifies a reduction in the 775 metre separation distance due to two (2) sensitive receptors being located closer. To ensure ongoing compliance with the OMP, Shire officers recommend a condition on any planning approval.

#### Wastewater:

It is recommended that ponds utilised for organic waste water meet best practice guidance such as DoW, Water Quality Protection Notes 27&39 (Liners for containing pollutants, using engineered soils & ponds for stabilising Organic matter). The WQPN's also recommend a vertical separation distance of 2m to the highest known groundwater to the base of the clay liner.

The applicant advised Effective retention and treatment of wastewater is a key to the environmental integrity of the operations at the site. The wastewater treatment system on site was generally constructed in accordance with a design completed in 1990 by Binnie and Partners Consulting Engineers, with an additional evaporation pond designed by Sinclair Knight Merz and constructed in 2000. The system is a closed system with no discharge to the environment, and is comprised of solids separation screen, followed by a series of anaerobic, facultative and evaporation ponds, which are detailed in Table A. All ponds have been designed with a 0.5 m freeboard to accommodate high rainfall events and wave action.

TABLE A: WASTEWATER TREATMENT COMPONENTS

COMPONENT	DESCRIPTION
Screen	Inclined static solids separator screen
Bunded Solids Collection Area	Concrete bunded area for the collection of solids prior to disposal offsite.
Anaerobic Pond 1	37m x 37m x 3.4m (min)
Anaerobic Pond 2	37m x 37m x 3.4m (min)
Facultative Pond	96m x 102m x 2.1m (min)
Evaporation Pond 1	236m x 212m x 1.5 (min)
Evaporation Pond 2	96m x 147m x 1.5m (min)

Shire officers acknowledge the additional information provided by the applicant and note that in discussing the matter with DER, the proposed approach is considered acceptable.

## Noise:

Shire officers note that the initial application did not sufficiently address the noise implications of the proposed development. The applicant provided a Noise Management Plan (NMP) prepared by a suitably qualified consultant. Shire officers have assessed the NMP and it is considered to adequately address noise impacts.



## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity of character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which may not be able to be successfully argued.

Option 1 is recommended.

#### Conclusion:

Shire officers are satisfied that the application has provided sufficient information within the application to justify that the proposed development is consistent with the TPS 2 objectives for 'Rural' zoned land within the Shire. The applicant has also sufficiently demonstrated that subject to ongoing compliance with management plans, the development is unlikely to have any negative impacts on the surrounding area. Shire officers acknowledge that the proposed development is a new direction from previous activities on the site and generally is considered to be an upgrade. Although an expansion is proposed, the change in on-site activities and management of off-site impacts result in a positive outcome for both the Shire and local residents.

#### Attachments:

- OCM282.1/12/15 Development Plans (IN15/24311)
- OCM282.2/12/15 Odour Management Plan (IN15/24318)
- OCM282.3/12/15 Noise Management Plan (IN15/24319)

**Voting Requirements:** Simple Majority

## OCM282/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Gossage, seconded Cr Piipponen

That Council approves the application submitted by Westpork Pty Ltd. for an 'Extension to Existing Pig Farming' as indicated on the approved plans and does not relate to any other development on Lot 366 (#567) Utley Road, Hopeland, subject to the following conditions:

- a. If the development is not substantially commenced within a period of two (2) years from the date of this approval, the approval shall lapse and be of no further effect.
- b. All existing native trees and / or revegetated areas on the subject lot shall be retained and shall be protected from damage prior to and during construction unless part of this or a separate planning approval.
- c. The landowner shall ensure all activities related to the construction of the development (such as but not limited to, storage of building materials and contractor vehicles) shall be contained wholly within the lot boundaries.
- d. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.



- e. The development must be undertaken in accordance with the Noise Management Plan prepared by Westpork Pty Ltd. and dated August 2015, for the duration of development.
- f. The development must be undertaken in accordance with the Odour Management Plan prepared by Westpork Pty Ltd. and dated August 2015, for the duration of development.

#### **Advice Note:**

a. The landowner is advised this is a planning approval only and does not obviate the responsibility of the landowner to comply with all relevant legislation and is encouraged to contact the Shire to confirm any additional requirements.

**CARRIED UNANIMOUSLY** 



OCM283/12/15	Lot 14 (#51) Holstein Court, Oakford - Proposed Land Fill		
	(retrospective), soak wells and retaining wall (P07230/05)		
Author:	Regan Travers - Senior Planning Officer		
Senior Officer/s:	Deon van der Linde – Acting Director Planning		
Date of Report:	9 November 2015		
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>		

Owner: Paul Vincent Dodin

Date of Receipt: 2 July 2015 Lot Area: 5,036m² (0.5ha) Town Planning Scheme No. 2 Zoning: 'Rural Living A (10)'

Metropolitan Region Scheme Zoning: 'Rural'

## Introduction:

The purpose of this report is to consider the development application for land fill (retrospective), soak wells and retaining wall on Lot 14 (#51) Holstein Court, Oakford (the site).

The proposal is presented to Council as an objection has been received from both internal departments and adjoining owners, consequently the application is not supported.



Aerial Reference



# Background:

#### Existing Development:

The site features land which has been raised by the importation of fill and an 'outbuilding' (shed). Whilst the 'outbuilding' has received a building license circa June 2011, the approval indicated that the proposed 'outbuilding' would be located within the modified building envelope which is shown on the plan below. It appears that the 'outbuilding' has not been constructed in accordance with the building license, as it is located outside the modified building envelope.



Existing Development (Building Envelope in black)

# **Proposed Development:**

The proposed development can be considered in the following three parts:-

#### Retrospective Land Fill:

The applicant has indicated that fill has been brought to the site (120mm in height) for the purposes of preventing water accumulation in winter.

#### Soak Wells:

The applicant proposes the installation of six soak wells (outside the Building Envelope) in the rear portion of the property to assist with drainage of storm water.

## Retaining Wall:

The applicant proposes one course of limestone retaining wall (240mm high) around the property boundary to prevent water run-off from adjoining properties.



#### **Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application.

# **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the Town Planning Scheme No. 2 (TPS 2), one (1) objection was received and is summarised as follows:-

- Soak wells are not going to be effective due to clay soils;
- Culvert pipe not included on the plan;
- Sand pad shown on plan is not accurate;
- Submitter advised by Shire it was not possible to bring in fill (unless associated with a building) so why is it possible for this applicant.

#### Comment:

#### Soak Wells:

Shire officers note that the soak wells are not likely to function as intended, due to the presence of perched groundwater on-site. In order to be effective, soak wells should be embedded in a sand pad that has a depth similar to the proposed house pad, with the base of the soak well sitting at or above natural ground level with suitable cover above. Four (4) of the proposed soak wells are not shown to be connected to any structure.

## Culvert Pipe:

Culvert pipes are not subject to the development application.

#### Sand Pad

Shire officers acknowledge that land fill has been placed outside the area highlighted on the applicant's site plan, as the plan only shows part of the lot and the rear portion has also been filled.

Submitter advised not possible to bring in fill:

Shire officers have been unable to find written correspondence regarding this matter, however, there are certain circumstances where land fill is exempt from requiring approval, and the most common being when fill is required to facilitate the construction of a house or outbuilding which has been approved by the Shire. The applicant has not demonstrated that the fill is exempt, and has provided justification based on water inundation during winter.

#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The site is zoned 'Rural' under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The site is zoned 'Rural Living A (10)' under the Town Planning Scheme
- Policy 34 Placement of Fill in Non-Urban areas

# **Financial Implications:**

Should Council resolve to refuse the application, the applicant will have the ability to appeal the decision with the State Administrative Tribunal (SAT), and may require the appointment of planning consultants and potentially legal counsel to assist Shire officers throughout the SAT proceedings.

# Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction



## **Planning Assessment:**

Development outside the Building Envelope:

The general purpose of designating building envelopes through the subdivision process is to contain development to a specific area of a given lot which may feature constraints such as easements, landforms, and also opportunities such as retention of native vegetation or visual amenity.

With Holstein Court, the purpose of building envelopes was to ensure a consistent character for the area, by grouping buildings and development on lots into similar sized areas. These are of similar overall size and setbacks from front and side setbacks. Land fill outside building envelopes, beyond the exemptions of TPS 2 is therefore not consistent with the Scheme and is not consistent with the principles of orderly and proper planning.

#### Site Drainage:

Shire officers (Engineering) have advised the applicant that the most effective and appropriate method of managing storm water on the property is to remove fill material from outside the building envelope to allow for spoon drains / swales along both east and west sides of the property. The spoon drains / swales can then direct storm water and perched groundwater towards the back of the site.

The proposed slotted drainpipe will not function as intended due to the perched groundwater present on site. These slotted drainage pipes will most likely be submerged and will be connecting into submerged soak wells.

# Fire and Emergency:

The location of fill close to lot boundaries does not facilitate emergency vehicle access in the case of a bush fire or similar. The development is therefore considered to be a risk to the subject and adjoining sites if access for firefighting is restricted.

The proposed firebreak should be constructed at the same level as the natural ground level. The proposed fill prevents adequate firebreaks from being constructed around the full perimeter of the property. The firebreaks should be cut then filled with limestone to maintain natural ground levels on the property.

A minimum three (3) metre firebreak is required around the perimeter of the property.

# Revegetation area:

Aerial photography (confirmed by site visit on 9 November 2015) shows the revegetation area required as a condition of subdivision approval to create the subject lot was planted in 2007, however was removed from the site in 2012.



2010 Aerial Photo - 2012 Aerial Photo

The Shire's records indicate that the current owner purchased the property in October 2009, thus were owners of the property when the vegetation was removed.

As a requirement of the original subdivision approval, the Shire officers recommend the landowner reinstate the revegetation area to the satisfaction of the Director Planning to ensure the character and amenity of the area is restored.

#### Limestone walls:

Limestone bricks can be used to retain fill within the building envelope similar to other properties in the surrounding area. Using retaining walls to manage water runoff from adjoining properties would be better managed through the construction of spoon drains running along the boundary fence as mentioned above. The proposed walls also impact on the ability for emergency services vehicles to access the site.

# **Options and Implications:**

With regard to the determination of the application for planning approval under TPS 2, Council has the following options:

Option1: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to SAT which Shire officers are confident can be resolved through the SAT proceedings.

Option 2: Council may resolve to approve the application subject to conditions.



The approval of the application may result in a significant impact on the storm water flow in the area and will also impede firefighting abilities.

Option 1 is recommended.

#### Conclusion:

The applicant has not sufficiently justified that the retrospective and proposed development is appropriate for the subject site. Shire officers consider the proposed development to be inconsistent with the objectives of TPS 2 and have undue adverse impacts on adjoining properties.

#### Attachments:

• OCM283.1/12/15 - Site Plan (E15/5999)

**Voting Requirements:** Simple Majority

#### OCM283/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Urban

That Council refuses the application submitted by Paul Vincent Dodin for land fill (retrospective), soak wells and retaining wall on Lot 14 (#51) Holstein Court, Oakford, for the following reasons:

- a. The Retrospective and proposed development outside the Building Envelope is not consistent with Town Planning Scheme No. 2.
- b. The proposed methods of storm water management are not supported due.
- c. The retrospective land fill and proposed limestone wall will restrict emergency vehicle access to the site and its surrounds in the event of a fire or similar emergency.

#### **Advice Notes**

- a. Advises the applicant that the land fill is required to be removed within 30 days, from the date of this refusal.
- b. Advises the applicant that the vegetation area is required to be replanted within 30 days, from the date of this refusal.

**CARRIED UNANIMOUSLY** 



OCM284/12/15	Final Adoption of Scheme Amendment 185 – Rezoning of Lot 341
	Balmoral Road, Jarrahdale from 'Rural' to 'Conservation' (SJ1528)
Author:	Regan Travers – Senior Planning Officer
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	10 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Andrew Del Marco, Ironbark Environmental

Owner:

Date of Receipt:

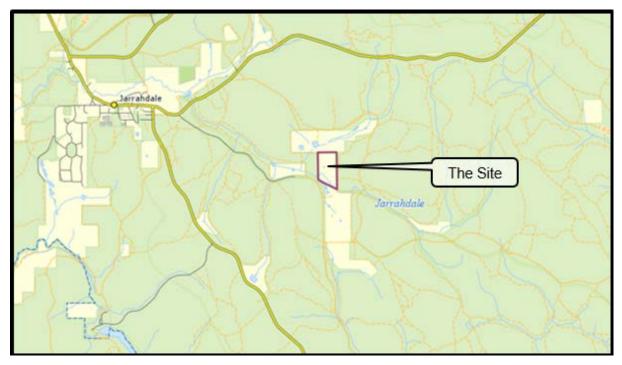
Lot Area:

Antonia Bagshawe
October 2014
202,343m² (20.23ha)

Town Planning Scheme No. 2 Zoning: 'Rural' Metropolitan Region Scheme Zoning: 'Rural'

#### Introduction:

The purpose of this report is for Council to consider Final Adoption of Amendment No.185 to the Shire's Town Planning Scheme No. 2 (TPS 2) at Lot 341 Balmoral Road, Jarrahdale from 'Rural' to 'Conservation'.



Locality Plan

# Background:

## Existing Development:

The residence and shed on the lot are located midway along the property's western boundary. Two (2) dams are located within the lot, one in the centre of the property and the other on the northern boundary.

# **Proposed Development:**

The proposal to amend the Shires TPS 2 has been submitted as follows:-

1. Rezoning Lot 341 Balmoral Road, Jarrahdale from 'Rural' to 'Conservation' and amending the Scheme Map accordingly.



2. Amending Scheme Text – 'Appendix 4D - Conservation Zone' to include Special Provisions relating to Lot 341 Balmoral Road, Jarrahdale.



Site Plan

## **Relevant Previous Decisions of Council:**

OCM063/05/15 – Amendment No.185 was endorsed for advertising by Council.

# **Community / Stakeholder Consultation:**

The application has been advertised as per clause 6.3 of the TPS 2. Seven (7) submissions were received from government agencies and no submissions were received from nearby landowners.

The seven (7) government agencies raised no objections to the proposed Scheme Amendment.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The lot is zoned 'Rural' under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The lot is zoned 'Rural' under the TPS 2.

## **Financial Implications:**

There is no financial implication to the Shire.



## Alignment with our Strategic Community Plan:

Objective 5.2	Natural Environment
Key Action 5.2.1	Protect, restore and manage our landscapes and biodiversity

## **Planning Assessment:**

No concerns were raised during the community consultation period. The proposed rezoning is consistent with the Shire's strategic aspirations for areas with conservation and biodiversity value to be protected for future residents of the Shire. The proposed Scheme Amendment is considered to be consistent with the principles of orderly and proper planning.

## **Options and Implications:**

With regard to the determination of the application, Council has the following options:

Option 1: Council may resolve to endorse the final adoption of the Amendment.

Endorsing final adoption of the Amendment will not result in a negative impact on the amenity of character of the area and is consistent with the Shire's Strategic Community Plan.

Option 2: Council may resolve to refuse the application.

Refusal to endorse Final Adoption of the Amendment may result in the applicant seeking determination from the Western Australian Planning Commission.

Option 1 is recommended.

#### Conclusion:

The Applicant has demonstrated the planning and community benefits of the proposal, therefore Shire officers recommend Council endorse 'Final Adoption' of the Amendment.

#### **Attachments:**

OCM284.1/12/15 – Management Plan Attachments (IN14/18915)

• OCM284.2/12/15 - Amendment No. 185 - Proposed zoning Lot 341 Balmoral

Road, Jarrahdale from Rural to Conservation (E14/450)

• OCM284.3/12/15 – Management Plan for Lot 341 Balmoral Road, Jarrahdale

(IN14/18913)

• OCM284.4/12/15 – Schedule of Submissions (E15/3848)

**Voting Requirements:** Simple Majority

#### OCM284/12/15 COUNCIL DECISION / Officer Recommendation:

#### Moved Cr Piipponen, seconded Cr Hawkins

That Council pursuant to Regulation 50(2) of the Planning Regulations (2015) (as amended), note the submissions received in respect of proposed Amendment No.185 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, and acknowledges the submissions as contained in the Schedule of Submissions in attachment OCM284.4/12/15.

- a. Pursuant to Section 75 of the Planning and Development Act (2005) (as amended) and Regulation 50(3) (a) of the Planning Regulations (2015) (as amended) adopt proposed Amendment No.185 to the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, without modifications, as follows:
  - i. Rezoning Lot 341 Balmoral Road, Jarrahdale, from 'Rural' to 'Conservation' as depicted on the Scheme Amendment map;
  - ii. Inserting in Appendix 4D Conservation Zone the following:



# b. Lot 341 Balmoral Road, Jarrahdale

All development and land use shall be in conformity with the Management Plan adopted by Council dated 7 December 2015 (or as amended) for Lot 341 Balmoral Road, Jarrahdale.

The following land uses are permitted:

- Single House
- Public Utility

The following land uses are permitted at Council's discretion (AA):

- Environmental Research Centre
- Holiday accommodation
- Caretaker's dwelling
- Environmental Rehabilitation Centre (means any land or buildings used for the care and rehabilitation of wildlife native to Western Australia).

All other uses are prohibited.

Council will not support subdivision of land in those circumstances where the proposed lots will result in the clearing and degradation of the native vegetation as identified in the adopted Management Plan.

The clearing of land is not permitted without the prior approval of the Council. Clearing of land is to provide for permissible land uses referred to under Provision 2 and shall be in conformity with the adopted Management Plan.

Appropriate fire management measures are to be implemented as part of the adopted Management Plan for the subject land.

Any proposed development shall be accompanied by a Fire Management Plan approved and implemented to the satisfaction of the Council.

Any proposed development shall be sited, designed and constructed to meet Australian Standard 3959: Construction of buildings in bushfire prone areas.

The grazing of stock shall be limited to the areas marked 'General Domestic and Cleared Area' as denoted in the adopted Management Plan. The keeping of animals shall not exceed the stocking rates recommended by the Department of Agriculture and Food for the applicable pasture types.

Permanent fencing shall be maintained to control grazing stock in accordance with the adopted Management Plan to protect the Site's conservation values.

All development shall be sympathetic with the surrounding landscape amenity, and designed and constructed to the requirements and satisfaction of Shire.

All development shall be connected to an alternative wastewater treatment system as approved by the Shire, the Health Department of WA and the Department of Environmental Protection.



OCM285/12/15	Update Report on outcomes of the Working Group to identify a suitable site as an Off Road Vehicle Area within the Shire of Serpentine Jarrahdale (SJ1266 & SJ869)
Author:	Brian Owston – Senior Ranger
Senior Officer/s:	Richard Gorbunow – Chief Executive Officer
Date of Report:	20 November 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

The purpose of this report is to update Council and report on the outcome in respect to the identification of a suitable site for use as an Off Road Vehicle area (ORV) to be located within the Shire of Serpentine Jarrahdale and ask for an extension of time to finalise the project.

## **Background:**

At the Ordinary Council Meeting of 13 April 2015, Council requested a working group of four Councillors to identify a safe and suitable locations for the construction of a facility suitable for the use by off road motor cycles and other recreational equipment be formed. The working group will be required to consult with all necessary State Government agencies, the City of Armadale, Local Police, Recreational Trailer Bike Riders Association WA, and the Coastal Motor Cycle club and report back to Council by September 2015. During these discussions the working group is to consider suitable locations and the necessary safety and environmental issues.

In response to this decision, a working group was formed, consisting of Councillor Rossiter (Chair), and Councillors Erren, Kirkpatrick and Urban, and Brian Owston (Senior Ranger) representing the Chief Executive Officer (CEO), with a number of meetings having been undertaken.

Investigation of the proposed sites identified a site for further consideration, and a decision of this meeting was for the stakeholders to provide feasibility reports in respect to the proposed site. A preliminary report has been provided by the Water Corporation, which will be followed up with a formal submission. The Department of Parks and Wildlife (DPAW) have been researching the proposed site, and are currently drafting a formal response to the proposed site. These reports are expected in the near future, and will be provided to, and will be tabled at the next ORV Working Group meeting.

Following the Local Government Elections of October 2015, Councillors Urban and Rich were nominated to the new Working Group. During the period since the last meeting, position papers were received from the DPAW and Water Corporation as follows:

#### DPaW:

With regards to the proposal put forward by the Shire of Serpentine Jarrahdale to establish an off road vehicle area for motorcycles near the Wetlands Experience east of Jarrahdale town site.

As suggested at the meeting and again shortly after, the Department of Parks and Wildlife is currently focussed on establishing an ORV motorcycle area in Flint Block, on the eastern boundary of our estate near the junction of Brookton Highway and Metro Road, north east of Jarrahdale. This area has significant historical use and was identified some time ago as providing the best opportunity to established sustainable well designed and constructed trail for a variety of motorcycle disciplines and skill levels.

The area is located outside of Water Catchment and the Disease Risk area, offering good access and fewer constraints with regards to facilities development, including the possibility



of overnight camping. The area is significant in size, with features such as the highway, Disease Risk Area/Water Catchment boundaries providing containment lines to restrict creep from the designated site/s. There would also be less impact on neighbours. A Steering Committee was recently established to commence the initial phase of planning for this location.

The Department of Parks and Wildlife considers the site proposed by the Shire east of Jarrahdale presents a strong possibility of conflict with neighbours and the Jarrahdale community. The site is too small to offer a variety of trail for the different user groups and as a consequence would more than likely be very difficult to contain to a designated location. I would like to reaffirm that at this stage the Departments focus remains on establishing facilities at Metro and that we are not currently considering the development of an ORV motorcycle area near the Jarrahdale town site.

## Department of Water:

We have been discussing this proposed area with the Water Corporation. They have some concerns that making the proposed area an official ORV area would increase the amount of traffic within the adjacent public drinking water source areas. They are worried that management may not be sufficient to adequately control the visitors in a manner that would eliminate the risk to the catchments and water quality. However as long as the area is physically outside of any public drinking water source areas, then the decision is outside our jurisdiction. However we would recommend that education, signage and fencing could be used to reduce the risk to the adjacent public drinking water source area.

The map of the proposed ORV area which you sent through does appear to go partly within the Serpentine Dam Catchment Area, this boundary of the proposed ORV area would need to be amended so that it is no longer within the public drinking water source area. New recreational facilities are not supported within public drinking water source areas.

## Water Corporation:

Water Corporation is in a position to object to the proposed ORV area in the proximity to two key "drinking water catchment zones", however if the proposal was to proceed, we would strongly encourage the proposed designated area be fenced and heavily signposted to prevent entry into the public drinking water source area adjacent. The installation of boom gates where tracks from the Blue Rock area enter the catchments would also be supported. This may stop some of the larger vehicles.

#### **Relevant Previous Decisions of Council:**

OCM177/09/15 – Ordinary Council Meeting 14 September 2015 – requested an extension of time to December 2015

#### **Community / Stakeholder Consultation:**

The extended working group is made of key stakeholders, being Council members and staff, officers of the DPAW, being land managers, officers from Water Corporation, being land managers in the proximity of the area to drinking water protection zone controls, and, members of the Recreational Trail Riders Association and the All-Terrain Vehicle Riding Group.

# **Statutory Environment:**

- Local Government Act 1995
- Control of Vehicles (Off Road Areas) Act 1978, Sections 5, 12, 19 & 20

# **Financial Implications:**

There are no direct financial cost implications for Council at this stage.



## Alignment with our Strategic Community Plan:

Objective 1.2	Progressive Organisation
Key Action 1.2.5	Provide safe and supportive work environments
Objective 6.2	Active and Connected people
Key Action 6.2.5	Create a reassuring and safe place to live

#### Conclusion:

Members of the stakeholder groups, and associated bodies have been undertaking visits to, and studies of the site, and the surrounding areas, with a number of preliminary reports of activities and observations circulated. The concept of identifying a suitable ORV site is notably a complex process, and will take time and the support of all stakeholders, and is the first step in the declaration of an ORV area process in accordance with the relevant statutes.

#### **Attachments:**

- OCM285.1/12/15 Minutes ORV Site Working Group meeting, 27 May 2015 (E15/2427)
- OCM285.2/12/15 Minutes ORV Site Working Group meeting, 9 June 2015 (E15/2857)

**Voting Requirements:** Simple Majority

OCM285/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr See, seconded Cr Hawkins

That Council extend the consultation period for the Off Road Vehicle Area Committee and report back to Council by June 2016 on the outcomes in identifying a suitable site as an Off Road Vehicle Area within the Shire of Serpentine Jarrahdale.

**CARRIED 9/0** 



OCM286/12/15	Fees and Charges Schedule – Amendment to Health Fees (SJ629)
Author:	Tony Turner - Manager Health
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	18 November 2015
Disclosure of	No officer involved in the preparation of this report is required to
Officers Interest:	declare an interest in accordance with the provisions of the Local
	Government Act

The purpose of this report is to propose a new fee of \$5.00 for self-contained recreational vehicles (RV's) staying up to three (3) nights at the RV site in Jarrahdale.

This fee is proposed based on advice from the Caravan & Motorhome Club of Australia (CMCA) to help the administration and registration of users and the management of the site.

## **Background:**

At the Special Council Meeting held in June 2015, Council adopted the Statutory Budget for 2015/16. This included the adoption of the Schedule of Fees and Charges. However at that time the RV site in Jarrahdale was still under development and the proposed fee hadn't been considered.

The Jarrahdale Post Office and General Store have both given undertakings to take registrations and receive the fees. Users will receive a registration docket they can display on their vehicles or provide at the request of a Shire officer.

#### **Relevant Previous Decisions of Council:**

In August 2014 Council supported the consideration of a budget allocation for the proposal to construct RV bays in Jarrahdale, and a budget allocated in the 2015 / 16 Statutory Budget in June 2015 to match funding provided for the project by Tourism WA.

OCM098/06/15 – Adoption of Statutory Budget 2015/16 OCM050/09/14 - Overnight Recreational Vehicle Parking Bays for Jarrahdale

## Community / Stakeholder Consultation:

Not required.

#### Comment:

While this nominal fee provides a small amount of revenue, its primary purpose is for the registration of those legitimate users with self-contained vehicles. The fee and registration details will assist Shire officers monitoring users and the level of activity at the site and will also inform the ongoing management of the site.

#### Proposal:

This proposed amendment to the Shire's Fees and Charges is before Council because the Local Government Act 1995 (the Act), Division 5 – Financing Local Government, requires a Council decision for such amendments.

The Act also requires notification before introducing such fees. This notification shall be in the form of a local public notice which informs the community of the intention to introduce the fee and the date from which it is proposed to impose the fee.

# **Options and Implications:**

There is no requirement to apply a fee for the use of the RV bays, and Council could decide to not apply a fee at least in the first instance while the site is being promoted. However as stated, the fee and the registration does assist the management and the administration of the site.



#### Conclusion:

It is recommended that Council support the proposed amendment to the 2015/16 Statutory Budget Fees and Charges with the inclusion of a new fee of \$5.00 to stay up to 3 nights at the Jarrahdale RV site.

#### Attachments:

There are no attachments relevant to this item.

# Alignment with our Strategic Community Plan:

Objective 4.2	Tourism	
Key Action 4.2.1	Encourage the development of tourist attractions and accommodation.	
Key Action 4.2.2	Maximise the Shire's tourism, cultural, heritage and recreational potential	
	through the integration of natural and built environments.	
Objective 6.1	Engaging Community	
Key Action 6.1.1	Provide a range of facilities and services that accommodate different	
	lifestyles and cultures.	

## **Statutory Environment:**

Section 6.16, Imposition of fees and charges, of the Local Government Act 1995, states:

- (3) Fees and charges are to be imposed when adopting the annual budget but may be -
  - (a) Imposed\* during a financial year;
  - (b) Amended\* from time to time during a financial year.

Section 6.19, Local government to give notice of fees and charges of the Local Government Act 1995, states:

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted, it must, before introducing the fees or charges, give local public notice of -

- (a) Its intention to do so;
- (b) The date from which it is proposed the fees or charges will be imposed.

#### **Financial Implications:**

This nominal fee has a limited positive implication for the Shire's Statutory Budget.

**Voting Requirements:** Absolute Majority

# OCM286/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Urban, seconded Cr Hawkins

That Council apply the additional fee of \$5.00 for up to 3 nights stay at the Jarrahdale Recreational Vehicle site to support the management and administration of the site and its users, to the schedule of fees and charges for the 2015/16 financial year;

	Program		Fee/Charge	Price Excluding GST	GST	15/16 Fee
1	Economic Services Tourism	Jarrahdale RV Park Bay Registration Fee	Fee for up to 3 nights stay at the Jarrahdale RV bays	5.00	0.00	5.00

**CARRIED BY ABSOLUTE MAJORITY 9/0** 

<sup>\*</sup> Absolute majority required.



OCM287/12/15	Revoke Local Planning Policy No. 17 – Residential and Incidental Development (SJ1098)
Author:	Lauren Dujmovic – Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	17 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

The purpose of the report is to consider the revocation of Local Planning Policy No. 17 – Residential and Incidental Development (LPP 17).

## Background:

The purpose of LPP 17, which was adopted by Council in 2003 and revised in 2007, was to guide residential and incidental development within the Shire and to provide uniformity to development standards. Local planning policies are periodically reviewed to ensure they maintain relevance to the Shire and reflect contemporary planning practices. Following a review of the Shire's local planning policies, draft Local Planning Policy No. 36 – Outbuildings (LPP 36) and draft Local Planning Policy No. 39 – Ancillary Accommodation (LPP 39) were prepared in 2011 with a view to superseding the provisions of LPP 17 which was identified for review. Draft LPP 36 and LPP 39 have since undergone amendments and public advertising, and will be presented to Council for final determination. This concludes the review of LPP 17. This report provides Council with the opportunity to revoke LPP 17.

#### **Relevant Previous Decisions of Council:**

SD082/02/07 – Final Adoption of Modified LPP 17 and Deletion of Building Policy BP1 Ancillary Accommodation and Rural Workers Dwellings and BP5 Building Envelope Relocations (A1160)

#### **Community / Stakeholder Consultation:**

Should Council resolve to revoke LPP 17, under Clause 6 (b) (ii) Part 3 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, a notice of revocation will be published in a newspaper circulating in the Scheme area.

#### **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The Policy relates to land in various zones under the Metropolitan Regional Scheme.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2)
   The Policy relates to land in various zones under the Town Planning Scheme.

## **Financial Implications:**

There are no direct financial cost implications for Council, apart from the required publication costs, which has been budgeted for in the 2015/2016 budget.

# Alignment with our Strategic Community Plan:

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction



## **Planning Assessment:**

#### Discussion/Recommendations:

Shire officers have undertaken a review of LPP 17 with regard to draft LPP 36 and draft LPP 39.

## 'Outbuildings':

Draft LPP 36 was prepared to address the development of 'outbuildings' within the Shire. Following a review of the effectiveness of the 'outbuilding' requirements contained within LPP 17 and a review of draft LPP 36, it is not considered necessary for the Shire to have a local planning policy which addresses 'outbuildings'. The *Planning and Development (Local Planning Schemes) Regulations 2015* provide the mechanism to determine if the development of 'outbuildings' will require development approval. The R-Codes contain requirements for the development of 'outbuildings' in residential and urban areas. Given the diverse nature of non-urban areas within the Shire, it is not considered effective to prescribe policy requirements which may not be appropriate in all contexts. The planning assessment of individual planning applications is considered more appropriate to identify contextual factors and potential amenity impacts. As such it is considered that the 'outbuilding' requirements contained within LPP 17 and draft LPP 36 are not necessary.

## Ancillary Accommodation:

Draft LPP 39 was prepared to address the development of ancillary accommodation within the Shire. The R-Codes contain provisions for the development of ancillary accommodation in urban areas within the Shire, however no such provisions exist for non-urban areas. The purpose of LPP 39 is to provide guidance on the development of ancillary accommodation within the Shire. The provisions within LPP 39 supersede the provisions relating to ancillary accommodation in LPP 17.

#### Setbacks:

LPP 17 contains setback requirements for development within the Shire. The R-Codes contain setback requirements which apply to land zoned Urban Development or Residential under TPS 2. Clause 5.4.2 (a) of TPS 2 specifies a default R-Code for non-urban areas for the purposes of residential development. Clause 5.4.2 (a) states the following:

'Where no Residential Density Code area is depicted on the Scheme Map, residential development shall be in accordance with the R10 Density Code except in the Special Rural, Rural Living A, Rural Living B, Farmlet and Rural where it shall be in accordance with the R2 Density Code.'

Setback requirements in non-urban areas shall be in accordance with the default R-Code which is applied under Clause 5.4.2 (a) of TPS 2. As setbacks are addressed under TPS 2 and the R-Codes, it is not necessary to state such requirements in LPP 17.

#### Building Envelopes:

LPP 17 contains provisions which require development to be constructed within building envelopes. The Policy also outlines a set of procedures which include application requirements and the planning assessment process. Where building envelopes are applicable, the relevant zones within TPS 2 require that development be contained within the building envelope. It is unnecessary to duplicate this requirement within a local planning policy. Application requirements and planning assessment procedures are contained within Schedule 2 – Deemed provisions for local planning schemes of the Planning and Development (Local Planning Schemes) Regulations 2015. The requirements and procedures within LPP 17 are therefore not required.

## Aged and Dependant Person's Dwellings:

LPP 17 contains a section which refers the development of aged and dependant person's dwellings to the R-Codes. It is not considered necessary for this to be contained within a local planning policy. The R-Codes provisions are sufficient to address this matter.



## **Options and Implications:**

Council has the following options when considering the request.

Option 1: Council may resolve to revoke LPP 17.

Revoking this policy and amendment the Delegation Instrument will allow Shire officers to consider applications on their merit avoiding applications that do not have any objections to be considered by Council

Option 2: Council may resolve to not revoke LPP 17.

Not revoking the policy will result in a large amount of outbuildings that do not have any objections still having to be considered by Council which would have a significant impact on the timeframes for determining applications.

Option 1 is recommended.

#### Conclusion:

It is recommended that LPP 17 be revoked as it is considered that the policy is no longer relevant. The provisions contained within LPP 17 are either addressed elsewhere in more current documents or considered to be unnecessary in the planning process.

- OCM287.1/12/15 LPP 17 Residential and Incidental Development (E06/5462)
- OCM287.2/12/15 Current Delegation P109D Outbuildings (E15/6205)
- OCM287.3/12/15 Proposed amended Delegation P109D (E15/6206)

Voting Requirements: Simple Majority

## OCM287/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Urban

That Council pursuant to Clause 6 (b) Part 2 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to revoke Local Planning Policy No. 17 – Residential and Incidental Development.

- a. Pursuant to Clause 6 (b) (ii) Part 2 Schedule 2 of the *Planning and Development* (Local Planning Schemes) Regulations 2015, publish a notice of revocation in a newspaper circulating in the Scheme area.
- b. Amends the Delegation Instrument as per attachment OCM287.3/12/15.

**CARRIED UNANIMOUSLY** 



OCM288/12/15	Notice to Not Proceed with Draft Local Planning Policy No. 36 -
	'Outbuildings' (SJ1117)
Author:	Lauren Dujmovic – Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	17 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

The purpose of this report is to review the submissions received on draft Local Planning Policy No. 36 – 'Outbuildings' (LPP 36) and consider whether to proceed with the Policy.

Pursuant to Clause 4 (3) under Part 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 – Deemed provisions for local planning schemes*, local governments are required to review the policy in light of any submissions and resolve whether to proceed with the policy at the conclusion of the advertising period. This report provides Council with the opportunity to review the policy in light of submissions and make a determination.

The R-Codes contain provisions for the development of outbuildings in urban areas. Given the diverse nature of non-urban areas in the Shire, it is not considered effective to prescribe policy requirements which may not be appropriate. As such, it is recommended that LPP 36 not be proceeded with.

# **Background:**

LPP 36 was drafted and adopted by Council for the purposes of advertising in July 2011 to provide guidance on the development of 'outbuildings' in the Shire. Following the advertising period, Shire officers amended LPP 36 to assist in the practical implementation of the policy. These amendments were not considered to alter the material intent of the policy. In May 2013 amended LPP 36 was adopted by Council for the purposes of advertising. Since being advertised in 2013, Shire officers considered the received submissions and reviewed the operation of the policy. This review of LPP 36 led to significant amendments. The amended LPP 36 was adopted by Council for the purposes of advertising in September 2015 and was subsequently advertised for public comment.

# **Relevant Previous Decisions of Council:**

OCM171/09/15 - Draft Local Planning Policy No. 36 - 'Outbuildings' - adopted for the purposes of advertising.

# **Community / Stakeholder Consultation:**

LPP 36 was advertised for public comment between 1 October 2015 and 22 October 2015. During the submission period, one (1) submission was received by the Shire.

## **Comment:**

#### Proposal:

The purpose of LPP 36 is to provide guidance on the approval of outbuildings in the Shire.

## Consideration of Submissions:

During the public advertising period, one (1) submission was received by the Shire in objection to the policy. The submission objected to the removal of the clause which did not support the conversion of 'outbuildings' to alternate uses. This clause was removed from the policy as the conversion of 'outbuildings' to other uses can be supported under Town Planning Scheme No. 2 (TPS 2) and State Planning Policy 3.1 Residential Design Codes (R-Codes). Removal of the clause would provide flexibility and allow Shire officers to consider



applications on a case by case basis. Further discussion regarding the effectiveness of LPP 36 is provided in the planning assessment section.

## **Statutory Environment:**

- Metropolitan Regional Scheme
   The Policy relates to land in various zones under the Metropolitan Regional Scheme.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2
  The Policy relates to land in various zones under the Town Planning Scheme.

## **Financial Implications:**

There are no direct financial cost implications for Council.

## **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

# **Planning Assessment:**

## **Discussion / Recommendations:**

Shire officers have undertaken further consideration of the provisions of LPP 36 with regard to the effectiveness of the policy in the planning assessment of 'outbuildings'. Particular consideration was given to the implementation and effectiveness of the current policy which guides the development of 'outbuildings', Local Planning Policy No. 17 – Residential and Incidental Development (LPP 17). Succeeding consideration, it is recommended that the Shire not proceed with LPP 36 for the following reasons:

# Planning Approval Requirement:

One of the primary purposes of LPP 36 was to specify that all 'outbuildings' within the Shire would require development approval. Under Clause 61 (1) (d) within Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, the development of 'outbuildings' does not require development approval where the R-Codes apply and the development satisfies the requirements of the R-Codes. However, the development of 'outbuildings' in non-urban areas where the R-Codes do not apply will require planning approval. Under Clause 61 (2) (b) within Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015, it is stated that development approval is not required for 'development that is a use identified in this Scheme as a use that is permitted in the zone in which the development is located', provided the development has no works component that requires approval. As the development of outbuildings does include such a works component, proposed outbuildings located within non-urban areas will require development approval. Therefore, with the introduction of the Planning and Development (Local Planning Schemes) Regulations, proposed 'outbuildings' under the R-Codes will not require planning approval, while there are no planning approval exemptions for proposed 'outbuildings' in non-urban areas. With regard to this, LPP 36 would duplicate these approval requirements. As such, LPP 36 is not required to specify when development approval is required.

## **Development Provisions:**

The R-Codes contains requirements for the development of 'outbuildings' within the urban development and residential zones. It is therefore unnecessary for the Shire to have a local planning policy which specifies requirements for the development of 'outbuildings' in urban areas. While there are no provisions for the development of 'outbuildings' in non-urban areas, given the diverse nature of such areas and the variety of uses which are undertaken, it is difficult to prescribe specific design requirements and floor area requirements. LPP 36 is considered to be too restrictive, limiting the capacity for Shire officers to exercise discretion in assessing applications in varying contexts. The implementation of LPP 17, which



currently specifies provisions for the development of 'outbuildings' in the Shire, has demonstrated that having a local planning policy for 'outbuildings' in non-urban areas is ineffective. Such a policy instrument does not have the capacity to specify appropriate provisions for the wide range of contexts in which the Shire receives 'outbuilding' applications. As a result there have been instances in which Council has approved outbuildings that are not compliant with policy provisions, as the planning assessment process has determined that such applications will not adversely affect the surrounding visual amenity.

It is considered unnecessary to specify policy provisions which are ineffective in informing the planning assessment process. The planning assessment of individual planning applications is sufficient in identifying contextual factors and potential amenity impacts. It is not appropriate for the Shire to have local planning policies which set requirements which are often not considered reasonable. Furthermore, if the Shire refused applications on the basis of such policies, even in cases where planning assessment determined there to be little impact to amenity, applicant's would be likely to appeal the decision with the State Administrative Tribunal (SAT). This would have financial impacts on the Shire and may result in the development being approved. Therefore the progression of LPP 36 is considered inappropriate and inflexible.

# **Options and Implications:**

Council has the following options, when considering the request.

Option 1: Council may resolve to not proceed with LPP 36.

Option 2: Council may resolve to proceed with LPP 36 with modification.

Option 3: Council may resolve to proceed with LPP 36 without modification.

Option 1 is recommended.

#### **Conclusion:**

It is not considered necessary for the Shire to have a local planning policy to specify requirements for the development of 'outbuildings'. The *Planning and Development (Local Planning Schemes) Regulations 2015* provide the mechanism to determine if a development will require development approval. The R-Codes contain provisions for the development of 'outbuildings' in urban areas. Given the diverse nature of non-urban areas in the Shire, it is not considered effective to prescribe policy requirements which may not be appropriate. As such, it is recommended that LPP 36 not be proceeded with.

# Attachments:

- OCM288.1/12/15 Schedule of Submissions (E15/5949)
- OCM288.2/12/15 Draft LPP 36 adopted for the purposes of advertising (E15/3046)

Voting Requirements: Simple Majority

#### OCM288/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr See, seconded Cr Gossage

That Council note the schedule of submissions contained within attachment *OCM288.1/12/15* and pursuant to Clause 4 (3) (b) Part 2 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolve to not proceed with Local Planning Policy No. 36 – Outbuildings.

CARRIED UNANIMOUSLY



OCM289/12/15	Adoption of Draft Local Planning Policy No. 39 – Ancillary
	Accommodation (SJ1120)
Author:	Lauren Dujmovic – Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	17 November 2015
Disclosure of	No officer involved in the preparation of this report is required to declare
Officers Interest:	an interest in accordance with the provisions of the Local Government
	Act

The purpose of this report is to review the submissions received on draft Local Planning Policy No. 39 – Ancillary Accommodation (LPP 39) and consider whether to proceed with the Policy. Pursuant to Clause 4 (3) under Part 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 – Schedule 2 – Deemed provisions for local planning schemes, local governments are required to review the Policy in light of any submissions and resolve whether to proceed with the Policy at the conclusion of the advertising period. This report provides Council with the opportunity to review the Policy in light of submissions and make a determination on whether to proceed with the Policy.

## Background:

LPP 39 was drafted and adopted by Council for the purposes of advertising in 2011 to provide guidance on the development of ancillary accommodation within the Shire. It is particularly important for the Shire to specify provisions for non-urban areas as State Planning Policy 3.1 - Residential Design Codes (R-Codes) contains provisions for the development of ancillary accommodation in urban areas. During the advertising of LPP 39 in 2011, the Department of Planning (DoP) recommended in their submission that the Shire postpone the progression of LPP 39 until the finalisation of the R-Codes review. The R-Codes have since been reviewed and amended in 2013. Following this, LPP 39 was reviewed by Shire officers and significant amendments to the Policy were undertaken. The amended LPP 39 was adopted by Council for the purposes of advertising in September 2015 and was subsequently advertised for public comment.

#### **Relevant Previous Decisions of Council:**

OCM172/09/15 – Draft Local Planning Policy No. 39 – Ancillary Accommodation – adopted for the purposes of advertising.

#### **Community / Stakeholder Consultation:**

LPP 39 was advertised for public comment between 1 October 2015 and 22 October 2015. During the submission period, one (1) submission was received by the Shire.

#### Comment:

#### Proposal:

The R-Codes contain provisions for the development of ancillary accommodation in urban areas within the Shire, however no such provisions exist for non-urban areas. The purpose of LPP 39 is to provide guidance on the development of ancillary accommodation within the Shire.

# Consideration of Submissions:

During the public advertising period, one (1) submission was received by the Shire in objection to the Policy. The following issues were raised in the submission:

Conversion of outbuildings to ancillary accommodation:



The submission objected to the removal of the clause which did not support the conversion of outbuildings to ancillary accommodation. This clause was removed as the conversion of outbuildings to ancillary accommodation can be supported under Town Planning Scheme No. 2 (TPS 2) and the R-Codes. By removing this clause, it provides flexibility and allows for officer discretion to consider individual applications on a case by case basis. Schedule 2 – Design requirements of the Policy addresses amenity and health issues.

## Maximum floor area requirements:

The submission objected to the 70m² maximum floor area requirement in all zones within the Shire suggesting that larger land holdings should have greater flexibility in the floor area of ancillary accommodation. It is recommended that the Policy be amended to allow ancillary accommodation to have a floor area up to 110m² for lots which are greater than 5000m² in area. This will provide greater flexibility to enable the planning assessment process to consider local context and design in determining applications for ancillary accommodation.

## • Separation Distances:

The submission objected to the removal of the flexibility of a 20m separation distance. Specific separation distances were removed altogether from the Policy to allow greater flexibility and enable applications to be assessed on a case by case basis. Policy objectives outline the overall design outcomes supported by the Shire which includes ensuring that the ancillary accommodation is situated to appear visually related to and integrated with the primary dwelling. It is considered unnecessary and ineffective to prescribe certain separation distances.

# **Statutory Environment:**

- Metropolitan Regional Scheme (MRS)
   The Policy relates to land zoned Rural under the MRS.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 (TPS 2) The Policy relates to land in various non-urban zones under TPS 2.

#### **Financial Implications:**

There are no direct financial cost implications for Council.

#### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments
	and provide facilities that serve the community's needs and encourage
	social interaction

# **Planning Assessment:**

#### Discussion / Recommendations:

The following provides a summary of the recommended modifications to the Policy as well as the reasoning for such changes:

## Application of Policy:

Modify the Policy to only apply to non-urban areas within the Shire. As urban areas are addressed under the R-Codes, it is unnecessary to duplicate these provisions within LPP39. As such, it is recommended that all provisions and inferences relating to urban areas be removed from LPP 39.

• Maximum floor area requirements:



Modify the maximum floor area requirements to allow ancillary accommodation up to 110m<sup>2</sup> for lots greater than 5000m<sup>2</sup> in area. As discussed above, this will facilitate officer discretion to consider the context of individual applications.

## Terminology:

Modify all references of 'ancillary accommodation' to 'ancillary dwelling' to align with the terminology contained within the R-Codes. This includes amending the title of the Policy.

#### • Design requirements:

Remove the design requirement which specifies ancillary accommodation shall be under the same roofline as the primary dwelling. Removing this requirement allows greater flexibility to consider applications on a case by case basis. There are several other design requirements and Policy objectives which regulate design outcomes. This requirement is considered to be unnecessarily prescriptive and as such, it is recommended it be removed.

## **Options and Implications:**

Council has the following options; when considering the request.

Option 1: Council may resolve to proceed with LPP 39 without modification.

Option 2: Council may resolve to proceed with LPP 39 with modification.

Option 3: Council may resolve to not proceed with LPP 39.

Option 2 is recommended.

#### **Conclusion:**

It is recommended that Council resolve to proceed with LPP 39 with modifications.

#### **Attachments:**

- <u>OCM289.1/12/15</u> Schedule of Submissions (E15/5909)
- OCM289.2/12/15 Schedule of Modifications (E15/5918)
- OCM289.3/12/15 Draft LPP 39 with proposed modifications (E15/2949)
- **OCM289.4/12/15** Final LPP 39 (E15/6226)

**Voting Requirements:** Simple Majority

#### OCM289/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Rich, seconded Cr See

That Council note the schedule of submissions contained within attachment *OCM289.1/12/15*.

- a. Pursuant to Clause 4 (3) (b) Part 2 Schedule 2 of the *Planning and Development* (Local Planning Schemes) Regulations 2015, resolve to proceed with Local Planning Policy No. 39 Ancillary as contained within attachment OCM289.4/12/15.
- b. Pursuant to Clause 4 (4) Part 2 Schedule 2 of the *Planning and Development* (Local Planning Schemes) Regulations 2015, publish a notice of the adoption of Local Planning Policy No. 39 Ancillary Accommodation in a newspaper circulating in the Scheme area.

**CARRIED UNANIMOUSLY** 



OCM290/12/15	Locality Funding Program – Recommended Projects (SJ514-06)			
Author:	Carole McKee – Manager Community Services			
Senior Officer/s:	Alan Hart – Director Corporate and Community			
Date of Report:	20 November 2015			
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>			

The purpose of this report is to endorse the recommendations of the Locality Funding Program Working Group (LFPWG) in relation to the 2015/16 Budget allocation for the Locality Funding Program (LFP).

# **Background:**

The Locality Funding Program (LFP) benefits the six localities of Oakford, Byford, Mundijong, Jarrahdale, Serpentine and Keysbrook with funding for townscape projects. Currently, Policy G914, allocates funds to the respective localities as part of the annual budget process.

Applications can be considered by the Locality Funding Program Working Group through two funding rounds per year.

It is recommended that Council endorses the recommendations of the LFPWG in line with the relevant funds available through the 2015/16 Budget.

#### **Relevant Previous Decisions of Council**

There are no previous decisions related to this item.

## Community / Stakeholder Consultation:

Applications for 2015/16 were encouraged to be submitted prior to January 2015 due to the Local Government Reform Process, both via electronic media as well as through direct invitations to community groups - in particular progress and community associations, volunteer bushfire brigades, service groups, environment groups, and heritage or historical societies.

Three applications were received in this timeframe, another early in 2015 and a fifth application was received this month. While interested applicants have been kept informed, there has been a longer than normal wait due to the complications of the reform process.

# Proposal

Five funding applications were assessed by the LFP Working Group (LFPWG) in line with the assessment criteria outlined in Policy G914 and related work procedures. This allows for consistent assessment of applications for funding townscape projects, based on an agreed set of criteria linked to Council's Strategic Community Plan.

Two projects are considered ready for funding in this round, another is still in the feasibility phase (currently funded through this program) so not yet ready for assessment, and two others were initiated prematurely during the Local Government Reform Process. Applications can be considered by the Locality Funding Program Working Group through two funding rounds per year.

A summary of all pending project applications currently held in the LFP system including the five new applications assessed by the LFPWG in November 2015 are outlined in the attached "Working Group Table of Project Recommendations".

#### Conclusion

It is recommended that Council endorses the recommendations of the LFPWG in line with the relevant funds available through the 2015/16 Budget.



#### **Attachments**

- OCM290.1/12/15 G914 Locality Funding Policy For Townscape Projects (E15/6131)
- OCM290.2/12/15 Working Group Table of Project Recommendations (E15/6135)

# **Alignment with our Strategic Community Plan**

	Urban Design with Rural Charm
3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction.

# **Statutory Environment**

- Statutory Approvals will be required for relevant projects and successful applicants will be provided with relevant forms attached to approval letters.
- G914 Locality Funding Policy for Townscape Projects.

## **Financial Implications**

An amount of \$180,000 was allocated in the 2015/16 budget over and above the balance remaining in the relevant reserve accounts as of 30 June 2015. There are sufficient funds in the relevant reserve accounts to enable the recommendations of the LFPWG.

The table below indicates current balances of each locality, as well as the balance at December 2015 assuming the officer recommendations be endorsed by Council. This balance may change through a second opportunity to assess applications later in this financial year.

		2015/2016	Financial Year		
Locality	Reserve Balance at 30 June 2015 - can be used for new 2015/16 projects	2015/16 Allocated Amount \$	Total Starting Funds available for new 2015/16 projects	Total Funds allocated through November funding round working group recommendations	Balance at December 2015
Byford	2,634	30,000	32,634	32,634	Nil
Jarrahdale	790	30,000	30,790	Nil	30,790
Keysbrook	2,536	30,000	32,536	Nil	32,536
Mundijong	2,162	30,000	32,162	Nil	32,162
Oakford	64,605	30,000	94,605	Nil	94,605
Serpentine	12,539	30,000	42,539	Nil	42,539
Totals	85,266	180,000	265,266	Nil	232,632

**Voting Requirements:** Absolute Majority

OCM290/12/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Rich, seconded Cr Gossage

That Council adopt the recommendations of the Locality Funding Program Working Group in relation to the 2015/2016 Budget allocation for the Locality funding Program as per attachment OCM290.2/12/15.

**CARRIED BY ABSOLUTE MAJORITY 9/0** 



1	0.	Inf	orm	ation	Re	ports:
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Nil

# 11. Urgent Business:

Nil

# 12. Councillor questions of which notice has been given:

Nil

# 13. Closure:

There being no further business the Presiding Member declared the meeting closed at 9.42pm.

Ordinary Council Meeting held on 8 February 2016
Presiding Member
Date