

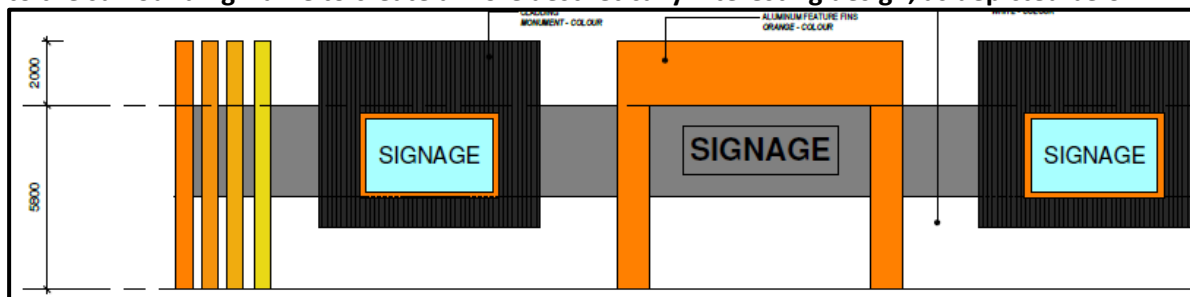
Deemed Provisions – Cl 67 Matters to be considered by Local Government

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"/>
<p>Comment: The proposed development includes a mix of three proposed land uses, fit within the land use definitions of 'Automotive Repairs', 'Warehouse' and 'Light Industry' as defined under Town Planning Scheme No.2 (TPS2) as:</p> <p><i>'Automotive Repairs - means the repair and overhaul of motor vehicles.'</i></p> <p><i>'Warehouse - means land and buildings wherein goods are stored and may be offered for sale by wholesale.'</i></p> <p><i>'Industry Light - means an industry:</i></p> <p style="padding-left: 40px;">(a) <i>in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and</i></p> <p style="padding-left: 40px;">(b) <i>the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any like services.'</i></p> <p>The subject site is zoned 'Urban Development' under TPS2 where land use permissibility is guided by Structure Plans.</p>			
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"/>
<p>Comment: In terms of Draft Local Planning Scheme No.3 (LPS3), the land uses proposed are considered to best fit within the land use definitions of 'Motor Vehicle Repair', 'Industry Light' and 'Warehouse', defined under LPS3 as:</p> <p><i>'Motor Vehicle Repair' - means premises used for or in connection with</i></p> <p style="padding-left: 40px;">(a) <i>electrical and mechanical repairs, or overhauls, to vehicles other than panel beating, spray painting or chassis reshaping of vehicles; or</i></p> <p style="padding-left: 40px;">(b) <i>repairs to tyres other than recapping or retreading of tyres.'</i></p> <p><i>'Industry Light - means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.</i></p> <p><i>'Warehouse/Storage - means premises including indoor or outdoor facilities used for</i></p> <p style="padding-left: 40px;">(a) <i>the storage of goods, equipment, plant or materials; or</i></p> <p style="padding-left: 40px;">(b) <i>the display or the sale by wholesale of goods.'</i></p> <p>The subject site is proposed to be zoned 'Service Commercial' under LPS3, within which a 'Motor Vehicle Repair' and 'Industry Light' land uses would be 'A' uses and the 'Warehouse/Storage' land use would be a 'P' use. As such, Officers consider the proposed land uses are also consistent with the intended use of the land under LPS3.</p>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p> <ul style="list-style-type: none"> State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) 			

A BMP has been provided demonstrating consistency with the SPP and the Guidelines.			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) –	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <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: <ul style="list-style-type: none"> • Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4) • Local Planning Policy 1.6 – Public Art for Major Developments (LPP1.6) • Local Planning Policy 2.4 – Water Sensitive Design (LPP2.4) • Local Planning Policy 4.15 – Bicycle Facilities Policy (LPP4.15) • Local Planning Policy 4.16 – Landscape and Vegetation Policy (LPP4.16) 			
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 lot falls within the Lots 1, 3 & 128 South Western Highway Local Structure Plan. The Structure Plan designates the site as ‘Mixed Business’ and provides requirements for the development of the area covered. The land use of ‘Automotive Vehicle Repair’ is an ‘AA’ (discretionary) use in the ‘Mixed Business’ zone in accordance with TPS2. ‘Industry Light’ and ‘Warehouse’ uses are permitted in the zone. The proposed land uses are therefore consistent with the zone as guided by the Structure Plan.			
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 <p>A key aspect of the development assessment of this proposal is the design outcome, and the external presentation of development to its local setting. Both the State and Local Planning Frameworks seek to elevate specific focus on achieving good design outcomes, which is important in a context like Byford where rapid change in the built environment is occurring. Such change needs to be guided in a way which reinforces place based values, especially in the design of external edges and the choices of building materials so that development underpins an intended reassuring character for Byford.</p> <p>In respect of the State Planning Framework, State Planning Policy 7.0 (SPP7.0) has been prepared as a State wide planning policy, that exists to elevate the importance of design quality across the whole built environment. Forms of commercial and industrial development, given their location as either integral parts to, or on the edge of, town centres particularly contribute to setting a design keynote that is an important determinant of place. SPP7.0 contains provisions that relate specifically to achieving effective design as follows:</p> <ul style="list-style-type: none"> - <i>New development should integrate into its landscape/townscape setting, reinforcing local distinctiveness and responding sympathetically to local building forms and patterns of development. Building materials, construction techniques and details should, where appropriate, enhance local distinctiveness.</i> - <i>The orientation, proportion, composition, and articulation of built form elements should deliver an outcome that is suited to the purpose, defines the public domain, contributes to the character of adjacent streetscapes and parks, and provides good amenity for people at ground level.</i> - <i>A well-conceived design addresses all scales, from the articulation of building form through to the selection and detailing of materials and building elements, enabling sophisticated, integrated responses to the character of the place.</i> - <i>In assessing design quality, consideration of aesthetics should not be limited to style and appearance; the coherence of the design concept and the cultural relevance of the proposal should also be taken into account.</i> <p>These are in turn supported in the Local Planning Framework, where under Clause 67 of the Deemed Provisions of the Scheme, the development assessment is required to have due regard to the following matters:</p> <ul style="list-style-type: none"> - <i>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;</i> - <i>the amenity of the locality including the following:</i> <ul style="list-style-type: none"> (i) <i>environmental impacts of the development;</i> (ii) <i>the character of the locality;</i> (iii) <i>social impacts of the development.</i> 			

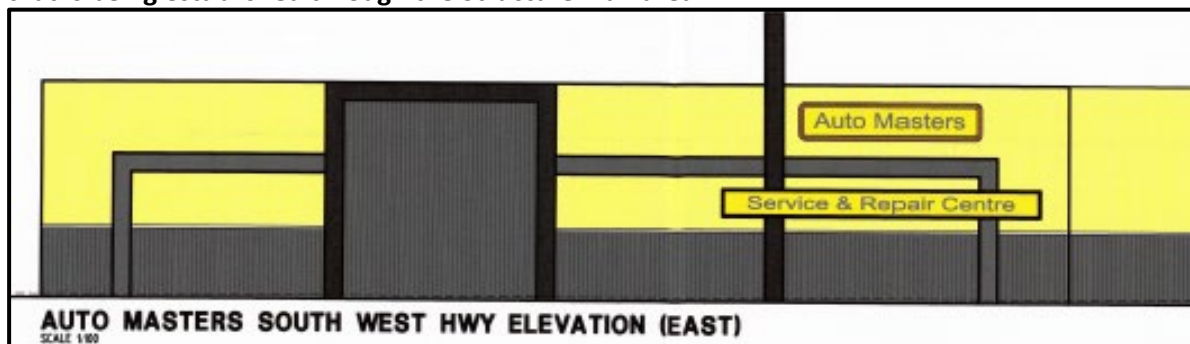
This provides a strong grounding to consider how the design of the development contributes to an effective built form outcome. Council may note that as part of the previous approval for development on Lot 3, the elevation to South Western Highway included a prominent extension to the surrounding frame to create a more aesthetically interesting design, as depicted below:



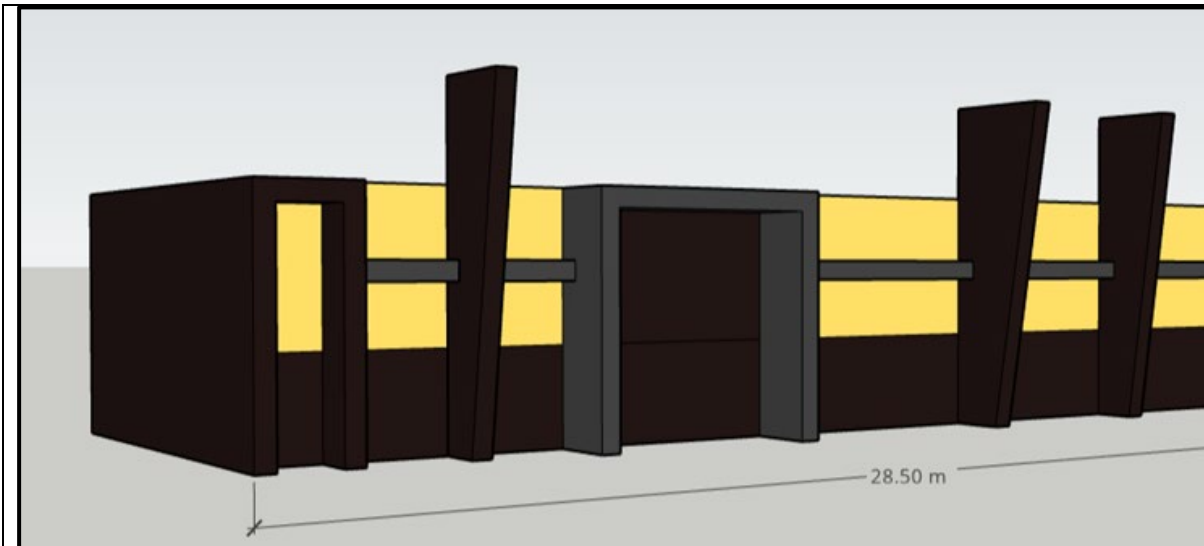
Officers also worked with the applicant for the warehouse development on Lot 1 to ensure a design reflective of the Shire's rural character and to achieve aesthetics that go beyond a standard concrete tilt up 'box' style development. The elevation of this development facing South Western Highway is depicted below:



In this regard, the proposed elevation facing South Western Highway, as depicted below, is considered to require some additional improvement to ensure the continued interesting design that is being established through the Structure Plan area.



A condition is recommended to require minor modifications to the design of the building. It is suggested that a similar approach to the other developments is considered and the use of vertical elements are introduced to break up the appearance of the expanse of relatively blank wall. The image below demonstrates how vertical elements can enhance the façade of a building, reduce its appearance of bulk and create some more visual interest.



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



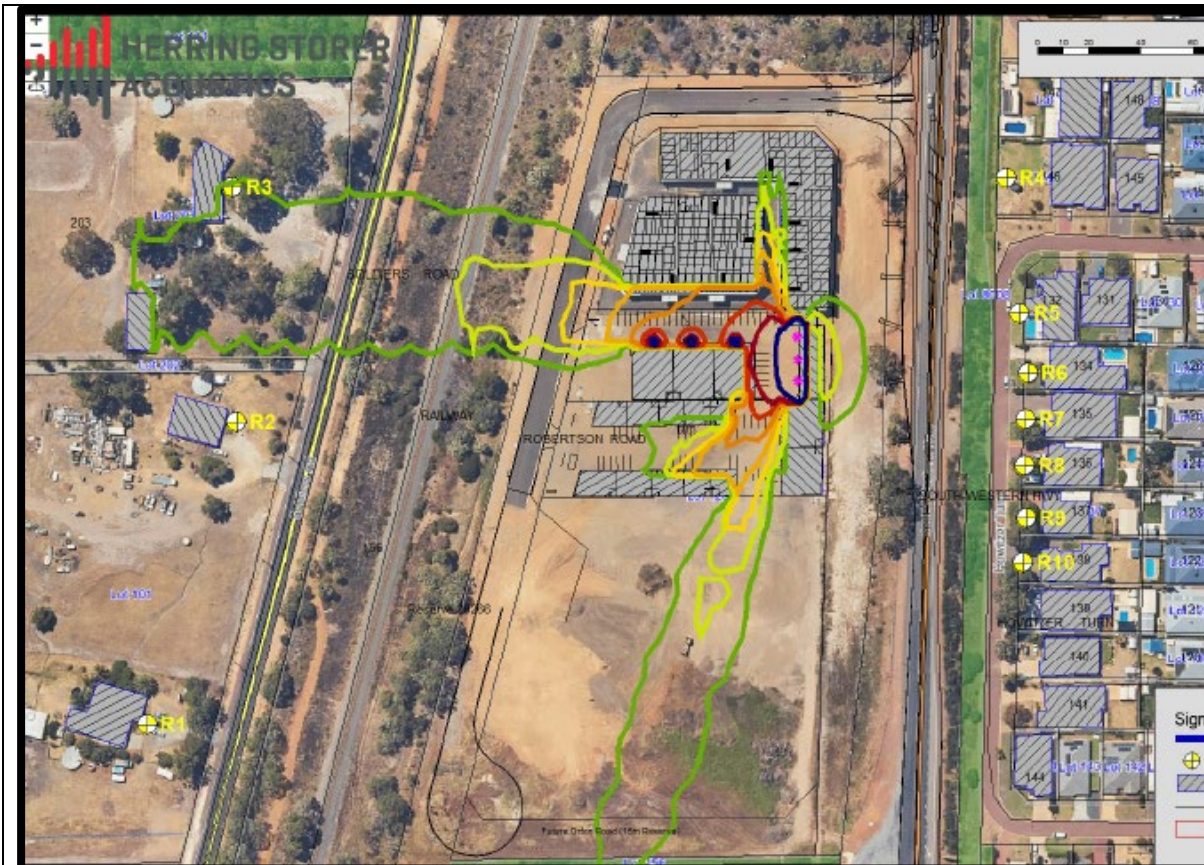
NO



N/A



Comment: The proposed development entails a tenancy intended to provide automotive vehicle repair services, which poses the potential for amenity impacts by means of noise, odour and dust impacts. The Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses, provides a recommendation for a 200m separation distance between motor body works operations, and sensitive land uses. The proposed development only achieves a separation distance of approximately 86m from the nearest sensitive land use, being residential dwellings on the eastern side of South Western Highway, as shown below.



There are currently 33 sensitive receptors located within the recommended 200m buffer setback, which may increase in the future as the land on the western side of the railway corridor is intended for future residential development.

Notwithstanding the number of sensitive receptors within the recommended buffer, the guideline provides for a reduction to the buffer on a case-by-case basis dependant on expert reports being prepared to demonstrate the impacts will not exceed acceptable levels. The applicant has provided the Shire with an Acoustic Assessment to demonstrate the proposal, with a reduced separation distance to sensitive receptors, would not result in an undue impact on the health and amenity of those sensitive receptors within the 200m buffer area. The table below shows the assessable Noise Levels and Assigned Levels and each sensitive receptor and confirms that compliance with the Noise Regulations is achieved during daytime and night.

TABLE 8.2 – ASSESSMENT OF NOISE LEVELS

Receiver	Noise Assessable Noise Level dB(A)	Time of Day	Assigned Level (dB)	Compliance
R1	25	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays (Night)	36	Complies
R2	28			Complies
R3	35			Complies
R4	27		39	Complies
R5	29			Complies
R6	29			Complies
R7	28			Complies
R8	28			Complies
R9	27			Complies
R10	26			Complies

The previous application required the construction of an acoustic wall and building shielding due to the tenant undertaking spray painting and panel beating. These activities no longer form part of the proposal and as the Acoustic Assessment concludes compliance, they are no longer recommended to be included. A condition however is recommended for a Noise Management Plan. This should be provided to detail measures to ensure noise does not adversely impact on the locality.

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
☒

NO
☐

N/A
☐

Comment:

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
☒

NO
☐

N/A
☐

Comment: The development proposes the inclusion of landscaping comprising of up to 10.9% of the site, 4% of which would be within the front setback, as indicated on the site plan. Officers consider a condition for a Landscaping Management Plan, being submitted and approved prior to issue of a Building Permit, would be sufficient to address the requirements of LPP4.16 and ensure high quality landscaping is provided and maintained for the development.

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
☒

NO
☐

N/A
☐

Comment:

r) the suitability of the land for the development taking into account the possible risk to human health or safety

YES
☒

NO
☐

N/A
☐

Comment:			
s) the adequacy of –	YES	NO	N/A
I. The proposed means of access to and egress from the site; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles			
Comment: Table V of TPS2 sets out the parking requirements for specific land uses. The car parking requirements for each use are summarised in the table below.			
Land use	TPS2 requirement	LPS3 requirement	
Automotive Repairs	No requirements	6 bays plus one per 50m ² (1 bay per 50m ² NLA and 1 bay per 100m ² of NLA)	
Industry Light	21 bays 1 space per 50 square metres Gross Leasable Area	Based on use	
Warehouse (TPS2) Warehouse/Storage (LPS3)	11 bays 1 space per 100 square metres gross leasable area	14 bays 1 bay per 80m ² of NLA	
Car parking has been assessed based on the 'worst case scenario' involving the use of the three units as 'Industry - Light'. Based on 31 car parking bays and one disabled bay, there would be a total of 11 bays available for the light industry use once car parking was allocated to the automotive repairs and warehouse/storage components. This meets the lower intensity nature expected of light industry, whereby customer visitation would be considered more limited compared to a service type industry.			
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	NO	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comment: The application was accompanied with a Transport Impact Statement (TIS) to account for traffic impacts resulting from the development. The TIS looks at the development as a standalone development and also the traffic generated by the structure plan area as some of the traffic would be using the same access/egress points.			
The TIS estimates the proposed development on Lots 2 and 3 would result in an additional 359 vehicular trips per day, 47 of which would occur during the peak hour periods, being between 8:00am – 9:00am and 4:00pm – 5:00pm. These volumes align with the anticipated traffic volumes for the overall estate by 2031, being 1,592 vehicle trips per day, 273 occurring across the peak hour periods. Officers consider the TIS demonstrates the proposed development aligns with the Traffic Assessment undertaken as part of earlier stages of development and will not place undue stress on the surrounding local and regional road network			
u) the availability and adequacy for the development of the following –	YES	NO	N/A
I. Public transport services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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			
Comment:			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that	YES	NO	N/A
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

may result from economic competition between new and existing businesses			
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 checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input 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: three submissions were received. One submission provided feedback in relation to the following:- <ul style="list-style-type: none"> • Maintaining the “<i>semi rural look, feel and atmosphere</i>” of Byford • Visual Impact of industrial development • Traffic The other submissions objected to the proposal in relation to traffic, noise and air quality. These are addressed under the relevant issues headings.			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: MRWA has no objections to the proposal and has recommended several conditions, as contained within the recommendation.			
Zb) any other planning consideration the local government considers appropriate	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			