

Technical Report			
Application No:	PA21/206		
Lodgement Date:	11 May 2021	DAU Date:	
Address:	48 Lewis Road, Serpentine		
Proposal:	Modificaitons and Additions and incidental Meditation Building		
Land Use:	Educational Establishment	Permissibility:	AA
Owner:	CENTRE FOR ATTITUDINAL HEALING INC		
Applicant:	ACTION SHEDS AUSTRALIA		
Zoning:	Rural	Density Code:	R2
Delegation Type:	12.1.1	Officer:	
Site Inspection:	No		
Advertising:	No		
Outstanding Internal Referrals:	No		
External Referrals:	No		
Within a Bushfire Prone Area:	Yes		

Introduction:

A planning application dated 11 March 2021 has been received for proposed Modificaitons and Additions and an incidental Meditation Building at 48 Lewis Road, Serpentine.

The subject lot is zoned 'Rural' in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). The proposed development is in addition to the existing development approved as a 'Rural Use' under TPS1. The development would align with the 'Educational Establishment' use class under TPS2, which is an 'AA' use in the 'Rural' zone.

The proposal is reported to Council for determination.

This report recommends that the modificaitons and additions and incidental meditation building as proposed be refused.

Background:

Existing Development:

The subject site is currently developed as a Holistic Centre operated by the Serpentine Holistic Centre for Attitudinal Healing which was approved by the Shire in 1986. The operations include group workshops/group meetings provided by the centre and also includes private bookings of the facility. The Centre features a 2-bedroom cottage and a 12-room dormitory suitable for accommodating up to 50 people. The site also includes an ablution facility, bbq area, kitchen/dining hall and other incidental buildings.

Proposed Development/Site Context:

The application seeks approval for modificaitons and additions to the kitchen/dining hall, extending the existing building, and the construction of a new Meditation Hall facility.

The extensions are primarily open sided awnings/verandahs and include an extension to the kitchen, pantry and service room. The proposed additions would increase the floor area of the existing building by 50.82m².

The incidental meditation hall includes a 9m by 6m enclosed area surrounded by a 2.5m verandah. The overall building measures 154m² and the internal area only 64m². The building has a wall

height of 3m and ridge height of 4.732m, which would be placed on a retaining wall with a maximum height of 0.76m. The proposed meditation hall includes the removal of an existing building, the use of which is unclear, and some existing vegetation. The Mediation hall is proposed to be located approximately 38.8m from the southern lot boundary and 130.31m from the western lot boundary.

Community / Stakeholder Consultation:

The proposed development represents alterations and additions to an existing Educational Establishment, which is an 'AA' use in the Rural zone. This does not require public advertising.

The application was referred to the Department of Fire and Emergency Services (DFES) due to non-compliance with elements of the guidelines for State Planning Policy 3.7 - Planning in Bushfire Prone Areas. DFES raised a number of concerns with the proposal and non-compliance with SPP3.7, which have been considered in detail within the planning assessment section of this report.

Pertinent extracts from the DFES are provided following:

Siting and design - The development has not been designed appropriately to ensure bushfire protection measures can be achieved and to minimise the level of bushfire impact to people that are considered vulnerable.

Vehicular Access - Multiple access routes - The Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. It remains that access to two different destinations is achieved approximately 450 metres from the site, via an Extreme BHL, at the intersection of Lewis Road and South Western Highway. This exceeds the acceptable solution of 200 metres. Therefore, the BMP proposes a Performance Principle Based Solution (PPBS) to comply with Element 3. The PPBS is reliant on an existing 'locked' Emergency Access Way (EAW) linking McKay Drive to Butter Gum Close being permanently unlocked. The BMP has not provided substantiated evidence from the Shire of Serpentine Jarrahdale in support of the PPBS. The PPBS is also reliant on the proposal being exempt from assessment against Element 3. The BMP states "The proposal is exempt from the application of Element 3" and "The proposal is an addition to an existing use and does not represent an intensification of use at the site." This is not supported, and DFES recommends these statements are removed from the BMP. The decision maker has confirmed this to be intensification of development and the application of SPP 3.7 is triggered.

The development application is not supported as it does not meet the intent of Element 1: Location. The proposal is an intensification of a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot. However, it is critical that the bushfire management measures within the BMP are refined, to ensure they are accurate and can be implemented to reduce the vulnerability of the development to bushfire. In addition to non-compliance with Element 1, the proposed development is also not supported for the following reasons: 1. The development design has not demonstrated compliance to Element 2: Siting and Design and Element 3: Vehicle Access.

Statutory Environment:

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- Metropolitan Region Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Local Planning Strategy
- Draft Local Planning Scheme No.3
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- Local Planning Policy 1.4 – Public Consultation for Planning Matters Policy

Planning Assessment:

A comprehensive assessment has been undertaken in accordance with section 67 of the Planning and Development Regulations 2015.

Land Use:

The subject site is zoned 'Rural' under TPS2 and the existing development onsite has a current approval issued in 1986. That approval was for a 'Rural Use (Holistic Centre)', under Town Planning Scheme No. 1 (TPS1). The use would best fit the definition of Educational Establishment under TPS2, which is a use discretionary use in the 'Rural' zone. The application seeks to alter and extend physical works associated with the approved use. The use will continue as previously approved.

Draft Local Planning Scheme No.3:

Under LPS3, the proposed development would best fit within the definition of a 'Community Purpose' land use. This use relates to the provision of educational, social or recreation facilities by organisations involved in providing community benefit. The Centre for Attitudinal Healing is a not-for-profit seeking to improve mental wellbeing and provide opportunity for personal and professional growth and development. Officers consider the proposed development fits within this category, which is a discretionary use under LPS3 within the 'Rural' zone.

LPS3 also establishes some basic development standards for works within the Rural zone. The proposed works require a setback of 20m from the street and 10m from lot boundaries. The proposed development complies with these setbacks.

LPS3 also establishes new standards for vegetation protection; however, one of the exemptions relates to the implementation of a Fire Management Plan approved by the Shire. In this instance, the proposed vegetation removal is dictated by the BMP and would fit under the exempt category in LPS3.

The parking requirements under LPS3 for a Community Purpose use requires 1 bay per 4 persons accommodated at max occupancy and 1 space per employee. The application indicates the maximum occupancy of the site would not increase. As such, the existing parking is considered to be acceptable.

Officers consider the proposed development complies with the requirements of and would be consistent with Draft LPS3.

Physical works

The proposed Meditation Hall requires the removal of some vegetation for the establishment of a mandatory Asset Protection Zone (APZ) around the proposed development. Some of this vegetation is listed as being a priority 3 Threatened Ecological Community (TEC) - Banksia Woodlands. The proposed APZ would have some small incursions into the mapped TEC area. Notably, the APZ does not require the removal of all vegetation, rather the management of understory and ground cover and the maintenance of canopy cover to a maximum of 15%. This will likely require some tree removal to achieve the canopy cover requirements; however, the overall impact to TEC vegetation is considered to be minor.

Built Form:

The proposed development seeks extensions to the existing kitchen/dining hall and the replacement of an existing building to be used as an incidental meditation hall. The proposed development is located away from and screened from the street and neighbouring lot boundaries. Some clearing may be required, making the development more visible from the south; however, the design of the development is very low scale. The meditation hall being the most significant development in terms of scale and having a floor area of 150m² and wall height of 3m and pitch

height of 4.7m. The design also features a veranda around the building, providing a strong sense of rural character.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas:

The application seeks alterations and additions to the existing development, and would be subject to SPP3.7 as a result. Whereas SPP3.7 is not applied retrospectively, given additions are proposed (for example the new meditation hall component which forms part of the application), the application itself must be assessed against SPP3.7.

The application was referred to DFES who objected to the proposal and raised concerns with the assessment contained in the Bushfire Management Plan (BMP). Specifically, in relation to the following Elements of the Guidelines to SPP3.7: Vehicle Access and Siting and Design. The DFES position is that “the proposal is an intensification of a vulnerable land use in a bushfire prone area with an extreme bushfire hazard both in and surrounding the lot.”

The specific elements that underpin this position are discussed following:

Vehicle Access

DFES raise concerns with non-compliance with the vehicle access element of the Guidelines. Specifically, where the road providing access to a development site is a no-through road (as in this instance), the Guidelines require the site be no further than 200m from an intersection of a public road that provides egress in two separate directions. In this instance, Lewis Road is a no-through road and South Western Highway is the nearest public road providing egress in two separate directions. The intersection of Lewis Road and South Western Highway is approximately 450m from the site, and therefore does not comply with the requirements of the Guidelines.

The DFES submission states that “the Guidelines require the provision of public road access in two different directions to at least two different suitable destinations. It remains that access to two different destinations is achieved approximately 450 metres from the site, via an Extreme Bushfire Hazard Level, at the intersection of Lewis Road and South Western Highway. This exceeds the acceptable solution of 200 metres.”

Where a prescribed criteria is not met, a performance solution needs to be considered. In this regard, the BMP proposed to make use of an Emergency Access Way (EAW), which connects McKay Drive to Buttergum Close to the north of the site, and for this to function as a second public access.

This was deemed not acceptable by DFES, and similarly Shire Officers, as the EAW is reserved for use by emergency services vehicles and the gates are kept secured for emergency service use. Consistent with the Guidelines for planning in Bushfire Prone Areas, an emergency access way is not a preferred alternative to through public road access and should only be considered acceptable where it has been demonstrated that it will provide the safety and performance needs of emergency services and the community, including consideration for future needs, and that public road access cannot be achieved due to site constraints.

Whereas the applicant could argue that site constraints make a second access challenging, Officers note that EAW is gravelled; comprises a very steep incline and; would not provide for safe and performance needs of the community given its standard and narrow width.

Given the above, the proposal is considered non-compliant with the vehicle access element of the Guidelines due to the distance of the site to the intersection with South Western Highway exceeding 200m. This non-compliance poses a risk to lives and property, and on balance has Officers consider that approval of the alterations and additions would not be appropriate.

Siting and Design

With respect of siting and design, DFES provided their position that the development had not been designed appropriately to ensure bushfire protection measures could be achieved and to minimise

the level of bushfire impact to people that are considered vulnerable. A merits based assessment of the application notes that, in the absence of substantial proposed clearing of vegetation, that siting and design would not address the requirements of the Bushfire Guidelines. It was noted by DFES that the proposal was for an area which had an extreme bushfire hazard level, both on and surrounding the lot, and DFES are not satisfied that the risk can be managed.

Officers also engaged a Bushfire Consultant to peer review the submitted BMP. The Consultant, similar to DFES, concluded that the BMP on balance was not satisfactory as it was inconsistent with the Element associated with Vehicle Access. A revised BMP was submitted as a result by the applicant and was also referred to DFES for comment. DFES maintained their objection to the proposal. The primary issue relating to the proposal being still inconsistent with the Element associated with Vehicle Access.

The peer review noted, like DFES and Shire Officers, that the purpose of the vehicle access element of the Guidelines is "To ensure that the vehicular access serving a subdivision/development is available and safe during a bushfire event". This would not be fulfilled by the EAW. The EAW, as mentioned, is gravelled; comprises a very steep incline and; would not provide for safe and performance needs of the community given its standard and narrow width. It could not be made publicly available in a safe, reliable manner.

The peer review concludes that "It is my view, the reviewed Bushfire Management Plan and Bushfire Emergency Planning documents do not establish a suitable basis, with respect to planning for bushfire for Vulnerable Land Use, on which a decision maker can confidently approve the development application."

It also recognises that "there are implications for enhanced fire activity for a fire located in a region of downslope winds. The scarp having in the past displayed fire channelling (vorticity-driven lateral spread) and medium to long distance spotting. A bushfire event in this area will likely compromise evacuation routes."

Options and Implications:

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

Option 1: Council may resolve to refuse the application.

Option 2: Council may resolve to approve the application conditionally.

Option 1 is recommended.

Conclusion:

The application seeks approval for alterations and additions to the existing Educational Establishment use of the subject land. The property is subject to significant bushfire risk, and the proposed development is classified as a vulnerable use under SPP3.7. The proposal has not demonstrated compliance with SPP3.7 and poses an unacceptable risk to human life in the event of a fire. Officers therefore recommend the application be refused.

Attachments:

- CL67 Table

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:			
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:			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment: SPP3.7			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <i>None Applicable to this area from what I can determine</i>	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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment: LPP1.4			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
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:			
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:			
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:			
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:			
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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
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 checked="" 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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" 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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

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 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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Comment:			
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: DFES submission			
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:			