

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

Land Use:

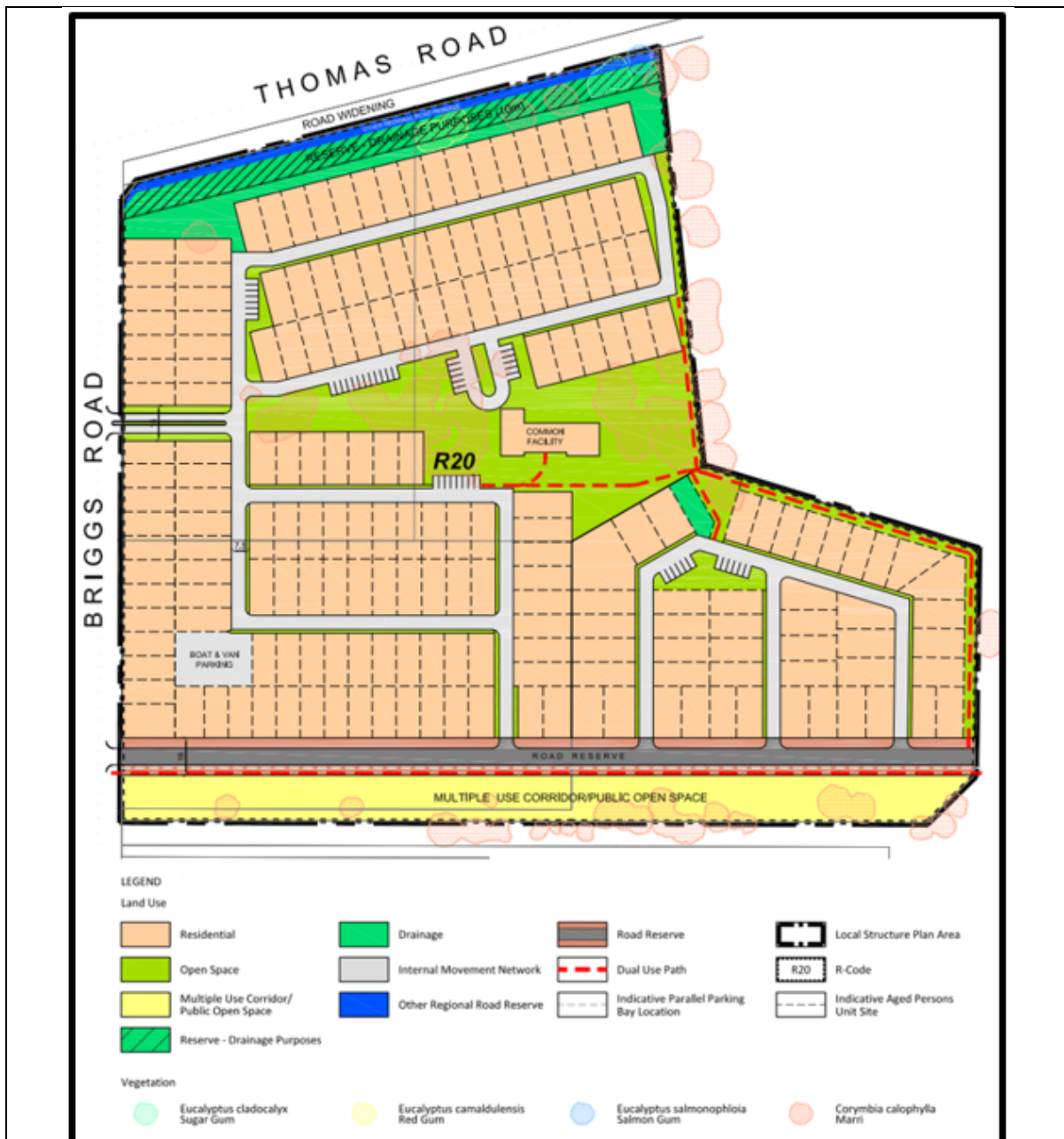
a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment: <u>Town Planning Scheme No.2 (TPS2)</u> The subject site is zoned 'Urban Development' under the Shire's TPS2. Clause 5.18 of TPS2 sets out the objective of the 'Urban Development' zone as "to provide for the orderly planning of large areas of land in a locally integrated manner and within a regional context, whilst retaining flexibility to review planning with changing circumstances". This objective is facilitated through the preparation of structure plans, which guide land use permissibility and development.</p> <p>The subject site is identified as 'Residential Low (Suburban): R20-R35' within the Byford District Structure Plan 2020 (DSP). Further to the DSP, a site-specific Local Structure Plan (LSP) was approved in 2010 which includes a designation of 'Residential'. These designations inform appropriate land uses intended for the site. The development is generally compliant with the LSP provisions which is discussed later in the report.</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: <u>Local Planning Scheme No. 3 (LPS3)</u> The site would remain zoned 'Urban Development' under LPS3. The provisions of LPS3 relating to the 'Urban Development' zone also rely on the preparation of a structure plan. As mentioned, the site is subject to an LSP, which has been further considered in the following sections of the report.</p>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment: Refer to consideration of the R-Codes (SPP7.3) and SPP5.4 within the Clause (m) section of the report.</p>			
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"/>
<p>Comment:</p>			

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 checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: Refer to consideration of the R-Codes (SPP7.3) and SPP5.4 within the Clause (m) section of the report.			

g) any local planning policy for the Scheme area	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			

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: <u>Local Structure Plan (Lots 59-62 Briggs Road, Byford) (LSP)</u> The purpose and objectives of the approved LSP for this site are twofold: <ul style="list-style-type: none"> • <i>To provide a high quality aged or dependent persons' dwellings development within the subject area that will help meet the needs of the frail and ageing in the Byford community.</i> • <i>To provide guidance for future development of the land.</i> <p>There is a specific intent for aged or dependent persons, which is met by the application in question. The LSP also provides a general layout of development, to which the proposal generally meets. The lot layout provided within the LSP is shown following:</p>			



Extract of the Local Structure Plan

While generally consistent, the proposal seeks approval for a modified development layout from the approved LSP. These modifications to the LSP include:

- A reduction in the drainage area to the north of the site, adjacent to Thomas Road from 4,733m² down to 2,328m²;
- Reduced width of the road reserve to the south of the site;
- An increase in the number of dwellings from 196 to 202; and
- An average lot size of 336m², whereas the average lot size for the R25 density is 350m².

Despite these variations, the LSP is a document that provides guidance to development, and is required to be given regard to in undertaking assessment of the application. The LSP also aims to provide high-quality development for aging members of the community. Officers consider the

development meets this intent of the LSP.

i) any report of the review of the local planning scheme that has been published under the *Planning and Development (Local Planning Schemes) Regulations 2015*

YES

NO

N/A

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

NO

N/A

Comment:

Development:

k) the built heritage conservation of any place that is of cultural significance

YES

NO

N/A

Comment:

l) the effect of the proposal on the cultural heritage significance of the area in which the development is located

YES

NO

N/A

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

NO

N/A

Comment:

Clause 67 of the *Deemed Provisions* specifically (m) relates to the form of the development that is required to be assessed. The proposal will ultimately provide 202 dwellings of various designs, across 164 standard sites, 24 rear loaded sites and 14 duplex sites. The selection of dwellings will be sales led and purchasers will select a home from a range of designs and also the lot they wish to locate it on. As such, a site plan showing the layout of each dwelling has not been provided at this stage.

In line with the LSP, the dwellings are intended to meet the requirements of State Planning Policy 7.3 – Residential Design Codes (Volume 1) (R-Codes), specifically in terms of setbacks, open space and outdoor living. This however cannot be fully determined until a sale has occurred and a particular lot and house type chosen. To ensure that each dwelling does not require an individual development application and that sites are afforded an appropriate level of residential amenity, it is recommended that a Local Development Plan (LDP) is prepared for the site to set out relevant planning controls for the area.

The applicant has included an example of what such provisions may look like within the additional

information provided (**attachment 5**). This includes a 1m lot boundary setback requirement and reduced front setbacks for carports. Officers are satisfied that the preparation of an LDP would allow for a process to assess the built form of the development, establish the character of the area and ensure an appropriate level of amenity for residents. A condition is recommended in this regard. Several dwelling designs have been provided as part of the application, as contained within the attachments. Some examples of these are depicted below:

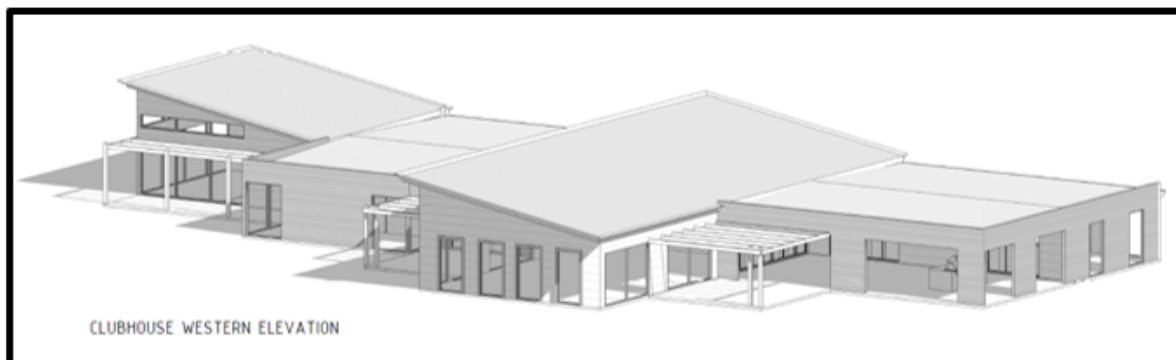




Series of dwelling designs

The dwellings are generally of a contemporary design and simple form typical of development expected in a lifestyle village. The appearance incorporates earthy tones and appears to feature materials consistent with the rural character of the Shire, including timber weatherboard/cladding. The dwellings also include verandahs and pitched roofs consistent with rural building design. It is considered that the information provided demonstrates that the proposed built form would create desirable streetscapes and a consistent approach to development.

The development also proposes a clubhouse (714m²), workshop (60m²) and an arts and crafts workshop (60m²). All these buildings are located along the eastern lot boundary. The workshops are considered modest in scale and sited so as to not adversely impact on the character or amenity of the locality. The clubhouse is larger in scale than the other community facilities, as depicted below:



Perspective of the clubhouse

This building abuts public open space to the east where there is established vegetation. It is considered that due to the siting, form and external appearance of the clubhouse, it would not adversely impact upon the amenity of the locality or that of surrounding landowners. The design replicates the form and design features of the dwellings proposed.

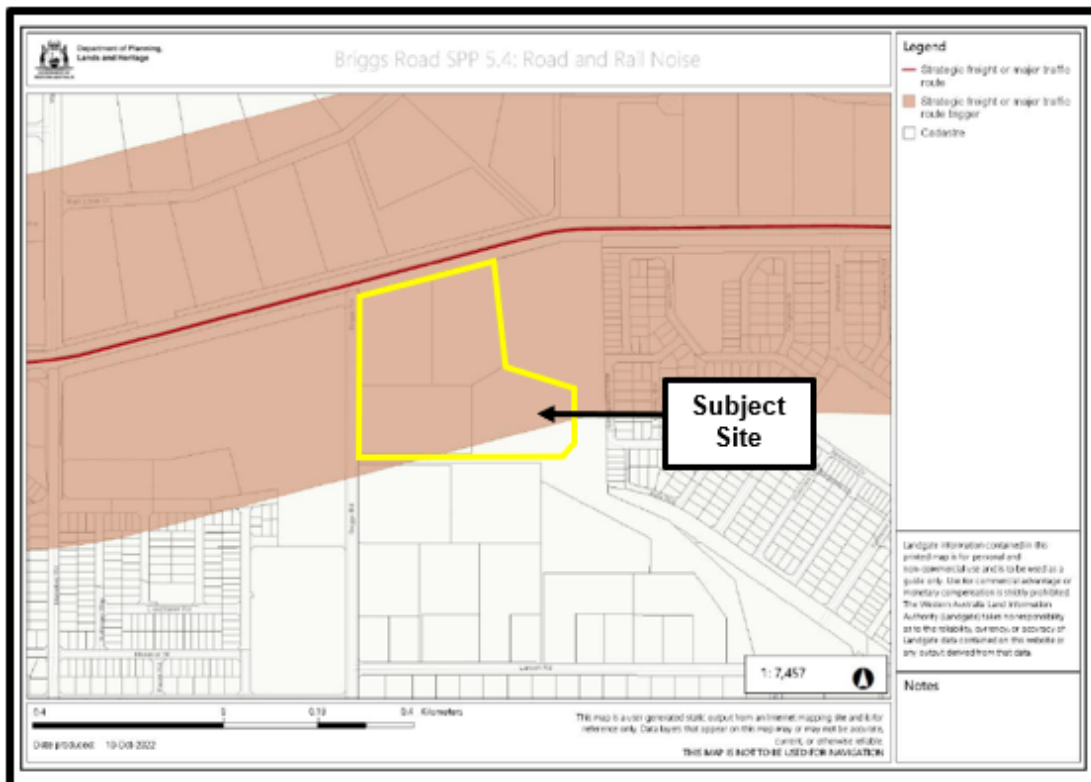
n) the amenity of the locality including the following –	YES	NO	N/A
I. Environmental impacts of the development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. The character of the locality			
III. Social impacts of the development			

Comment:

Noise

Whilst the subject development is not considered noise generating, the site is located in close proximity to Thomas Road, an ‘Other Regional Road’ designated under the MRWA hierarchy. As such, it is important to ensure that traffic noise from Thomas Road does not adversely impact upon the residential amenity of the occupants of the site.

State Planning Policy 5.4 - Road and Rail Noise (SPP5.4) seeks to ensure that the community is protected from unreasonable levels of transport noise. Table 1 of SPP5.4 sets out distances between a road carriageway and a development site to determine whether an assessment against the policy is required. In this case, the distance is 300m and the site lies within this distance, as depicted below:



The red shaded area is the 300m transport buffer distance

To support the proposal and ensure consistency with SPP5.4, an Acoustic Assessment has been provided with the application. SPP5.4 sets out noise targets to be achieved for both within the dwelling and on land external to the dwelling. The Acoustic Assessment details that the dwellings located adjacent to Thomas Road would exceed the noise targets and proposes either a 2.4m high noise wall on the boundary facing Thomas Road, or design considerations to lot placement and public open space, combined with individual design by way of Quite House Design.

The proposed site plan indicates a Noise Wall located on the northern boundary adjacent to the drainage reserve. Based on the Acoustic Assessment provided, it is considered that this noise wall will ensure an appropriate level of amenity is afforded to occupants, consistent with SPP5.4. A condition requiring that the noise walls and boundary fencing to be in accordance with Local Planning Policy

4.25 - Uniform Fencing has been recommended by Officers which will address the visual appearance of the wall when viewed from the public realm.

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"/>
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Comment:

Stormwater Management

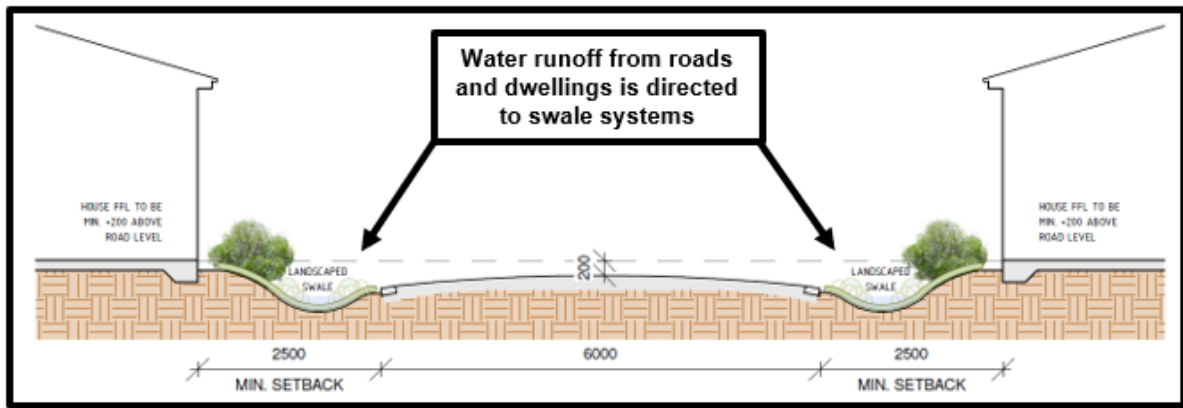
Clause 67 (q) of the *Deemed Provisions*, relates to the suitability of the land for the proposed development, considering issues of stormwater. The applicant has provided a Stormwater Management Plan (SWMP) to this effect, which is able to be viewed within **attachment 2**.

The site has a fall of 3m from the high point in the south-east to the low point at the north-west. The site is also classified as a ‘flood prone’ area, elevating the importance of effective stormwater management.



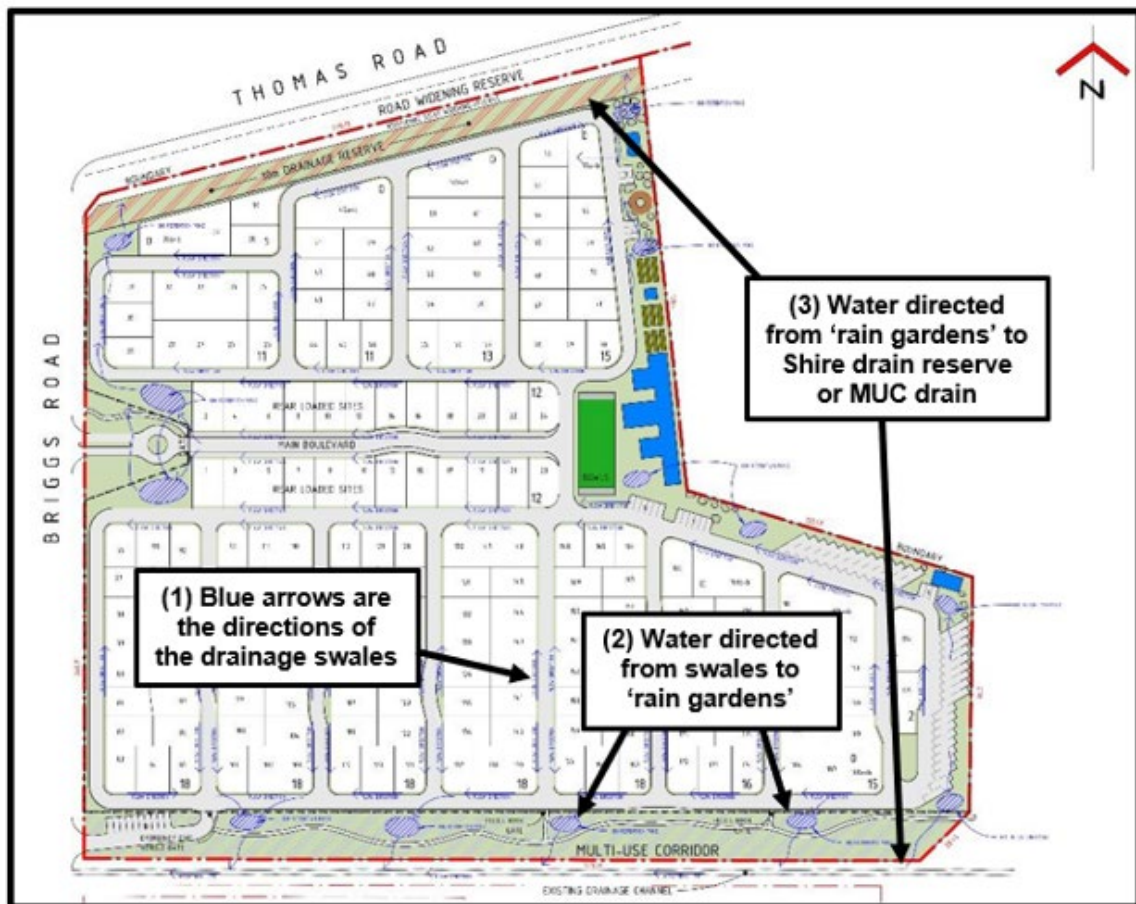
Existing natural surface/groundwater movement (blue) towards the North-West corner of the lot

The proposal seeks to manage stormwater runoff from the private roads and buildings through a series of roadside drainage swales adjacent to the internal roads of the development. The vegetation within the swales would strip nutrients from the water prior to infiltration.



A section of a typical streetscape layout

Water that is not infiltrated will be directed through the swale system to bio retention basins ('rain gardens') and eventually to the drainage infrastructure to the north of the site or the Multiple Use Corridor (MUC) drain to the south of site. This system is pictured below, and reflects the water management aspects contemplated by the approved LSP:



Proposed stormwater management system pictured

The applicant has not at this stage undertaken detailed engineering designs for the development. In order to ensure compliance with the Byford District Water Management Strategy and LWMS prepared as part of the original LSP, a condition is recommended to require an updated LWMS (which reflects also the advice of DWER) and subsequent to this, a detailed Urban Water Management Plan (UWMP). These processes will address the following matters:

- The capacity of the drainage infrastructure, including contingency for significant storm events;
- How the swales will direct water through obstacles such as road reserves, driveways and the acoustic wall on the north lot boundary;
- The location of the southern row of dwellings being positioned in the floodway of the drain to the south of site;
- The management measures to be employed to ensure water quality is maintained;
- How much fill is necessary to be imported into site; and
- What measures will be in place to ensure the survivability or replacement of vegetation within the swales and 'rain gardens'.

Officers consider the above are necessary to ensure appropriate stormwater management takes place.

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	<p style="text-align: center;">YES <input checked="" type="checkbox"/></p>	<p style="text-align: center;">NO <input type="checkbox"/></p>	<p style="text-align: center;">N/A <input type="checkbox"/></p>
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Comment:
Tree Removal

Clause 67 (q) of the Deemed Provisions requires consideration be given to the removal and retention of trees during applications for development approval. Further to this, the criteria of the LSP includes the following:

“Future development shall ensure every effort is made to retain existing vegetation within communal open space/drainage areas.”

The existing site features a large number of mature native Marri trees and several Eucalyptus species. In accordance with the LSP, the applicant has aimed to retain vegetation throughout the site and especially the eastern corridor as detailed following. The Multiple Use Corridor to the south of the site would feature a large amount of vegetation planting as well as the retention of existing mature trees.



Site plan detailing vegetation intended to be retained

However, vegetation loss will be required to facilitate development (i.e. the construction of roads, site works and dwellings). While Officers consider the intent of the planning framework is met to seek to retain as many existing trees as possible, it is recommended that prior to lodgement of a Building Permit a detailed Tree Survey is undertaken. The purpose of this would be to determine which trees can be retained, including a Landscaping Plan detailing tree replacement to offset vegetation loss and ensure an appropriate amenity outcome. A condition has been recommended in this regard.

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
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

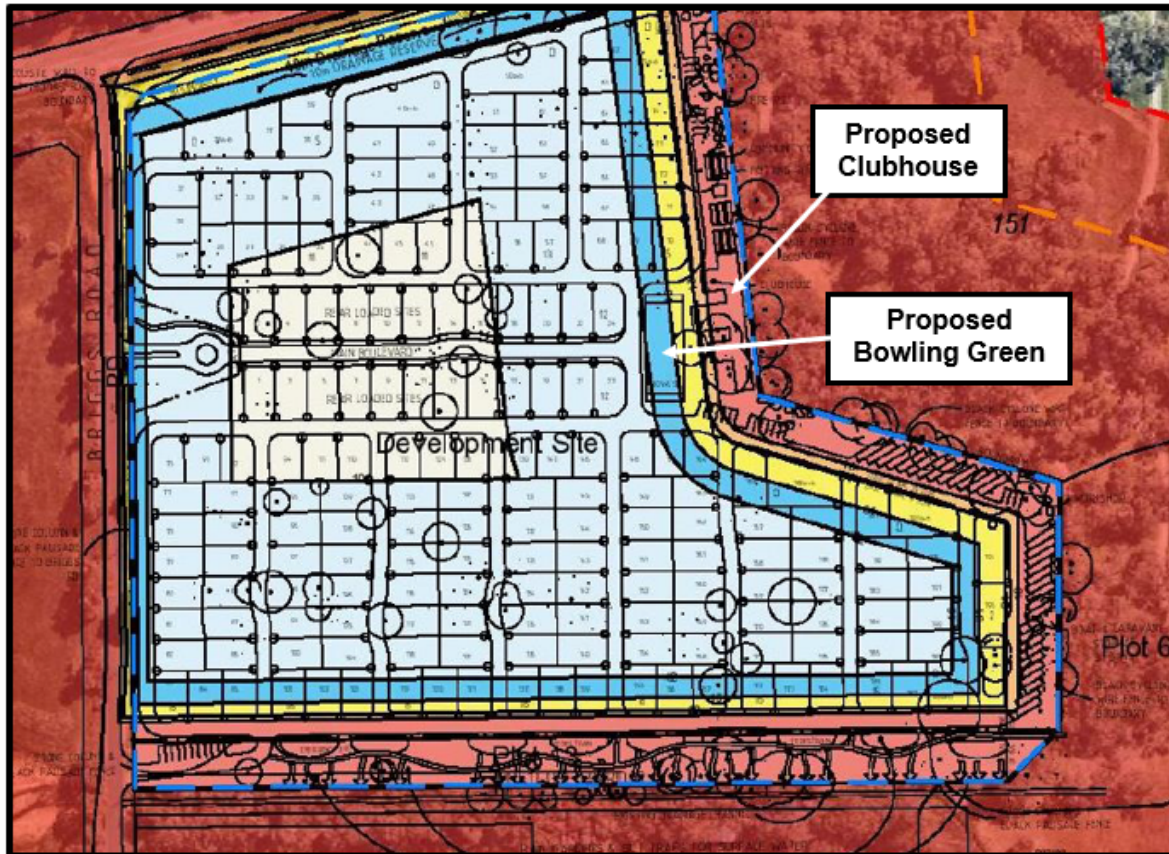
Comment:

State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)

The subject site lies within a bushfire prone area and as such, the provisions of SPP3.7 apply which seeks to “avoid any increase in the threat of bushfire to people, property and infrastructure” through a balanced risk-based approach. A Bushfire Management Plan (BMP) was submitted with the application including an assessment against the criteria within the *Guidelines for Planning in Bushfire Prone Areas*. (Guidelines).

Location, Siting and Design:

The BMP demonstrates that a worst-case scenario bushfire attack level (BAL) rating for the dwellings would be BAL-29, consistent with the requirements of SPP3.7. The BAL contour map however identifies that the Clubhouse is within Flame Zone, as depicted below.



Location of community facilities in the Flame Zone

As the building is considered habitable (where people live, work, study or are entertained), Officers raised this as a concern with the applicant and recommended that the building be relocated to where the bowling green is situated and vice versa. SPP3.7 states that development applications that result in a rating of BAL-40 or Flame Zone will not be supported unless it is considered 'minor development' or 'unavoidable development', which the proposal is not considered.

In response to this, the applicant provided additional information (**attachment 5**) which is summarised as follows:

- The clubhouse is capable of exemption under SPP3.7 as it is incidental to the dwellings and would be used infrequently by residents;
- Bushfire is well managed within these types of lifestyle developments and includes a fire warden, community volunteers to assist with fire safety and response and emergency evacuation plans/muster points;
- The site would be serviced by an independent fire water main;
- The land to the east of the bushfire hazard contains an established residential development. Once the subject development is established the bushfire hazard would be contained by urban development to the west and east and constructed roads, resulting in any bushfire being capable of being responded to immediately; and
- The clubhouse and surrounding structures would have a comprehensive fire alarm system and

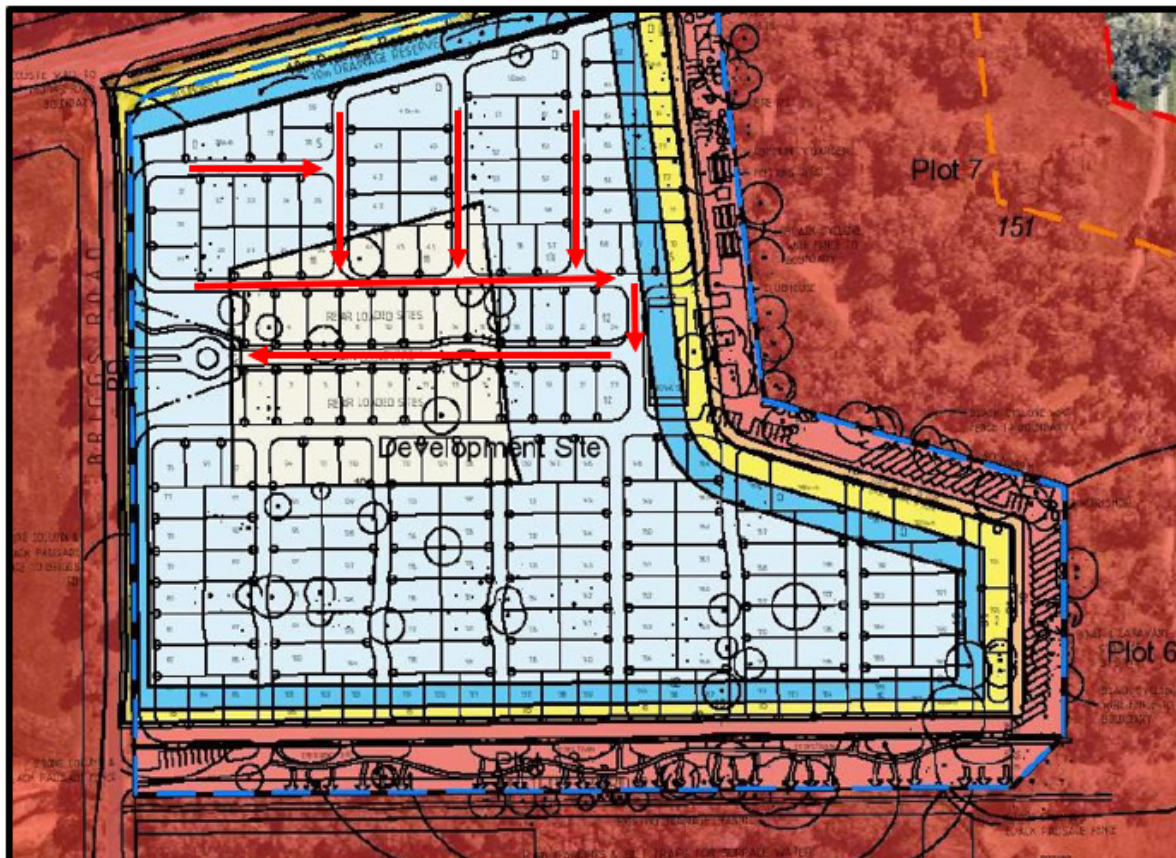
evacuation process.

Officers consider that the justification provided by the applicant goes further to mitigate the risks associated with bushfire and that it could be appropriately managed. The building would be used by residents of the development who would be aware of their surroundings and the evacuation measures in place should a bushfire occur.

Furthermore, with the availability of reticulated fire hydrants and the new Cardup Career Fire Station targeted to be in operation prior to this development being completed, there is an acceptable risk management approach proposed.

Vehicular Access:

The Guidelines require that vehicular access allows for the provision of public road access in two different directions to at least two suitable destinations. The subject application satisfies this requirement. However, should a bushfire occur within the Flame Zone area to the east, residents located towards the north of the site would be required to travel towards the bushfire before exiting the site onto Briggs Road as depicted below:



Emergency egress route (red arrows) during bushfire event

Officers recommend to further substantiate the risk, a further emergency access is created for the residents to the north.

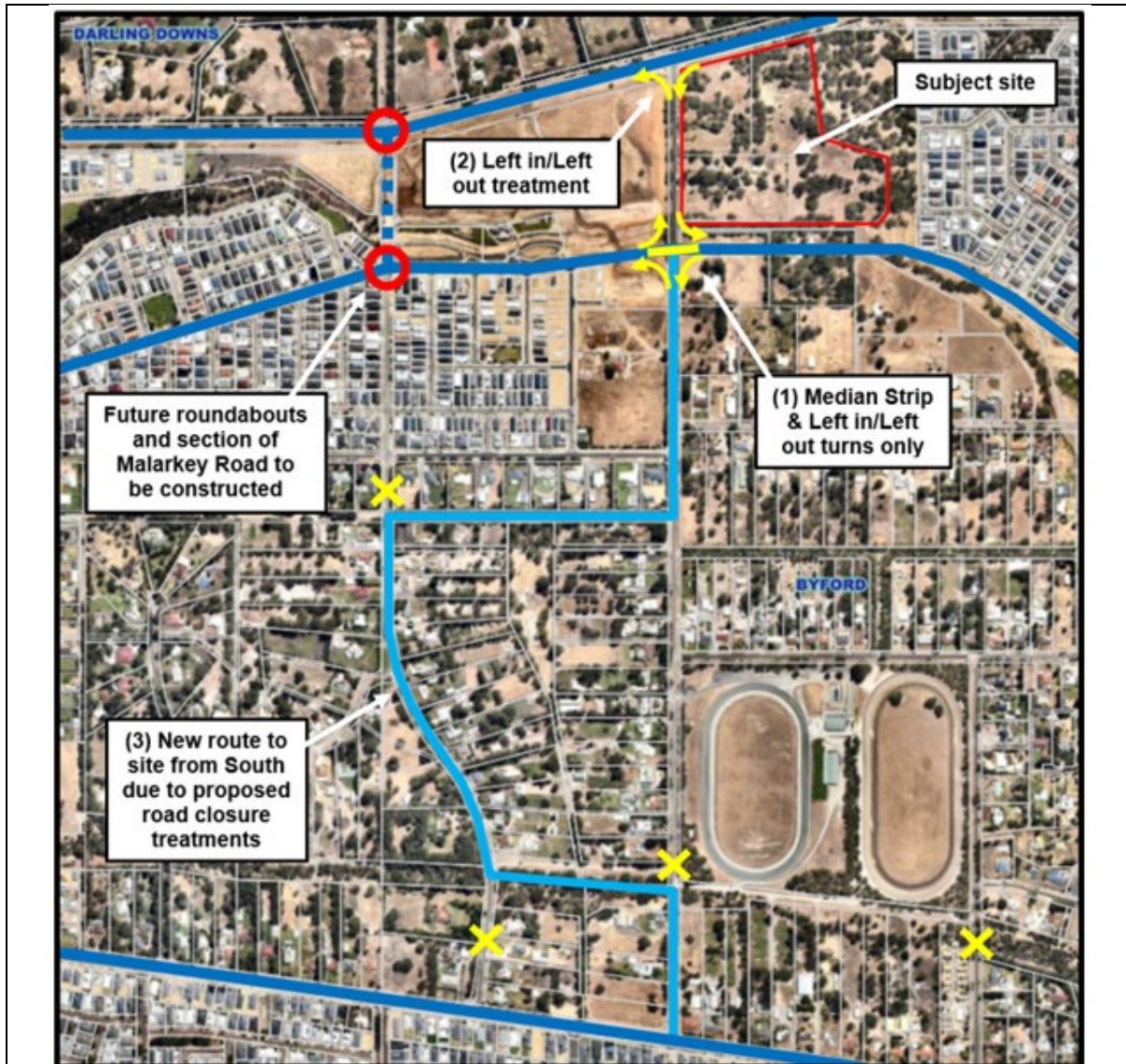
Water:

The subject site is serviced by a reticulated water supply enabling the installation of fire hydrants, in accordance with the Guidelines.

r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input 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: Refer to Clause (t) section.			

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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment:</p> <p><u>Traffic</u></p> <p>Clause 67 of the <i>Deemed Provisions</i>, specifically (s) and (t) relate to the ability of the development to manage access and egress arrangements, and whether the traffic generated by the proposal would be suitable considering the local road network. The category of the vehicles associated with the proposed development will predominantly comprise of resident's passenger vehicles and waste collection vehicles.</p> <p>Several changes are currently being undertaken to the local road network, separate to this development. The section of Briggs Road where this development would take access is yet to be upgraded to an 'urban standard', however engineering plans have been approved which show the upgrade taking place in accordance with the subdivision of land opposite the subject site (Byford Meadows Stage 8). This does not include the section of verge however adjoining the subject land. In order to address this, it is a standard requirement that the adjoining verge be upgraded as part of development taking place. This is required to match an urban standard, comprising a suitable footpath, drainage improvements, undergrounding of power and landscaping etc. This forms a recommended condition of approval.</p> <p>In looking beyond Briggs Road, there are a number of planned road upgrades in the locality, which include:</p> <ol style="list-style-type: none"> (1) The Thomas Road Upgrade Project is to include a left in left out treatment to the intersection of Thomas Road and Briggs Road; (2) A solid median strip and left in left out treatment to the intersection of Indigo Parkway and Briggs Road; and (3) A number of road closure treatments to the Byford road network to reduce through-traffic and 'rat runs' within the Byford Trotting Complex. <p>These are pictured in the following figure:</p>			



Details of the future road upgrades to the local road network

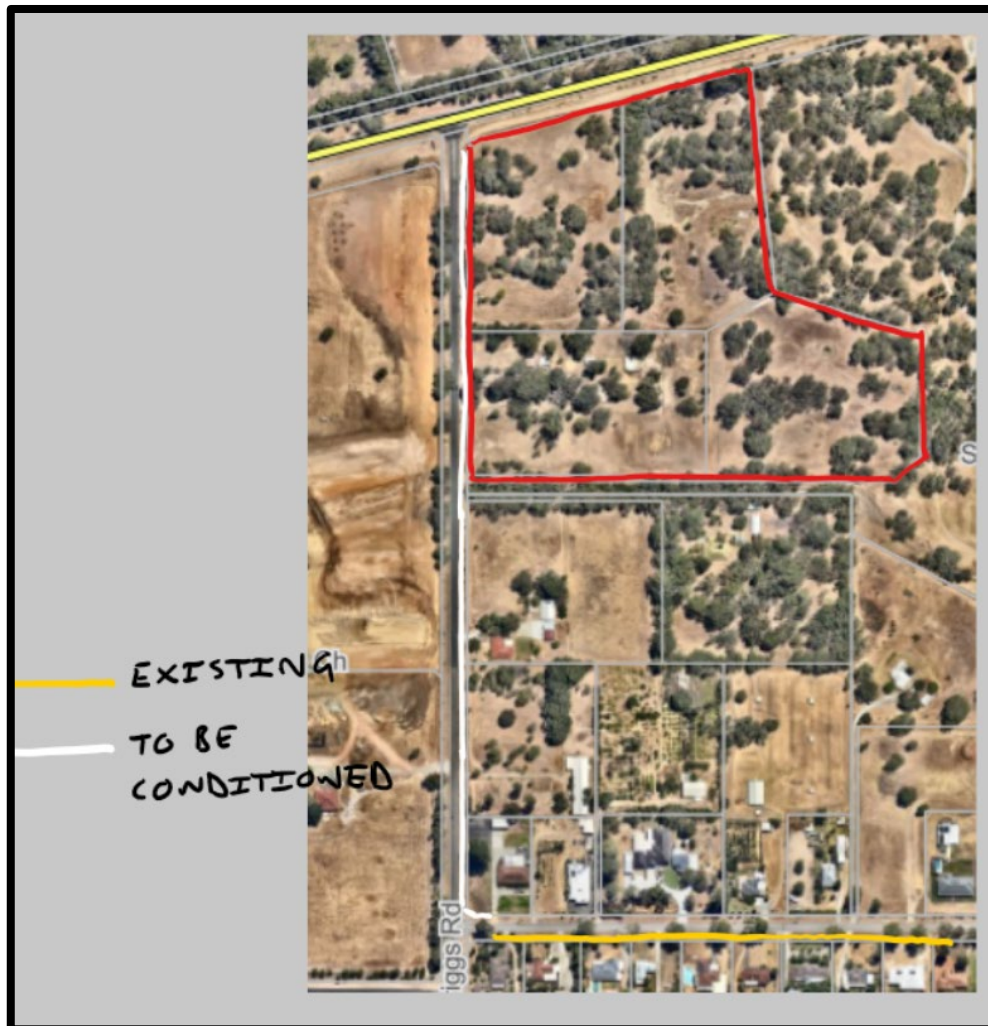
A Traffic Impact Statement (TIS) has been prepared to address the impact on the existing and future local road network. Submissions during the consultation period were received raising traffic concerns.

The standard trip generation rates for 'housing for aged and disabled persons' is less than a standard residential development rate. Therefore, it is considered that the number of vehicles generated by this development is less when compared with the residential development that the LSP initially allowed for. The TIS models that during the morning peak hour it is anticipated that only 40 vehicle movements would be generated by the proposal.

This would not substantially increase the traffic volume on the road network and is unlikely to have an adverse impact in the future. The TIS also concludes that no further upgrades to the local road network are warranted by this development.

Officers generally concur with this finding given the road upgrades taking place as part of the subdivision works for Byford Meadows Stage 8. However, there is a safety issue associated with the lack of an urban standard verge on the eastern verge area adjoining the subject land, and connecting the subject land southwards to the local footpath network on Larsen Rd.

As shown in the following image, the site will be isolated from a safe pedestrian path, and officers consider that this needs to be addressed as part of approval of the development. By including a footpath on the eastern verge that connects south to the existing network along Larsen Rd, elderly residents (specifically) will not be forced to cross Briggs Rd and access the path network being built by the adjoining subdivision. This will enable safer access to amenities like the Byford Town Centre.

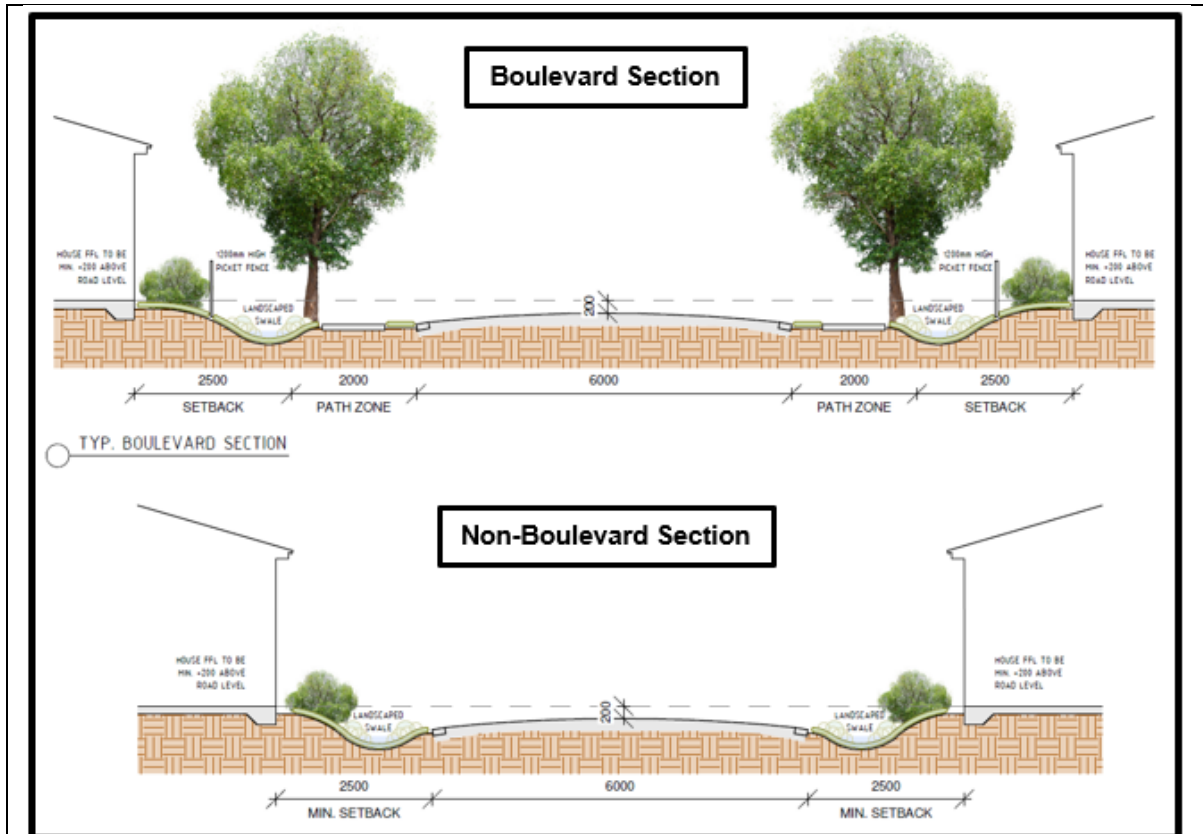


As a final note, the TIS also recommends the following matters to be addressed in the detailed design phase. A condition is secured on this basis:

- Design of trailer and caravan parking areas;
- Pedestrian connection points to the surrounding Byford network; and
- Design of pedestrian, gopher and cycling facilities.

Internal Roads and Pedestrian Network

In terms of carriageway widths associated with grouped dwelling developments the State Planning Policy 7.3 - Residential Design Codes (Volume 1) (R-Codes) requires a 12m minimum total width, inclusive of a minimum 5.5m wide road and 1.2m wide footpath. The current layout of the communal streets provides a 6m wide road only. No footpaths are provided apart from on the main boulevard that leads to the communal facility to the east of site. This is detailed below.



The main boulevard section is shown on the top image and the typical street elevation at the bottom

The applicant proposes that internal roads, as private roads only, will be enforced through their design and development rules, to not exceed a speed limit of 8km/hr. This design and enforced speed regulation in the private estate, will enable safe sharing of space by both vehicles and pedestrians.

Car Parking

Clause 5.3.3 of the R-Codes requires for grouped dwellings, one visitor bay for every four dwellings. The development proposes 51 visitor parking bays for grouped dwelling developments.

u) the availability and adequacy for the development of the following –	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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			
Comment: Refer to the Clause (t) section.			

v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
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from economic competition between new and existing businesses			
Comment:			

w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" 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: Refer to the Community Consultation section of the report.			

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: Refer to the Community Consultation section of the report.			

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: <u>Development Contributions (DCA1)</u> This development falls within the development contribution area DCA1 (Area A) and as such is required to contribute towards the cost of common infrastructure under the Byford Traditional Development Contribution Plan. Under a Development Application (as opposed to a subdivision), contributions are calculated on the current lot area on which the development is situated, giving a lot "yield" for the site. The liability to pay the contribution is triggered at the building permit stage, and thus the DCP payment will be applied as a development condition needing to be met prior to the issue of a Building Permit or commencement of civil works, whichever comes first. <u>Percent for art</u> A condition is recommended to ensure the necessary per cent for art provision of Local Planning Policy 1.6 is met. There are a range of opportunities in which to address the per cent for art component of the development, including elements surrounding the main driveway and feature external fencing, for example.			