

Technical Report			
Application No:	PA19/987		
Lodgement Date:	26 September 2019	DAU Date:	13 October 2019
Address:	2 Ballawarra Avenue, Byford		
Proposal:	Proposed Mixed Use Development to include Shop, Office, Restaurant and Community Centre		
Land Use:	Shop, Office, Restaurant, Use Not Listed	Permissibility:	
Owner:	Christopher Alan Thomas & Denis D'Agnone		
Applicant:	Joe Algeri (Altus Planning)		
Zoning:	Urban Development	Density Code:	
Delegation Type:	12.1.1	Officer:	Helen Maruta
Site Inspection:	Yes		
Advertising:	Yes		
Outstanding Internal Referrals:	No		
External Referrals:	No		
Within a Bushfire Prone Area:	Yes		

Introduction:

A planning application dated 25 September 2019 and received 26 September 2019 has been received for proposed Mixed Use development comprising of a Shop, Office, Restaurant and Community Centre Lot 506, 2 Ballawarra Avenue, Byford.

The subject lot is zoned 'Urban Development' in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). The subject site is designated as 'Neighbourhood Node' under the Redgum Brook Estate South Local Structure Plan. The proposed land uses can be considered in the Neighbourhood Node.

The proposal is reported to DAU for determination as officers have delegation to determine a commercial centre use under delegation 11.1.1 and 12.1.1.

This report recommends that the local commercial centre as proposed be approved subject to appropriate conditions.

Background:

Existing Development:

The site is currently 927m² in area located on the south-eastern corner of the Kardan Boulevard and Ballawarra Avenue intersection. A laneway (Mele Mews) runs along the southern boundary of the site.

The site is developed within an existing demountable building located to the north-west portion of the site and a car park. The building was used as the former sales office for the Redgum Brook Estate which has now been completely sold. Landscaping is present alongside Kardan Boulevard. The demountable building has since been removed from the site.

The surrounding area comprises predominantly of medium density residential development. Commercial development exists approximately 450 metres to the north of the site (Puma and McDonalds).

Proposed Development/Site Context:

The application seeks approval for a commercial development comprising of 'Office', 'Shop', 'Restaurant' (including service window for takeaway) land uses and a Community Centre. It is envisaged that the larger office will be occupied by Byford Professional real estate. No tenants for the other uses have been secured to date. The community facility would be privately run and open for use by individuals and community groups.

The building is proposed to resemble the built form of the surrounding residential development

Community / Stakeholder Consultation:

Advertising was carried out for a period of 21 days, from 24 October 2019 to 14 November 2019. Letters were sent to adjoining neighbours within a 250m radius of the site in accordance with LPP1.4 – Public Consultation for Planning Matters. The application was also advertised on the Shire's website. At the conclusion of the consultation, a total of 11 submissions were received, eight objecting the proposal, two providing support and one providing no comments.

The objections with a detailed Officer response is contained within **attachment 2**. The following is a summary of the objections received which are addressed under the relevant headings of the report of Built Form, Traffic, Parking and Noise.

Statutory Environment:

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million
- State Planning Policy 4.2 – Activity Centres for Perth and Peel

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Activity Centre Strategy
- Redgum Brook Estate – South
- LPP1.4 – Public Consultation for Planning Matters

Planning Assessment:

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the matters which a Local Government is required to consider as part of an assessment of a development application. A comprehensive technical assessment has been undertaken in accordance with section 67 of the Deemed Provisions and is contained within **attachment 3**.

For the purpose of this report, discussion is confined to the objections resulting in the item being presented to Council and where Council is required to exercise discretion.

Statutory Framework

Zoning and Permissibility

The site is zoned 'Urban Development' under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2) and is designated as 'Neighbourhood Node' under the Redgum Brook South Local Structure Plan (LSP).

The objective of the 'Neighbourhood Node' designation is to establish a focal centre for the localised community. The 'Neighbourhood Node' is not a zone in TPS2. As such, due regard must be given to the provisions of the LSP when determining the permissibility of the land uses.

The LSP provides a short list of acceptable land uses which includes a "Corner Store (100m² – 200m²), Medical centre and Day Care Centre". There is also a significant emphasis towards the site being developed for community facilities. This is considered to include land uses that provide a public service to or foster cultural or social development within the community and may include the following land uses: Civic Building, Educational Establishment, Exhibition Centre, Hospital Special Purposes, Place of Public Worship, Private Recreation and Public recreation.

Officers consider that as the development provides for a small commercial centre which will act as a focal point for the community in the area, the proposed land uses are considered

consistent with the LSP. Importantly, it will provide for a community space which will be available to be used by community groups and clubs.

The site is zoned 'Urban Development' under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2) and is designated as 'Neighbourhood Node' under the Redgum Brook South Local Structure Plan.

Land Use:

In determining the land use for the proposal, Officers have classified the proposal as falling into the following land uses as defined under TPS2.

"Shop – means a building wherein goods are kept, exposed or offered for sale by retail, but does not include a bank, fuel depot, market, service station, milk depot, marine collectors yard, timber yard or land and buildings used for the sale of vehicles or for any purposes falling within the definition of industry."

"Office – means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature".

"Restaurant – means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business."

'Use Not Listed' - Community Facility – there is no definition or use category for Community Purpose. Officers consider such uses are associated for the benefit of the community. Often associated with clubs and community groups.

Draft Local Planning Scheme No.03 (LPS3)

Draft LPS3 commenced advertising on 19 August 2019 and therefore is considered a seriously entertained document. Furthermore, Clause 67 (b) of the Deemed Provision requires for the consideration of *"any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving."*

The subject site is identified as Residential (R30) under draft LPS3. Within this zone, an 'Office', 'Shop' and 'Restaurant' are prohibited land uses and would not be permitted. If LPS3 been the current scheme in operation there would be no discretion available to permit the use.

Officers however note that the designation in LPS3 is incorrect and was as a result of an administration error which will be addressed once the consultation phase for the draft LPS has been completed. Officers note that the site will most likely be zoned to facilitate commercial development as designated within the Redgum Brook Estate Local Structure Plan. As such, in giving due regard to LPS3, Officers do not consider the zoning under this Scheme warrants refusal of the development application.

Parking

TPS2 requires car parking to be supplied onsite and is based on the proposed land uses. The proposed development provides for 11 onsite car parking bays. Table V- Car parking requirements of TPS2 sets out the following parking requirements for each of the proposed land uses

Land Use	TPS2 Provision	Car Bays Required	Car Bays Provided
Office/Retail (94m ²)	Office – 1 bay per 40m ² GLA, with a minimum of 2 bays for each office unit. Shop – 1 bay per 20m ² GLA.	Minimum – 4 car bays Maximum – 4.7 (~5) car bays	
Shop (25m ²)	Shop – 1 bay per 20m ² GLA.	1.25 (~1) car bay	
Café/Retail (36m ²)	Restaurant – 1 bay per 4 persons accommodated Fast Food/Take Away – 1 bay per 10m ² GLA	The proposed site plan shows an indicative seating arrangement of 15 chairs. Restaurant – 3.75 (~4) car bays Fast Food/Take Away – 3.6 (~4) car bays	
Community Facility	Use is unlisted in Table 5 of TPS2.		
Total	Minimum – 9 car bays Maximum – 11 car bays		
			11 car bays

The table above shows that a minimum of 9 and a maximum of 11 car bays are required under TPS2, depending on the land uses. The provision of parking proposed is therefore compliant with TPS2.

In relation to the Community Facility, there are no parking requirements listed within TPS2 for such land use nor are there requirements under the LSP. Officers consider that as this portion of the building is primarily to be used by the local community within a walkable catchment, car usage will be replaced by the use of alternative forms of transport. Kardan Boulevard is located on a Transperth bus route and comprises of well-connected pedestrian footpaths connecting the community to the site. Officers consider that as the development is small scale and acknowledging that the users of the Community Facility are likely to reside within the locality, the proposed 11 bays are sufficient. Additionally, there are on-street parking bays available along Kardan Boulevard and Ballawarra Avenue that can be utilised if required.

WAPC Statement of Planning Policy (SPP) 4.2 Metropolitan Centres Policy

SPP 4.2 generally defines activity centres to be community focal points that include activities such as commercial retail, higher density housing, entertainment, tourism, civic/community, higher education, and medical services. These centres vary in size and diversity and are designed to be well-served by public transport.

The policy states that neighbourhood centres are important local community focal points that help to provide for the main daily to weekly household shopping and community needs. They are also a focus for medium density housing. The policy encourages diversity of activities for a centre to include a mix of land uses.

Neighbourhood and local centres play an important role in providing walkable access to services and facilities for communities. These centres should be recognised in local planning strategies, and also in structure plans for new urban areas.

In that regard, Officers consider that the proposal is consistent with the statutory framework. The proposal is for a mix of land uses that will be located within a walkable distance.

Traffic

The development is not considered to attract passing traffic as the site is located adjoining two local roads. It is envisaged that the users of the facility are those who mainly reside within the Redgum Brook Estate.

Access to the site is proposed via Mele Mews laneway with the existing verge along Ballawarra Avenue reinstated and landscaped. Objections were received by nearby landowners concerned with the increased vehicle movements and the use of the laneway as the primary access to the site. The applicant submitted a Transport Statement in support of the proposal. The Transport Statement calculated that total traffic volumes to and from the site will not exceed more than 10 vehicles per hour and approximately 100 movements per day. These movements are considered low with no adverse impacts on the capacity of the local road network. As such, considered acceptable by the Shire.

In relation to the use of the laneway, laneways in accordance with the Liveable Neighbourhoods documents are designed to have a capacity of 300 vehicle movements per day. There are a number of dwellings that are currently serviced by the laneway in close proximity to the site. Officers predict that based on an average of two movements a day for the 20 dwellings directly adjoining the laneway, 80 vehicle movements are generated. In considering the 100 proposed as part of the development this would still be under the 300 vehicles per day threshold requirements under the Liveable Neighbourhood document.

Officers consider that there will be no adverse impact to the road network as a result of the development. However, consider that traffic issues will most likely arise during the construction phase of the proposal. As such, Officers will be recommending a condition requiring a Traffic Management Plan to be submitted during construction to ensure the safe movement of vehicles.

Built Form

The development is proposed to be a single-storey pitched roof development with a wall height of 3.2 metres. The proposed colour and materials schedule includes earthy materials (timber, stone) and the use of neutral colours. Large windows are proposed throughout the development to increase the visual appeal and importantly provide the connection between the public and private space

During the advertising period, an objection was received relating to the built form and overall consistency of the development with the existing residential streetscape along Ballawarra Avenue and Kardan Boulevard. Officers advise that there are no specific built form requirements for the site prescribed within the LSP or TPS2. In acknowledging the uniqueness of the designation under the LSP, and in considering the existing residential developments adjoining the site, the proposal has been designed to be sympathetic to its surroundings.

Options and Implications:

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, DAU has the following options:

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

Option 2: DAU may resolve to approve the application unconditionally.

Option 3: DAU may resolve to refuse the application subject to reasons.

Option 1 is recommended.

Conclusion:

The proposal seeks approval for a commercial development at Lot 506 (2) Ballawarra Avenue, Byford comprising of Offices, Restaurant ,Shop, Community Facility on a site designated as 'Neighbourhood Node' within the LSP. Notwithstanding the concerns raised during the advertising process, relating to noise, traffic, parking and built form, Officers consider that the proposal has adequately addressed the objectives of the LSP and TPS 2 requirements.

Deemed Provisions – Cl 67 Matters to be considered by local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposal complies with the provisions of the scheme and the Local Structure Plan. The proposed land uses can be approved.			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Consistent with the principles of orderly and proper planning. It is considered that the proposal will not adversely impact on the general locality if properly managed.			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: State Planning Policy 4.2 Activity Centres For Perth and Peel Activity centres are community focal points. They include activities such as commercial , retail, higher density housing, entertainment, tourism, civic/commity, higher education and medical centres and the vary in size. The site is a neighbourhood centre designed to provide for the day to day needs of the local community. Neighbourhood and local centres play an important role in providing walkable access to services and facilities for communities. These centres should be recognised in local planning strategies, and also in structure plans for new urban areas. The proposal that is seeking to provide on a small scale Offices, Restaurant ,Shop, Community Facility is considered consistent with the SPP.			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – None Applicable to this area from what I can determine	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES	NO	N/A

	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comment:			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Comment: The proposal has been advertised in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4).			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The subject site is located within the Buford Structure Plan and Redgum South Local Structure Plan. The site is zoned Urban Development under TPS2.			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The proposal and the built form is considered to be compatible with the existing residential ` land uses as discussed in the report. The proposal has been designed to be sympathetic to its surroundings.			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: It is considered that the proposal will not adversely impact on the amenity of the locality by way of traffic and noise. In order to ensure that the locality will not be adversely impacted the			

report recommends the that hours of operation shall be limited to between 7:00am to 7:00pm Monday to Saturdays and 9:00am to 7:00pm on Sundays public holidays. In addition, the report also recommends that a prior to lodgement of a Building Permit, a Noise Impact Assessment to include details of the air conditioning unit(s) shall be submitted to the satisfaction of the Shire.			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: A stormwater management plan has been recommended as a condition of approval.			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The report recommends a Landscape and Vegetation Plan d by way of a planning condition. The plan shall show areas of proposed additional planting and the number of each species to be planted on site.			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: The report recommends a condition requiring a Stormwater Management Plan to be submitted prior to commencement of works. The plan should include all the methods of stormwater collection and how it will be wholly contained within the subject site minimising risk to public health and amenity.			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
w) the history of the site where the development is to be located	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
Zb) any other planning consideration the local government considers appropriate	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			